SEVENTIETH DAY
(Monday, June 1, 1987)

The Senate met at 9:30 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Father, on this last day of the 70th Session we are aware the agenda is unfinished and there will be another day. We give thanks this morning for the sincere and diligent efforts that have been so evident these past months. Bless each one who has contributed in thought and in word and prepare them now as they return to their homes and families. In Your name we pray, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-SPONSOR OF HOUSE BILL 102

On motion of Senator Edwards and by unanimous consent, Senator, Krier will be shown as Co-sponsor of **H.B. 102.**

CO-SPONSORS OF HOUSE BILL 1050

On motion of Senator Parker and by unanimous consent, Senator Krier will be shown as Co-sponsor of **H.B. 1050.**

CONFERENCE COMMITTEE REPORT
HOUSE BILL 356

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 356** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

FARABEE	ECKELS
WASHINGTON	COLBERT
GREEN	HEFLIN

CAPERTON	MARTINEZ
ANDERSON	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1848

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1848** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS	COLBERT
FARABEE	MARTINEZ
BARRIENTOS	WALLACE
BLAKE	CULBERSON
	GLOSSBRENNER
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 43

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 43** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	HORN
SIMS	McWILLIAMS

HENDERSON	HARRISON
	WATERFIELD
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 298

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 298** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

EDWARDS	VOWELL
BROOKS	BARTON
LYON	COOPER
SARPALIUS	GRANOFF
	P. HILL
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the continuation, composition, powers, and duties of the Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, and Texas Department of Corrections and to the administration of programs for and provision of services to children, the disabled, the indigent, and the elderly; providing penalties.

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

ARTICLE 1

SECTION 1.01. (a) Sections 21.002 and 21.003, Human Resources Code, are amended to read as follows:

Sec. 21.002. APPLICATION OF SUNSET ACT. The Texas Department of Human Services is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the department is abolished and this title expires September 1, 1999 [~~1987~~].

Sec. 21.003. BOARD OF HUMAN SERVICES. (a) The Texas Board of Human Services is responsible for the adoption of policies and rules for the government of the department.

(b) The board is composed of six [~~three~~] members appointed by the governor with the advice and consent of the senate and representing all geographic regions of the state. To qualify for an appointment to the board, a person must have demonstrated an interest in and knowledge of human services [~~public welfare and must have had experience as an executive or administrator~~].

(c) Members of the board serve for staggered terms of six years with the term of two members [~~one member~~] expiring on January 20 of each odd-numbered year.

(d) After the biennial appointment of [a] new members [~~member~~], the board shall elect a presiding officer who shall preside over meetings of the board.

(e) Four [~~Two~~] members of the board constitute a quorum for the transaction of business.

(f) The board's office is in Austin in a building designated by the State Purchasing and General Services Commission.

(g) While performing their duties board members are entitled to per diem as prescribed by the General Appropriations Act.

(h) A person is not eligible for appointment to the board if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department; or

(2) receives more than 25 percent of the person's or the spouse's professional income in funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(i) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

(j) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the board, may not serve as a member of the board or act as general counsel to the board.

(b) This Act does not affect the term of office for which a member of the Board of Human Services was originally appointed. A board member serving on August 31, 1987, is not required to have, during that term or during any subsequent and consecutive term, the qualifications required by Section 21.003, Human Resources Code, as amended by this Act, and is not subject to removal for the failure to have the qualifications.

(c) The amendments to Subsections (b) through (e) of Section 21.003, Human Resources Code, made by this Act, expanding the Texas Board of Human Resources to six members take effect January 20, 1989. On or after that date, the governor shall appoint three additional members to the Texas Board of Human Services. The governor shall appoint one member for a term expiring January 20, 1991, one member for a term expiring January 20, 1993, and one member for a term expiring January 20, 1995.

SECTION 1.02. Chapter 21, Human Resources Code, is amended by adding Sections 21.0031 and 21.0032 to read as follows:

Sec. 21.0031. RESTRICTIONS ON BOARD MEMBERSHIP AND EMPLOYMENT. An officer, employee, or paid consultant of a trade association in the field of human services may not be a member or employee of the board or department. A person who is the spouse of any officer, employee, or paid consultant of a trade association in the field of human services may not be a member of the board and may not be an employee of the department, including an employee exempt from the state's classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

Sec. 21.0032. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 21.003 of this code for appointment to the board;

(2) does not maintain during the member's service on the board the qualifications required by Section 21.003 of this code for appointment to the board;

(3) violates a prohibition established by Subsection (j) of Section 21.003 or by Section 21.0031 of this code;

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than one-half of the regularly scheduled board meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the chairman of the board of the ground. The chairman of the board shall then notify the governor that a potential ground for removal exists.

SECTION 1.03. Subsection (b), Section 21.004, Human Resources Code, is amended to read as follows:

(b) The commissioner is appointed by the board [~~with the advice and consent of two-thirds of the membership of the senate~~] and serves at the pleasure of the board.

SECTION 1.04. Chapter 21, Human Resources Code, is amended by adding Sections 21.0051 and 21.0052 to read as follows:

Sec. 21.0051. PERSONNEL POLICIES. (a) The board shall adopt policies that clearly define the respective responsibilities of the board and the staff of the department.

(b) The commissioner shall develop an intraagency career ladder program, one part of which shall require the intraagency posting, concurrently with any public posting, of all nonentry level positions.

(c) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity by which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the department work force of all persons of whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address areas of significant underutilization in the department work force of all persons of whom federal or state guidelines encourage a more equitable balance.

(d) The policy statements shall be filed with the governor's office not later than November 1, 1987, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

(e) The board and department shall inform their members and employees as often as is necessary of:

(1) the qualifications for office or employment prescribed by this code; and

(2) their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 21.0052. MERIT PAY. The commissioner shall develop a system under which the job performance of department employees is evaluated annually. All

merit pay for department employees must be based on the system established under this section.

SECTION 1.05. Section 21.011, Human Resources Code, is amended to read as follows:

Sec. 21.011. REPORTS. (a) On or before December 31 of each year the commissioner shall prepare and submit to the board a full report on the operation and administration of the department together with his recommendations for changes. The board shall submit the report to the governor and the legislature.

(b) The department shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.

SECTION 1.06. (a) Chapter 21, Human Resources Code, is amended by adding Sections 21.014 through 21.017 to read as follows:

Sec. 21.014. AUDITS. (a) The State Auditor shall audit the financial transactions of the department at least once during each biennium.

(b) The person employed by the department as inspector general shall make reports to and consult with the chairman of the board regarding:

(1) the selection of internal audit topics;

(2) the establishment of internal audit priorities; and

(3) the findings of each regular or special internal audit initiative.

Sec. 21.015. PUBLIC INFORMATION; COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the board and department and describing the procedures by which complaints are filed with and resolved by the board or department. The department shall make the information available to the general public and appropriate state agencies.

(b) The board by rule shall establish methods by which consumers or service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The department may provide for the notification through inclusion of the information:

(1) on each registration form, application, or written contract for services of an individual or entity regulated by the department under this code or of an entity the creation of which is authorized by this title of this code;

(2) on a sign that is prominently displayed in the place of business of each individual or entity regulated by the department under this code or of each entity the creation of which is authorized by this title of this code; or

(3) in a bill for service provided by an individual or entity regulated by the department under this code or by an entity the creation of which is authorized by this title of this code.

(c) If a written complaint is filed with the department that relates to an individual or entity regulated by the department or to a service provided by the department, the department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the complainant, the service provider, and the individual or entity regulated by the department of the status of the complaint unless the notice would jeopardize an undercover investigation or potential criminal prosecution.

(d) The department shall keep an information file about each complaint filed with the department that relates to an individual or entity regulated by the department or to a service provided by the department.

(e) For the purpose of rules to be promulgated by the board under Subsection (b) of this section the board may not require persons licensed to practice medicine who provide professional services to persons covered by Title XVIII or Title XIX of the Social Security Act to comply with the notification requirements of Subsection (b) of this section.

Sec. 21.016. PUBLIC TESTIMONY. The board shall adopt policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 21.017. INDEMNIFICATION FOR LEGAL EXPENSES. If a present or former employee of the department who is or was involved in activities relating to the protection of children and elderly or disabled persons is criminally prosecuted for conduct involving the person's misfeasance or nonfeasance in the course and scope of the person's employment and is found not guilty after a trial or appeal or if the complaint or indictment is dismissed without a plea of guilty or nolo contendere being entered, the department may indemnify the person or the person's estate for the reasonable attorney's fees incurred in defense of the prosecution up to a maximum of $10,000.

(b) Section 21.017, Human Resources Code, as added by this Act, applies only to attorney's fees for legal services performed on or after the effective date of this Act.

SECTION 1.07. Subsection (b), Section 22.001, Human Resources Code, is amended to read as follows:

(b) The department shall administer assistance to needy persons who are aged, blind, or disabled and to needy families with dependent children. The department shall also administer or supervise general relief and child welfare services. The department may administer state child day-care services.

SECTION 1.08. Section 22.001, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) The department shall make all reasonable efforts to expand services to truants and runaways that available funds allow in an effort to reduce juvenile delinquency.

SECTION 1.09. Subsections (a) and (b), Section 22.005, Human Resources Code, are amended to read as follows:

(a) The children's assistance fund, [~~and~~] the medical assistance fund, and the commodity distribution fund are separate accounts in the Texas Department of Human Services fund. Money in the separate accounts may be expended only for the purposes for which the accounts were created or as otherwise provided by law.

(b) The comptroller shall maintain a department of human services administration operating fund and a department of human services assistance operating fund as funds in the state treasury. [~~The commodity distribution fund may not be included in these operating funds.~~]

SECTION 1.10. Section 22.006, Human Resources Code, is amended by amending Subsection (a) and by adding Subsection (i) to read as follows:

(a) The department is entitled to obtain criminal history information records maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency to investigate:

(1) owners and employees of, and applicants for employment at, a child-care facility licensed, registered, or certified or applying for a license, registration, or certification under Chapter 42 of this code;

(2) residents of a registered family home, excluding children in the home's care and the parents of the children;

(3) a person providing or applying to provide adoptive or foster care for children in the care of the department;

(4) a department employee who is engaged in the direct delivery of protective services to children on the date the department implements this section;

(5) a person applying for a position with the department, the duties of which include direct delivery of protective services to children; [~~or~~]

(6) a volunteer or person applying as a volunteer with a local affiliate in this state of Big Brothers/Big Sisters of America;

(7) a person employed by a business entity which provides in-home respite care of children with temporary illnesses; or

(8) a person employed by a home health agency.

(i) The department may charge a reasonable fee sufficient to recover the costs of obtaining criminal history information records authorized by Subsection (a)(7) or (a)(8) of this section.

SECTION 1.11. (a) Chapter 22, Human Resources Code, is amended by adding Sections 22.007 through 22.018 to read as follows:

Sec. 22.007. PUBLIC INFORMATION CONTRACT REQUIREMENT. (a) Each contract between the department and a provider of services must contain a provision that authorizes the department to display at the service provider's place of business public awareness information on services provided by the department.

(b) Notwithstanding Subsection (a) of this section, the department may not require a physician to display in the physician's private offices public awareness information on services provided by the department.

Sec. 22.008. ENFORCEMENT AND ALTERATION OF SERVICE DELIVERY STANDARDS. (a) The department shall develop enforcement guidelines for its community care program that relate to the service delivery standards required of persons who contract with the department to carry out its community care program. The department shall apply the guidelines consistently across the state.

(b) At the same time the department sends written notice to a regional department office of a change or interpretation of a service delivery standard relating to the community care program, the department shall send a copy of the notice to each community care program contractor affected by the change or interpretation.

(c) Each decision on whether to enter into a contract in the community care program that results from a department request for bids or proposals must be made by one or more persons employed at the department's state headquarters.

Sec. 22.009. ADVISORY COMMITTEES. (a) The board shall appoint advisory committees on the recommendation of the commissioner to assist the board in performing its duties.

(b) The board shall appoint each advisory committee to provide for a balanced representation of the general public, providers, consumers, and other persons, state agencies, or groups with knowledge of and interest in the committee's field of work.

(c) The board shall specify each advisory committee's purpose, powers, and duties and shall require each committee to report to the board in a manner specified by the board concerning the committee's activities and the results of its work.

(d) The board shall establish procedures for receiving reports concerning activities and accomplishments of advisory committees established to advise the board or department. The board on the recommendation of the commissioner may appoint additional members to those committees and establish additional duties of those committees as the board determines to be necessary.

(e) The board shall adopt rules to implement this section. Those rules must provide that during the development of rules relating to an area in which an advisory committee exists the committee must be allowed to assist in the development of and to comment on the rules before the rules are finally adopted. The rules may allow the department to bypass this procedure only in an emergency situation. However, the department shall submit emergency rules to the appropriate advisory committee for review at the first committee meeting that occurs after the rules are adopted.

(f) A member of an advisory committee receives no compensation but is entitled to reimbursement for transportation expenses and the per diem allowance for state employees in accordance with the General Appropriations Act.

(g) Subsections (c) through (f) of this section apply to each department advisory committee created under this section or under other law.

Sec. 22.010. ADVISORY COMMITTEE FOR SERVICES TO AGED AND DISABLED PERSONS. (a) The Advisory Committee for Services to Aged and Disabled Persons shall examine and review issues related to the delivery of departmental services to disabled persons, including:

(1) the scope and range of services that the department should provide to disabled persons, including the coordination of a continuum of community-based services;

(2) how the department may improve the data and information it collects and maintains relating to services to disabled persons;

(3) how the department may improve the processes used to receive and refer requests for services from disabled persons; and

(4) how the department may improve its organizational structure to administer the delivery of services to disabled persons.

(b) The staff of the department's office responsible for strategic planning shall assist the committee in the examination and review of the issues.

(c) The department shall consider the long-range recommendations of the committee in the department's planning efforts and in the budget requests submitted after the 1990-1991 fiscal biennium.

Sec. 22.011. MEMORANDUM OF UNDERSTANDING ON SERVICES TO DISABLED PERSONS. (a) The department, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Commission for the Deaf, and the Central Education Agency shall adopt a joint memorandum of understanding to facilitate the coordination of services to disabled persons. The memorandum shall:

(1) clarify the financial and service responsibilities of each agency in relation to disabled persons; and

(2) address how the agency will share data relating to services delivered to disabled persons by each agency.

(b) These agencies in the formulation of this memorandum of understanding shall consult with and solicit input from advocacy and consumer groups.

(c) Not later than the last month of each state fiscal year, the department and the other agencies shall review and update the memorandum.

(d) Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Sec. 22.012. MEMORANDUM OF UNDERSTANDING ON FAMILY PLANNING SERVICES. (a) The department and the Texas Department of Health shall adopt a memorandum of understanding that clearly defines the responsibilities of each agency in providing family planning services and defines the procedures and standards each agency will use to provide and fund the services.

(b) The memorandum must provide for:

(1) a coordinated means for allocating funds;

(2) a means for developing, monitoring, and maintaining provider service standards that are consistent between agencies and funding sources, to the extent permitted by federal law; and

(3) a means for collecting data that is consistent between agencies and funding sources.

(c) Not later than the last month of each state fiscal year, the department and the Texas Department of Health shall review and update the memorandum.

(d) Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Sec. 22.013. MEMORANDUM OF UNDERSTANDING ON PUBLIC AWARENESS INFORMATION. (a) The department, the Texas Department of

Health, the Texas Department of Mental Health and Mental Retardation, and the Texas Rehabilitation Commission shall adopt a joint memorandum of understanding that authorizes and requires the exchange and distribution among the agencies of public awareness information relating to services provided by or through the agencies.

(b) Not later than the last month of each state fiscal year, the department and the other agencies shall review and update the memorandum.

(c) Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Sec. 22.014. MEMORANDUM OF UNDERSTANDING ON HOSPITAL AND LONG-TERM CARE SERVICES. (a) The department, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation shall adopt a memorandum of understanding that:

(1) clearly defines the responsibilities of each agency in providing, regulating, and funding hospital or long-term care services; and

(2) defines the procedures and standards that each agency will use to provide, regulate, and fund hospital or long-term care services.

(b) The memorandum must provide that no new rules or regulations that would increase the costs of providing the required services or would increase the number of personnel in hospital or long-term care facilities may be promulgated by either the department, the Department of Health, or the Department of Mental Health and Mental Retardation unless the commissioner of health certifies that the new rules or regulations are urgent as well as necessary to protect the health or safety of recipients of hospital or long-term care services.

(c) The memorandum must provide that any rules or regulations proposed by the department, the Department of Health, or the Department of Mental Health and Mental Retardation which would increase the costs of providing the required services or which would increase the number of personnel in hospital or long-term care facilities must be accompanied by a fiscal note prepared by the agency proposing said rules and submitted to the department. The fiscal note should set forth the expected impact which the proposed rule or regulation will have on the cost of providing the required service and the anticipated impact of the proposed rule or regulation on the number of personnel in hospital or long-term care facilities. The memorandum must provide that in order for a rule to be finally adopted the department must provide written verification that funds are available to adequately reimburse hospital or long-term care service providers for any increased costs resulting from the rule or regulation. The department is not required to provide written verification if the commissioner of health certifies that a new rule or regulation is urgent as well as necessary to protect the health or safety of recipients of hospital or long-term care services.

(d) The memorandum must provide that upon final adoption of any rule increasing the cost of providing the required services, the department must establish reimbursement rates sufficient to cover the increased costs related to the rule. The department is not required to establish reimbursement rates sufficient to cover the increased cost related to a rule or regulation if the commissioner of health certifies that the rule or regulation is urgent as well as necessary to protect the health or safety of recipients of hospital or long-term care services.

(e) The memorandum must provide that Subsections (b) through (d) of this section do not apply if the rules are required by state or federal law or federal regulations.

(f) These agencies in the formulation of this memorandum of understanding shall consult with and solicit input from advocacy and consumer groups.

(g) Not later than the last month of each state fiscal year, the department and the other agencies shall review and update the memorandum.

(h) Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Sec. 22.015. REPORTING OF PHYSICIAN MISCONDUCT OR MALPRACTICE. (a) If the department receives an allegation that a physician employed by or under contract with the department has committed an action that constitutes a ground for the denial or revocation of the physician's license under Section 3.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), the department shall report the information to the Texas State Board of Medical Examiners in the manner provided by Section 4.02 of that Act.

(b) The department shall provide the Texas State Board of Medical Examiners with a copy of any report or finding relating to an investigation of an allegation reported to the Texas State Board of Medical Examiners.

Sec. 22.016. SPECIAL PURCHASING PROCEDURES. The department shall comply with any special purchasing procedures requiring competitive review under the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

Sec. 22.017. PROGRAM ACCESSIBILITY. The department shall prepare and maintain a written plan that describes how persons who do not speak English or who have physical, mental, or developmental disabilities can be provided reasonable access to the department's programs.

Sec. 22.018. HEARINGS DIVISION. (a) The department shall establish and maintain a hearings division that is separate from the legal division to administer each hearing held under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) Neither the department nor the department's legal division may directly or indirectly influence a decision or the decision-making process of the hearings division.

(b) Not later than January 1, 1988, the Texas Department of Human Services, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Commission for the Deaf, and the Central Education Agency shall adopt a joint memorandum of understanding as prescribed by Section 22.011, Human Resources Code, as added by this Act.

(c) Not later than January 1, 1988, the Texas Department of Human Services and the Texas Department of Health shall adopt a memorandum of understanding as prescribed by Section 22.012, Human Resources Code, as added by this Act.

(d) Not later than January 1, 1988, the Texas Department of Human Services, the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, and the Texas Rehabilitation Commission shall adopt a joint memorandum of understanding as prescribed by Section 22.013, Human Resources Code, as added by this Act.

(e) Not later than January 1, 1988, the Texas Department of Human Services, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation shall adopt a memorandum of understanding as prescribed by Section 22.014, Human Resources Code, as added by this Act.

(f) Not later than June 1, 1988, the Texas Department of Human Services Advisory Committee for Services to Aged and Disabled Persons shall complete the review and examination of issues prescribed by Section 22.010, Human Resources Code, as added by this Act, and submit a report on the results to the commissioner and board of the Texas Department of Human Services for appropriate action in the department's budget request for the 1990-1991 fiscal biennium and in the department's continuing strategic planning process and other operations. The committee shall also submit a copy of the report to the Texas Health and Human Services Coordinating Council and to the senate health and human resources and

the house human services committees of the 71st Legislature not later than February 1, 1989.

(g) The Texas Department of Human Services shall prepare the written plan prescribed by Section 22.017, Human Resources Code, as added by this Act, not later than February 1, 1988.

SECTION 1.12. (a) Chapter 22, Human Resources Code, is amended by adding Sections 22.019, 22.020, 22.021, and 22.022 to read as follows:

Sec. 22.019. DUE PROCESS PROCEDURES. (a) The department may not retroactively apply a rule, standard, guideline, or policy interpretation.

(b) The department shall adopt any changes in departmental policy in accordance with the rule-making provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The department shall use periodic bulletins and indexes to notify contractors of changes in policy and to explain the changes. The department may not adopt a change in departmental policy that takes effect before the date on which the department notifies contractors as prescribed by this subsection.

(c) The board shall adopt a rule requiring the department to respond in writing to each written inquiry from a contractor not later than the 14th day after the date on which the department receives the inquiry.

Sec. 22.020. AUDIT PROCEDURE. At any time during an audit, the department shall permit a contractor to submit additional or alternative documentation to prove that services were delivered to an eligible client. Any recovery of costs by the department from the contractor for using additional or alternative documentation may not exceed the amount the contractor would otherwise be entitled to receive under the contract as administrative costs.

Sec. 22.021. DISTRIBUTION OF FUNDS. (a) If funds are appropriated to the department for the general support or development of a service that is needed throughout the state, the department shall allocate those funds equitably across the state.

(b) This section does not apply to funds appropriated for a research or demonstration program or for the purchase of direct services.

Sec. 22.022. RESIDENCY REQUIREMENTS. To the extent permitted by law the department shall only provide services to legal residents of the United States or the State of Texas.

(b) Section 22.021, Human Resources Code, as added by this Act, providing for the distribution of funds by the department, takes effect September 1, 1991.

SECTION 1.13. Subsection (b), Section 34.003, Human Resources Code, is amended to read as follows:

(b) The department shall establish the emergency nutrition program as part of the temporary emergency relief program established under this chapter. The emergency nutrition program may allocate funds from the temporary emergency relief fund to meet the unmet need for emergency food assistance. The funds shall be used as a grant to local communities to match local funds on a 50 percent state and 50 percent local ratio basis. The department shall administer the emergency nutrition program in the same fashion and by the same rules and procedures as govern the administration of the temporary emergency relief program [~~The temporary emergency relief fund may not exceed $1 million~~].

SECTION 1.14. Section 34.004, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) The department shall develop standards and procedures for the program that permit all counties in the state to participate.

SECTION 1.15. Sections 45.026 and 45.027, Human Resources Code, are amended to read as follows:

Sec. 45.026. COMPACT ADMINISTRATOR. The governor shall appoint the commissioner as compact administrator. If the commissioner is unable to attend

a compact meeting, the commissioner may designate a department employee to attend the meeting as the commissioner's representative.

Sec. 45.027. APPLICATION OF SUNSET ACT. The office of administrator of the Interstate Compact on the Placement of Children is subject to the Texas Sunset Act (Chapter 325, Government Code) [~~(Article 5429k, Vernon's Texas Civil Statutes)~~]. Unless continued in existence as provided by that Act, the office is abolished and this subchapter expires September 1, 1999 [~~1987~~].

SECTION 1.16. Subchapter B, Chapter 45, Human Resources Code, is amended by adding Section 45.028 to read as follows:

Sec. 45.028. NOTICE OF MEETINGS. For informational purposes, the department shall file with the secretary of state notice of compact meetings for publication in the Texas Register.

SECTION 1.17. (a) The Council on Disabilities shall conduct a review of the services currently available to disabled persons and develop recommendations relating to the duties of the Texas Department of Human Services in providing state services to disabled persons.

(b) In conducting the review, the council should use its own resources and any appropriate work by or resources of other committees or organizations that focus on services to disabled persons.

(c) Not later than February 1, 1989, the council shall submit a report to the 71st Legislature that contains the recommendations made by the council.

(d) This section expires September 1, 1989.

SECTION 1.18. Subsection (b), Section 9a, Article 8307, Revised Statutes, is amended to read as follows:

(b) If there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the Board or which is the subject matter of a subsequent suit where the carrier is subrogated to the rights of the named claimant at the time a record search or request for information is presented to the Board, the information shall be furnished as provided in this section. The first, middle, and last name of the claimant, age and social security number, and, if possible, dates of injury and the names of prior employers must be given in the request for information by the requesting party. The Board will furnish the requested information or a record check only to the following:

(1) the claimant;
(2) the attorney for the claimant;
(3) the carrier;
(4) the employer at the time of the current injury;
(5) third-party litigants; [or]
(6) the State Board of Insurance; or
(7) the Texas Department of Human Services.

A third-party litigant in a suit arising out of an occurrence with respect to which a workers' compensation claim was filed is entitled to the information without regard to whether or not the compensation claim is still pending.

SECTION 1.19. Chapter 52 is added to Title 2 of the Human Resources Code to read as follows:

CHAPTER 52.

Sec. 52.001. SCHOOL AGE PREGNANCY PREVENTION. (a) The department is designated as the state agency to collect statistical information on school age pregnancy and disburse such statistics to the proper state agencies.

(b) Consistent with the provisions of the Memorandum of Understanding on Family Planning Services required by Section 22.012, Human Resources Code, the department shall:

(1) set guidelines for keeping statistical information on school age pregnancy and parenthood by agencies, organizations, and individuals so that the information may be evaluated and compared;

(2) collect information relating to school age pregnancy as considered necessary by the department, including information on educational programs provided in the public school system relating to family life education, abstinence from sex, and sexually transmitted diseases;

(3) serve as a statewide clearinghouse on information relating to school age pregnancy and education on abstinence from sex and make it available to the legislature, other state agencies, and private entities that are involved in preventing school age pregnancy, addressing the problems caused by school age pregnancy, or encouraging abstinence from sex;

(4) analyze and evaluate the data collected on and studies relating to school age pregnancy and make the analysis and information readily available to the legislature, relevant agencies, and the public;

(5) make recommendations to the relevant state agencies or the legislature to prevent duplication of services; and

(6) submit a report each regular session to the legislature on the status of school age pregnancy programs in the state and the department's progress in meeting the requirements of this section.

(c) The department shall submit each report required by Subsection (b)(6) of this section to the legislature not later than January 31 of each odd-numbered year.

Sec. 52.002. SCHOOL AGE PREGNANCY INTERAGENCY ADVISORY COMMITTEE. (a) The board, on recommendation of the commissioner, may establish a school age pregnancy interagency advisory committee to advise the board and department on school age pregnancy issues. If established, the committee consists of:

(1) a representative of the Texas Health and Human Services Coordinating Council, designated by the council; and

(2) the administrative head of any state agency that the department identifies as providing services relating to school age pregnancy, or that person's designee.

(b) The department shall be represented on the committee and its representative serves as presiding officer of the school age pregnancy interagency advisory committee.

SECTION 1.20. (a) Section 34.009, Human Resources Code, is repealed.

(b) Section 3 of Title IV, Omnibus Hunger Act of 1985 (Section 1, Chapter 150, Acts of the 69th Legislature, Regular Session, 1985), is repealed.

ARTICLE 2

SECTION 2.01. Section 32.022, Human Resources Code, is amended to read as follows:

Sec. 32.022. MEDICAL CARE ADVISORY COMMITTEE. (a) The board, on the recommendation of the commissioner, shall appoint a medical care advisory committee to advise the board and the department in developing and maintaining the medical assistance program and in making immediate and long-range plans for reaching the program's goal of providing high quality, comprehensive medical and health care services to needy persons in the state.

(b) The board [~~commissioner~~] shall appoint the committee [~~of the size, membership, and experience the commissioner determines essential for the implementation of the program and~~] in compliance with the requirements of the federal agency administering medical assistance. The appointments shall provide for a balanced representation of the general public, providers, consumers, and other persons, state agencies, or groups with knowledge of and interest in the committee's field of work.

(c) The department shall adopt rules for membership on the committee to provide for efficiency of operation, rotation, stability, and continuity[~~, and representation of the various professions and disciplines authorized to provide medical assistance~~].

(d) [~~Members of the committee receive no compensation for their services but are entitled to reimbursement for actual expenses incurred in performing committee duties.~~

[~~(e)~~] The board, on the recommendation of the commissioner, may appoint regional and local medical care advisory committees and other advisory committees as considered [~~he considers~~] necessary.

SECTION 2.02. Subsection (b), Section 32.034, Human Resources Code, is amended to read as follows:

(b) The department may not terminate a contract during the pendency of a hearing under this section. The department may withhold payments during the pendency of a hearing, but the department shall pay the withheld payments and resume contract payments if the final determination is favorable to the contractor. The department's authority to withhold payments shall be established by contract.

SECTION 2.03. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.038 to read as follows:

Sec. 32.038. COLLECTION OF INSURANCE PAYMENTS. (a) The department may receive directly from an insurance company any payments to which the department is entitled under Article 3.76, Insurance Code.

(b) The department shall adopt rules to implement this section, including rules establishing procedures relating to:

(1) notification to the department that a child receiving benefits under Chapter 31 or Chapter 32 of this code is covered by an insurance policy under which the department is eligible to receive direct payments;

(2) claims made by the department to receive payments under Subsection (a) of this section;

(3) notification to the department of any change in the status of the child or the parent; and

(4) notification to the insurance company that the department is to receive payments under Subsection (a) of this section.

(c) Department rules relating to the notice prescribed by Subsection (b)(4) of this section must require the notice to be attached to the claim for insurance benefits when the claim is first submitted to the insurance company.

SECTION 2.04. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.039 to read as follows:

Sec. 32.039. CIVIL DAMAGES AND PENALTIES. (a) In this section, "claim" means an application for payment of health care services under Title XIX of the federal Social Security Act that is submitted by a person who is under a contract or provider agreement with the department.

(b) A person who presents or causes to be presented to the department a claim that contains a statement or representation the person knows to be false is liable to the department for:

(1) the amount paid because of the false claim and interest on that amount determined at the rate provided by law for legal judgments and accruing from the date on which the payment was made;

(2) payment of a civil penalty not to exceed twice the amount paid because of the false claim; and

(3) payment of a civil penalty of not more than $2,000 for each item or service for which payment was claimed.

(c) Unless the provider submitted information to the department for use in preparing a voucher that the provider knew was false or failed to correct information

that the provider knew was false when provided an opportunity to do so, this section does not apply to a claim based on the voucher if the department calculated and printed the amount of the claim on the voucher and then submitted the voucher to the provider for the provider's signature. In addition, the provider's signature on the voucher does not constitute fraud. The department shall adopt rules that establish a grace period during which errors contained in a voucher prepared by the department may be corrected without penalty to the provider.

(d) In determining the amount of the penalty to be assessed under Subdivision (3) of Subsection (b) of this section, the department shall consider:

(1) the seriousness of the violation;

(2) whether the person had previously submitted false claims; and

(3) the amount necessary to deter the person from submitting future false claims.

(e) If after an examination of the facts the department concludes that the person did submit a false claim, the department may issue a preliminary report stating the facts on which it based its conclusion, recommending that a civil penalty under this section be imposed and recommending the amount of the proposed penalty.

(f) The department shall give written notice of the report to the person charged with submitting the false claim. The notice must include a brief summary of the facts, a statement of the amount of the recommended penalty, and a statement of the person's right to an informal review of the false claim, the amount of the penalty, or both the false claim and the amount of the penalty.

(g) Not later than the 10th day after the date on which the person charged with submitting the false claim receives the notice, the person may either give the department written consent to the report, including the recommended penalty, or make a written request for an informal review by the department.

(h) If the person charged with submitting the false claim consents to the penalty recommended by the department or fails to timely request an informal review, the department shall assess the penalty. The department shall give the person written notice of its action. The person shall pay the penalty not later than the 30th day after the date on which the person receives the notice.

(i) If the person charged with submitting a false claim requests an informal review as provided by Subsection (g) of this section, the department shall conduct the review. The department shall give the person written notice of the results of the review.

(j) Not later than the 10th day after the date on which the person charged with submitting the false claim receives the notice prescribed by Subsection (i) of this section, the person may make to the department a written request for a hearing. The hearing must be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(k) If, after informal review, a person who has been ordered to pay a penalty fails to request a formal hearing in a timely manner, the department shall assess the penalty. The department shall give the person written notice of its action. The person shall pay the penalty not later than the 30th day after the date on which the person receives the notice.

(l) Except as provided by Subsection (m) of this section, not later than 30 days after the date on which the department issues a final decision after a hearing under Subsection (j) of this section, a person who has been ordered to pay a penalty under this section shall pay the penalty in full.

(m) If the person seeks judicial review of either the fact of the submission of a false claim or the amount of the penalty or of both the fact of the submission and the amount of the penalty, the person shall forward the amount of the penalty to the department for placement in an escrow account or, instead of payment into an

escrow account, post with the department a supersedeas bond in a form approved by the department for the amount of the penalty. The bond must be effective until all judicial review of the order or decision is final.

(n) Failure to forward the money to or to post the bond with the department within the period provided by Subsection (l) or (m) of this section results in a waiver of all legal rights to judicial review. If the person charged fails to forward the money or post the bond within the period provided by Subsection (h), (k), (l), or (m) of this section, the department may forward the matter to the attorney general for enforcement of the penalty and interest as provided by law for legal judgments. An action to enforce a penalty order under this section must be initiated in a court of competent jurisdiction in Travis County or in the county from which the false claim was submitted.

(o) Judicial review of a department order or review under this section assessing a penalty is under the substantial evidence rule. A suit may be initiated by filing a petition with a district court in Travis County, as provided by Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(p) If a penalty is reduced or not assessed, the department shall remit to the person the appropriate amount plus accrued interest if the penalty has been paid or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the department under this subsection shall be paid at a rate equal to the rate provided by law for legal judgments and shall be paid for the period beginning on the date the penalty is paid to the department under this section and ending on the date the penalty is remitted.

(q) A damage, cost, or penalty collected under this section is not an allowable expense in a claim or cost report that is or could be used to determine a rate or payment under the medical assistance program.

(r) All funds collected under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

SECTION 2.05. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0331 to read as follows:

Sec. 32.0331. MEDICAL ASSISTANCE LIENS. (a) Medical assistance payments made under this chapter constitute a claim and lien against the property and estate belonging to the recipient of the medical assistance.

(b) The department may enforce the claim or lien established under this section only on the death of the recipient of medical assistance. However, the department may not enforce the claim or lien if the recipient has a surviving spouse or a surviving dependent or disabled child.

(c) The department shall adopt rules governing the recovery of medical assistance payments through the enforcement of the claims or liens established under this section.

SECTION 2.06. (a) Chapter 3, Insurance Code, is amended by adding Article 3.76 to read as follows:

Art. 3.76. PAYMENTS TO TEXAS DEPARTMENT OF HUMAN SERVICES UNDER ACCIDENT AND HEALTH INSURANCE

Sec. 1. REQUIRED PROVISION. Each individual or group policy of accident and sickness insurance, including a policy issued by a company subject to Chapter 20 of this code, that is delivered, issued for delivery, or renewed in this state and that provides coverage for one or more children whose parent purchased the policy or whose parent is a member of the group shall include a requirement that benefits paid on behalf of the child or children under the policy must be paid to the Texas Department of Human Services after written notice to the insurer at the insurer's home office, if:

(1) the parent who purchased the policy or who is a member of the group is:

(A) a possessory conservator of the child under an order issued by a court in this state or is not entitled to possession of or access to the child; and

(B) is required by court order or court-approved agreement to pay child support;

(2) the Texas Department of Human Services is paying benefits on behalf of the child under Chapter 31 or Chapter 32, Human Resources Code; and

(3) the insurer or group hospital service company is notified through an attachment to the claim for insurance benefits when the claim is first submitted to the insurer or company that the benefits must be paid directly to the Texas Department of Human Services.

Sec. 2. CONSULTATION. The State Board of Insurance and the Texas Department of Human Services may consult with regard to the implementation of this article.

Sec. 3. UNIFORM PROVISION. The State Board of Insurance shall prescribe uniform policy provisions, riders, and endorsements for the policy requirement provided by Section 1 of this article. Before the board prescribes any provisions, riders, or endorsements or any changes in provisions, riders, or endorsements, the State Board of Insurance shall submit the provisions, riders, or endorsements or amendments to them to the Texas Department of Human Services for comment.

(b) Article 3.76, Insurance Code, as added by this Act, applies only to insurance policies delivered, issued for delivery, or renewed on or after January 1, 1988. Insurance policies delivered, issued for delivery, or renewed before January 1, 1988, are governed by the law that existed at the time the policy was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

SECTION 2.07. Section 322, Texas Probate Code, is amended to read as follows:

Sec. 322. CLASSIFICATION OF CLAIMS AGAINST ESTATES OF DECEDENT. Claims against an estate of a decedent shall be classed and have priority of payment, as follows:

Class 1. Funeral expenses and expenses of last sickness for a reasonable amount to be approved by the court, not to exceed Five Thousand Dollars, any excess to be classified and paid as other unsecured claims.

Class 2. Expenses of administration and expenses incurred in the preservation, safe-keeping, and management of the estate.

Class 3. Claims secured by mortgage or other liens, including tax liens, so far as the same can be paid out of the proceeds of the property subject to such mortgage or other lien, and when more than one mortgage or lien shall exist upon the same property, the oldest shall be first paid; but no preference shall be given to such mortgage or lien.

Class 4. Claims for taxes, penalties, and interest due under Title 2, Tax Code; Chapter 8, Title 132, Revised Civil Statutes of Texas, 1925, as amended; Section 81.111, Natural Resources Code; the Local Sales and Use Tax Act, as amended (Article 1066c, Vernon's Texas Civil Statutes); Section 11B, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes); or Section 16, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes).

Class 5. Claims for repayment of medical assistance payments made by the state under Chapter 32, Human Resources Code, to or for the benefit of the decedent.

Class 6. All other claims legally exhibited within six months after the original grant of letters testamentary or of administration.

Class 7. [~~Class 6.~~] All claims legally exhibited after the lapse of six months from the original grant of letters testamentary or of administration.

SECTION 2.08. Subsections (b) and (c), Section 22.01, Penal Code, are amended to read as follows:

(b) An offense under Subsection (a)(1) of this section is a Class A misdemeanor unless:

(1) the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by causing bodily injury to a patient or resident of an institution described in that subsection, in which event the offense is a felony of the third degree; or

(2) the offense is committed by the owner or employee of a facility, except a facility operated by the Texas Youth Commission or the Texas Department of Corrections, described in Subsection (a)(6), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at a facility, except a facility operated by the Texas Youth Commission or the Texas Department of Corrections, described in that subsection, and the offense is committed by causing bodily injury to a patient or resident of a facility, except a facility operated by the Texas Youth Commission or the Texas Department of Corrections, described in that subsection, in which event the offense is a felony of the third degree.

(c) An offense under Subsection (a)(2) of this section is a Class C misdemeanor unless:

(1) the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by threatening a patient or resident of an institution described in that subsection with bodily injury, in which event the offense is a Class B misdemeanor; or

(2) the offense is committed by the owner or an employee of a facility, except a facility operated by the Texas Youth Commission or the Texas Department of Corrections, described in Subsection (a)(6), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at a facility, except a facility operated by the Texas Youth Commission or the Texas Department of Corrections, described in that subsection, and the offense is committed by threatening a patient or resident of a facility, except a facility operated by the Texas Youth Commission or the Texas Department of Corrections, described in that subsection with bodily injury, in which event the offense is a Class B misdemeanor; or

(3) the offense is committed against a classroom teacher, counselor, principal, or other similar instructional or administrative employee of a primary or secondary school accredited by the Texas Education Agency while engaged in performing his educational duties, in which event the offense is a Class B misdemeanor.

SECTION 2.09. Section 111.002, Human Resources Code, is amended by amending Subdivisions (3) and (4) and by adding Subdivision (8) to read as follows:

(3) "Handicapped individual" means any individual, except one whose disability is of a visual nature, who has a physical, [or] mental, or learning disability which constitutes a substantial handicap to employment, or to achieving maximum personal independence, but which is of a nature that rehabilitation services may reasonably be expected to enable the individual to engage in a gainful occupation or enable the individual to achieve a greater level of self-care and independent living.

(4) "Substantial handicap to employment" means a physical, [or] mental, or learning disability in light of attendant medical, psychological, vocational, educational, or other related factors that impedes an individual's occupational performance by preventing the individual from obtaining, retaining, or preparing for a gainful occupation consistent with the individual's capacities and abilities.

(8) "Learning disability" means a disability in one or more areas of oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, mathematics reasoning, or spelling that is not primarily the result of a visual handicap, hearing impairment, mental retardation, emotional disturbance, or an environmental, cultural, or economic disadvantage.

SECTION 2.10. Chapter 111, Human Resources Code, is amended by adding a new Section 111.052A to read as follows:

Sec. 111.052A. COORDINATION WITH STATE AGENCIES. The commission shall coordinate with the Texas Department of Human Services and other health and human service agencies, as necessary, to ensure that clients with learning disabilities receive appropriate services.

SECTION 2.11. Section 32.037, Human Resources Code, is repealed.

ARTICLE 3

SECTION 3.01. (a) Subchapter A, Chapter 41, Human Resources Code, is amended by adding Sections 41.0011 and 41.0012 to read as follows:

Sec. 41.0011. MEMORANDUM OF UNDERSTANDING ON SERVICES FOR MULTIPROBLEM CHILDREN AND YOUTH. (a) The department, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Health, the Texas Youth Commission, the Texas Juvenile Probation Commission, the Texas Rehabilitation Commission, the Texas Commission for the Blind, and the Central Education Agency shall adopt a joint memorandum of understanding to implement a system of local level interagency staffing groups to coordinate services for multiproblem children and youth.

(b) The memorandum must:

(1) clarify the financial and statutory responsibilities of each agency in relation to multiproblem children and youth, including subcategories of funding for different services such as prevention, family preservation and strengthening, emergency shelter, diagnosis and evaluation, residential care, after-care, information and referral, and investigation services;

(2) include a functional definition of "multiproblem children and youth";

(3) define procedures for interagency cost sharing;

(4) define procedures aimed at eliminating duplication of services relating to assessment and diagnosis, treatment, residential placement and care, and case management of multiproblem children and youth;

(5) define procedures for addressing disputes between the agencies that relate to the agencies' areas of service responsibilities;

(6) provide that each local level interagency staffing group will include a local representative of the department and each agency and not more than five representatives of local private sector youth agencies;

(7) provide that if an agency is not able to provide all the services a child requires, the agency may submit the child's case history to the local level interagency staffing group for consideration;

(8) provide that a local level interagency staffing group may be called together by a representative of any member agency;

(9) provide that an agency may be excused from attending a meeting if the staffing group determines that the age or needs of the children or youth to be considered are clearly not within the agency's service responsibilities;

(10) provide that records that are used or developed by the department and other agencies and that relate to a particular child are confidential and may not be released to any other person or agency except as provided under this section or by other law; and

(11) provide a procedure that permits the department and other agencies to share confidential information while preserving the confidential nature of the information.

(c) These agencies in the formulation of this memorandum of understanding shall consult with and solicit input from advocacy and consumer groups.

(d) Not later than the last month of each state fiscal year, the department and the other agencies shall review and update the memorandum.

(e) Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Sec. 41.0012. ALLOCATION OF STATE FUNDS. (a) The department shall establish a method of allocating state funds for children's protective services programs that encourages and rewards the contribution of funds or services from all persons, including local governmental entities.

(b) Except as provided by this subsection, if a contribution of funds or services is made to support a children's protective services program in a particular county, the department shall use the contribution to benefit that program. The department may use the contribution for another purpose only if the commissioners court of the county gives the department written permission.

(b) Not later than September 1, 1988, the Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Health, the Texas Youth Commission, the Texas Juvenile Probation Commission, the Texas Rehabilitation Commission, the Texas Commission for the Blind, and the Central Education Agency shall adopt a joint memorandum of understanding as prescribed by Section 41.0011, Human Resources Code, as added by this Act. If the Texas Health and Human Services Coordinating Council develops a model for initiating local level interagency staffing groups, the agencies shall use the model in developing the memorandum of understanding.

SECTION 3.02. Subchapter B, Chapter 41, Human Resources Code, is amended by adding Section 41.026 to read as follows:

Sec. 41.026. CONTRACT RESIDENTIAL CARE. (a) The department shall make reasonable efforts to ensure that any expenditure of appropriated funds to purchase contract residential care for children is allocated to providers on a fixed monthly basis if:

(1) the allocation is cost-effective; and

(2) the number, type, needs, and conditions of the children served are reasonably constant.

(b) This section does not apply to the purchase of care in a foster family home.

SECTION 3.03. (a) Subchapter B, Chapter 41, Human Resources Code, is amended by adding Section 41.027 to read as follows:

Sec. 41.027. PLACEMENT OF CHILDREN. (a) The department shall use a system for the placement of children in contract residential care, including foster care, that conforms to the levels of care developed and adopted by the Texas Health and Human Services Coordinating Council.

(b) The department shall use the standard application for the placement of children in contract residential care, as developed and adopted by the Texas Health and Human Services Coordinating Council.

(b) Not later than December 1, 1987, the department shall develop and submit for review to the Texas Health and Human Services Coordinating Council a methodology for determining levels of care for children placed by the department.

By January 1, 1988, the department shall implement the provisions established by Section 41.027, as added by this Act, as they relate to children placed by the department after January 1, 1988. By January 1, 1989, the department shall implement the provisions established by Section 41.027, as added by this Act, as they relate to children in placement who were placed on or before January 1, 1988.

SECTION 3.04. (a) Chapter 131, Human Resources Code, is amended by adding Section 131.009 to read as follows:

Sec. 131.009. CHILDREN AND YOUTH SERVICES STATE COORDINATING COMMITTEE. (a) The Children and Youth Services State Coordinating Committee is created in the council.

(b) The committee consists of:

(1) a representative of the Texas Department of Human Services, appointed by the commissioner of human services;

(2) a representative of the Texas Department of Mental Health and Mental Retardation, appointed by the commissioner of mental health and mental retardation;

(3) a representative of the Texas Department of Health, appointed by the commissioner of health;

(4) a representative of the Texas Youth Commission, appointed by the executive director of the commission;

(5) a representative of the Texas Juvenile Probation Commission, appointed by the executive director of the commission;

(6) a representative of the Texas Rehabilitation Commission, appointed by the commissioner;

(7) a representative of the Texas Commission for the Blind, appointed by the executive director of the commission;

(8) a representative of the Central Education Agency, appointed by the commissioner of education;

(9) three representatives from youth related consumer and advocacy groups, appointed by the council;

(10) three representatives of private sector youth agencies, appointed by the council; and

(11) a judge involved in the placement of children, appointed by the council.

(c) The committee shall:

(1) analyze the capabilities and authority of each agency represented on the committee in the area of services to children and youth;

(2) identify gaps in services to children and youth;

(3) facilitate cost-effective use of existing resources by developing means for agencies to jointly fund services for multiproblem children and youth; and

(4) develop a model for initiating local level interagency staffing groups to coordinate services for multiproblem children and youth.

(d) The model for the local level staffing groups must recommend specific geographical service areas for each group.

(e) Members of the committee receive no compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their duties.

(b) On the effective date of this Act, the Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Department of Health, Texas Youth Commission, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, Texas Commission for the Blind, Central Education Agency, and Texas Health and Human Services Coordinating Council shall appoint the members of the Children and Youth Services State

Coordinating Committee established by Section 131.009, Human Resources Code, as added by this Act. The committee shall conduct its initial meeting not later than October 1, 1987. The committee shall develop a model for initiating local level interagency staffing groups for agencies serving multiproblem children and youth not later than January 1, 1988, including a procedure for the appointment of state agency and private sector youth agency representatives. Not later than November 1, 1988, the committee shall submit a report to the Texas Health and Human Services Coordinating Council on the implementation and activities of the local staffing groups. The council shall include the committee's report in the annual report the council is required to file under Subdivision (9), Subsection (a), Section 131.004, Human Resources Code. The committee shall also develop a model for tracking children and youth in contract residential care through the Central Education Agency, and submit a report detailing the projected costs for statewide implementation of the model to the council not later than January 1, 1989.

SECTION 3.05. (a) The Texas Health and Human Services Coordinating Council shall conduct a study of the costs and benefits of combining services to children and youth in the state. The study shall focus on the possibility of creating a single children and youth services agency to provide coordinated services to children and youth.

(b) The council shall also study alternative means of financing contract residential care for children and youth.

(c) In conducting the study, the council shall solicit the opinions of persons from both the public and private sector who are involved in delivering services to children and youth.

(d) Not later than February 1, 1989, the council shall submit a report to the governor and the 71st Legislature that contains specific recommendations on the feasibility of creating a single children and youth services agency and, if creation is feasible, how the new system should be implemented.

(e) This section expires September 1, 1989.

ARTICLE 4

SECTION 4.01. Subdivisions (9) and (10), Section 42.002, Human Resources Code, are amended to read as follows:

(9) "Family [~~"Registered family~~] home" means a home [~~facility~~] that regularly provides care in the caretaker's own residence for not more than six children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed 12 at any given time.

(10) "Agency group home" means a facility that provides care for seven to 12 children for 24 hours a day and is used only by a licensed child-placing agency [~~"Family day home" means a facility that provides care for not more than six children under 14 years of age for less than 24 hours a day not in the caretaker's own residence nor in the residence of one or more of the children~~].

SECTION 4.02. Section 42.022, Human Resources Code, is amended to read as follows:

Sec. 42.022. STATE ADVISORY COMMITTEE. (a) The State Advisory Committee on Child-Care Administrators and Facilities is [~~composed of 15 citizens of this state~~] appointed by the board on the recommendation of the commissioner.

(b) Members of the committee serve for terms of two years.

(c) The board shall appoint the advisory committee to provide for balanced representation for [~~The members must represent the following groups~~]:

(1) parents, guardians, or custodians of children who use the facilities;

(2) child advocacy groups;

(3) operators of the facilities; [~~and~~]

(4) experts in various professional fields that are relevant to child care and development; and

(5) the general public.

(d) The [~~At least three members of the division staff shall meet with the committee, and the~~] division shall provide staff necessary for the committee.

(e) The committee shall review rules and minimum standards for child-care administrators, child-care facilities, and child-placing agencies promulgated by state agencies, and shall advise the department, the division, the council, and state agencies on problems of child-care administrators, child-care facilities, and child-placing agencies.

(f) The committee shall receive and review the annual report of the division.

(g) The board, on the recommendation of the commissioner, shall appoint an advisory subcommittee on child-care administration from the membership of the Advisory Committee on Child-Care Administrators and Facilities. The subcommittee shall advise the board on licensing child-care administrators, including the content of the examination administered to license applicants under Section 43.004 of this code. The subcommittee on child-care administration shall meet at the same time the committee meets [~~committee shall meet twice a year, and the members shall receive their actual travel expenses and the state per diem~~].

SECTION 4.03. Subsection (b), Section 42.041, Human Resources Code, is amended to read as follows:

(b) This section does not apply to:

(1) a state-operated facility;

(2) an agency home;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Texas Department of Health;

(6) a hospital licensed by the Texas Department of Mental Health and Mental Retardation or the Texas Department of Health;

(7) an educational facility accredited by the Central Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above;

(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Central Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a [~~registered~~] family home, whether registered or not; [~~or~~]

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the

following: kindergarten through at least grade three, elementary, or secondary grades; or

(12) an agency group home.

SECTION 4.04. Section 42.042, Human Resources Code, is amended by adding Subsection (l) to read as follows:

(l) The department shall adopt minimum standards regulating family homes that register with the division. The rules must address the minimum qualifications, education, and training required of a person who operates a family home registered with the division.

SECTION 4.05. Subsection (c), Section 42.050, Human Resources Code, is amended to read as follows:

(c) The division shall evaluate the application for a new license to determine if all licensing requirements are met. The evaluation may [must] include a specified number of visits to the facility and must include a review of all required forms and records.

SECTION 4.06. Subsections (c), (d), and (f), Section 42.052, Human Resources Code, are amended to read as follows:

(c) A [registered] family home that provides care for three or fewer children, excluding the caretaker's own children may register [must be registered] with the division. A family home that provides care for four or more children, excluding the caretaker's own children, must register with the division. A [The] registration must be renewed every year [two years]. The operator of a registered home must display the registration in a prominent place at the home.

(d) To remain [be] registered with the division, a [registered] family home must comply with the department's rules and standards and any provision of this chapter that applies to a registered family home.

(f) A [Any advertisement for a registered] family home may not place a public advertisement that [which] uses the title "registered family home" or any variation of the phrase unless the home is registered with the division under this chapter. Any public advertisement for a registered family home which uses the title "registered family home" must contain a provision in bold type stating: "THIS HOME IS REGISTERED WITH THE TEXAS DEPARTMENT OF HUMAN SERVICES [RESOURCES] BUT IS NOT LICENSED OR [;] INSPECTED [, OR OTHERWISE REGULATED BY THE DEPARTMENT]."

SECTION 4.07. Section 42.053, Human Resources Code, is amended to read as follows:

Sec. 42.053. AGENCY HOMES AND AGENCY GROUP HOMES. (a) An agency home or agency group home is considered part of the child-placing agency that operates the agency home or agency group home for purposes of licensing.

(b) The operator of a licensed agency shall display a copy of the license in a prominent place in the agency home or agency group home used by the agency.

(c) An agency home or agency group home shall comply with all provisions of this chapter and all department rules and standards that apply to a child-care facility caring for a similar number of children for a similar number of hours each day.

(d) The division shall revoke or suspend the license of a child-placing agency if an agency home or agency group home operated by the licensed agency fails to comply with Subsection (c) of this section.

SECTION 4.08. Subsection (e) Section 42.054, Human Resources Code, as added by Chapter 239, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(e) The division shall charge each [registered] family home that is registered with the division an annual registration fee of $35 to cover the department's cost

in regulating family homes. The fee is due on the date on which the division registers the home and on the anniversary of that date.

SECTION 4.09. Subsection (c), Section 42.074, Human Resources Code, is amended to read as follows:

(c) At the division's request, the attorney general or the county or district attorney of the county in which the facility is located shall conduct a suit in the name of the State of Texas for injunctive relief, to recover the civil penalty, or for both injunctive relief and civil penalties as authorized by Subsection (a) of this section.

SECTION 4.10. Section 43.003, Human Resources Code, is amended to read as follows:

Sec. 43.003. LICENSE REQUIRED. (a) Except as provided by Subsection (b) of this section, a [A] person may not serve as a child-care administrator of a child-care institution without a license issued by the department under this chapter.

(b) A person who is not licensed under this chapter may serve as the child-care administrator of an emergency shelter located in a county with a population of less than 40,000 if the governing body of the shelter by resolution adopted by a majority vote of the membership of the governing body certifies that the shelter has made a reasonable effort to hire a licensed child-care administrator but is unable to hire a licensed child-care administrator.

SECTION 4.11. Chapter 43, Human Resources Code, is amended by adding Section 43.0041 to read as follows:

Sec. 43.0041. EXAMINATION RESULTS. (a) Not later than the 30th day after the date on which a licensing examination is administered under this chapter, the department shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the department shall notify examinees of the results of the examination not later than the 14th day after the date on which the department receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the department shall notify the examinee of the reason for the delay before that 90th day.

(b) If requested in writing by a person who fails a licensing examination administered under this chapter, the department shall furnish the person with an analysis of the person's performance on the examination.

SECTION 4.12. Section 43.009, Human Resources Code, is amended to read as follows:

Sec. 43.009. LICENSE RENEWAL. (a) To be eligible for license renewal, a license holder shall present evidence to the department of participation in a program of continuing education approximating 15 actual hours of formal study during the two-year period before the renewal.

(b) The continuing education requirement may be fulfilled by studies in the areas of legal aspects of child care, concepts related to the field of social work, or other subjects approved by the department.

(c) A person may renew an unexpired license by paying to the department before the expiration date of the license the required renewal fee.

(d) 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 fee that is one-half of the examination fee for the license.

(e) If a person's license has been expired for longer 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 fee that is equal to the examination fee for the license.

(f) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining

an original license. However, the department may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. The person must pay to the department a fee that is equal to the examination fee for the license.

(g) At least 30 days before the expiration of a person's license, the department shall send written notice of the impending license expiration to the person at the licensee's last known address according to the records of the department.

SECTION 4.13. Section 43.010, Human Resources Code, is amended to read as follows:

Sec. 43.010. LICENSE REVOCATION OR SUSPENSION; REPRIMAND OR PROBATION. (a) The department may revoke a license if the license holder is:

(1) convicted of a felony;

(2) convicted of a misdemeanor involving fraud or deceit;

(3) addicted to a dangerous drug or intemperate in the use of alcohol; or

(4) grossly negligent in performing duties as a child-care administrator.

(b) The department shall suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter or a rule of the board. If a license suspension is probated, the department may require the license holder:

(1) to report regularly to the department on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the department; or

(3) to continue or renew professional education until the practitioner attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

SECTION 4.14. Section 43.002, Human Resources Code, is repealed.

ARTICLE 5

SECTION 5.01. (a) Subchapter B, Chapter 48, Human Resources Code, is amended by adding Section 48.022 to read as follows:

Sec. 48.022. MEMORANDUM OF UNDERSTANDING. (a) The department shall adopt a memorandum of understanding with each state agency that operates, licenses, certifies, or registers a facility in which elderly or disabled persons are located that clarifies each agency's responsibility under this chapter.

(b) Not later than the last month of each state fiscal year, the department and the other agencies shall review and update the memorandum.

(c) Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

(b) Not later than January 1, 1988, the Texas Department of Human Services and each state agency that operates, licenses, or regulates a facility in which elderly or disabled persons are located shall adopt a memorandum of understanding as prescribed by Section 48.022, Human Resources Code, as added by this Act.

SECTION 5.02. Section 48.036, Human Resources Code, is amended to read as follows:

Sec. 48.036. REPORT. (a) Except as prescribed by Subsection (c) of this section, a [A] person having reasonable cause to believe that an elderly or disabled person is in the state of abuse, exploitation, or neglect shall report the information to the department.

(b) The report may be made orally or in writing. It shall include:

(1) the name, age, and address of the elderly or disabled person;

(2) the name and address of any person responsible for the elderly or disabled person's care;

(3) the nature and extent of the elderly or disabled person's condition;

(4) the basis of the reporter's knowledge; and

(5) any other relevant information.

(c) If a person has reasonable cause to believe that an elderly or disabled person has been abused, exploited, or neglected in a facility operated, licensed, certified, or registered by a state agency, the person shall report the information to the state agency that operates, licenses, certifies, or registers the facility. If the abuse, exploitation, or neglect occurs in a facility licensed under Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4442c, Vernon's Texas Civil Statutes), the person shall report the information as prescribed by Section 16 of that Act, and the Texas Department of Health shall investigate the report as prescribed by that section. If the abuse, exploitation, or neglect occurs in the Texas School for the Deaf or the Texas School for the Blind, the person shall report the information as prescribed by Chapter 34, Family Code, and the investigation shall be conducted in accordance with that law.

(d) If the department receives a report under this section relating to a person in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to the agency.

(e) Each state agency that operates, licenses, certifies, or registers a facility in which elderly or disabled persons reside shall make a thorough investigation promptly after receiving a report that an elderly or disabled person has been or may be abused, exploited, or neglected in a facility operated, licensed, certified, or registered by the agency.

(f) Unless the state agency received the report from the department, the agency shall notify the department of each report it receives under this section relating to abuse, exploitation, or neglect in a facility operated by the agency.

SECTION 5.03. Subchapter C, Chapter 48, Human Resources Code, is amended by adding Section 48.0361 to read as follows:

Sec. 48.0361. FAILURE TO REPORT; PENALTY. (a) A person commits an offense if the person has cause to believe that an elderly or disabled person has been abused, exploited, or neglected or is in the state of abuse, exploitation, or neglect and knowingly fails to report in accordance with Section 48.036 of this code. An offense under this subsection is a Class B misdemeanor.

(b) This section does not apply if the alleged abuse, exploitation, or neglect occurred in a facility licensed under Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4442c, Vernon's Texas Civil Statutes). Failure to report abuse, exploitation, or neglect that occurs in a facility licensed under that Act is governed by that Act.

SECTION 5.04. Section 48.037, Human Resources Code, is amended to read as follows:

Sec. 48.037. ACTION ON REPORT. (a) Not later than 24 hours upon receipt of a report of suspected need for protective services, the department or state agency, as appropriate, shall initiate a prompt and thorough investigation to determine whether the elderly or disabled person is in need of protective services, unless the department or state agency, as appropriate, determines that the report is frivolous or patently without a factual basis.

(b) Each state agency that operates, licenses, certifies, or registers a facility in which elderly or disabled persons are located shall adopt rules relating to the investigation and resolution of reports received under Section 48.036 of this code. The department shall review and approve such rules to assure that all agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.

SECTION 5.05. Subsections (a), (b), (c), and (e), Section 48.038, Human Resources Code, are amended to read as follows:

(a) In an [~~the~~] investigation the department or state agency, as appropriate, shall determine:

(1) whether the person needs protective services from the department;

(2) what services are needed;

(3) whether services are available from the department, state agency, or in the community and how they can be provided;

(4) whether the person would be capable of obtaining services for himself and could bear the cost or would be eligible for services from the department or state agency;

(5) whether a caretaker would be willing to provide services or would agree to their provisions;

(6) whether the elderly or disabled person desires the services; and

(7) other pertinent data.

(b) An [~~The department's~~] investigation by the department or a state agency shall include a visit to the elderly or disabled person's place of residence [~~home~~] and consultation with persons thought to have knowledge of the circumstances.

(c) To implement an investigation of reported abuse, exploitation, or neglect, the probate court, or the county court when no probate court exists, may authorize entry of the place of residence [~~premises~~] of the elderly or disabled person.

(e) The department shall prepare and keep on file a complete written report of each investigation conducted by the department. Each state agency shall prepare and keep on file a complete written report of each investigation conducted by the state agency. Each state agency shall submit a copy of each report relating to abuse, exploitation, or neglect that occurred in a facility operated by the state agency to the department. The report shall include any recommendations that the department shall provide protective services and shall be forwarded to the department within 24 hours of the state agency's determination that protective services are needed.

SECTION 5.06. Subchapter C, Chapter 48, Human Resources Code, is amended by adding Section 48.041 to read as follows:

Sec. 48.041. REVIEW OF INVESTIGATIONS. (a) The department shall review each report of an investigation conducted under Section 48.037 of this code of abuse, exploitation, or neglect in a facility operated by a state agency. The review shall determine whether or not the investigation was conducted according to applicable rules and the standards set forth in Subsection (a) of Section 48.038 of this code; if not, the department shall conduct its own investigation. The department shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report any findings and recommendations to the governing body of the agency that conducted the investigation for any necessary corrective action.

(b) If any state agency, including the Texas Department of Health, receives a complaint relating to an investigation conducted by the agency, the agency shall refer the complaint to the department. The department shall review each complaint received by a state agency or by the department relating to an investigation conducted by a state agency. The department shall conduct an investigation where necessary to carry out the intent of this chapter and shall report any findings and recommendations to the governing body of the agency that conducted the original investigation for any necessary corrective action.

(c) On or before November 1 of each year, the department shall make a report to the governor, the legislature, and the state agencies that operate, license, certify, or register a facility in which elderly or disabled persons are located on the incidence of abuse or neglect of the elderly or disabled in those facilities. The report shall include an analysis of any trends or systemic problems the department identifies in those facilities and make recommendations for the resolution of those

problems. The department shall also develop procedures to make the report available to aged- and disabled-related consumer and advocacy groups.

SECTION 5.07. Subdivision (5), Subsection (e), Section 16, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4442c, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) The agency designated by the court to be responsible for the protection of the institution resident or the Licensing Agency shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the district attorney, [and] the appropriate law enforcement agency, and, if requested by the Texas Department of Human Services, to that department.

ARTICLE 6

SECTION 6.01. Subsection (b), Section 11.12, Family Code, is amended to read as follows:

(b) The social study may be made by any state agency, including the Texas Department of Human Services or any person appointed by the court. In a suit in which adoption is sought or possession of or access to the child is an issue and in which the Texas Department of Human Services is not a party or has no interest, the court shall appoint a private agency or person to conduct the social study. The social study shall be made according to criteria established by the court.

SECTION 6.02A. Section 18.01, Family Code, is amended by amending Subsection (b) and by adding Subsection (c) to read as follows:

(b) The hearing shall be held not earlier than five and one-half months and not later than twelve [seven] months after the date of the last hearing in the suit unless, for good cause shown by any party, an earlier hearing is approved by the court.

(c) Not earlier than five and one-half months and not later than seven months after the date of the last hearing in the suit the department shall:

(1) petition the court for a hearing; or

(2) conduct an administrative review of the placement of the child and provide a written report concerning the results of the review to the court and all parties to the suit.

SECTION 6.02B. Section 18.02, Family Code, is amended by amending Subsection (d) and by adding Subsection (e) to read as follows:

(d) The hearing shall be held not earlier than five and one-half months and not later than twelve [seven] months after the date that the department took possession of or exercised control over the child unless, for good cause shown by any party, an earlier hearing is approved by the court.

(e) Not earlier than five and one-half months and not later than seven months after the date the department took possession of or exercised control over the child the department shall:

(1) petition the court for a hearing; or

(2) conduct an administrative review of the placement of the child and provide a written report concerning the results of the review to the court and all parties to the suit.

SECTION 6.03. Sections 34.01 through 34.08, Family Code, are designated as SUBCHAPTER A. GENERAL PROVISIONS.

SECTION 6.04. Section 34.01, Family Code, is amended to read as follows:

Sec. 34.01. PERSONS REQUIRED TO REPORT. Any person having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect by a person responsible for the child's care, custody, or welfare shall report in accordance with Section 34.02 of this code.

SECTION 6.05. Chapter 34, Family Code, is amended by adding Sections 34.012 and 34.013 to read as follows:

Sec. 34.012. DEFINITIONS. In this chapter:

(1) "Abuse" includes the following acts or omissions by a person responsible for a child's care, custody, or welfare:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual contact, sexual intercourse, or sexual conduct, as those terms are defined by Section 43.01, Penal Code, sexual penetration with a foreign object, incest, sexual assault, or sodomy inflicted on, shown to, or intentionally practiced in the presence of a child if the child is present only to arouse or gratify the sexual desires of any person;

(F) failure to make a reasonable effort to prevent sexual contact, sexual intercourse, or sexual conduct, as those terms are defined by Section 43.01, Penal Code, sexual penetration with a foreign object, incest, sexual assault, or sodomy being inflicted on or shown to a child by another person, or intentionally practiced in the presence of a child by another person if the child is present only to arouse or gratify the sexual desires of any person;

(G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code; or

(H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene (as defined by the Penal Code) or pornographic.

(2) "Neglect" includes:

(A) the leaving of a child in a situation where the child would be exposed to a substantial risk of harm, without arranging for necessary care for the child, and a demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child; or

(B) the following acts or omissions by a person responsible for a child's care, custody, or welfare:

(i) placing the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(ii) the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child; or

(iii) the failure to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding

failure caused primarily by financial inability unless relief services had been offered and refused.

(3) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:

(A) a parent, guardian, managing or possessory conservator, or foster parent of the child;

(B) a member of the child's family or household as defined by Section 71.01 of this code;

(C) a person with whom the child's parent cohabits;

(D) school personnel or volunteers at the child's school; or

(E) personnel or volunteers at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides.

Sec. 34.013. APPLICATION TO STUDENTS IN SCHOOL FOR DEAF OR BLIND. This chapter applies to a student in the Texas School for the Deaf or the Texas School for the Blind regardless of the student's age.

SECTION 6.06. Subsections (a), (c), and (d), Section 34.02, Family Code, are amended to read as follows:

(a) Nonaccusatory reports reflecting the reporter's belief that a child has been or will be abused or neglected, or has died of abuse or neglect, has violated the compulsory school attendance laws on three or more occasions, or has, on three or more occasions, been voluntarily absent from his home without the consent of his parent or guardian for a substantial length of time or without the intent to return shall be made to any local or state law enforcement agency, and in addition shall be made to:

(1) the Texas Department of Human Services; [or]

(2) the agency designated by the court to be responsible for the protection of children; or

(3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

(c) All reports received by any local or state law enforcement agency shall be referred to the Texas Department of Human Services or to the agency designated by the court to be responsible for the protection of children. The department or designated agency immediately shall notify the appropriate state or local law enforcement agency of any report it receives, other than from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect. If the report relates to a child in a facility operated, licensed, certified, or registered by a state agency, the department shall also refer the report to the agency for investigation.

(d) An oral report shall be made immediately on learning of the abuse or neglect, or likelihood of abuse or neglect, as prescribed in Subsection (a) of this section. If a professional has cause to believe that a child has been or may be abused or neglected, the professional shall make an oral report as prescribed by Subsection (a) of this section not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected. In all instances a written report shall be made within five days to the same agency or department. Anonymous reports, while not encouraged, will be received and acted on as prescribed by Section 34.053 of this code [~~in the same manner as acknowledged reports~~]. In this subsection, "professional" means an individual who is licensed or certified by the state, or who is an employee of a facility licensed, certified, or operated by the state, and who in the normal course of official duties, or duties for which a license or certification is required, has direct contact with children. "Professional" includes teachers, nurses, doctors, and day-care employees.

SECTION 6.07. Sections 34.03 and 34.031, Family Code, are amended to read as follows:

Sec. 34.03. IMMUNITIES. Any person reporting or assisting in the investigation of a report pursuant to this chapter is immune from liability, civil or criminal, that might otherwise be incurred or imposed. Immunity extends to participation in any judicial proceeding resulting from the report. Persons reporting or assisting in the investigation of a report in bad faith or malice are not protected by this section.

Sec. 34.031. FALSE REPORT. (a) A person commits an offense if the person knowingly or intentionally makes a report under this chapter that the person knows lacks factual foundation. An offense under this subsection is a Class B misdemeanor.

(b) If, in connection with a pending suit affecting the parent-child relationship, one parent of a child makes a report alleging child abuse by the other parent that the parent making the report knows lacks factual foundation, the report shall be deemed a knowingly false report. Evidence of a false report shall be admissible in any suit between the parents involving terms of conservatorship.

SECTION 6.08. Subsections (a), (b), (c), and (e), Section 34.05, Family Code, are amended to read as follows:

(a) Unless the report alleges that the abuse or neglect occurred in a facility operated, licensed, certified, or registered by another state agency, the [~~The~~] Texas Department of Human Services or the agency designated by the court to be responsible for the protection of children shall make a thorough investigation promptly after receiving either the oral or written report, or if the report is anonymous, after determining that there is some evidence to corroborate the report as prescribed by Section 34.053 of this code. If the report alleges that the abuse or neglect occurred in a facility operated, licensed, certified, or registered by another state agency, that agency shall investigate the report as prescribed by Subchapter B of this chapter. The department may assign priorities to investigations based on the severity and immediacy of the alleged harm to the child. If the department establishes a priority system, the department shall adopt the system by rule. The primary purpose of the investigation shall be the protection of the child.

(b) As necessary to complete a thorough [~~In the~~] investigation, the department or agency shall determine:

(1) the nature, extent, and cause of the abuse or neglect;

(2) the identity of the person responsible for the abuse or neglect;

(3) the names and conditions of the other children in the home;

(4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment;

(6) the relationship of the child to the parents or persons responsible for the care of the child;

(7) all other pertinent data.

(c) The investigation shall include a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit [~~a physical examination of all the children in that home~~], and an interview with and examination of the subject child. The interview with and examination of the child may be conducted at any reasonable time and at any place, including the child's school. The investigation may include an interview with the child's parents and an interview with and examination of any child in the home. The investigation may include a medical, psychological, or psychiatric examination of any child [~~all the children~~] in that home. If admission to the home, school, or any place where the child may be[~~, or permission of the parents or persons responsible for the child's care for the physical examinations~~] cannot be obtained, then the juvenile court, [~~or the~~]

district court, or other court having family law jurisdiction, upon cause shown, shall order the parents or the persons responsible for the care of the children, or the person in charge of any place where the child may be, to allow entrance for the interview, the [~~physical~~] examination, and the investigation. If the parents or person responsible for the child's care does not consent to a medical, psychological, or psychiatric examination of the child that is requested by the department or agency, the juvenile court, [~~or~~] district court, or other court having family law jurisdiction, upon cause shown, shall order the examination to be made at the times and places designated by the court. A parent or person responsible for the child's care is entitled to notice and a hearing when the department or agency seeks a court order to allow a medical, psychological, or psychiatric examination.

(e) The agency designated by the court to be responsible for the protection of children or the department shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the juvenile court or the district court, the district attorney, and the appropriate law enforcement agency if sufficient grounds for the institution of a suit affecting the parent-child relationship are found. If the investigation relates to an allegation of abuse or neglect in a facility operated, licensed, certified, or registered by a state agency, the agency shall report as prescribed by Subchapter B of this chapter. If the investigation relates to an allegation of abuse or neglect in a facility that is not operated, licensed, certified, or registered by a state agency, the department shall submit the report of the investigation to the policymaking body of the facility for any necessary corrective action.

SECTION 6.09. Chapter 34, Family Code, is amended by adding Sections 34.051 through 34.053 to read as follows:

Sec. 34.051. INFORMATION RELATING TO INVESTIGATION PROCEDURE. As soon as possible after initiating an investigation under this subchapter of a parent or other person having legal custody of a child, the Texas Department of Human Services shall provide to the person a brief and easily understood summary of:

(1) the department's procedures for conducting an investigation of alleged child abuse or neglect, including:

(A) a description of the circumstances under which the department would seek to remove the child from the home through the judicial system; and

(B) an explanation that the law requires the department to refer all reports of alleged child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

(2) the person's right to file a complaint with the department or to request a review of the findings made by the department in the investigation;

(3) the person's right to review all records of the investigation unless the review would jeopardize an ongoing criminal investigation;

(4) the person's right to seek legal counsel;

(5) references to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and

(6) the process the person may use to acquire access to the child if the child is removed from the home.

Sec. 34.052. REVIEW OF DEPARTMENT INVESTIGATIONS. (a) The Texas Department of Human Services shall establish policies and procedures as prescribed by this section to resolve complaints relating to and conduct reviews of child abuse or neglect investigations conducted by the department. The department shall adopt the policies and procedures by rule.

(b) If a person under investigation for allegedly abusing or neglecting a child requests clarification of the status of the person's case or files a complaint relating

to the conduct of departmental staff or to departmental policy, the department shall conduct an informal review to clarify the person's status or resolve the complaint. The immediate supervisor of the employee who conducted the child abuse or neglect investigation or against whom the complaint was filed shall conduct the informal review as soon as possible but not later than the 14th day after the date on which the request or complaint is received.

(c) If after a departmental investigation the person who the department alleges has abused or neglected a child disputes the department's determination of whether child abuse or neglect occurred, the person may request an administrative review of the findings. A department employee in administration who was not involved in or did not directly supervise the investigation shall conduct the review. The review must sustain, alter, or reverse the department's original findings in the investigation.

(d) Unless court proceedings relating to the investigation are pending, the department employee shall conduct the review prescribed by Subsection (c) of this section as soon as possible but not later than the 45th day after the date on which the department receives the request. If court proceedings are pending, the department may postpone the review until the court proceedings have been completed.

(e) A person is not required to exhaust the remedies provided by this section before pursuing a judicial remedy provided by law.

(f) This section does not apply to a determination made by a court.

Sec. 34.053. INVESTIGATION OF ANONYMOUS REPORTS. (a) If the department receives an anonymous report of child abuse, the department shall conduct a preliminary investigation to determine if there is any evidence to corroborate the report.

(b) An investigation under this section may include a visit to the child's home and an interview with and examination of the child and an interview with the child's parents. In addition, the department may interview any other person the department believes may have relevant information.

(c) Unless the department determines that there is some evidence to corroborate the report of abuse, the department may not conduct the thorough investigation required by Section 34.05 of this code or take any action against the person accused of abuse.

SECTION 6.10. (a) Chapter 34, Family Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. INVESTIGATIONS OF ABUSE IN CERTAIN FACILITIES

Sec. 34.21. OFFICE OF YOUTH CARE INVESTIGATIONS. (a) The Office of Youth Care Investigations is established in the office of the attorney general.

(b) The office shall provide independent oversight of investigations of child abuse and neglect in facilities that are operated, licensed, certified, or registered by the state. The office shall review the complaints relating to investigations conducted by the Texas Department of Human Services, as prescribed by Subsection (c) of Section 34.25 of this code.

(c) The office shall:

(1) adopt a memorandum of understanding with each state agency that operates, licenses, certifies, or registers a child-care facility that clarifies each agency's responsibilities under this chapter;

(2) establish guidelines relating to the investigation of child abuse and neglect in facilities operated, licensed, certified, or registered by a state agency;

(3) assist state agencies in developing rules, policies, and procedures to govern the investigation of child abuse and neglect in facilities operated, licensed, certified, or registered by the agency; and

(4) compile, maintain, and make available statistics on the incidence of child abuse and neglect in facilities operated, licensed, certified, or registered by a state agency.

(d) Not later than the last month of each state fiscal year, the office and the state agencies shall review and update the memorandum of understanding required by Subdivision (1) of Subsection (c) of this section. The office and each state agency by rule shall adopt the memorandum and all revisions to the memorandum.

(e) On or before November 1, of each year, the office shall make a report to the governor, the legislature, and the state agencies that operate, license, certify, or register child-care facilities on the incidence of child abuse and neglect in those facilities. The report shall include an analysis of any trends or systemic problems the office identifies in those facilities and make recommendations for the resolution of those problems. The office shall also develop procedures to make the report available to children and youth related consumer and advocacy groups.

Sec. 34.22. INVESTIGATION OF ABUSE IN CERTAIN FACILITIES. (a) Each state agency that operates, licenses, certifies, or registers a facility in which children are located shall make a thorough investigation promptly after receiving a report that a child has been or may be abused or neglected in a facility operated, licensed, certified, or registered by the agency. The primary purpose of the investigation shall be the protection of the child.

(b) Each state agency shall notify the Office of Youth Care Investigations of each report of abuse or neglect it receives under this subchapter relating to abuse or neglect in a facility operated by the agency.

(c) Each state agency shall adopt rules relating to the investigation and resolution of reports received under this subchapter. The Office of Youth Care Investigations shall review and approve such rules to ensure that all agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.

Sec. 34.23. REPORTS. (a) Each state agency shall prepare and keep on file a complete written report of each investigation conducted by the agency under this subchapter.

(b) If the investigation relates to a report of abuse or neglect in a facility operated by a state agency, the agency shall submit a copy of the report to the Office of Youth Care Investigations.

(c) If the state agency finds that a child has been or may be abused or neglected, the agency shall submit a copy of the report to the appropriate law enforcement agency.

Sec. 34.24. COMPLAINTS. If a state agency receives a complaint relating to an investigation conducted by the agency, the agency shall refer the complaint to the Office of Youth Care Investigations.

Sec. 34.25. REVIEW OF INVESTIGATIONS AND COMPLAINTS. (a) The Office of Youth Care Investigations shall review each report and complaint received by a state agency or the office relating to an investigation of abuse or neglect in a facility operated by a state agency. The review shall determine whether or not the investigation was conducted according to applicable rules and the standards set forth in Subsection (b) of Section 34.05 of this code; if not, the office shall conduct its own investigation. The office shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report any findings and recommendations to the policymaking body of the agency that conducted the investigation for any necessary corrective action.

(b) The office shall review each complaint received by a state agency or the office relating to an investigation of abuse or neglect in a facility licensed, certified, or registered by a state agency. The office shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report any findings

and recommendations to the policymaking body of the agency that conducted the original investigation for any necessary corrective action.

(c) The office shall review complaints relating to an investigation of abuse or neglect conducted by the Texas Department of Human Services if the complaint could not be resolved through the department's review process established under Section 34.052 of this code. The office shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report any findings and recommendations to the Texas Board of Human Services for any necessary corrective action.

(d) A person is not required to exhaust the remedies provided by this section before pursuing a judicial remedy provided by law.

(e) The office may not review an action or decision made by a court.

(b) Not later than January 1, 1988, the Office of Youth Care Investigations and each state agency that operates, licenses, certifies, or registers a child-care facility shall adopt a memorandum of understanding as prescribed by Section 34.21, Family Code, as added by this Act.

SECTION 6.11. Section 54.04, Family Code, is amended by adding Subsection (g) to read as follows:

(g) If the court places the child on probation outside his home or commits the child to the Texas Youth Commission, the court shall include in its order its determination whether:

(1) it is in the child's best interests to be placed outside his home; and

(2) reasonable efforts were made to prevent or eliminate the need for the child's removal from the home and to make it possible for the child to return to his home.

ARTICLE 7

SECTION 7.01. Subsection (e), Section 33.002, Human Resources Code, is amended to read as follows:

(e) The Texas Department of Human Services [~~Resources~~] shall screen all applicants for expedited issuance on a priority basis within one working day. Applicants who meet the federal criteria for expedited issuance and have an immediate need for food assistance shall receive either a manual Authorization-to-Purchase card or the immediate issuance of food stamp coupons within one working day.

SECTION 7.02. Subsection (c), Section 33.013, Human Resources Code, is amended to read as follows:

(c) Where emergency food programs do not exist, the Texas Department of Human Services [~~Resources~~] office shall assist community groups in establishing emergency food assistance programs.

SECTION 7.03. Subdivision (10), Section 74.001, Human Resources Code, is amended to read as follows:

(10) "City or state agency" means an employment commission, the Texas Department of Human Services [~~Resources~~], the State Department of Highways and Public Transportation, and any other agency that is funded or supported by the state or a city government.

SECTION 7.04. Sections 76.001 and 76.008, Human Resources Code, are amended to read as follows:

Sec. 76.001. ADMINISTRATION OF STATEWIDE PLAN FOR CHILD SUPPORT. The attorney general's office is the state agency designated to administer a statewide plan for child support to provide child support collection, parent locator, and paternity determination services that will enable it and the Texas Department of Human Services [~~Resources~~] to participate in programs established by federal law.

Sec. 76.008. PAYMENT OF PENALTIES. From funds appropriated for the attorney general's office or for the administration of the office of the attorney

general, the attorney general shall reimburse the Texas Department of Human Services [~~Resources~~] for any penalty assessed under Title IV-A of the federal Social Security Act that is assessed because of the office's administration of this chapter.

SECTION 7.05. Subsections (a) and (d), Section 76.003, Human Resources Code, are amended to read as follows:

(a) The filing of an application for or the receipt of financial assistance under Chapter 31 of this code constitutes an assignment to the attorney general of any rights to support from any other person that the applicant or recipient may have in his own behalf 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. An applicant's assignment under this section is valid only if the Texas Department of Human Services [~~Resources~~] approves the application. The attorney general may distribute support payments or parts of payments received by it to the family for whom the payments are made or may use the payments to provide assistance and services to and on behalf of needy dependent children.

(d) The attorney general's office shall cooperate with the Texas Department of Human Services [~~Resources~~] in determining the distribution and use of child support payments received under this section.

SECTION 7.06. Subsection (b), Section 103.011, Human Resources Code, is amended to read as follows:

(b) The Texas Department of Human Services [~~Resources~~] and the Texas Department of Health shall require each adult day care or adult day health care facility to implement and enforce the applicable provisions of Chapter 102 of this code.

SECTION 7.07. Subsections (b) and (c), Section 11.171, Family Code, are amended to read as follows:

(b) The clerk shall send the fees collected under this section to the Texas Department of Human Services [~~Resources~~].

(c) The Texas Department of Human Services [~~Resources~~] shall deposit the fees received under this section to the credit of a special fund in the State Treasury.

SECTION 7.08. Subsection (i), Section 17.03, Family Code, is amended to read as follows:

(i) When a representative of the Texas Department of Human Services [~~Resources~~] or other agency takes possession of a child under Subsection (a)(3), (a)(4), (a)(5), or (a)(6) of this section, the department or other agency must give written notice as prescribed by this subsection to the child's parent or a legal guardian. The written notice must be given as soon as practicable, but in any event, prior to the hearing required by Subsection (c) of this section. The written notice may be waived by the court at the hearing held under Subsection (c) of this section on a showing by the Texas Department of Human Services [~~Resources~~] or other agency taking possession of the child that the parents or legal guardian of the child could not be located. The written notice must include:

(1) the reasons why the department or agency is taking possession of the child and the facts that led the department to believe that the child should be taken into custody;

(2) the name of the person at the department or agency that the parent or other custodian may contact for information relating to the child or any legal proceeding relating to the child;

(3) a summary of legal rights of parents or other custodians under this chapter and an explanation of the probable legal procedures relating to the child; and

(4) a statement that the parent or other custodian has the right to hire an attorney.

ARTICLE 8

SECTION 8.01. Section 2, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. PURPOSE; STATE POLICY. (a) The purpose of this Act is to facilitate the development and implementation of effective state and local systems for managing job-training, employment, and related programs in the State of Texas, as authorized by the Federal Job Training Partnership Act (Pub.L. No. 97-300, 96 Stat. 1322, Section 122).

(b) [~~(2) Policy.~~] It is state policy to coordinate all available resources from federal, state, and local governments, business, labor, and community-based organizations to develop and promote a balanced, equitable, and cost-beneficial employment and training system. It is state policy that there be consultation between the governor and the state legislature in implementing the federal Job Training Partnership Act and this Act. It is also state policy that the programs created under this Act emphasize service to AFDC recipients to reduce dependency on public assistance.

SECTION 8.02. Subsection (d), Section 7, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The appropriate chief elected officials in each service delivery area, as specified in the federal Act, shall select the members and the initial size of the PIC in accordance with the procedures specified in the federal Act. Each PIC must include a representative of the local Texas Department of Human Services region.

SECTION 8.03. Subsection (b), Section 8, Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The state hereby establishes a State Job Training Coordinating Council as required by the federal Act, hereinafter referred to as the "state council". The state council shall:

(1) be appointed by the governor in accordance with the requirements of the federal Act;

(2) have not more than 40 members including the chairperson;

(3) meet not less than quarterly;

(4) develop and recommend statewide goals and program objectives;

(5) identify needs for training and employment services;

(6) review operations of local programs and state agencies providing job-training, employment, and related programs identified in the federal Act;

(7) establish criteria for coordinating program planning and operations;

(8) evaluate the results of state and local training and employment services;

(9) develop and recommend the state's coordination and special services plan to the governor;

(10) perform the functions formerly conducted by the State Coordinating Committee for the work incentive program under Title IV of the Social Security Act, the advisory council established under the Wagner-Peyser Act (29 U.S.C. 49) and under the Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes); [~~and~~]

(11) assist each Private Industry Council in developing programs to serve AFDC recipients; and

(12) perform such functions and duties relating to job-training, employment, and related programs as required by the federal Act or as assigned by the governor.

ARTICLE 9

SECTION 9.01. The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by adding Article 13 to read as follows:

Art. 13. COMPETITIVE COST REVIEW PROGRAM TO DETERMINE THE EFFICIENCY OF ACTIVITIES OF CERTAIN AGENCIES.

Sec. 13.01. APPLICATION; PURPOSE. (a) This article creates the competitive cost review program to assist in determining the efficiency of

commercial activities performed by the state. A state agency that participates in this program shall apply the policies and requirements established under this article.

(b) This article is adopted to:

(1) promote more efficient use of public funds; and

(2) ensure periodic review of state agency management and support activities in order to improve agency operations, better determine costs, increase agency productivity, and remain competitive with the private sector.

Sec. 13.02. DEFINITIONS. In this article:

(1) "Agency in-house cost estimate" means a state agency report that contains the agency's computations of probable cost to the state to produce a desired quality and quantity of products or services by conducting an activity, using agency personnel and facilities, through the most efficient method available to the agency.

(2) "Commercial activity" means an activity that provides a product or service that is commonly available from a private source. The term includes, but is not limited to, activities such as laundry services, food services, data processing services, warehousing services, and property maintenance services.

(3) "Management study" means a state agency analysis of an activity conducted by that agency that is made to determine the essential products of an activity, the necessary quality and quantity of those products, and the most efficient method of obtaining a required result.

(4) "Cost comparison review" means a report by the commission that compares the cost of purchasing a service with the cost of providing the service by the state.

(5) "State agency" means a state agency subject to this article that is directed by law to participate in the competitive cost review program created under this article.

Sec. 13.03. DUTIES OF AFFECTED STATE AGENCIES. (a) Each biennium a state agency subject to this article shall conduct competitive cost reviews of the functions performed by that agency as provided by this article and shall adopt rules to implement this article. The agency shall conduct management studies, develop agency in-house cost estimates, and conduct other activities as necessary to implement this article.

(b) In conducting a competitive cost review of the functions performed by a state agency, the agency shall analyze all agency activities, shall identify by November 1 of each year all commercial activities performed by the agency, and shall develop a schedule for the analysis of the commercial activities identified. The agency shall report its determinations to its governing body and shall submit the schedule for approval by December 1 of each year.

(c) After approval of the schedule by the governing body, the state agency shall conduct a management study of the agency functions specified in the schedule. At the minimum, a management study must contain:

(1) a description of the agency function;

(2) an analysis of the quality and quantity of the work of the agency in relation to that function; and

(3) a description of any efficiency initiatives that the agency could implement to perform the function more efficiently.

(d) The agency shall estimate the total cost to perform the function and submit each agency in-house cost estimate to the State Auditor for approval.

Sec. 13.04. DUTIES OF STATE AUDITOR. (a) The State Auditor shall assist the competitive cost review program by developing cost accounting procedures and instructions for state agencies relating to the development of agency in-house cost estimates. The State Auditor shall certify an agency in-house cost estimate as accurate and in compliance with the instructions and shall forward the cost estimate to the commission.

(b) The State Auditor shall provide any necessary technical expertise to a state agency official who is required to develop agency in-house cost estimates for that agency.

(c) The State Auditor shall notify the legislative audit committee of any cost comparison review that indicates state costs exceed the commission estimate of private costs by more than 10 percent.

Sec. 13.05. DUTIES OF STATE PURCHASING AND GENERAL SERVICES COMMISSION. (a) The commission shall conduct a cost comparison review. In conducting the cost comparison review, the commission shall:

(1) estimate the cost to purchase the service from the private sector. In developing the estimate, the commission may use specific area surveys, state average costs or current bid data;

(2) determine if the quality and quantity of service that could be provided through purchase is at least equal to the quality and quantity of service proposed in the agency management study and in-house cost estimate;

(3) determine the total state cost incurred in providing the service based on the approved agency in-house cost estimate; and

(4) based on estimates of the total cost, compare the total cost to the state to purchase the services with the total state cost of providing the service.

(b) After consultation with the agency and State Auditor, the commission shall determine if the total state cost of providing the service exceeds the cost of purchasing the service. If the commission finds that at least the same quality and quantity of service can be purchased at a savings of more than 10 percent, the commission shall notify the chairman of the governing body of the agency of the amount by which the agency's costs exceed the costs of purchasing the service. The commission may request any information from a state agency necessary to accomplish the purpose of this subsection.

Sec. 13.06. AGENCY EFFICIENCY INITIATIVE. (a) Upon notice by the commission that savings of more than 10 percent could be achieved through purchasing the service, the agency shall develop, not later than 60 days after notification, a proposal for reducing costs of the service so that the difference between agency costs and purchased costs does not exceed 10 percent. The proposal shall provide an estimate of the number of state employee positions, if any, that will be eliminated through the reduction.

(b) Within 10 days of completion of the proposal, the agency shall submit copies of the proposal to its governing body and shall submit copies to the governor for consideration under the Budget Execution Act. The chairman of the governing body shall schedule the proposal for discussion and action at the next regularly scheduled meeting of the governing body.

(c) Within 180 days of discussion by the governing body, the agency shall reduce the costs of providing the service so that the difference between agency costs and purchased costs does not exceed 10 percent.

(d) The agency shall submit necessary documents to the Comptroller of Public Accounts to allow the comptroller to control for the reduced expenditure level, and the agency shall not expend funds in excess of the reduced levels.

(e) When a new cost comparison between agency costs and purchased costs indicates a need for expenditures above the reduced levels, the agency may submit necessary documents to the comptroller for adjustment in expenditure levels.

Sec. 13.07. SAVINGS FROM EFFICIENCY INITIATIVE. Except for savings allocated to the productivity bonus program (Article 6252-29, Vernon's Texas Civil Statutes), and the state employee incentive program (Article 6252-28, Vernon's Texas Civil Statutes), all savings that result from reduced costs under the efficiency initiative shall be used by the agency for treatment, rehabilitation, or other direct services the agency provides to persons it serves.

Sec. 13.08. EXEMPTED ACTIVITIES. This article does not apply to an activity by a state agency subject to this article if the activity:

(a) is purchased through the provisions of Chapter 122, Human Resources Code; or

(b) is exempt from purchase through competitive bid under the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes).

Sec. 13.09. APPLICATION. The state agencies subject to this article are:

(1) the Texas Department of Mental Health and Mental Retardation;

(2) the Texas Department of Human Services; and

(3) the Texas Department of Corrections.

SECTION 9.02. (a) Not later than August 31, 1988, the Texas Department of Mental Health and Mental Retardation shall conduct competitive cost reviews on its laundry services and on its building, grounds, and vehicle maintenance services.

(b) Not later than August 31, 1988, the Texas Department of Human Services shall conduct competitive cost reviews on its printing services and on the claims processing services required for the vendor drug, long-term care, and dental components of the early periodic screening, diagnosis, and treatment program of the medical assistance program.

(c) Not later than August 31, 1988, the Texas Department of Corrections shall conduct competitive cost reviews on its food services, building maintenance services, and transportation services.

ARTICLE 10

SECTION 10.01. Except as otherwise provided by this Act, this Act takes effect September 1, 1987.

SECTION 10.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1131

Senator Green submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1131** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

GREEN	SHELLEY
BARRIENTOS	WATSON
LYON	BARTON

WHITMIRE	POLUMBO
ANDERSON	ARNOLD
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to conflicts of interest for a local public official with a substantial interest in a business; creating an offense and providing a penalty.

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

SECTION 1. Subsection (a), Section 3, Chapter 640, Acts of the 68th Legislature, Regular Session, 1983 (Article 988b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by Section 5 of this Act, a local public official commits an offense if he knowingly:

(1) participates in a vote or decision on a matter involving a business entity or real property in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter would confer an economic benefit to the business entity involved;

(2) acts as surety for a business entity that has a contract, work, or business with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

SECTION 2. Section 4, Chapter 640, Acts of the 68th Legislature, Regular Session, 1983 (Article 988b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. AFFIDAVIT. (a) If a local public official or a person related to that official in the first or second degree by either affinity or consanguinity has a substantial interest in a business entity that would be pecuniarily [~~peculiarly~~] affected by any official action taken by the governing body, the local public official, before a vote or decision on the matter, shall file an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the official recordkeeper of the governmental entity.

(b) If a local public official is required to file and does file an affidavit of interest under Subsection (a) of this section, that official shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

SECTION 3. Section 5, Chapter 640, Acts of the 68th Legislature, Regular Session, 1983 (Article 988b, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) A local public official may perform an act prohibited by Section 3 of this Act if a majority of the membership of the governmental entity of which the official is a member is composed of persons who are required to file affidavits of similar interests under Subsection (b) of Section 4 of this Act on the official action.

SECTION 4. An offense committed under Chapter 640, Acts of the 68th Legislature, Regular Session, 1983 (Article 988b, Vernon's Texas Civil Statutes), before the effective date of this Act is governed by the law in existence on the date the offense occurred, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1987.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 232, Granting the Kohfeldt family permission to sue the State of Texas and the State Department of Highways and Public Transportation.

H.C.R. 233, Granting J. D. Abrams, Inc. permission to sue the State of Texas and the State Department of Highways and Public Transportation.

H.C.R. 234, Granting J. D. Abrams, Inc. permission to sue the State of Texas and the State Department of Highways and Public Transportation.

S.C.R. 87, Requesting the Department of Human Services to implement certain recommendations regarding relations with care providers.

S.C.R. 88, Requesting the Department of Human Services to monitor the new single administrative law judge appeal process.

S.C.R. 89, Requesting the Department of Human Services to implement certain recommendations regarding training in its audit of programs.

S.C.R. 90, Requesting the Department of Human Services to implement certain recommendations regarding its program audit procedures.

S.C.R. 91, Authorizing the Department of Highways and Public Transportation to expend certain funds to add a vistors center at McDonald Observatory.

S.C.R. 135, Requesting the cooperation of the Texas Department of Mental Health and Mental Retardation, the Central Education Agency, and the Texas Rehabilitation Commission in implementing an interagency agreement.

S.C.R. 136, Directing the State Board of Insurance to clarify the requirements of the law relating to provision of insurance coverage for certain psychiatric treatment. (Amended)

S.C.R. 140, Honoring the Combined Law Enforcement Association of Texas, Inc. on its Anniversary.

The House has adopted the Conference Committee Report on **H.B. 1230** by a record vote of 146 ayes, 0 noes, 1 present-not voting.

The House has concurred in Senate amendments to **H.J.R. 83** by a record vote of 139 ayes, 0 noes, 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RESOLUTION 690

Senator Barrientos offered the following resolution:

WHEREAS, Jon C. Ford was born in Cushing, Nacogdoches County, on November 27, 1920; and

WHEREAS, He received a bachelor of journalism degree with honors from The University of Texas at Austin in 1942, then gallantly served with the Army Air Corps in the Pacific Theater of Operations during World War II; and

WHEREAS, Jon C. Ford began a distinguished newspaper career in 1945 as a reporter for the Honolulu Advertiser; he then served as managing editor of the Odessa American; reporter, managing editor, associate editor, and Capitol bureau chief of the San Antonio Express-News; and political editor and Capitol bureau chief for Newspapers, Inc., later Cox Newspapers, which included the Austin American-Statesman, Waco Tribune-Herald, Port Arthur News, and Lufkin News; and

WHEREAS, Mr. Ford's illustrious career also included state government service as press secretary to Governors Price Daniel (1960-1962) and Bill Clements (1979-1982) and as public information officer for the State Board of Insurance (1982-1987); and

WHEREAS, Mr. Ford coauthored a book, Campaign Money, Reform and Reality in the States; was senior panelist on the "Capital Eye" television public affairs show from 1970 to 1978; was Texas delegation reporter for NBC at the 1968 Democratic and Republican national conventions; contributed articles to Time magazine, the Christian Science Monitor, and Texas Monthly; and received numerous journalism awards, including three citations by the Headliners Club of Austin; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby congratulate Jon C. Ford upon his many accomplishments and on his retirement from the State Board of Insurance; and, be it further

RESOLVED, That a copy of this resolution be prepared for him as an expression of highest esteem from the Texas Senate.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was adopted viva voce vote.

GUESTS PRESENTED

Mr. Ford and his daughter, Mrs. Mary Jane Horst, were introduced to the Senate.

The President presented an enrolled copy of **S.R. 690** to Mr. Ford, who addressed the Senate.

GUESTS PRESENTED

Senator Glasgow introduced the Capitol Physician for the Day, Dr. James E. Hunter from Bridgeport.

Dr. Hunter and his wife were welcomed as the Senate expressed appreciation for Dr. Hunter's service.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2085

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2085** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	STILES
SARPALIUS	OAKLEY
CAPERTON	REPP
LYON	LUCIO
GLASGOW	CAMPBELL
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RESOLUTION 696

Senator Edwards offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 96(a)(2), Rules of the Senate, 70th Legislature, 1987, is suspended, as provided by Senate Rule 96(f), to enable the Senate to the extent described in this resolution to permit the conference committee appointed to adjust the differences between the House and Senate versions of **H.B. 2243**, relating to the operations of the Texas Sunset Advisory Commission, to successfully conclude the committee's deliberations, by authorizing the conferees to delete language in both bills concerning subpoena powers as follows:

Delete SECTION 6 in the Senate version dealing with subpoena power.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 698

Senator Edwards offered the following resolution:

S.R. 698, Suspending Senate rules to permit the Conference Committee on **H.B. 1373** to consider certain matters.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEES GRANTED PERMISSION TO MEET

On motion of Senator Brooks and by unanimous consent, Senate Conference Committees were granted permission to meet while the Senate was in session today.

CONFERENCE COMMITTEE ON HOUSE BILL 102

Senator Edwards called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 102** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 102** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Johnson, Brooks, Parmer and Krier.

CONFERENCE COMMITTEE ON HOUSE BILL 612

Senator Edwards called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 612** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 612** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Barrientos, Washington, Sarpalius and Anderson.

CONFERENCE COMMITTEE ON HOUSE BILL 2119

Senator Farabee called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2119** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2119** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Farabee, Chairman; Washington, Brooks, McFarland and Harris.

CONFERENCE COMMITTEE ON HOUSE BILL 1829

Senator Farabee called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1829** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1829** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Farabee, Chairman; Brooks, Uribe, Washington and Lyon.

CONFERENCE COMMITTEE ON HOUSE BILL 812

Senator Brown called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 812** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 812** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chairman; Krier, Tejeda, Green and Caperton.

(Senator Brooks in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 2622

Senator Henderson called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2622** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2622** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Henderson, Chairman; Brown, Parmer, Whitmire and Harris.

CONFERENCE COMMITTEE ON HOUSE BILL 2235

Senator Anderson called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2235** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2235** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Anderson, Chairman; Barrientos, Brooks, Santiesteban and Glasgow.

SENATE RESOLUTION 672

Senator Sarpalius offered the following resolution:

WHEREAS, The Senate of the State of Texas is honored to have nine distinguished legislative visitors from Australia, representing the Liberal Party, the Australian Democratic Party, the Labor Party, and the National Party; and

WHEREAS, We desire to give these distinguished visitors a hearty Texas welcome to the Senate of the State of Texas and to the Capital City; and

WHEREAS, Representing the Liberal Party are: Robert Lucus, member of the Legislative Council in South Australia; Dr. Stephanie Smith, head of the Women's

C. M. T. in Queensland; and Peter Kidman, manager of Field Operations in New South Wales; and

WHEREAS, From the Australian Democratic Party, we are privileged to have Gavan Schneider, member of A. C. T. Division Exec. in Canberra and Norman Johnson, A. C. T. member, Brisband Branch in Queensland; and

WHEREAS, Labor Party representatives are Roger Lowery, State Party Organizer in Victoria; Anthony Kelly, candidate for the Legislative Council in New South Wales; and Bill Thomas, member of the Legislative Assembly in West Australia; and

WHEREAS, The Senate is also proud to welcome Jannine Schuestad, New England Council delegate to Central Council from the National Party in New South Wales; and

WHEREAS, Sponsored by the American Council of Young Political Leaders, we are happy that these legislators are visiting our State Capitol and hope that their stay in the Lone Star State will be an enjoyable one; now, therefore, be it

RESOLVED, That the presence of these outstanding legislators be recognized by the Senate of the State of Texas, 70th Legislature, and that each one be extended the official welcome of the Senate and be properly recognized for their interest and participation in state government; and, be it further

RESOLVED, That copies of this resolution be prepared for each of them as an expression of highest esteem from the Texas Senate.

The resolution was read and was adopted viva voce vote.

(President in Chair)

GUESTS PRESENTED

Senator Sarpalius escorted these guests to the President's Rostrum for the Senate's welcome.

The President presented enrolled copies of **S.R. 672** and greeted the distinguished visitors.

(Senator Brooks in Chair)

CONFERENCE COMMITTEE REPORT
HOUSE BILL 791

Senator Green submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 791** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GREEN	ECKELS
HENDERSON	HUNTER

McFARLAND	LEONARD
	SHELLEY
	A. JONES
On the part of the Senate	On the part of the House

The Conference Committee Report was again read and was filed with the Secretary of Senate.

CONFERENCE COMMITTEE ON HOUSE BILL 2556

Senator McFarland called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2556** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2556** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators McFarland, Chairman; Armbrister, Brown, Montford and Sims.

CONFERENCE COMMITTEE REPORT
SENATE JOINT RESOLUTION 9

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.J.R. 9** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROWN	A. SMITH
MONTFORD	GIBSON
LYON	LANEY
CAPERTON	TELFORD
EDWARDS	CLEMONS
On the part of the Senate	On the part of the House

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the eligibility of a member of the legislature for another office.

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

SECTION 1. Article III, Section 18, of the Texas Constitution is amended to read as follows:

Sec. 18. (a) No Senator or Representative shall, during the term for which he was elected, be eligible to [~~(1)~~] any civil office of profit under this State which shall have been created[~~; or the emoluments of which may have been increased;~~] during

such term[~~; or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature~~]; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected.

(b) If a person who served in the Legislature enters into a civil office of profit the emoluments of which are increased by the Legislature during the legislative term to which the person was elected, the person is not entitled to receive the increase in emoluments of the civil office as long as the increase authorized by the Legislature to which the person was elected is in effect. This subsection does not prohibit a person who served in the Legislature from receiving an increase in the emoluments of the civil office adopted by a subsequent Legislature.

(c) No member of [~~either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of~~] the Legislature shall be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 3, 1987. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to provide that a member of the legislature is eligible to be elected or appointed, and to serve in a different state office but may not receive an increase in compensation granted to that office during the legislative term to which he was elected."

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE ON HOUSE BILL 1514

Senator Brown called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1514** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 1514** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chairman; Anderson, Armbrister, Leedom and Parmer.

CONFERENCE COMMITTEE ON HOUSE BILL 2571

Senator Armbrister called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2571** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2571** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chairman; Lyon, Sarpalius, Sims and Tejeda.

CONFERENCE COMMITTEE ON HOUSE BILL 2108

Senator Armbrister called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2108** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2108** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chairman; Blake, Henderson, McFarland and Washington.

CONFERENCE COMMITTEE ON HOUSE BILL 2328

Senator Armbrister called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2328** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2328** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chairman; Anderson, Brown, Farabee and Tejeda.

SENATE BILL 1081 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 1081** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Wilson

Amend **S.B. 1081**, on third reading, by adding a new appropriately numbered section to read as follows and by renumbering the subsequent sections accordingly:

SECTION _____. Title 70, Revised Statutes, is amended by adding Article 4331A to read as follows:

Art. 4331A. COMPUTER INFORMATION

Sec. 1. The secretary of state may establish a system to provide access by electronic data transmittal processes to information that is stored in state computer record banks maintained by the secretary, is not classified as confidential under a statute or court decision, and is not maintained by the secretary under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes); Title 15, Election Code; or Chapter 305, Government Code. The secretary shall set and charge a fee for the access in an amount reasonable and necessary to cover the costs of establishing and administering the system.

Sec. 2. The secretary of state may:

(1) develop computer software to facilitate the discharge of the constitutional and statutory duties of the office;

(2) enter agreements to transfer the software on the terms and conditions specified in the agreements; and

(3) assess a reasonable fee for the transfer.

Floor Amendment No. 2 - Williamson

Amend **S.B. 1081**, on third reading, by adding a new appropriately numbered section to read as follows and by renumbering the subsequent sections accordingly:

SECTION _____. Title 70, Revised Statutes, is amended by adding Article 4331A to read as follows:

Art. 4331A. COMPUTER INFORMATION

Sec. 1. The secretary of state may establish a system to provide access by electronic data transmittal processes to information that is stored in state computer record banks maintained by the secretary, is not classified as confidential under a statute or court decision, and is not maintained by the secretary under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes); Title 15, Election Code; or Chapter 305, Government Code. The secretary shall set and charge a fee for the access in an amount reasonable and necessary to cover the costs of establishing and administering the system.

Sec. 2. The secretary of state may:

(1) develop computer software to facilitate the discharge of the constitutional and statutory duties of the office;

(2) enter agreements to transfer the software on the terms and conditions specified in the agreements; and

(3) assess a reasonable fee for the transfer.

(4) provided however, such computer software shall be received and certified by the Automated Information Technology Council.

Floor Amendment No. 3 - P. Hill

Amend **S.B. 1081** on page 2, after line 51, by renumbering current Sections 4 and 5 as Sections 5 and 6 and by inserting a new Section 4 to read as follows:

SECTION 4. Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), is amended by adding Section 12B to read as follows:

Sec. 12B. INTERPRETATION AND ADMINISTRATION. (a) The secretary of state shall interpret and administer this Act, excluding Sections 6, 7, and 8 of this Act, and shall make the interpretations and administrative rulings available to any person on request.

(b) It is a defense to prosecution under this Act, excluding Sections 6, 7, and 8 of this Act, that the person reasonably relied on a written interpretation or administrative ruling of the secretary of state relating to the provision of law the person is alleged to have violated.

The amendments were read.

Senator Henderson moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

On motion of Senator Henderson and by unanimous consent, the motion to not concur was withdrawn.

SENATE RESOLUTION 700

Senator Farabee offered the following resolution:

S.R. 700, Suspending Senate rules to permit the Conference Committee on **H.B. 685** to consider certain matters.

The resolution was read and was adopted viva voce vote.

SENATE JOINT RESOLUTION 55 WITH HOUSE AMENDMENT

Senator Parmer called **S.J.R. 55** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

Amendment No. 1 - Schlueter

Amend **S.J.R. 55** by adding a new section appropriately numbered to read as follows:

SECTION 3. Section 2 of **H.J.R. 2**, 70th Legislature, Regular Session, 1987, is amended to read as follows:

Sec. 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1988 [~~November 3, 1987~~]. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment establishing an economic stabilization fund in the state treasury to be used to offset unforeseen shortfalls in revenue."

The amendment was read.

Senator Parmer moved to concur in the House amendment.

POINT OF ORDER

Senator Glasgow raised the Point of Order that Amendment No. 1 was not germane to the bill in that it pertained to a different subject matter.

The Presiding Officer (Senator Brooks in Chair) sustained the Point of Order.

Question - Shall the Senate concur in the House amendment?

SENATE BILL 161 WITH HOUSE AMENDMENT

Senator Caperton called **S.B. 161** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Taylor

Amend **S.B. 161** as follows:

On page 2, strike SECTION 2 and renumber the subsequent sections accordingly.

The amendment was read.

Senator Caperton moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2243

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2243** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	P. HILL
GREEN	VOWELL
PARKER	GRANOFF
MONTFORD	
SARPALIUS	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE JOINT RESOLUTION 55
WITH HOUSE AMENDMENT

The Senate resumed consideration of **S.J.R. 55** with House amendment.

Question - Shall the Senate concur in the House amendment?

Senator Parmer moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the resolution.

The motion prevailed.

CONFERENCE COMMITTEE ON HOUSE BILL 2219

Senator Caperton called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2219** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2219** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Caperton, Chairman; Edwards, Green, Parker and Uribe.

CONFERENCE COMMITTEE ON HOUSE BILL 1176

Senator Caperton called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1176** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 1176** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Caperton, Chairman; Farabee, McFarland, Santiesteban and Washington.

SENATE BILL 223 WITH HOUSE AMENDMENT

Senator Zaffirini called **S.B. 223** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Stiles

Amend **S.B. 223** as follows:

(1) On page 1, line 23, between "child" and the comma, insert "and the well being of the child is in danger".

(2) On page 2, line 2, between "child" and the comma, insert "or if the subject of the report is a child whose well being is not considered to be in danger".

The amendment was read.

Senator Zaffirini moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 277 WITH HOUSE AMENDMENT

Senator Green called **S.B. 277** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Dutton

Amend **S.B. 277** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 9 of Chapter 958, Acts of the 69th Legislature, Regular Session, 1985 (Sec. 16e. of Article 1269m, Vernon's Annotated Texas Civil Statutes), is amended to read as follows:

Sec. 16e. In a city having a population of 1,500,000 or more according to the most recent federal census, a police officer or fire fighter employed by the city shall not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter or police officer unless and until the complainant submits to and passes a polygraph examination. If the fire fighter of police officer requests in writing the results of the complainant's polygraph examination the department shall provide the results within 48 hours of the request and the fire fighter or police officer shall not be required to submit to a polygraph examination until the results of the complainant's polygraph have been provided to the fire fighter or police officer. The polygraph examination restriction does not

apply if the complainant is physically or mentally incapable of being polygraphed. For the purposes of this section, a person "passes" a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the subject matter under investigation. The results of a polygraph examination that relate to the complaint under investigation are not admissible in a proceeding before the civil service commission or a hearing examiner. Nothing herein shall preclude the chief from ordering a police officer or fire fighter to submit to a polygraph examination when, in the exercise of his discretion, he considers the circumstances to be extraordinary and he believes that the integrity of a police officer or fire fighter or the department is in question.

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

The amendment was read.

Senator Green moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(President in Chair)

SENATE BILL 296 WITH HOUSE AMENDMENT

Senator Edwards called **S.B. 296** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - P. Hill

Amend **S.B. 296** on page 1, line 11, by changing "1993" to "1991".

The amendment was read.

Senator Edwards moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 515 WITH HOUSE AMENDMENTS

Senator Lyon called **S.B. 515** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Clemons

Amend **S.B. 515** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 143A. DISMISSAL OF CERTAIN MISDEMEANOR CHARGES UPON COMPLETING DRIVING SAFETY COURSE. (a) When a person is charged with a misdemeanor offense under this Act, other than a violation of Section 51, committed while operating a motor vehicle, the court:

(1) in its discretion may defer proceedings and allow the person 90 days to present evidence that, subsequent to the alleged act, the person has successfully completed a defensive driver's course approved by the Texas Department of Public Safety or other driving safety course approved by the court; or

(2) shall defer proceedings and allow the person 90 days to present written evidence that, subsequent to the alleged act, the person has successfully completed a defensive driver's course approved by the Texas Department of Public Safety or another driving safety course approved by the court, if:

(A) before the answer date on the citation the person enters a plea in person or in writing of No Contest or Guilty and presents to the court an oral or written request [~~or written motion~~] to take a course;

(B) the person has a valid Texas driver's license or permit; [~~and~~]

(C) the person's driving record as maintained by the Texas Department of Public Safety does not indicate successful completion of a driving safety course under this subdivision within the two years immediately preceding the date of the alleged offense;

(D) the person files an affidavit with the court stating that the person is not in the process of taking a course under this subdivision and has not completed a course under this subdivision that is not yet reflected on the person's driving record; and

(E) the offense charged is for an offense covered by this section other than speeding 25 miles per hour or more over the posted speed limit at the place where the alleged offense occurred.

(b) When the person complies with the provisions of Subsection (a) of this section and the evidence presented is accepted by the court, the court shall dismiss the charge, but the court may only dismiss one charge for completion of each course.

When a charge is dismissed under this section, the charge may not be part of the person's driving record or used for any purpose, but the court shall report the fact that a person has successfully completed a driving safety course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record. The court shall note in its report whether the course was taken under the procedure provided by Subdivision (2) of Subsection (a) of this section for the purpose of providing information necessary to determine eligibility to take a subsequent course under that subdivision. An insurer delivering or issuing for delivery a motor vehicle insurance policy in this state may not cancel or increase the premium charged the insured under the policy merely because of an offense dismissed under this section or because the insured completed a driving safety course under this section.

(c) The court may require the person requesting a driving safety course to pay a fee set by the court at an amount that does not exceed $10 to cover the cost of administering this section. Fees collected under this subsection by a municipal court shall be deposited in the municipal treasury. Fees collected by other courts shall be deposited in the county treasury of the county in which the court is located. If the person requesting a driving safety course does not take the course, the person is not entitled to a refund of the fee required by this subsection.

SECTION 2. This Act takes effect September 1, 1987, and applies only to an offense under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) that is committed on or after that date. An offense committed before the effective date of this Act is punishable by the law in existence at the time the offense was committed and the former law is continued in effect for that purpose. For purposes of this section an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Waldrop

Amend **C.S.S.B. 515** as follows:

(1) On page 1, line 23, between "(A)" and "before", insert "on or".

(2) On page 2, line 1, strike "or written request" and substitute "request or a written request, in person or by mail,".

Floor Amendment No. 2 - Eckels

Amend **C.S.S.B. 515** as follows:

On page 1, line 12, after "court", delete ":" and insert "shall advise the defendant of his right to successfully complete a driving safety course; and"

On page 1, line 15, strike "defensive driver's" and substitute "driving safety".

On page 1, line 19, after "present", insert "a Department approved certificate of course completion".

On page 1, line 20, strike "defensive driver's" and substitute "driving safety".

On page 2, line 17, after "and", strike "the evidence presented" and substitute "a certificate of course completion approved by the Department".

On page 3, line 10, after "$10", insert "including any special fees authorized by statute or municipal ordinance".

On page 3, line 17, insert a new subsection (d) as follows:

"(d) The department shall administer comprehensive rules and regulations governing driving safety courses, and shall place on file such rules with the secretary of state."

Floor Amendment No. 3 - Richardson

Amend **C.S.S.B. 515** as follows:

On page 2, line 17, delete "(a)" and replace with "(A)".

On page 3, line 17, add a new Section 2 as follows:

Each traffic citation or promise to appear issued for any offense to which this Act may apply shall contain a clear statement as follows: "You may be able to require that this charge be dismissed by taking a defensive driving course. However, you will lose that right if you do not provide written notice to the court on or before your appearance date of your desire to do so." If such language is not so supplied, the cited party may continue to exercise such right until so informed or until the case is otherwise disposed of.

Renumber accordingly.

Floor Amendment No. 4 - G. Luna

Amend **C.S.S.B. 515**, SECTION 1, by adding (d) as follows:

SECTION 1. (d) No person shall distribute any written information for the purpose of advertising a provider of a defensive driver's course within five hundred (500) feet of any court having jurisdiction over an offense subject to this section. This subsection does not apply to distribution of such information to a court for the purpose of obtaining approval of the course, or to advise the court of the availability of the course, or to distribution by the court. A violation of this subsection by a provider, or the provider's agent, servant, employee, or a person acting in a representative capacity for the provider, shall result in loss of the provider's status as a provider of an approved or licensed course by the Texas Department of Public Safety or other driving safety course approved by the court.

Floor Amendment No. 1 On Third Reading - Waldrop

Amend **C.S.S.B. 515** as follows:

On page 1, line 12, after "court", delete "shall advise the defendant of his right to successfully complete a driving safety course; and" and insert after "," and before "the" "the defendant shall be advised of his right to successfully complete a driving safety course and"

The amendments were read.

Senator Lyon moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 744 WITH HOUSE AMENDMENTS

Senator Parmer called **S.B. 744** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Danburg

Amend **S.B. 744** as follows:

(1) On page 2, line 9, delete the word "staff";

(2) On page 2, line 11, insert the following between the words "by" and "the": "and serving at the pleasure of";

(3) On page 2, delete lines 21 through 26, and on page 3, delete lines 1 through 6, and renumber subsequent subsections as necessary.

Committee Amendment No. 2 - Danburg

Amend **S.B. 744** on page 3, lines 14 and 15, by deleting subsection (g) and inserting a new subsection (g) as follows:

(g) The incidental expenses of the council shall be borne by the entities represented on the council. The entities represented are authorized to expend funds to assist the council in the discharge of its duties, provided however, that the council may not by majority vote or otherwise compel a represented entity to expend funds except by and with the consent of the represented entity.

The amendments were read.

Senator Parmer moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 753 WITH HOUSE AMENDMENTS

Senator Lyon called **S.B. 753** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Campbell

Amend **S.B. 753** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) those parts of a county that surround Lake Tawakoni and Lake Ray Roberts will be frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that will be frequented for resort or recreational purposes will tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this Act are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging recreation.

SECTION 2. DEFINITION. In this Act, "lake area" means the area within 5,000 feet of the project boundary line for Lake Tawakoni or Lake Ray Roberts, which is defined as the 447 foot elevation take line for Lake Tawakoni and the 645 foot elevation take line for Lake Ray Roberts.

SECTION 3. APPLICATION TO LAKE TAWAKONI AND LAKE RAY ROBERTS. This Act applies only to Lake Tawakoni and Lake Ray Roberts.

SECTION 4. LOCAL OPTION ELECTION. (a) This Act applies only to a county in which a majority of the voters voting on the question approve this Act's grant of authority to the county. The commissioners court shall order and hold an election if the court is petitioned to do so under Section 5 of this Act. The commissioners court may not order and hold the election on its own motion.

(b) If an election is held, the ballot shall be printed to provide for voting for or against the proposition: "Granting authority to the county to adopt zoning and building construction ordinances for the areas in the county around (name of the appropriate lake)." Each qualified voter of each affected precinct is entitled to vote in the election.

SECTION 5. PETITION AND VERIFICATION. (a) A petition for a local option election must have a statement that is worded substantially as follows and that is located on each page of the petition preceding the space reserved for signatures: "This petition is to request that an election be held in (name of county) to authorize the county to adopt zoning and building construction ordinances for the areas in the county around (name of the appropriate lake)."

(b) A petition is valid only if it is signed by registered voters of the county in a number equal to at least 10 percent of the number of votes cast for governor in each affected precinct in the most recent gubernatorial general election.

(c) Each signer must enter beside the signature the date on which the petition is signed. A signature may not be counted if the signer fails to enter the date or if the date of signing is earlier than the 90th day before the date the petition is submitted to the commissioners court.

(d) The petition must also contain the current voter registration number, printed name, and residence address, including zip code, for each signer.

(e) Not later than the fifth day after the date a petition is received in the office of the commissioners court, the commissioners court shall submit the petition for verification to the county clerk.

(f) The county clerk shall determine whether the petition meets the requirements imposed by this section. Not later than the 30th day after the date the petition is submitted to the county clerk for verification, the county clerk shall certify in writing to the commissioners court whether the petition is valid or invalid. If the county clerk determines that the petition is invalid, the clerk shall state the reasons for that determination.

(g) If the county clerk certifies that a petition is valid, the commissioners court shall order the election to be held on the next authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the date the court receives the county clerk's certification and that allows for compliance with the time requirements prescribed by Chapter 3, Election Code.

SECTION 6. GRANT OF AUTHORITY. (a) The commissioners court may adopt ordinances that are not inconsistent with state law, that apply only to the lake area in the county, and that regulate:

(1) the height, number of stories, or size of buildings in the area;

(2) the percentage of a lot in the area that may be occupied;

(3) the size of yards and other spaces in the area;

(4) the density of population in the area;

(5) the location and use of buildings and land in the area for commercial, industrial, residential, or other purposes; and

(6) the standards for the construction of buildings in the area.

(b) The commissioners court may adopt a proposed ordinance only after the court receives the lake planning commission's report prepared under Subsection (d) of Section 7 of this Act about the proposed ordinance.

(c) Not withstanding any other provisions of this Act, counties shall have no authority to adopt ordinances in conflict with Article 5.43-4, Insurance Code or any rule or rules promulgated thereunder. An ordinance adopted in conflict with said Code provisions shall be null and void.

SECTION 7. LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the lake area in the county.

(b) The planning commission is composed of:

(1) three residents of the affected precincts who own land in the county and who are appointed by the county judge of the county;

(2) one resident of each commissioners precinct that is affected who is appointed by the county commissioner for that precinct; if only one precinct is affected, the commissioner shall appoint two; and

(3) the mayor of each incorporated city or town that includes any part of the lake area in the county.

(c) Except for the initial appointed members, the appointed members of the planning commission are appointed for terms of two years expiring on February 1 of each odd-numbered year. The initial appointed members are appointed for terms expiring on the first February 1 of an odd-numbered year occurring after the date of their appointment.

(d) At the request of the commissioners court, the planning commission shall, or on its own initiative the commission may, conduct studies of the lake area in the county and prepare reports in which the commission advises the commissioners court about the boundaries of the original zoned districts and other regulations for the lake area and about changes to the districts or regulations.

(e) Before the planning commission may prepare a report, the commission must hold a public hearing at which members of the public may present testimony about any subject that will be included in the commission's report. The commission must give notice of the hearing as the commissioners court may require. Also, if a report will advise the commissioners court about a proposed action regarding the zoning classification of a parcel of land, the commission must send a written notice to each landowner, as listed on the county tax rolls, whose land is directly affected by the proposed action or whose land is located within 200 feet of land directly affected. The notice must inform the landowner of the time and place of the public hearing at which the landowner may present testimony to the commission about the proposed action and must be deposited in the United States mail before the 10th day before the date of the hearing.

(f) The planning commission annually shall elect a chairman and vice-chairman from its members. The commissioners court shall employ staff for the use of the commission in performing its functions.

(g) The commissioners court may assign the planning commission other duties that the court considers appropriate and that are not inconsistent with this Act. The commissioners court shall adopt rules governing the operations of the commission.

SECTION 8. SPECIAL EXCEPTIONS. (a) The planning commission may recommend, subject to approval by the commissioners court, a special exception

to an ordinance adopted under this Act if the commission finds that the grant of the special exception will not be contrary to the public interest and that a literal enforcement of the ordinance would result in an unnecessary hardship.

(b) The planning commission shall adopt procedures governing the application for, notice and hearings about, and other matters relating to the grant of a special exception.

SECTION 9. CONFLICT BETWEEN ORDINANCES. If an ordinance adopted under this Act conflicts with an action of an incorporated city or town that applies to the lake area in the county, the municipal action prevails to the extent of the conflict, provided that the affected lake area is within the limits of the incorporated city or town.

SECTION 10. RULES. The commissioners court shall adopt rules necessary to carry out this Act.

SECTION 11. ENFORCEMENT. (a) The county attorney or other prosecuting attorney representing the county in the district court is entitled to appropriate injunctive relief to prevent a violation or threatened violation of an ordinance adopted under this Act from continuing or occurring.

(b) If an ordinance adopted under this Act defines an offense, the offense is a Class C misdemeanor. The offense is prosecuted in the same manner as an offense defined by state law.

SECTION 12. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1 - Clemons

Amend **C.S.S.B. 753** in SECTION 6 on page 4 by adding a new Subsection (d) to read as follows:

(d) Nothing in this Act shall be construed to authorize a commissioners court to issue any order or regulation in conflict with a city ordinance or state agency rule or regulation pertaining to the regulation of billboards or outdoor advertising. An order or regulation issued in conflict with a city ordinance or state agency rule or regulation shall be null and void.

Floor Amendment No. 2 - Clemons

Amend **C.S.S.B. 753** in SECTION 6 on page 4 by adding a new Subsection (e) to read as follows:

(e) The commissioners court may not regulate new manufactured or industrialized housing, constructed to preemptive state or federal building standards, for siting or zoning purposes in any manner that is different from regulation of site-built housing.

The amendments were read.

Senator Lyon moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 865 WITH HOUSE AMENDMENT

Senator Blake called **S.B. 865** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment - Richardson

Amend **S.B. 865** on page 1, between lines 5 and 6, by inserting a new Section 1 to read as follows and renumbering the original Section 1 and Section 2 as Sections 2 and 3.

SECTION 1. Chapter 57, Acts of the 55th Legislature, Regular Session, 1957 (Article 2351a-6, Vernon's Texas Civil Statutes), is amended by adding Section 9B to read as follows:

Sec. 9B. EXCLUSION OF TERRITORY INSIDE OTHER TAXING AUTHORITY. (a) The Board of Fire Commissioners of a district may exclude from the district territory that is inside the boundaries of another taxing authority if the other taxing authority provides the same services to the territory as the district provides.

(b) The Board of Fire Commissioners may, at its discretion, hold a hearing to consider the exclusion of territory.

(c) The board shall hold a hearing to consider the exclusion of territory if the board receives a petition requesting a hearing on the issue that is signed by at least five percent of the qualified voters who own taxable real property in the district. A petition submitted under this subsection must describe the proposed new boundaries of the district or describe the boundaries of the territory to be excluded from the district.

(d) The board shall issue a notice of a hearing under Subsection (b) or (c). The provisions of Section 4 of this Act relating to the procedure for issuing notice of a hearing to create the district apply to the notice for the hearing prescribed by this section. The notice must state:

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

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

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

(e) After the hearing the Board of Fire Commissioners may either call an election on the question of exclusion or, unless the owners of at least three percent of the property located in the district protest the exclusion, declare, by resolution, the territory excluded from the district.

(f) If the board excludes the territory by resolution, the board shall state in the resolution the new boundaries of the district. The board shall file a copy of the resolution in the office of the county clerk of each county in which the district is located. Each county clerk shall record the resolution in the county records. After the resolution is recorded, the excluded territory is no longer part of the district.

(g) The Board of Fire Commissioners shall call an election on the question of exclusion if:

(1) the owners of at least three percent of the property located in the district protest the exclusion; or

(2) the board:

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

(B) after refusing to exclude the territory, receives a petition requesting an election that is signed by a majority of the qualified voters who own taxable real property in the proposed territory to be excluded.

(h) Except as otherwise required by the Election Code, the election notice, the manner and time of giving the notice, and the manner of holding the election are governed by the applicable provisions of this Act relating to the original creation election.

(i) If a majority of the votes in an election favor excluding the territory from the district, the Board of Fire Commissioners shall enter an order declaring the

territory excluded from the district and stating the new boundaries of the district. The board shall file a copy of the order in the office of the county clerk of each county in which the district is located. Each county clerk shall record the order in the county records. After the order is recorded, the excluded territory is no longer part of the district.

(j) If a majority of the votes in the election do not favor excluding the territory, the Board of Fire Commissioners may not act on a petition to exclude all or any part of the territory for at least one year after the date of the most recent election to exclude the territory from the district.

(k) The exclusion of territory under this section does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of the district.

(l) Territory excluded under this section is not released from the payment of its pro rata share of the district's indebtedness. The district shall continue to levy taxes each year on the excluded territory at the same rate levied on territory in the district until the taxes collected from the excluded territory equals its pro rata share of the indebtedness of the district at the time the territory was excluded. The taxes collected under this subsection shall be applied exclusively to the payment of the excluded territory's pro rata share of the indebtedness. The owner of all or part of the excluded territory may pay in full, at any time, his share of the pro rata share of the district's indebtedness.

The amendment was read.

Senator Blake moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 868 WITH HOUSE AMENDMENT

Senator Blake called **S.B. 868** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment - Patronella

Amend **S.B. 868** on page 1, line 22, immediately following the period, by inserting: Each part of a meeting that is required to be open to the public and in which a member participates by telephonic communication must be available to be heard by the public at the place at which the quorum meets and must be tape recorded. The tape recording shall be made available to the public. A meeting in which a member participates by telephonic communication is subject to the same notice requirements that apply to other meetings and, for the purposes of those requirements, the place of the meeting is considered to be the place at which the quorum meets.

The amendment was read.

Senator Blake moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 873 WITH HOUSE AMENDMENTS

Senator Glasgow called **S.B. 873** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Gavin

Amend **S.B. 873** by adding the following additional sections and renumbering subsequent sections accordingly:

SECTION 1. Articles 9.29 and 9.48, Insurance Code, are amended to read as follows:

Art. 9.29. SUPERVISION, CONSERVATION AND LIQUIDATION OF TITLE INSURANCE COMPANIES. Articles 21.28 and 21.28-A of this code apply to title insurance companies, title insurance agents, and other companies doing a title insurance business in this state.

[Part I

[~~Sec. A. If, upon examination or at any other time, it shall appear to the Board that any of the following conditions exist relative to any company organized under the laws of this state and doing a title insurance business in this state:~~

[~~(1) the minimum surplus requirements of said company are impaired to the extent of fifty (50%) percent and have remained in such state of impairment continuously for at least sixty (60) days; or~~

[~~(2) the capital stock of said company is impaired; or~~

[~~(3) the company is issuing policies of title insurance contrary to law or regulations promulgated by the Board; or~~

[~~(4) the company has refused to permit the examination of its books and records by the Board or by its duly commissioned examiners, and has failed and refused to answer inquiries made by the commissioner; or~~

[~~(5) in the opinion of the Board, the condition of the company is such as to render the continuance of its business hazardous to the public or to its policyholders; or~~

[~~(6) the business of a company is being conducted fraudulently, then the Board shall notify the company of its determination that such condition or conditions exist, and such company shall have thirty (30) days under the supervision of the Board in which to correct such condition in accordance with the requirements of the Board.~~

[~~During the period of supervision, the Board may appoint a supervisor to supervise such company and may provide that the company shall not do any or all of the following things during the period of supervision without the prior approval of the Board or its supervisor:~~

[~~(1) Dispose of, convey or encumber any of its assets;~~

[~~(2) Withdraw any of its bank accounts;~~

[~~(3) Lend any of its funds;~~

[~~(4) Invest any of its funds;~~

[~~(5) Transfer any of its property;~~

[~~(6) Incur any debt, obligation or liability; or~~

[~~(7) Merge or consolidate with another company.~~

[~~Sec. B.~~

[~~1. The Board after hearing and notice to any company organized under the laws of this state and doing a title insurance business in this state, may appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any such company if it finds, based upon substantial evidence, any of the following:~~

[~~(a) The company has failed within the thirty-day time set out in any notice provided under this Article to correct any aforesaid condition set out in the notice in accordance with the requirements of the Board.~~

[~~(b) The company has had its certificate of authority to do business in the State of Texas revoked or suspended or has voluntarily surrendered such certificate of authority.~~

[~~2. The Board may without notice and hearing appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any company organized under the laws of this state and doing a title insurance business in this state when requested to do so by the board of directors of said company. The board of directors of any such company shall also have the right to waive any notice provision provided in this Article by filing with the Board a written instrument in the form of a resolution passed by them or by an instrument signed by a majority of them specifically stating such waiver of notice.~~

[~~Sec. C. After appointment, the conservator shall immediately take charge of such company and all of the property, books, records and effects thereof, and conduct the business thereof, and take such steps toward the removal of the causes and conditions, which have necessitated such order, as the Board may direct. During the pendency of conservatorship, the conservator shall make such reports to the Board from time to time as may be required by the Board, and shall be empowered to take all necessary measures to preserve, protect and recover any assets or property of such title insurance company, and to deal with the same in his own name as conservator including claims or causes of action belonging to or which may be asserted by such title insurance company, and shall be empowered to file, prosecute and defend any suit or suits which have been filed or which may thereafter be filed by or against such title insurance company which are deemed by the conservator to be necessary to protect all of the interested parties or any property affected thereby. If, at the time of appointment of a conservator or at any time during the pendency of such conservatorship, it appears that the interest of the policyholders or certificate holders of such title insurance company can best be protected by reinsuring the same, the conservator may, with the approval of or at the direction of the Board, reinsure all or any part of such company's policies or certificates of insurance with some solvent title insurance company or association authorized to transact title insurance business in this state, and to the extent that such title insurance company in conservatorship is possessed of funds and assets, including reserves and deposits, the conservator may transfer to the reinsuring title company such funds and assets or any portion thereof as may be required to consummate the reinsurance of such policies, and any such funds and assets so transferred shall not be deemed a preference of creditors.~~

[~~If, upon the appointment of a conservator or at any time during the pendency of conservatorship, the Board finds that such title insurance company is not in condition to satisfactorily continue business in the interest of its policyholders or certificate holders under a conservatorship as above provided, the Board may proceed to liquidate such title insurance company through such conservator or request the Attorney General of Texas to institute proceedings to liquidate and dissolve the title insurance company.~~

[~~Sec. D. The cost incident to the supervisor's or conservator's services shall be fixed and determined by the Board and shall be a charge against the assets and funds of the company to be allowed and paid as the Board may determine.~~

~~[Part H~~

[~~Sec. A. If, upon examination or at any other time, it shall appear to the Board that any of the conditions enumerated in Section A of Part I of this Article exist relative to any company not organized under the laws of this state and conducting a title insurance business in this state, then the Board shall notify the company of its determination that such condition or conditions exist, and such company shall have thirty (30) days under the supervision of the Board in which to correct such condition in accordance with the requirements of the Board.~~

[~~During the period of supervision, the Board may appoint a supervisor to supervise the assets in the State of Texas, and the policy liabilities owed to residents of the State of Texas and may provide, with reference to any of such assets and~~

~~liabilities that such company shall not do any or all of the following things during the period of supervision without the prior approval of the Board or its supervisor:~~

[~~(1) Dispose of, convey or encumber any of its assets;~~

[~~(2) Withdraw any of its bank accounts;~~

[~~(3) Lend any of its funds;~~

[~~(4) Invest any of its funds;~~

[~~(5) Transfer any of its property;~~

[~~(6) Incur any debt, obligation or liability; or~~

[~~(7) Merge or consolidate with another company.~~

[~~Sec. B.~~

[~~1. The Board, after hearing and notice to any company not organized under the laws of this state or any person or noncorporate firm doing a title insurance business in this state, may appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any such company if it finds, based upon substantial evidence, any of the following:~~

[~~(a) The company has failed within the thirty-day time set out in any notice provided under this Article to correct any aforesaid condition set out in the notice in accordance with the requirements of the Board.~~

[~~(b) The company has had its certificate of authority to do business in the State of Texas or the state of its domicile revoked or suspended or has voluntarily surrendered either of such certificates.~~

[~~(c) The company, person or noncorporate firm does not have a certificate of authority to do business in this state.~~

[~~2. The Board may without notice and hearing appoint the liquidator designated under the provisions of Article 21.28 of the Texas Insurance Code as conservator of any such company, person or noncorporate firm doing a title insurance business in this state when requested to do so by the Board of Directors or the governing body of such noncorporate firm or by the person conducting the business or at the request of any receiver or conservator of such company, noncorporate firm or person.~~

[~~Sec. C. The conservator as to records and assets in the State of Texas of such company, noncorporate firm and person and policyholder liabilities owed to residents of this state shall have the same rights, obligations and duties as provided to a conservator appointed under the provisions of Part I of this Article.~~

[~~Sec. D. The cost incident to the supervisor's or conservator's services shall be fixed and determined by the Board and shall be a charge against the assets and funds in the State of Texas of the company to be allowed and paid as the Board may determine.~~

[~~**Part III**~~

[~~Sec. A. In all actions and proceedings brought by or against the supervisor or conservator because of or as the result of his being appointed under the provisions of this Article or against assets in his possession or under his control as the result of his being appointed conservator under the provisions of this Article or brought by or against a company while subject to an order of conservatorship, venue shall be in Travis County, Texas.~~

[~~Sec. B. The provisions of this Article shall be cumulative of all other laws, general and special, relating to the subject matter hereof.~~

[~~Sec. C. The provisions of Article 21.28 of the Texas Insurance Code shall apply to all companies subject to Chapter Nine of the Texas Insurance Code and the same shall not be deemed to be restricted in any way by the provisions of this Article.~~]

Art. 9.48. TITLE INSURANCE GUARANTY

Sec. 1. TITLE. This article shall be known and may be cited as the "Texas Title Insurance Guaranty Act."

Sec. 2. PURPOSE. This article is for the purposes and findings set forth in Section 1 of Article 21.28-A of the Insurance Code and in supplementation thereto by providing funds in addition to assets of impaired insurers for the protection of the holders of "covered claims" as defined herein through payment and through contracts of reinsurance or assumption of liabilities or of substitution or otherwise.

Sec. 3. SCOPE. This article shall apply [~~only~~] to all title insurance (direct and reinsurance) written by title insurance companies authorized to do business in this state and doing business under and regulated by the provisions of this Chapter 9 and to trust funds or escrow accounts of title insurance companies or title insurance agents authorized to do business in this state and doing business under and regulated under Chapter 9 of this code. This article may not be deemed or construed to expand or diminish any right or obligation existing between or among policyholders, title insurance companies, or title insurance agents and may not be deemed or construed to require any person to assign, waive, or relinquish any claim, right, or cause of action arising under Article 21.21 of this code or under the Deceptive Trade Practices-Consumer Protection Act (Section 17.41 et seq., Business & Commerce Code).

Sec. 4. CONSTRUCTION. This article shall be liberally construed to effect the purpose under Section 2 which shall constitute an aid and guide to interpretation.

Sec. 5. DEFINITIONS. As used in this article:

(1) A. "State Board of Insurance" is the State Board of Insurance of this State.

B. "Commissioner" is the Commissioner of Insurance of this State.

(2) A. "Covered claim" is an unpaid claim:

(i) of an insured which arises out of and is within the coverage and not in excess of the applicable limits of a title insurance policy to which this article applies, issued or assumed (whereby an assumption certificate is issued) by an insurer licensed to do business in this state and covered by this article, if such insurer becomes an "impaired insurer" after the effective date of this article and the insured real property (or lien thereon) is located within this state;

(ii) against trust funds or an escrow account of an impaired insurer which arises due to a shortage of those funds or in that account;

(iii) for which an impaired insurer is liable in connection with the fidelity of any agent of that insurer as authorized by Article 9.49 of this code; or

(iv) against trust funds or an escrow account of an impaired agent which arises due to a shortage of those funds or in that account and which shall be paid only from funds derived from guaranty fees and not from assessments.

Individual "covered claims" under Subparagraphs (i), (ii), (iii), and (iv) of this paragraph shall be limited to $250,000 [~~$100,000~~] and shall not include any amount in excess of $250,000 [~~$100,000~~]. [~~"Covered claim" shall also include any sum up to $100,000 for which any insurer is liable in connection with the fidelity or solvency of any title insurance agent of such insurer as authorized by Article 9.49 of this chapter of this code.~~]

B. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise. "Covered claim" shall not include supplementary payment obligations, including but not limited to adjustment fees and expenses, attorneys' fees and expenses, court costs, interest, punitive damages, enhanced damages arising under Article 21.21 of this code or under the Deceptive Trade Practices-Consumer Protection Act (Section 17.41 et seq., Business & Commerce Code), and bond premiums, incurred prior to the determination that an insurer or agent is [~~an~~] "impaired" [~~insurer"~~] under this article. "Covered claim" shall also not include any shortage of trust funds or shortage in an escrow account resulting from the insolvency of a financial institution.

C. If the impaired insurer or agent has insufficient assets to pay the expenses of administering the receivership or conservatorship estate, that portion of the expenses of administration incurred in the processing and payment of claims against the estate is also a "covered claim" and shall be paid only from funds derived from guaranty fees and not from assessments.

D. Reasonable and necessary administrative expenses incurred by a conservator appointed by the commissioner or a receiver appointed by a court of competent jurisdiction for an unauthorized insurer operating in this state is a "covered claim" under this article if the commissioner has notified the association or the association has otherwise become aware that:

(i) the unauthorized insurer has insufficient liquid assets to pay the expenses of administering the receivership or conservatorship of the unauthorized insurer;

(ii) insufficient funds are available from abandoned funds as provided by Section 8, Article 21.28 of this code; and

(iii) insufficient funds are available to the State Board of Insurance from appropriations for use in meeting those administrative expenses.

These administrative expenses shall be paid only from funds derived from guaranty fees and not from assessments.

(3) "Insurer" is any title insurance company authorized to do business in this state, and doing business under and regulated by the provisions of this Chapter 9.

(4) "Impaired insurer" is (a) an insurer which, after the effective date of this article, is placed in temporary or permanent receivership under an order of a court of competent jurisdiction based on a finding of insolvency, and which has been designated an "impaired insurer" by the commissioner; or (b) after the effective date of this article, an insurer placed in conservatorship after it has been deemed by the commissioner to be insolvent and which has been designated an "impaired insurer" by the commissioner.

(5) "Payment of covered claims" is actual payment of claims and also is the utilization of funds of the impaired insurer and funds derived from assessments or from guaranty fees as provided by Section 6 of this article for consummation of contracts of reinsurance or assumption of liabilities or contracts of substitution to provide for liabilities arising from covered claims.

(6) "Net direct written premiums" is the gross amount of premiums paid by policyholders for issuance of policies of title insurance insuring risks located in this state and to which this article applies. The term does not include premiums for reinsurance accepted from other licensed insurers, and there shall be no deductions for premiums for reinsurance ceded to other insurers.

(7) "Agent" includes a title insurance agent as defined by Article 9.02(f) of this code, a title attorney as defined by Section 2(d), Article 9.56 of this code, and any insurer's direct operation, wholly owned subsidiary, or affiliate which performs the services usually and customarily performed by a title insurance agent.

(8) "Impaired agent" is:

(A) an agent that is placed in temporary or permanent receivership under an order of a court of competent jurisdiction based on a finding of insolvency, and that has been designated an "impaired agent" by the commissioner; or

(B) an agent placed in conservatorship after it has been deemed by the commissioner to be insolvent and that has been designated an "impaired agent" by the commissioner.

(9) "Association" means the Texas Title Insurance Guaranty Association.

(10) "Account" means one of the three accounts created under Section 14 of this article.

(11) "Board" means the board of directors of the association.

(12) "Unauthorized insurer" means a person, firm, association, or corporation that has engaged in activities prohibited by Section 3, Article 1.14-1 of this code while doing a title insurance business.

(13) "Trust funds" or "escrow account" includes those accounts which are subject to annual audit pursuant to Article 9.39 of this code.

Sec. 6. POLICY GUARANTY FEES. (a) The agent, or the insurer if there is no agent, who is required to report an owner or mortgagee title insurance policy on its statistical report to the State Board of Insurance, shall remit a guaranty fee in an amount not to exceed $5 for each owner or mortgagee policy which is required to be reported. The board of directors shall determine at least annually the amount and may adjust the amount more frequently. In determining the amount of the guaranty fee, the board of directors shall take into consideration the amount of funds to be maintained in the guaranty fee account which is reasonably necessary for efficient future operation under the terms of this article.

(b) Each agent shall remit to the association on a quarterly basis the guaranty fees to be deposited in the guaranty fee account in accordance with this section. The quarterly payment of guaranty fees must be made for the calendar quarters ending March 31st, June 30th, September 30th, and December 31st on or before May 1st, August 1st, November 1st, and February 1st, respectively.

(c) Funds derived from guaranty fees shall be authorized only for the payment of the following:

(1) "covered claims" as defined by Subparagraph (iv) of Paragraph A and Paragraphs C and D of Subsection (2), Section 5 of this article; and

(2) audit expenses as provided by Paragraph (8), Subsection (c), Section 14 of this article.

(d) The State Board of Insurance shall promulgate rules consistent with this section and conform the program created under this section to applicable statutes, regulations, and rulings.

(e) The commissioner may suspend or revoke, after notice and opportunity for hearing, the certificate of authority to transact business in this state of any insurer or agent who fails to comply with this section.

Sec. 7 [6]. ADMINISTRATION [~~ASSESSMENTS~~]. Whenever the commissioner determines that an insurer or agent has become [~~an~~] impaired [~~insurer~~], the receiver appointed in accordance with Article 21.28 of the Insurance Code or the conservator appointed under the authority of Article 21.28-A or Article 9.29 of the Insurance Code shall promptly estimate the amount of additional funds needed to supplement the assets of the impaired insurer or agent immediately available to the receiver or the conservator for the purpose of making payment of all covered claims and administrative expenses. The receiver or conservator shall advise the board of those estimates and the board shall make available from the appropriate account maintained by the association funds sufficient to enable the receiver or conservator to carry out an efficient program of paying the covered claims and administrative expenses of the impaired insurer or agent. The board shall make additional funds available as the actual need for those funds arises for each impaired insurer or agent.

If the board has determined that additional funds are needed in the administrative or title account it shall advise the commissioner who shall make such assessments as may be needed to produce the necessary funds. [~~Thereafter, the commissioner shall be empowered to make such assessments as may be necessary to produce the additional funds needed to make payment of all covered claims.~~] The commissioner may make partial assessments as the actual need for additional funds arises for each impaired insurer. No assessment shall be made to produce funds for the guaranty fee account but such funds shall be derived solely from guaranty fees as provided by Section 6 of this article.

The commissioner shall assess individual insurers in proportion to the ratio that the total net direct written premium collected in the State of Texas by the insurer during the next preceding year bears to the total net direct written premium

collected by all insurers (except impaired insurers) in the State of Texas. Assessments during a calendar year may be made up to, but not in excess of, two percent of each insurer's net direct written premium for the preceding calendar year. If the maximum assessment in any calendar year does not provide an amount sufficient for payment of covered claims of impaired insurers, assessments may be made in the next successive calendar years.

Insurers designated as impaired insurers by the commissioner shall be exempt from assessment from and after the date of such designation and until the commissioner determines that such insurer is no longer an impaired insurer.

The commissioner shall designate the impaired insurer for which each assessment or partial assessment is made and it shall be the duty of each insurer to pay the amount of its assessment to the association [~~conservator or receiver, as the case may be,~~] within 30 days after the commissioner gives notice of the assessment, and assessments may be collected on behalf of the association by the conservator or receiver through suits brought for that purpose. Venue for such suits shall lie in Travis County, Texas. Either party to said action may appeal to the appellate court having jurisdiction over said cause, and said appeal shall be at once returnable to said appellate court having jurisdiction over said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. Neither the receiver nor the conservator shall be required to give an appeal bond in any cause arising hereunder.

Funds derived from assessments or from guaranty fees under the provisions of this article shall not become assets of the impaired insurer or agent but shall be deemed a special fund loaned to the receiver or the conservator for payment of covered claims or administrative expenses, which loan shall be repayable to the extent available from the funds of such impaired insurer or agent, as herein provided.

Income from the investment of any of the funds of the association may be transferred to the administrative account authorized in Section 14(a)(1) of this article. The funds in this account may be used by the association for the purpose of meeting administrative costs and other general expenses of the association. Upon notification by the association of the amount of any additional funds needed for the administrative account, the commissioner shall assess insurers to attain the needed funds in the same manner provided by this section.

No insurer shall be deemed or considered to have or incur any liability, real or contingent, under the provisions of this Article 9.48 of this Chapter 9 until any such assessment shall have been actually made in writing by the commissioner under the provisions of this Article 9.48.

Sec. 8 [~~7~~]. PENALTY FOR FAILURE TO PAY ASSESSMENTS. The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact business in this state of any insurer who fails to pay an assessment when due, and the association shall promptly report the failure to pay to the commissioner.

Any insurer whose certificate or authority to do business in this state is cancelled or surrendered shall be liable for any unpaid assessments made prior to the date of such cancellation or surrender.

Sec. 9 [~~8~~]. ACCOUNTING FOR AND REPAYMENT OF ASSESSMENTS. Upon receipt from an insurer of payment of an assessment or partial assessment, the association [~~receiver or conservator~~] shall provide the insurer with a participation receipt which shall create a liability against the impaired insurer, and the holder of such participation receipt shall be regarded as a general creditor of the impaired insurer; provided, however, that with reference to the remaining balance of any portions of assessments received by the receiver or conservator and not expended in payment of "covered claims," the holders of such

participation receipts shall have preference over other general creditors and shall share pro rata with other holders of participation receipts. The receiver or conservator of any impaired insurer shall adopt accounting procedures reflecting the expenditure and use of all funds received from assessments or partial assessments and shall make a final report of the expenditure and use of such funds to the commissioner, which final report shall set forth the remaining balance, if any, from the funds collected by assessment. The receiver or conservator shall also make any interim reports concerning such accounting as may be required by the commissioner or requested by the association. Upon completion of the final report, the receiver or conservator shall, as soon thereafter as is practicable, refund pro rata the remaining balance of such assessments to the holders of the participation receipts.

Should the association at any time determine that money exists in the administrative account or the title account in excess of the amount reasonably necessary for efficient future operation under the terms of this article, it shall cause the excess money to be returned pro rata to the holders of any participation receipts on which there is a balance outstanding after deducting any credits taken against premium taxes as authorized by Section 15 of this article. The amount deducted for those credits shall be deposited with the state treasurer for credit to the general fund of this state. Any excess money remaining after the distribution shall be retained by the association in the guaranty fee account and held pursuant to this article.

Sec. 10 [~~9~~]. PAYMENT OF COVERED CLAIMS. When an insurer or agent has been designated by the commissioner as [~~an~~] impaired [~~insurer~~], the receiver or conservator, as the case may be, shall marshal all assets of the impaired insurer or agent, including but not limited to those which are designated as or that constitute reserve assets offsetting reserve liabilities for all liabilities falling within the definition of "covered claim" as defined in this article. The receiver or conservator shall apply all of such assets to the payment of covered claims, but may utilize funds received from assessments in the payment of covered claims as provided by Section 7 of this article, pending orderly liquidation or disposition of such assets. When all covered claims have been paid or satisfied by the receiver or conservator, any balance remaining from the liquidation or disposition of such assets shall first be applied in repayment of funds expended from assessments and second in repayment of funds derived from guaranty fees. Such repayments of funds expended from assessments shall be credited as remaining balances and be refunded as provided in Section 9 of this article.

In addition to authorization to make actual payment of covered claims, the receiver or conservator is specifically authorized to utilize such marshalled assets and funds derived from assessments for the purpose of negotiating and consummating contracts of reinsurance or assumption of liabilities or contracts of substitution to provide for outstanding liabilities of covered claims. The commissioner shall not require the insurer that reinsures or assumes the policies of the impaired insurer or enters into an agreement to substitute itself in the place of the impaired insurer, to issue assumption certificates or other written evidence of such agreement to the policyholders of the impaired insurer, except to policyholders that have made a claim for loss arising under their policy (issued by the impaired insurer) before the date of such reinsurance, assumption or substitution agreement. The commissioner shall require that the reinsurance, assumption, or substitution agreement be filed as a public record with the State Board of Insurance. The commissioner shall approve such agreement unless, after public hearing held within 30 days following such filing, he determines that such agreement does not effectively protect the policyholders of the insurers to give notice of such hearing to its policyholders. Such notice shall be by publication, not less than seven days in

advance of the hearing, in a newspaper of general circulation printed in the State of Texas. No cause of action shall lie against the impaired insurer for breach of contract or refund of premium after the agreement has been approved by the commissioner and the notice of hearing before the commissioner shall so advise the policyholders of the impaired insurer.

This article shall not be construed to impose restriction or limitation upon the authority granted or authorized the commissioner, the conservator, or the receiver elsewhere in the Insurance Code and other statutes of this state but shall be construed and authorized for use in conjunction with other portions of the Insurance Code dealing with delinquency proceedings or threatened insolvencies or supervisions or conservatorships.

Sec. 11 [~~10~~]. APPROVAL OF COVERED CLAIMS. Covered claims against an impaired insurer or agent placed in temporary or permanent receivership under an order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction shall be processed and acted upon by the receiver or ancillary receiver in the same manner as other claims as provided in Article 21.28 of the Insurance Code and as ordered by the court in which such receivership is pending; provided, however, that funds received from assessments or from guaranty fees shall be liable only for the difference between the amount of the covered claims approved by the receiver and the amount of the assets marshalled by the receiver for payment to holders of covered claims; and provided further that in ancillary receiverships in this state, funds received from assessments shall be liable only for the difference between the amount of the covered claims approved by the ancillary receiver and the amount of assets marshalled by the receivers in other states for application to payment of covered claims within this state. [~~Such funds received from assessments shall not be liable for any amount over and above that approved by the receiver for a covered claim, and any action brought by the holder of such covered claim appealing from the receiver's action shall not increase the liability of such funds; provided, however, that the receiver may review his action in approving a covered claim and for just cause modify such approval at any time during the pendency of the receivership.~~]

If a conservator is appointed to handle the affairs of an impaired insurer or agent, the conservator shall determine whether or not covered claims should or can be provided for in whole or in part by reinsurance, assumption, or substitution. Upon determination by the conservator that actual payment of covered claims should be made, the conservator shall give notice of such determination to claimants falling within the class of "covered claims." The conservator shall mail such notice to the latest address reflected in the records of the impaired insurer or agent. If the records of the impaired insurer or agent do not reflect the address of a claimant, the conservator may give notice by publication in a newspaper of general circulation. Such notice shall state the time within which the claimant must file his claim with the conservator, which time shall in no event be less than 90 days from the date of the mailing or publication of such notice. The conservator may require, in whole or in part, that sworn claim forms be filed and may require that additional information or evidence be filed as may be reasonably necessary for the conservator to determine the legality or the amount due under a covered claim. When an impaired insurer or agent has been placed in conservatorship, the funds received from assessments or from guaranty fees shall be liable only for the difference between the amount of the covered claim approved by the conservator and the amount of assets marshalled by the conservator for payment to holders of covered claims. [~~Any action brought by the holder of such covered claim against the impaired insurer shall not increase the liability of such funds; provided, however, that the conservator may review his action in approving a covered claim and may for just cause modify such approval at any time during the pendency of the conservatorship.~~]

Upon determination by the conservator that actual payment of covered claims should be made or upon order of the court to the receiver to give notice for the filing of claims, any person who has a cause of action against an insured of the impaired insurer under a title insurance policy issued or assumed by such insurer shall, if such cause of action meets the definition of "covered claim," have the right to file a claim with the receiver or the conservator, regardless of the fact that such claim may be unliquidated or undetermined [~~contingent~~], and such claim may be approved as a "covered claim" (1) if it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured; and (2) if such person shall furnish suitable proof that no further valid claims against such insurer arising out of his cause of action other than those already presented can be made; and (3) if the total liability of such insurer to all claimants arising from the same title insurance policy shall be no greater than its total liability would be were it not in liquidation, rehabilitation, or conservation. In the proceedings of considering "covered claims," no judgment against an insured taken after the date of the commencement of the delinquency proceedings or the appointment of a conservator shall be considered as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default or by collusion prior to the commencement of the delinquency proceedings or the appointment of a conservator shall be considered as conclusive evidence either (1) of the liability of such insured to such person upon such cause of action, or (2) of the amount of damages to which such person is therein entitled.

The acceptance of payment from the receiver or conservator by the holder of a covered claim or the acceptance of the benefits of contracts negotiated by the receiver or conservator providing for reinsurance or assumption of liabilities or for substitution shall constitute an assignment to the impaired insurer or agent of any cause of action or right of the holder of such covered claim arising from the occurrence upon which the covered claim is based. Such assignment shall be to the extent of the amount accepted or the value of the benefits provided by such contracts of reinsurance or assumption of liabilities or substitution. Such assignment to the impaired insurer or agent may be assigned to the insurer executing such reinsurance, assumption or substitution agreement.

Sec. 12. NONDUPLICATION OF RECOVERY. (a) A person having a claim against an insurer under law or under any provision in an insurance policy other than a policy of an impaired insurer, which claim is also a covered claim, must first exhaust his rights under law or under the policy, and any amount payable on a covered claim under this article shall be reduced by the amount of any recovery under law or under the policy.

(b) Notwithstanding any provision to the contrary, the receiver or conservator, for the purpose of avoiding undue hardship to a claimant, subject to the approval of the receivership court or the commissioner, as the case may be, may authorize payment of covered claims against an impaired agent without regard to the liability of any insurer or to coverage under any insurance policy. On payment, the receiver or conservator is in all respects subrogated to the rights and claims of the claimant.

Sec. 13 [~~11~~]. RELEASE FROM CONSERVATORSHIP OR RECEIVERSHIP. An impaired insurer or agent placed in conservatorship or receivership for which assessments have been made under the provisions of this article, or for which guaranty fees have been provided, shall not be authorized, upon release from conservatorship or receivership, to issue new or renewal insurance policies until such time as the impaired insurer has repaid pro rata in full to each holder of a participation receipt the assessment amount paid by the receipt holder or its assigns or the impaired agent has repaid in full the amount of guaranty fees

furnished by the association; provided, however, the commissioner may, upon application of the [~~advisory~~] association and after hearing, permit the issuance of new policies in accordance with a plan of operations by the released insurer or agent for repayment [~~of assessments~~]. The commissioner may, in approving such plan, place such restrictions upon the issuance of new or renewal policies as he deems necessary to the implementation of the plan. The commissioner shall give 10 days notice of such hearing to the insurers to whom the participation receipts were issued for an assessment made for the benefit of the released insurer and the association, and the holders of the receipts and the association shall be entitled to appear at and participate in such hearing.

Sec. 14 [~~12~~]. [~~CREATION OF ADVISORY~~] ASSOCIATION. (a) CREATION OF THE ASSOCIATION. There is created a nonprofit legal entity [~~by this article an advisory association~~] to be known as the "Texas Title Insurance Guaranty [~~Advisory~~] Association."[~~, herein called the "advisory association"~~,] All insurers must be members of the association as a condition precedent to their authority to transact insurance in this state. The association shall perform its functions under the plan of operation and shall exercise its powers through a board of directors. For the purposes of administration and assessment, the board shall establish three accounts:

(1) the administrative account;

(2) the title account; and

(3) the guaranty fee account.

The association is under the immediate supervision of the commissioner and is subject to the applicable insurance laws of this state.

(b) BOARD OF DIRECTORS. (1) The association shall exercise its powers through a board of directors consisting of seven persons, four of whom must be employees or officers of the insurers, two of whom must be employees or officers of the agents, and one of whom must be a public representative as defined herein. Board members, other than the public representative, shall be chosen to give fair representation to all insurers and agents giving due consideration to the various categories of premium income, geographical location, and segments of the industry represented in Texas. "Public representative" is an individual who (i) has been a resident of Texas for at least five years immediately preceding appointment, (ii) is not licensed by the State Board of Insurance or subject to the regulation of the State Board of Insurance, (iii) is not financially involved in an organization subject to the regulation of the State Board of Insurance other than ownership of a policy or contract of insurance, (iv) is not a member of the immediate family of an individual who is financially involved in an organization subject to the regulation of the State Board of Insurance, (v) is not engaged in or employed by an entity having a contract with an organization subject to the regulation of the State Board of Insurance, (vi) is not employed by, on the board of directors of, or holding elective office by or under the authority of any unit of federal, state, or local government or any organization that receives a significant part of its funding from any such unit of federal, state, or local government, (vii) is not employed by or associated with an organization formed for the purpose of representing licensees of the State Board of Insurance or organizations or individuals subject to the regulation of the State Board of Insurance, or (viii) is not required to register as a lobbyist under Chapter 305, Government Code, by virtue of activities on behalf of an association or other organization representing the regulated industry. "Immediate family" includes parents, spouse, children, brothers, and sisters who reside in the same household. Members of the board shall be appointed by the State Board of Insurance to serve staggered four-year terms, with the term of one, two, or three members expiring each year. Each director shall serve until a successor is appointed. A vacancy on the board shall be filled for the unexpired term by the State Board of Insurance. If any director,

other than a public representative, ceases to be an officer or employee of a member insurer or an agent during a term of office, the office is vacant. All directors are eligible to serve more than one term.

(2) Directors may not receive any remuneration or emolument of office but are entitled to reimbursement for their actual expenses incurred in performing their duties as directors.

(c) POWERS AND DUTIES OF ASSOCIATION. In addition to the powers and duties provided by other sections of this article, the association:

(1) may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of any impaired insurer or agent;

(2) has standing to appear before any court in this state with jurisdiction over an impaired insurer or agent concerning which the association is or may become obligated under this article;

(3) may enter into such contracts that are necessary or proper, including the power to borrow money and to invest funds, and to carry out the provisions and purposes of this article;

(4) may sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments;

(5) may employ or retain such persons who are necessary to handle the financial transactions of the association, and to perform any other functions that become necessary or proper under this article;

(6) may negotiate and contract with any liquidator, rehabilitator, conservator, receiver, or ancillary receiver to carry out the powers and duties of the association;

(7) may take legal action as necessary to avoid the payment of improper claims;

(8) shall, on the request of the commissioner, authorize the expenditure of funds from the guaranty fee account to retain, compensate, and reimburse for reasonable and necessary expenses, a person or persons who will audit and review agent and insurer escrow and trust accounts and make reports relating to those accounts to the commissioner, solely under the direction of and as assigned by the commissioner; and

(9) shall collect, receive, retain, and disburse the income provided by Section 6 of this article solely for the purposes, to the persons, and under the circumstances that are specifically stated in this article.

(d) PLAN OF OPERATION. (1) The association shall submit to the commissioner a plan of operation and any amendment to the plan of operation necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments to the plan of operation are effective on approval in writing by the commissioner.

(2) If the association fails to submit a suitable plan of operation within 180 days following the effective date of this article, or if at any time after this article takes effect the association fails to submit suitable amendments to the plan, the commissioner, after notice and hearing, may promulgate reasonable rules as are necessary or advisable to carry out this article. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(3) All insurers shall comply with the plan of operation.

(4) The plan of operation shall, in addition to requirements provided in other parts of this article:

A. establish procedures for handling the assets of the association;

B. establish the amount and method of reimbursing members of the board;

C. establish regular places and times for meetings of the board of directors;

D. establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

E. establish any additional procedures for determining the amount of guaranty fees and for collecting guaranty fees under Section 6 of this article;

F. establish any additional procedures for assessments under Section 7 of this article; and

G. contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(e) PREVENTION OF IMPAIRMENTS. (1) To aid in the detection and prevention of insurer and agent impairments, the board shall carry out the duties and may exercise the authority provided by this subsection.

(2) The board of directors shall notify the commissioner of any information indicating any insurer or agent may be unable or potentially unable to fulfill its contractual obligations and may request appropriate investigation and action by the commissioner who may, in his discretion, make any investigation and take any action as he deems appropriate. [~~to be composed of four insurers. Within 30 days after the effective date of this article, the State Board of Insurance shall appoint the insurers who will serve as the initial advisory association. Of the initial advisory association members, one shall be appointed to serve for a one-year term of office, one shall be appointed to serve for a two-year term of office, one shall be appointed to serve for a three-year term of office, and one shall be appointed to serve a four-year term of office. Subsequent members of the advisory association shall serve for the term of office as stated above and shall be elected by insurers, subject to the approval by the commissioner.~~

[~~The initial members of the advisory association and subsequent members shall be chosen to afford fair representation to all insurers subject to this article, giving due consideration to geographical location and segments of the industry represented in Texas. Vacancies on the advisory association shall be filled for the remaining period of the term in the same manner as the initial appointments.~~

[~~The advisory association shall conduct its meetings in Austin, Texas, in the Insurance Building of the State of Texas. Meetings shall be held upon call by the commissioner or upon written request of a majority of the members. Meetings shall not be open to the public, and only members of the advisory association, members of the State Board of Insurance, the commissioner, and persons authorized by the commissioner shall attend such meetings.~~]

(3) The board [~~advisory association~~] shall advise and counsel with the commissioner upon matters relating to the solvency of insurers and agents. The commissioner shall call a meeting of the board [~~advisory association~~] when he determines that an insurer or agent is insolvent or impaired and may call a meeting of the board [~~advisory association~~] when he determines that a danger of insolvency or impairment of an insurer or agent exists. Such a meeting is not open to the public and only members of the board of directors, members of the State Board of Insurance, the commissioner, and persons authorized by the commissioner shall attend such meetings. The board [~~advisory association~~] shall[~~, upon majority vote,~~] notify the commissioner of any information indicating that an insurer or agent may be unable or potentially unable to fulfill its contractual obligations and request a meeting with the commissioner. At such meetings the commissioner may divulge to the board [~~advisory association~~] any information in his possession and any records of the State Board of Insurance, including examination reports or preliminary reports from examiners relating to such insurer or agent. The commissioner may summon officers, directors, and employees of an insolvent or impaired insurer or agent, or an insurer or agent the commissioner considers to be in danger of insolvency or impairment, to appear before the board [~~advisory association~~] for conference or for the taking of testimony. Members of the

board [~~advisory association~~] shall not reveal information received in such meetings to anyone unless authorized by the commissioner or the State Board of Insurance or when required as witness in court. Board [~~Advisory association~~] members and all of these meetings shall be subject to the same standard of confidentiality as is imposed upon examiners under Article 1.18 of the Insurance Code, except that no bond shall be required of a board member [~~advisory association members~~].

The board [~~advisory association~~] shall, upon request by the commissioner, attend hearings before the commissioner and meet with and advise the commissioner, the liquidator or conservator appointed by the commissioner, on matters relating to the affairs of an impaired insurer or agent and relating to action that may be taken by the commissioner, liquidator, or conservator to best protect the interests of persons holding covered claims against an impaired insurer or agent and relating to the amount and timing of partial assessments and the marshalling of assets and the processing and handling of covered claims.

(4) The board may make reports and recommendations to the commissioner relating to any matter germane to the solvency, liquidation, rehabilitation, or conservation of any insurer or agent. Those reports and [~~Reports or~~] recommendations [~~made by the advisory association to the commissioner, liquidator, or conservator~~] shall not be considered public documents, and there shall be no liability on the part of and no cause of action against a member of the board [~~advisory association~~] or the board [~~advisory association~~] for any report, individual report, recommendation, or individual recommendation by the board [~~advisory association~~] or members to the commissioner, liquidator, or conservator.

(5) The board may make recommendations to the commissioner for the detection and prevention of insurer or agent impairments.

(6) At the conclusion of any insurer or agent impairment in which the association carried out its duties under this article or exercised any of its powers under this article, the board shall prepare a report on the history and causes of the impairment, based on the information available to the association, and submit a report on these matters to the commissioner. [~~Members shall serve without pay, but their expenses in attending meetings shall be paid subject to the authorization by the legislature in its appropriations bills or otherwise, and subject to the rules of the State Board of Insurance. Members shall serve until their successors are appointed.~~]

(7) Any insurer that has an officer, director, or employee serving as a member of the board [~~advisory association~~] shall not lose the right to negotiate for and enter into contracts of reinsurance or assumption of liability or contracts of substitution to provide for liabilities for covered claims with the receiver or conservator of an impaired insurer or agent. The entering into any such contract shall not be deemed a conflict of interest.

(8) The [~~advisory~~] association or any insurer assessed under this article shall be an interested party under Sections [~~Section~~] 3(h) and 12(b) of Article 21.28 of the Insurance Code.

[~~The State Board of Insurance shall within 90 days after the effective date of this article promulgate reasonable organizational rules for the association which shall set forth, among other things, quorum and attendance requirements for meetings, procedural rules to be followed at association meetings and rules concerning the replacement of members.~~]

Sec. 15 [~~13~~]. RECOGNITION OF ASSESSMENTS IN RATES AND PREMIUM TAX OFFSET. Insurers shall be entitled to recoup assessments up to one percent of their net direct written premiums from rates promulgated, established, or approved by the State Board of Insurance in the next calendar year. The State Board of Insurance in promulgating, establishing, or approving rates shall

take into account assessments and refunds of assessments made in accordance with this article and shall include in the formula forming the basis for promulgating, establishing, or approving rates sums sufficient to provide for [~~such~~] recoupment by the insurers of said assessments of up to one percent.

Unless the State Board of Insurance has determined that all amounts paid by each insurer on assessments on total net direct written premiums have been included in the rates and premiums as provided above, any amounts not so included shall be allowed to such insurer as a credit against its premium tax under Article 9.59 of this code [~~7064, Revised Civil Statutes of Texas, 1925, as amended~~]. The tax credit referred to herein shall be allowed at a rate of 20 percent per year for five successive years following the date of assessment and at the option of the insurer may be taken over an additional number of years, and the balance of any assessment paid by the insurer and not claimed as a tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements under Article 6.12 of this code.

Sec. 16 [~~14~~]. ADVERTISEMENT. It shall be unlawful for an insurer or agent to advertise or refer to this article [~~Act~~] in any manner as an inducement to the purchase of title insurance.

Sec. 17 [~~15~~]. IMMUNITY. There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer subject to this article or its agents or employees, the [~~advisory~~] association or its representatives or employees, or the commissioner or his representatives or employees, or the State Board of Insurance or its representatives or employees for any action taken by them in the performance of their powers and duties under this article.

Sec. 18 [~~16~~]. RULES AND REGULATIONS. The State Board of Insurance is authorized and directed to issue such reasonable rules and regulations as may be necessary to carry out the various purposes and provisions of this article and in augmentation thereof.

Sec. 19. CERTAIN EVIDENCE NOT ADMISSIBLE; UNFAIR PRACTICES. (a) In any lawsuit brought by a conservator or receiver of an impaired insurer or agent for the purpose of recovering assets of the impaired insurer or agent, the fact that claims against the impaired insurer or agent have been or will be paid under this article is not admissible for any purpose and may not be placed before any jury by evidence, argument, or reference in any manner.

(b) The use in any manner of the protection afforded by this article by any person in the sale of insurance shall constitute unfair competition and unfair practices under Article 21.21 of this code and that person is subject to that article.

Sec. 20 [~~17~~]. APPEALS. Any action or ruling of the commissioner under this article may be appealed as provided in Article 1.04 of the Insurance Code, as amended. The liability of the appealing insurer for an assessment shall be suspended pending appeal by such insurer contesting the amount or legality of such assessment.

Sec. 21 [~~18~~]. CONTROL OVER CONFLICTS. The provisions of this article and the powers and functions authorized by this article are to be exercised to the end that its purposes are accomplished. This article is cumulative of existing laws, but in the event of conflict between this article and [~~any~~] other law relating to the subject matter of this article or its application, the provisions of this article shall control. However, Articles 21.28 and 21.28-A of this code always prevail over this article.

Sec. 22 [~~19~~]. UNCONSTITUTIONAL APPLICATION PROHIBITED. This article and law does not apply to any insurer or other person to whom, under the Constitution of the United States or the Constitution of the State of Texas, it cannot validly apply.

SECTION 2. Section 2, Article 21.28-A, Insurance Code, is amended to read as follows:

Sec. 2. DEFINITION, APPLICATION AND SCOPE. As used in this Article, the following words, terms and phrases (in single quotes in this Section of the Article but not in quotes in other Sections) include the meanings, significance or application described in this Section, except as another meaning is clearly requisite from the purposes or is otherwise clearly indicated by the context.

(a) "Insurance Company" (used interchangeably with "insurer") is any person, organization, association or company, (authorized or unauthorized, admitted or non-admitted) acting as an insurer, or as principal or agent of an insurer, including stock companies, reciprocals or interinsurance exchanges, Lloyds associations, fraternal benefit societies, stipulated premium companies, title insurance companies, and mutual companies of all kinds, including state-wide mutual assessment corporations, local mutual aids, burial associations, and county mutual insurance companies and farm mutual insurance companies.

(b) In respect of an insurance company or insurer, "insolvent" or "insolvency" and the phrases in further identity of insurer delinquency and threatened insurer delinquency, mean and include, and the conditions to which this Article is applicable include, but are not limited to, any one or more of the following circumstances or conditions.

(1) if an insurance company's required surplus, capital, or capital stock is impaired to an extent prohibited by law, or

(2) if an insurance company continues to write new business when it is not possessed of the surplus, capital or capital stock which is required of it by law to permit it to do so, or

(3) if the business of any such insurance company is being conducted fraudulently, or

(4) if any such insurance company attempts to dissolve or liquidate without first having made provisions, satisfactory to the Commissioner of Insurance, for liabilities arising from policies of insurance issued by such company.

(c) "Exceeded its Powers" includes and means but is not limited to the following circumstances:

(1) if an insurance company has refused to permit examination of its books, papers, accounts, records, or affairs by the Commissioner of Insurance, his deputy, or duly commissioned examiners; or if any insurance company, organized in the State of Texas, has removed from the state such books, papers, accounts or records necessary for an examination of such insurance company, or

(2) if an insurance company has failed to promptly answer inquiries authorized by Article 1.25 of this Code, or

(3) if an insurance company has neglected or refused to observe an order of the Commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, or surplus, or

(4) if an insurance company without first having obtained written approval of the Commissioner has by contract or otherwise: (i) totally reinsured its entire outstanding business, or (ii) merged or consolidated substantially its entire property or business with another insurer; or

(5) if any insurance company is continuing to write business after its license has been revoked or suspended.

(d) "Consent," as used in this Act, includes and means agreement to either supervision or conservatorship by the insurance company.

SECTION 3. Article 9.02, Insurance Code, as amended, is amended by amending Subdivisions (b) and (g) and by adding Subdivisions (m) through (q) to read as follows:

(b) The "business of title insurance" shall be deemed to be (1) the making as insurer, guarantor or surety, or proposing to make as insurer, guarantor or surety,

of any contract or policy of title insurance; (2) the transacting or proposing to transact, any phase of title insurance, including solicitation, title examination, except when conducted by an attorney, closing the transaction, except when conducted by an attorney [negotiation preliminary to execution], execution of a contract of title insurance, insuring and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance; or (3) the doing, or proposing to do, any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this Act.

(g) "Escrow Officer" means an attorney, or bona fide employee of either an attorney licensed as an escrow officer, bona fide employee of a direct operation, or bona fide employee of a [officer or employee of a] title insurance agent whose duties include any or all of the following: (1) countersigning title insurance forms [policies, commitments and binders]; or (2) supervising the preparation and supervising the delivery of title insurance forms [policies, commitments and binders]; or (3) signing escrow checks; or (4) closing the transaction [receiving, handling, or disbursing escrow funds; provided that no clerical employees who perform any of the above duties under the direction and control of an escrow officer shall be included in this definition].

(m) "Title Examination" means the search and examination of a title to determine the conditions of the title to be insured and to evaluate the risk to be undertaken in the issuance of a title insurance policy.

(n) "Closing the Transaction" means the investigation made on behalf of a title insurance company, title insurance agent, or direct operation before the actual issuance of the title policy to determine proper execution, acknowledgment, and delivery of all conveyances, mortgage papers, and other title instruments which may be necessary to the consummation of the transaction and includes the determination that all delinquent taxes are paid, all current taxes, based on the latest available information, have been properly prorated between the purchaser and seller in the case of an owner policy, the consideration has been passed, all proceeds have been properly disbursed, a final search of the title has been made, and all necessary papers have been filed for record.

(o) "Premium" means the premium rates promulgated by the Board pursuant to Article 9.07 of this Code and includes the charges for title examination and for closing the transaction, whether or not performed by an attorney, and for issuance of a policy.

(p) "Attorney" means a person licensed to practice law and a member of the State Bar of Texas and includes a Texas professional corporation organized for the purpose of rendering professional legal services.

(q) "Direct Operation" means the operations of a title insurance company under the authority of a license issued under Article 9.36A of this Code. Whenever the term "title insurance agent" is used in this Chapter, it shall be construed to include "direct operation" unless the context indicates to the contrary.

SECTION 4. Article 9.06, Insurance Code, is amended to read as follows:

Art. 9.06. CAPITAL STOCK AND SURPLUS REQUIRED. Except as provided by Article 9.56, Section 4A of this Chapter 9, all title insurance companies created and operating under the provisions of this Chapter must have a paid up capital of not less than One Million Dollars ($1,000,000) and a surplus of not less than [Four Hundred Thousand Dollars ($400,000), provided, however, that the minimum unimpaired capital and surplus for a corporation which was authorized to transact title insurance business on the effective date of this Chapter and which on that date had an unimpaired capital of less than] One Million Dollars ($1,000,000) [and a surplus of less than Four Hundred Thousand Dollars ($400,000) shall be as follows:

[(a) Two Hundred Fifty Thousand Dollars ($250,000) capital and One Hundred Thousand Dollars ($100,000) surplus until July 1, 1976;

[~~(b) From July 1, 1976, to July 1, 1977, Five Hundred Twenty-Five Thousand Dollars ($525,000) capital and One Hundred Sixty Thousand Dollars ($160,000) surplus;~~

[~~(c) From July 1, 1977, to July 1, 1978, Six Hundred Fifty Thousand Dollars ($650,000) capital and Two Hundred Twenty Thousand Dollars ($220,000) surplus;~~

[~~(d) From July 1, 1978, to July 1, 1979, Seven Hundred Seventy-Five Thousand Dollars ($775,000) capital and Two Hundred Eighty Thousand Dollars ($280,000) surplus;~~

[~~(e) From July 1, 1979, to July 1, 1980, Nine Hundred Thousand Dollars ($900,000) capital and Three Hundred Forty Thousand Dollars ($340,000) surplus;~~ and

[~~(f) After July 1, 1980, every such corporation shall be required to have and maintain unimpaired capital of not less than One Million Dollars ($1,000,000) and surplus of not less than Four Hundred Thousand Dollars ($400,000) as otherwise required by this Chapter~~].

SECTION 5. Chapter 9, Insurance Code, as amended, is amended by adding Article 9.06A to read as follows:

Art. 9.06A. PURCHASE BY CORPORATION OF OWN SHARES. (a) Subject to Article 9.06 of this Code and the Texas Business Corporation Act, a title insurance company may purchase its own shares. A purchase of its own shares is not considered an investment and does not constitute a violation of the provisions of this Code relating to admissible investments.

(b) A company that purchases its own shares shall, not later than the 10th (tenth) day after the date of purchase, file a statement with the Commissioner of Insurance listing the name of each shareholder from whom the shares have been purchased and the sum of money paid for those shares.

SECTION 6. Article 9.07, Insurance Code, is amended to read as follows:

Art. 9.07. POLICY FORMS AND PREMIUMS. Corporations organized under this Chapter, as well as foreign corporations and those created under Subdivision 57, Article 1302, of the Revised Civil Statutes of 1925, or under Chapter 8 of this Code, or any other law insofar as the business of either may be the business of title insurance, shall operate in Texas under the control and supervision and under such uniform rules and regulations as to forms of policies and underwriting contracts and premiums therefor, and such underwriting standards and practices as may be from time to time prescribed by the Board; and no Texas or foreign corporation, whether incorporated under this Chapter or any other law of the State of Texas, shall be permitted to issue any title policy of any character, or underwriting contract, or reinsure any portion of the risk assumed by any title policy, on Texas real property other than under this Chapter and under such rules and regulations. No policy of title insurance, reinsurance of any risk assumed under any policy of title insurance, or any guarantee of any character on Texas titles shall be issued or valid unless written by a corporation complying with the [~~all~~] provisions of and authorized or qualified under this Chapter, except as is provided in Article 9.19D. Before any premium rate provided for herein shall be fixed or charged, reasonable notice shall issue, and a hearing afforded to the title insurance companies and title insurance agents authorized or qualified under this Chapter and the public. Under no circumstances may any title insurance company or title insurance agent use any form which is required under the provisions of this Chapter 9 to be promulgated or approved until the same shall have been so promulgated or approved by the Board.

The Board shall have the duty to fix and promulgate the premium rates to be charged by title insurance companies and title insurance agents created or operating under this Chapter for policies of title insurance or other promulgated or approved

forms, and the premiums therefor shall be paid in the due and ordinary course of business. Premium rates for reinsurance as between title insurance companies qualified under this Chapter shall not be fixed or promulgated by the Board, and title insurance companies may set such premium rates for reinsurance as such title insurance companies shall agree upon. Under no circumstance shall any premium be charged for any policy of title insurance or other promulgated or approved forms different from those fixed and promulgated by the Board, except for premiums charged for reinsurance. The premium rates fixed by the Board shall be reasonable to the public and nonconfiscatory as to the title insurance companies and title insurance agents. For the purpose of collecting data on which to determine the proper rates to be fixed, the Board shall require all title insurance companies and all title insurance agents operating in Texas to submit such information in such form as it may deem proper, all information as to loss experience, expense of operation, and other material matter for the Board's consideration.

The Board shall hold an annual hearing not earlier than October 1 [~~during November~~] of each calendar year, [~~commencing in 1975,~~] to consider adoption of premium rates and such other matters and subjects relative to the regulation of the business of title insurance as may be requested by any title insurance company, any title insurance agent, any member of the public, or as the Board may determine necessary to consider. Proper notice of such public hearing and the items to be considered shall be made to the public and shall be sent direct to all title insurance companies and title insurance agents qualified or authorized to do business under this Chapter for at least four (4) weeks in advance of such hearing.

Premium rates when once fixed shall not be changed until after a public hearing shall be had by the Board, after proper notice sent direct to all title insurance companies and title insurance agents qualified or authorized to do business under this Chapter, and after public notice in such manner as to give fair publicity thereto for at least four (4) weeks in advance. The Board must call such additional hearings [~~hearing~~] to consider premium rate changes at the request of a title insurance company.

The Board may, on its own motion, following notice as required for the annual hearing hold at any time a public hearing to consider adoption of premium rates and such other matters and subjects relative to the regulation of the business of title insurance as the Board shall determine necessary or proper.

Any title insurance company, any title insurance agent, or other person interested, feeling injured by any action of the Board with regard to premium rates or other action taken by the Board, shall have the right to file a suit in the District Court of Travis County, within thirty (30) days after the Board has made such order, to review the action. Such cases shall be tried de novo in the District Court in accordance with the provisions of Article 21.80 [~~21.44~~] of the Insurance Code and shall be governed by the same rules of evidence and procedure as other civil cases in said court; in which suit the court may enter a judgment setting aside the Board's order, or affirming, the action of the Board.

SECTION 7. Subdivisions (2) and (4), Article 9.16, Insurance Code, as amended, are amended to read as follows:

(2) Such reserve shall be cumulative and shall be established and shall consist of the following:

(a) The reserve which has been established [~~as has been required to be established by such companies up to the effective date of this Act;~~] pursuant to Article 9.11 of the Insurance Code[~~, Acts of the 52nd Legislature, Regular Session, 1951, Chapter 491 as amended by the Acts of the 54th Legislature, Regular Session, 1955, Chapter 489, and the Acts of the 56th Legislature, 1959, Chapter 219~~]; and

(b) Each [~~Beginning on January 1, 1959, each~~] insurer which has accumulated the maximum unearned premium reserve of One Hundred Thousand

Dollars ($100,000) required by Article 9.11[~~, Chapter 9~~] of the Insurance Code[~~, as amended by Acts of the 54th Legislature, Regular Session, 1955, and Acts of the 56th Legislature, 1959,~~] shall reserve a sum equal to three (3%) percent of the premiums charged for title insurance contracts; and

(c) Each [~~Beginning on January 1, 1959, each~~] insurer which has not accumulated the maximum unearned premium reserve of One Hundred Thousand Dollars ($100,000) required by Article 9.11[~~, Chapter 9~~] of the Insurance Code[~~, as amended by Acts of the 54th Legislature, Regular Session, 1955, and Acts of the 56th Legislature, 1959,~~] shall reserve a sum equal to five (5%) percent of the premiums charged for title insurance contracts until the unearned premium reserve shall have reached a total of One Hundred Thousand Dollars ($100,000) and thereafter such insurer shall reserve a sum equal to three (3%) percent of the premium charged for title insurance contracts; and

(d) Each [~~Beginning on January 1, 1959, each~~] domestic insurer shall reserve a sum equal to ten (10%) percent of the risk rate charged for title insurance contracts on property outside the State of Texas. This requirement shall be cumulative of, and not in addition to, the reserve requirement that might be imposed upon such insurer in such other state or states.

(4) The reserves as provided in Subdivision (2) of this Article shall be reduced in the following manner, which reduction may be used for any corporate purpose:

(a) As to insurers which have accumulated the maximum unearned premium reserve of One Hundred Thousand Dollars ($100,000) under the provisions of (2)(a) above, as of the effective date of this act, such unearned premium shall be reduced at the rate of one-twentieth (1/20) thereof per year [~~beginning at the end of calendar year 1959 and a like amount at the end of each calendar year thereafter for nineteen (19) consecutive years~~].

(b) As to insurers which have accumulated reserves as provided in (2)(b) and (2)(d) above, such unearned premium shall be reduced at the end of each calendar year in which the title insurance contract was issued at the rate of one-twentieth (1/20) of such sum for the first year and a like amount at the end of each calendar year thereafter for nineteen (19) consecutive years.

(c) As to insurers which have accumulated reserves as provided in (2)(c) above, such unearned premium shall be reduced at the rate of one-twentieth (1/20) of such sum per year beginning at the end of the calendar year in which such One Hundred Thousand Dollars ($100,000) shall have been accumulated and a like amount at the end of each calendar year thereafter for nineteen (19) consecutive years.

SECTION 8. Articles 9.18, 9.25, 9.30, and 9.34, Insurance Code, as amended, are amended to read as follows:

Art. 9.18. ADMISSIBLE INVESTMENTS FOR TITLE INSURANCE COMPANIES. Investments of all title insurance companies operating under the provisions of this Act shall be held in cash or may be invested in the following:

(a) Any corporation organized under this Act having the right to do a title insurance business may invest as much as fifty (50%) percent of its capital stock in an abstract plant or plants, provided that the valuation to be placed upon such plant or plants shall be approved by the Board; provided, however, that if such corporation maintains with the Board the deposit of One Hundred Thousand Dollars ($100,000) in securities as provided in Article 9.12 of this Act, such of its capital in excess of fifty (50%) percent, as deemed necessary to its business by its board of directors may be invested in abstract plants; and provided further, that a [~~no such~~] corporation created or operating under the provisions of this Act may [~~either directly or through ownership of a portion of the capital stock of another corporation, or otherwise, hereafter~~] own or acquire more than one abstract plant in any one county but only one abstract plant in any one county is admissible as an investment.

(b) Those securities set forth in Article 3.39, Insurance Code, as authorized investments for life insurance companies and in authorized investments for title insurance companies under the laws of any other state in which the affected company may be authorized to do business from time to time.

(c) Real estate or any interest therein which may be:

(1) required for its convenient accommodation in the transaction of its business with reasonable regard to future needs;

(2) acquired in connection with a claim under a policy of title insurance;

(3) acquired in satisfaction or on account of loans, mortgages, liens, judgments or decrees, previously owing to it in the course of its business;

(4) acquired in part payment of the consideration of the sale of real property owned by it if the transaction shall result in a net reduction in the company's investment in real estate;

(5) reasonably necessary for the purpose of maintaining or enhancing the sale value of real property previously acquired or held by it under Subparagraphs (1), (2), (3) or (4) of this Section; provided, however, that no title insurance company shall hold any real estate acquired under Subparagraphs (2), (3) or (4) for more than ten (10) years without written approval of the Board.

(d) First mortgage notes secured by:

(1) abstract plants and connected personalty within or without the State of Texas;

(2) stock of title insurance agents within or without the State of Texas;

(3) construction contract or contracts for the purpose of building an abstract plant and connected personalty;

(4) any combination of two or more of items (1), (2), and (3).

In no event shall the amount of any first mortgage note exceed eighty (80%) percent of the appraised value of the security for such note as set out above.

Any investments which do not now qualify under the provisions of Subsections (a), (b), (c), or (d) above and which are owned as of the effective date of this Act shall continue to qualify.

If any otherwise valid investment which qualifies under the provisions of this Article shall exceed in amount any of the limitations on investment contained in this Article, it shall be inadmissible only to the extent that it exceeds such limitation.

Art. 9.25. CAPITAL AND SURPLUS REQUIRED; FOREIGN CORPORATIONS. No foreign corporation shall conduct the business of title insurance in this state unless it shall show from its financial statement and such other examination as the Board may desire to make, an unimpaired capital of not less than One Million Dollars ($1,000,000.00) and surplus of not less than [~~Four Hundred Thousand Dollars ($400,000.00), provided, however, that the minimum unimpaired capital and surplus requirements for a foreign corporation operating under a certificate of authority on the effective date of this Chapter, which corporation on such date had an unimpaired capital of less than~~] One Million Dollars ($1,000,000.00) [~~and surplus of less than Four Hundred Thousand Dollars ($400,000.00) shall be as follows:~~

[~~(a) Two Hundred Fifty Thousand Dollars ($250,000.00) capital and One Hundred Thousand Dollars ($100,000.00) surplus until July 1, 1976;~~

[~~(b) From July 1, 1976, to July 1, 1977, Five Hundred Twenty-five Thousand Dollars ($525,000.00) capital and One Hundred Sixty Thousand Dollars ($160,000.00) surplus;~~

[~~(c) From July 1, 1977, to July 1, 1978, Six Hundred Fifty Thousand Dollars ($650,000.00) capital and Two Hundred Twenty Thousand Dollars ($220,000.00) surplus;~~

[~~(d) From July 1, 1978, to July 1, 1979, Seven Hundred Seventy-five Thousand Dollars ($775,000.00) capital and Two Hundred Eighty Thousand Dollars ($280,000.00) surplus;~~

[~~(e) From July 1, 1979, to July 1, 1980, Nine Hundred Thousand Dollars ($900,000.00) capital and Three Hundred Forty Thousand Dollars ($340,000.00) surplus, and~~

[~~(f) After July 1, 1980, every such corporation shall be required to have and maintain unimpaired capital of not less than One Million Dollars ($1,000,000.00) and surplus of not less than Four Hundred Thousand Dollars ($400,000.00) as otherwise required by this Chapter~~].

Art. 9.30. REBATES AND DISCOUNTS. A. No commission, rebate, discount, portion of any title insurance premium, or other thing of value shall be directly or indirectly paid, allowed or permitted by any person [~~title insurance company, domestic or foreign, or by any title insurance agent~~] doing the business of title insurance or received or accepted by any person for doing the business of title insurance or for soliciting or referring title insurance business.

B. This Article may not be construed as prohibiting:

(1) a foreign or domestic title insurance company doing business in this state under this Chapter, from appointing as its title insurance agent pursuant to this Chapter a person owning or leasing and operating an abstract plant of such county and making the arrangement for division of premiums with the agent as shall be set by the Board;

(2) payments for services actually performed by a title insurance company, a title insurance agent, or a direct operation, in connection with closing the transaction, furnishing of title evidence, or title examination, which payment may not exceed the percentages of the premium or amounts established by the Board for those payments; or

(3) payment of bona fide compensation to a bona fide employee principally employed by a title insurance company, direct operation, title insurance agent, or other reasonable payment for goods or facilities actually furnished and received; or

(4) payments for services actually performed by an attorney in connection with title examination or closing a transaction, which payment may not exceed a reasonable charge for such services.

C. A person receiving any form of compensation under Section B(2) of this Article must be licensed as provided for under this Chapter.

D. The payment or receipt of a commission, rebate, discount, or other thing of value to or by any person for soliciting or referring title insurance business in violation of this Article is engaging in the unauthorized business of insurance, and in addition to any other penalty, after notice and opportunity for hearing, is subject to a monetary forfeiture not less than the value nor more than three times the value of the commission, rebate, discount, or other thing of value [~~provided for in this Chapter, relating to title policies or underwriting contracts and no portion of any premium shall be paid to any person for soliciting or referring title insurance business, provided this Article 9.30 shall not prevent any title insurance company, domestic or foreign, doing business under this Chapter, from appointing as its title insurance agent in any county any person, firm, or corporation owning and operating an abstract plant of such county as its title insurance agent and making such arrangements for division of premiums as may be approved by the Board~~].

E [~~B~~]. No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement or closing in connection with a transaction involving the conveyance or mortgaging of real estate located in the State of Texas other than for services actually performed.

[~~C. Nothing in this Article 9.30 shall, however, be construed as prohibiting (a) the payment of a fee to attorneys at law for services actually rendered or (b) the payment to any person of a bona fide salary, compensation or other payment for goods or facilities actually furnished or for services actually performed.~~]

Art. 9.34. DETERMINATION OF INSURABILITY. No policy or contract of title insurance shall be written unless (1) there has been compliance with the provisions of Article 9.30(B), (2) said policy or contract of title insurance is based on an examination of title made from title evidence prepared from an abstract plant owned, or leased and operated by a licensed Texas title insurance agent or direct operation for the county in which the real property is located, (3) there has been made a determination of insurability of title in accordance with sound title underwriting practices, and (4) evidence thereof shall be preserved and retained in the files of the title insurance company, direct operation, or title insurance agent for a period of not less than fifteen (15) years after the policy or contract of title insurance has been issued. If no licensed title insurance agent or direct operation exists for the county in which the real property is located, a title insurance company may directly issue its policy of title insurance based on the best title evidence available. If all licensed title insurance agents and direct operations for the county refuse to provide the title evidence within such reasonable time as determined by the Board, and in compliance with the provisions of Article 9.30 (B)(2), the title insurance company may directly issue its policy if the title insurance company obtains the best title evidence available. The licensed Texas title insurance agent or direct operation which provided the title evidence on which the policies or contracts of title insurance are issued shall be provided with legible complete copies of all policies or contracts of title insurance actually issued in the transactions within a reasonable period of time as determined by the Board [~~and until the title insurance company (a) has caused a search of title to be made from the title evidence prepared from an abstract plant as herein defined, or if no such abstract plant of the county exists, or the owner of such plant refuses to furnish to the title insurance company desiring to insure, such title evidence at such charge and within such reasonable period of time as determined by the board, then such policy or contract of title insurance shall be based upon the best title evidence available, and (b) has caused to be made a determination of insurability of title in accordance with sound title underwriting practices. Evidence thereof shall be preserved and retained in the files of the title insurance company or its agent for a period of not less than fifteen (15) years after the policy or contract of title insurance has been issued. In lieu of retaining the original copy, the title insurance company or the agent of the title insurance company, may in the regular course of business establish a system whereby all or part of these writings are recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original~~]. This Article shall not apply to (a) a company assuming no primary liability in a contract of reinsurance, or (b) a company acting as a co-insurer if one of the other co-insuring companies has complied with this Article.

SECTION 9. Section C, Article 9.36, Insurance Code, as amended, is amended to read as follows:

C. A licensed title insurance agent may be licensed to represent additional title insurance companies upon application by such additional title insurance company for agent's license, on forms to be provided by the Board, and upon payment of a license fee. The licensed title insurance agent shall be deemed licensed for the additional title insurance company on the twenty-first day following the date of filing such completed application and license fee unless such completed application is denied for cause in writing within 20 days, with cause indicated in the written denial. The application shall be signed and duly sworn to by such additional title insurance company. Such application shall contain the following:

(1) That the proposed agent, if an individual, is a bona fide resident of Texas; or if a firm or association, that it is composed wholly of Texas residents; or if a corporation, that it is a Texas corporation or a foreign corporation which has been authorized to do business in Texas; and

(2) That the proposed agent (and if a corporation, its managerial personnel) has reasonable experience or instruction in the field of title insurance; and

(3) That the proposed agent is known to the title insurance company to have a good business reputation and is worthy of the public trust and said title insurance company knows of no fact or condition which would disqualify him from receiving a license; and

(4) That the proposed agent qualified as a title insurance agent as defined in this Act; and

(5) That the proposed agent is currently licensed by a title insurance company.

SECTION 10. Chapter 9, Insurance Code, as amended, is amended by adding Article 9.36A to read as follows:

Art. 9.36A. DIRECT OPERATION LICENSE. A. A title insurance company owning or leasing and operating an abstract plant or participating in a bona fide joint abstract plant operation in any county in this state must be licensed by the Board for that county.

B. Before a license for a county is issued, an application must be filed for a direct operation license, on forms to be provided by the Board, accompanied by a nonrefundable license fee in an amount not to exceed $50 as determined by the Board. The license fee and renewal fees shall be deposited in the state treasury to the credit of the State Board of Insurance operating fund to be used by the Board to enforce this Article and all laws of this state governing and regulating title insurance agents and title insurance companies.

The application shall be signed and duly sworn to by the title insurance company. The applicant must comply with and must include in the application the following:

(1) that the title insurance company is a Texas corporation or a foreign corporation holding a certificate of authority to insure titles to real estate within this state and meets the requirements of this chapter; and

(2) that the abstract plant to be licensed complies with requirements made by the Board pertaining to abstract plants and has been approved by the Board.

C. Unless a staggered renewal system is adopted, on or before the first day of June of each year, every foreign or domestic title insurance company operating under this Article shall certify to the Board, on forms provided by the Board, the counties and addresses of each location within the state at which the title insurance company operates an abstract plant for which a license is to be renewed and shall apply for and pay a license renewal fee in an amount not to exceed $50, as determined by the Board, for a license in each county. If any company ceases to operate a licensed abstract plant, it shall immediately notify the Board in writing and request cancellation of the license. A title insurance company may not write, sign, or deliver title insurance in any county in which it operates an abstract plant until the Board has issued a license. This Article may not be construed to prohibit the issuance of title insurance by a title insurance company by and through a duly licensed title insurance agent.

Unless a staggered renewal system is adopted, a license continues in force until the second June following its issuance, unless previously cancelled. If a title insurance company surrenders or has its certificate of authority revoked by the Board, all existing licenses of its abstract plants automatically terminate.

The Board shall keep a record of the counties and addresses of each location in which the title insurance company operates an abstract plant in such a manner that the plants may be conveniently ascertained and inspected by any person on request.

SECTION 11. Sections A, B, C, and D, Article 9.37, Insurance Code, are amended to read as follows:

A. Any title insurance agent or direct operation may voluntarily surrender his license at any time by giving notice to the Board and to the title insurance company concerned. Any agent or direct operation shall automatically forfeit the license under the title insurance company represented if he shall terminate his agency contract with such company.

B. The license of any agent or direct operation may be denied, or a license duly issued may be suspended or revoked or a renewal thereof refused by the Board, if, after notice and hearing as hereafter provided, it finds that the applicant for or holder of such license:

(1) Has wilfully violated any provision of this Act; or

(2) Has intentionally made a material misstatement in the application for such license; or

(3) Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

(4) Has misappropriated or converted to his own use or illegally withheld money belonging to a title insurance company, an insured or any other person; or

(5) Has otherwise demonstrated lack of trustworthiness or competence to act as an agent or direct operation; or

(6) Has been guilty of fraudulent or dishonest practices; or

(7) Has materially misrepresented the terms and conditions of title insurance policies or contracts; or

(8) Is not of good character or reputation; or

(9) Has failed to maintain a separate and distinct accounting of escrow funds, and has failed to maintain an escrow bank account or accounts separate and apart from all other accounts.

C. Before the license of any title insurance agent or direct operation shall be denied, or suspended or revoked, or the renewal thereof refused hereunder, the Board shall give notice of its intention so to do, by registered mail, to the applicant for, or holder of such license and to the title insurance company or companies who desire that such license be granted or continued in effect, and shall set a date not less than twenty (20) days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the title insurance company may appear to be heard and produce evidence. In the conduct of such hearing, the Commissioner or any regular salaried employee specially designated by him for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon termination of such hearing, findings shall be reduced to writing and, upon approval by the Commissioner, shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and the title company or companies concerned.

D. No applicant or licensee whose license has been denied, refused or revoked hereunder shall be entitled to file another application for a license as an agent or direct operation within one year from the effective date of such denial, refusal or revocation, or, if judicial review of such denial, refusal or revocation is sought, within one year from the date of final court order or decree affirming such action. Such application, when filed after one year, may be refused by the Board unless the applicant shows good cause why the denial, refusal or revocation of his license shall not be deemed a bar to the issuance of a new license.

SECTION 12. Article 9.38, Insurance Code, is amended to read as follows:

Art. 9.38. BONDS FOR AGENTS AND DIRECT OPERATIONS. (a) Every person, firm, association, or corporation which has been licensed as a title insurance agent or direct operation shall make, file, and pay for a surety bond with a corporate surety company authorized to write surety bonds in this state, payable to the State

Board of Insurance in the sum of the greater of Ten Thousand Dollars ($10,000) or an amount equal to ten percent (10%) of the gross premium written by the agent or direct operation in accordance with the latest statistical report to the Board, but not to exceed One Hundred Thousand Dollars ($100,000). The [~~Seven Thousand Five Hundred Dollars ($7,500) which~~] bond shall obligate the principal and surety to pay such pecuniary losses as may result to any participant in an insured real estate transaction which shall be sustained through acts of fraud, dishonesty, theft, embezzlement, or wilful misapplication on the part of a [~~any~~] title insurance agent or direct operation, or which may result to the Board due to administrative expenses incurred in a receivership of a title insurance agent or direct operation. In lieu of such bond any title insurance agent or direct operation may deposit with the Board cash or irrevocable letters of credit issued by a financial institution in this state insured by an agency of the United States government (or securities approved by the Board) which deposits shall be [~~cash and securities shall be in the amount of Seven Thousand Five Hundred Dollars ($7,500) and~~] subject to the same conditions as provided for in said bond.

(b) If at any time it appears to the Board that a loss covered by the bond or deposit has been suffered [~~the terms of any agent's bond may have been violated~~], the Board may require the title insurance agent or direct operation to appear in Travis County with such records as the Board deems proper on a named date not earlier than ten (10) days nor later than fifteen (15) days from service of notice, and there conduct an examination into the matter. If upon such examination the Board is satisfied that a loss covered by the bond or deposit has been suffered [~~the terms of said bond have been violated~~], the Board shall immediately notify the surety and prepare a written statement covering the facts and deliver it to the Attorney General of Texas, whose duty it shall be to investigate the charges, and if satisfied that a loss covered by the bond or deposit has been suffered [~~the terms of said bond have been violated~~], then to enforce the liability against cash or securities, or by suit on said bond in Travis County in the name of the Board for the benefit of all parties who have suffered any loss covered by the bond or deposit [~~because of breach of the terms of said bond~~].

SECTION 13. Article 9.39, Insurance Code, as amended, is amended to read as follows:

Art. 9.39. ANNUAL AUDIT. Every title insurance agent and direct operation shall have an annual audit, at its or his expense, made of trust fund accounts, and within ninety (90) days from the termination of its fiscal year, shall send by certified mail, postage prepaid, to the Board one copy of such audit report with a letter of transmittal, and each such agent, shall also send a copy of such letter of transmittal and audit report to every title insurance company which it represents.

Every title insurance company shall have an annual audit, at its expense, made of trust fund accounts for each county in which it operates in its own name and within ninety (90) days from the termination of its fiscal year shall send by certified mail, postage prepaid, to the Board one copy of such audit report.

The Board shall promulgate regulations setting forth the standards of audit and the form of audit report required.

Said audit shall be made by an independent certified public accountant or licensed public accountant, or a firm composed of either.

Each title insurance company shall examine and analyze the audit report furnished by each of its agents and direct operations, and shall within three (3) months of receipt of same report to the Board on forms to be furnished by the Board the findings and results of its examination and analysis of such audit report. If a title insurance company fails to receive an audit report from any of its agents or direct operations within the time specified above, it shall forthwith report such omission to the Board.

All such reports and analyses furnished by the title insurance company to the Board shall, at the election of the Commissioner, be classed as confidential and privileged after having been filed with the Board.

If any agent, direct operation, or title insurance company shall fail or refuse to furnish an audit report within the time required, or shall furnish an audit report which reveals any shortage or other irregularity, or any practice not in keeping with sound, honest business practices, the Board may, after notice to the agent, direct operation, or each title insurance company involved and after a hearing at which the agent, direct operation, or title insurance company may offer evidence explaining or excusing such omissions or irregularity, revoke the license of such agent or direct operation or revoke the certificate of authority of such title insurance company.

Any agent, direct operation, or title insurance company feeling aggrieved by any action of the Board hereunder shall have the right to file a suit in the District Court of Travis County in the time and manner provided in Article 9.37.

SECTION 14. Chapter 9, Insurance Code, as amended, is amended by adding Article 9.39A to read as follows:

Art. 9.39A. DISBURSEMENT FROM TRUST FUND ACCOUNTS. (a) A title insurance company, title insurance agent, direct operation, or escrow officer shall not disburse funds from a trust fund account until good funds related to the transaction in amounts sufficient to fund any disbursements from the transaction have been received and deposited to the trust fund account.

(b) The State Board of Insurance shall adopt rules and definitions to implement this Article.

(c) A title insurance company, title insurance agent, direct operation, or escrow officer is not liable for a violation of this Article if the violation was not intentional and if it resulted from a bona fide error notwithstanding the maintenance of procedure reasonably adopted to avoid the error.

SECTION 15. Article 9.41, Insurance Code, is amended to read as follows:

Art. 9.41. REQUIREMENTS FOR ESCROW OFFICERS. A. No person shall act in the capacity of escrow officer without (1) being licensed by the Board, and (2) obtaining and maintaining a surety bond as required by Article 9.45; and no title insurance agent or direct operation shall employ any person as escrow officer who is not licensed and bonded in accordance with the provisions of this Act.

B. No attorney shall be required to be licensed as an escrow officer in order to perform the duties of an escrow officer as defined in Article 9.02(g) of this Chapter. However, an attorney may become licensed as an escrow officer, and the employees of an attorney licensed as an escrow officer may become licensed escrow officers, in which case the attorney shall comply with all requirements of this Code with regard to escrow officers and trust funds, as if the attorney were a title insurance agent.

C. Notwithstanding any provision in this Chapter to the contrary, no title insurance company or title insurance agent shall permit an attorney to conduct the attorney's business in the name of such title insurance company or title insurance agent unless the attorney and the attorney's bona fide employees who close transactions are licensed as escrow officers.

D. All escrow accounts utilized by licensed escrow officers for closing transactions shall be subject to the audit requirements contained in Article 9.39 of this Code.

SECTION 16. Section A, Article 9.42, Insurance Code, as amended, is amended to read as follows:

A. Unless a system of staggered renewal is adopted under Section B of this article, every title insurance agent and direct operation licensed and operating under

the provisions of this Act shall on or before the first day of June of each year, certify to the Board on forms provided by the Board the names and addresses of every person employed by it to serve in the capacity of escrow officer within the state, whose license is to be renewed, and shall apply for and pay a license renewal fee in an amount not to exceed Fifty Dollars ($50) as determined by the Board for each person included in said list. If it shall terminate any licensed escrow officer, it shall immediately notify the Board in writing of such act and request cancellation of the license, notifying such escrow officer of such action. No title insurance agent or direct operation shall permit any person to act as escrow officer within the state until the foregoing conditions have been complied with, and the Board has granted the said license.

Unless a system of staggered renewal is adopted under Section B of this article, a license shall continue in force until the second June first following its issuance, unless previously cancelled. Provided, however, that if any title insurance agent or direct operation surrenders all its licenses, or has all its licenses revoked by the Board, all existing licenses of its escrow officers shall automatically terminate without notice.

The Board shall keep a record of the names and addresses of all escrow officers licensed by it in such manner that the escrow officers employed by any title insurance agent or direct operation within the state may be conveniently determined.

SECTION 17. Article 9.43, Insurance Code, is amended to read as follows:

Art. 9.43. APPLICATION FOR ESCROW OFFICER'S LICENSE. A. Before an initial license is issued to any person to act as escrow officer within the State of Texas for any title insurance agent or direct operation, there shall be first filed by such title insurance agent or direct operation with the Board an application for an escrow officer's license on forms provided by the Board, accompanied by a nonrefundable license fee in an amount not to exceed Fifty Dollars ($50) as determined by the Board, which fees including license renewal fees under Article 9.42 shall be deposited in the state treasury to the credit of the State Board of Insurance operating fund to be used by the State Board of Insurance to enforce the provisions of this article and all laws of this state governing and regulating escrow officers for such title insurance agents or direct operation. The application shall be signed and duly sworn to by such title insurance agent or direct operation and by the proposed escrow officer.

B. Such application shall contain the following:

(1) that the proposed escrow officer is a natural person, [~~and~~] a bona fide resident of the State of Texas, and either an attorney or a bona fide employee of an attorney licensed as an escrow officer, a bona fide employee of a title insurance agent, or a bona fide employee of a direct operation;

(2) that the proposed escrow officer has reasonable experience or instruction in the field of title insurance;

(3) that the proposed escrow officer is known to the direct operation or title insurance agent to have a good business reputation and is worthy of the public trust and the direct operation or title insurance agent knows of no fact or condition which would disqualify the proposed escrow officer [~~him~~] from receiving a license[;

[~~(4) that the proposed escrow officer qualifies as an escrow officer as defined in this Act~~].

C. The Board shall grant such license, if it determines from the application and its own investigation that the foregoing requirements have been met.

D. The Commissioner of Insurance shall collect in advance from agents requesting duplicate licenses a fee not to exceed $20. The State Board of Insurance shall determine the amount of the fee.

SECTION 18. Sections B and C, Article 9.44, Insurance Code, are amended to read as follows:

B. The license of any escrow officer may be denied, or a license duly issued may be suspended or revoked or a renewal thereof refused by the Board, if, after notice and hearing as hereafter provided, it finds that the applicant for or holder of such license:

(1) has wilfully violated any provision of this Act; or

(2) has intentionally made a material misstatement in the application for such license; or

(3) has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

(4) has misappropriated or converted to the escrow officer's [~~his~~] own use or illegally withheld money belonging to a direct operation, title insurance [~~company,~~] agent, or any other person; or

(5) has otherwise demonstrated lack of trustworthiness or competence to act as escrow officer; or

(6) has been guilty of fraudulent or dishonest practices; or

(7) has materially misrepresented the terms and conditions of title insurance policies or contracts; or

(8) is not of good character or reputation; or

(9) has failed to complete all educational requirements.

C. Before the license of any escrow officer shall be denied, or suspended or revoked, or the renewal thereof refused hereunder, the Board shall give notice of its intention so to do, by registered mail, to the applicant for, or holder of such license and to the title insurance agent or direct operation which is either the employer of the holder of such license or desires that such license be granted, continued or renewed and shall set a date not less than twenty (20) days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the title insurance agent or direct operation may appear to be heard and produce evidence. In the conduct of such hearing, the Commissioner or any regular salaried employee specially designated by him for such purpose shall have power to administer oaths, to require the appearance of and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon termination of such hearing, findings shall be reduced to writing and, upon approval by the Commissioner shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and the title insurance agent or direct operation concerned.

SECTION 19. Article 9.45, Insurance Code, is amended to read as follows:

Art. 9.45. BONDS FOR ESCROW OFFICERS. (a) Every title insurance agent and direct operation shall procure at its expense for its escrow officers, a bond of such type as may be approved by the State Board of Insurance with a surety licensed by the Board to do business in Texas, in an amount to be determined by multiplying the number of escrow officers by Five Thousand Dollars ($5,000) but not exceeding Fifty Thousand Dollars ($50,000) payable to the State Board of Insurance, which bond shall obligate the principal and surety to pay such pecuniary loss as the title insurance agent or direct operation shall sustain through acts of fraud, dishonesty, forgery, theft, embezzlement, or wilful misapplication on the part of such escrow officer, either directly and alone, or in connivance with others. In lieu of such bond, cash or irrevocable letters of credit issued by a financial institution insured by an agency of the United States government (or securities approved by the Board) in multiples of Five Thousand Dollars ($5,000) per escrow officer employed but not exceeding Fifty Thousand Dollars ($50,000) may be deposited by the title insurance agent or direct operation with the Board, subject to the same conditions as provided for in said bond.

(b) If at any time it appears to the Board that a loss covered by the bond or deposit has been suffered [~~the terms of any such bond as provided in Paragraph (a)~~

~~of this Article 9.45 may have been violated~~], the Board may require the escrow officer to appear in Travis County with such records as the Board deems proper on a named date not earlier than ten (10) days nor later than fifteen (15) days from service of notice, copies of which notice shall also be sent to any title insurance agent or direct operation concerned, and there conduct an examination into the matter. If upon such examination the Board is satisfied that a loss covered by the bond or deposit has been suffered [~~the terms of said bond have been violated by an escrow officer~~], the Board shall immediately notify the surety and title insurance agent or direct operation concerned and prepare a written statement covering the facts and deliver it to the Attorney General of Texas, whose duty it shall be to investigate the charges, and if satisfied that a loss covered by the bond or deposit has been suffered [~~the terms of said bond have been violated~~], then to enforce the liability against cash or securities, or by suit on said bond in Travis County in the name of the Board for the benefit of all parties who have suffered any loss covered by the bond or deposit [~~because of breach of the terms of said bond~~].

SECTION 20. Article 9.47, Insurance Code, is amended by adding Section 3 to read as follows:

Sec. 3. The provisions of this Chapter shall not be interpreted as regulating the practice of law by attorneys, and it is expressly provided that the actions of an attorney in examining title or closing a real estate transaction, whether or not a title insurance policy is issued, shall not constitute the business of title insurance, unless the attorney elects to be licensed as an escrow officer. Nothing in this section shall be construed as prohibiting the State Board of Insurance from promulgating a premium for title insurance.

SECTION 21. Chapter 9, Insurance Code, as amended, is amended by adding Article 9.58 to read as follows:

Art. 9.58. CONTINUING EDUCATION. A. For protection of the public and to preserve and improve competence of licensees, the board may in its sole discretion require as a condition to continuation of license as a title insurance agent or escrow officer that during the 24 months next preceding expiration of the current license period the licensee has enrolled in and attended or taught up to 15 hours of class instruction, lectures, seminars, or other forms of education approved by the board for the particular license.

B. The instruction shall be designed to refresh the licensee's understanding of basic principles and coverages involved, recent and prospective changes in those principles and coverages, applicable laws and rules and regulations of the board, proper conduct of the licensee's business, and duties and responsibilities of the licensee.

C. The board may permit licensees who because of remoteness of residence or business cannot with reasonable convenience attend these educational sessions to take and successfully complete an equivalent course of study and instruction by mail.

D. The board may promulgate rules and regulations to carry out the purposes and requirements of this article.

SECTION 22. Chapter 9, Insurance Code, as amended, is amended by adding Article 9.59 to read as follows:

Art. 9.59. TITLE INSURANCE COMPANIES; TAX ON PREMIUMS

Sec. 1. PAYMENT OF TAX. Each title insurance company receiving premiums from the business of title insurance shall pay to the commissioner of insurance for transmittal to the state treasurer an annual tax on those premiums as provided in this article.

Sec. 2. PREMIUM DEFINED. In this article premium means the total amount of premiums received for the taxable year on title insurance written on property located in this state except premiums received from other licensed title

insurance companies for reinsurance, less return premiums paid policyholders with no deduction for premiums paid for reinsurance.

Sec. 3. TIME OF FILING AND PAYMENT. (a) A premium tax return for each taxable year ending on December 31 of the preceding year shall be filed and the total amount of the tax due under this article shall be paid on or before March 1 of each year.

(b) A quarterly prepayment of premium tax must be made on March 1, May 15, August 15, and November 15 by all insurers with net tax liability for the previous calendar year of more than $1,000. The tax paid on each date must equal one-fourth of the total premium tax paid for the previous calendar year. If no premium tax has been paid during the previous calendar year, the quarterly payment shall equal the tax that would be owed on the gross premium receipts during the previous calendar quarter ending March 31, June 30, September 30, or December 31 at the minimum tax rate specified by law. The commissioner may certify for refund to the state treasurer any overpayment of premium taxes that results from the quarterly prepayment system established by this subsection.

(c) The State Board of Insurance may adopt rules, regulations, minimum standards, and limitations that are fair and reasonable as may be appropriate for the augmentation and implementation of this article.

Sec. 4. RATE OF TAX. There is imposed on all premium on title insurance an annual tax equal to two percent (2.0%).

Any title insurance company may remit on a tax rate lower than the two percent (2.0%) imposed by this article. If such title insurance company as of the preceding December 31 owns Texas investments in an amount in total value which is in excess of ninety percent (90%) of the amount such title insurance company owned in the comparison state in similar investments as herein defined, the tax imposed shall be equal to 1.3 percent (1.3%) of premium.

Sec. 5. ANNUAL TAX RETURN. Each title insurance company that is liable under this article to remit tax on premium shall file a tax return annually, under oath by two officers of the title insurance company, on forms prescribed by the State Board of Insurance.

Sec. 6. CERTIFICATION OF TAX PAYMENTS; TRANSFER OF FUNDS. After receipt by the commissioner of insurance of each title insurance company's tax return and the premium tax, the commissioner shall certify to the state treasurer the amount of taxes remitted by each title insurance company. The commissioner's certification is authorization for the state treasurer to transfer the certified amounts from the insurance suspense account to the general revenue fund unless there is a legal reason for maintaining the payment in the insurance suspense account.

Sec. 7. EXAMINATION AND EVALUATION FEE CREDITS. The amount of all examination and evaluation fees paid in each taxable year to or for the use of the State of Texas by a title insurance company shall be allowed as a credit on the amount of premium taxes due under this article except as provided by Article 1.28 of this code. Any credit allowed by this section is in addition to any other credits allowed by law.

Sec. 8. NO OTHER TAXES TO BE LEVIED OR COLLECTED; EXCEPTIONS. (a) An occupational tax may not be levied on title insurance companies or title insurance agents who are subject to this premium tax by any county, city, or town. The taxes in this article constitute all taxes collectible under the laws of this state against any title insurance company or title insurance agent, except maintenance taxes specifically levied under the laws of this state and assessed by the State Board of Insurance to support the various activities of the divisions of the State Board of Insurance.

(b) No other tax may be levied or collected from any title insurance company or title insurance agent by the state or any county or city, but this law may not be

construed to prohibit the levy and collection of state, county, and municipal taxes on the real and personal property of the title insurance company or title insurance agent. The premium tax is levied on all amounts defined to be premium in this Chapter, whether paid to the title insurance company or retained by the title insurance agent, such tax being in lieu of the tax on the premium retained by the agent. The State of Texas facilitates the collection of the premium tax on the premium retained by the agent by setting the division of the premium between insurer and agent so that the insurer receives the premium tax due on the agent's portion of the premium and remits it to the State.

Sec. 9. FAILURE TO PAY TAXES. A title insurance company failing to pay all taxes imposed by this article is also subject to Article 4.05 of this code.

Sec. 10. CERTIFICATE SHOWING AMOUNT OF TAXES DUE; TIME PERIOD; COLLECTION PROCEEDINGS. (a) Except as otherwise provided in this article, the amount of any tax imposed by this article on examination of any title insurance company or in any other manner shall be filed by the commissioner of insurance with the state treasurer by supplemental certificate showing the amount of any taxes due by that title insurance company within four years after the return was filed, regardless of whether the return was filed on or after the date due.

(b) If an administrative review or a judicial proceeding is pending in a court of competent jurisdiction before the expiration of the period prescribed by Subsection (a) of this section, that period is suspended with respect to the amount of tax in issue in that proceeding until those matters are fully determined, at which time the running of the period shall resume until finally expired.

(c) In the case of failure to file a return, the commissioner of insurance may notify the state treasurer of the taxes due and the commissioner of insurance may proceed in a court of competent jurisdiction for collection of that tax at any time.

Sec. 11. SUIT AFTER PROTEST PAYMENT. Any title insurance company that believes or contends that the tax on premium receipts imposed under this article is being paid in error or under unlawful requirements is nevertheless required to pay the amount considered to be due under written protest as provided by Section 112.051, Tax Code, and maintain an action under Subchapter B, Chapter 112, Tax Code, to recover the amount paid under protest. This article does not limit administrative determinations by the State Board of Insurance of refunds with respect to premium taxes paid due to mistake of law or fact. The courts of Travis County have exclusive original jurisdiction of an action brought under Subchapter B, Chapter 112, Tax Code.

Sec. 12. STATUTE OF LIMITATION. A suit for refund must be filed in accordance with law not later than four years after the due date for taxes in question. Any claim for refund filed after that date is barred except that on request of the title insurance company, the limitation provided by this section may be extended by written order of the State Board of Insurance for a period not to exceed 90 days from the expiration of the four-year period. The board's order must be entered before the expiration of the four-year period.

Sec. 13. TEXAS INVESTMENTS DEFINED. For purposes of this article, Texas investments include only the following:

(1) bonds, warrants, and interest-bearing indebtedness of any kind issued by the State of Texas, any county, city, school district, or any municipality or subdivision thereof which is now or may hereafter be constituted or organized and authorized to issue such bonds, warrants, and interest-bearing indebtedness by the constitution or statutes of the State of Texas. The value of such bonds, warrants, or interest-bearing indebtedness for purposes of this article shall be their amortized value.

(2) notes and bonds secured by mortgage or deeds of trust on real property located solely in this state including deeds of trust on residential property located

in the State of Texas. The value of such notes or bonds for purposes of this article shall be their unpaid principal balance.

(3) the average daily balance of cash on deposit, including both negotiable and nonnegotiable certificates of deposit and accounts in state banks and national banks insured by the Federal Deposit Insurance Corporation and in state and federal savings and loan associations insured by the Federal Savings and Loan Insurance Corporation located in the State of Texas. The value of such deposits shall be determined on the basis of the sum of the balance in such accounts and such certificates of deposit as shown on the books of the insurance carrier on the close of each day including Saturdays, Sundays, and holidays, divided by 365.

Sec. 14. SIMILAR INVESTMENTS DEFINED. For purposes of this article, "similar investments" is defined as the same character of property and investments described in Section 13 hereof, located in a state other than Texas and originating and existing with the same relationship to such state as the location and relationship of such property to the State of Texas.

Sec. 15. OTHER LAWS TO GOVERN. Articles 4.12, 4.13, 4.14, 4.15, and 4.16, Insurance Code, apply to title insurance companies which are subject to this article.

SECTION 23. Section 1, Article 4.10, Insurance Code, as amended, is amended to read as follows:

Sec. 1. PAYMENT OF TAX. Every insurance carrier, including Lloyd's and reciprocal exchanges and any other organization or concern receiving gross premiums from the business of fire, marine, marine inland, accident, credit, [~~title,~~] livestock, fidelity, guaranty, surety, casualty, workers' compensation, employers' liability, or any other kind or character of insurance, except title insurance and except as provided in Sections 2, 3, and 4 of this article, shall pay to the commissioner of insurance for transmittal to the state treasurer an annual tax upon such gross premium receipts as provided in this article. Any such insurance carrier doing other kinds of insurance business shall pay the tax levied upon its gross premiums received from such other kinds of business as provided in Article 4769 and Article 7064a, Revised Civil Statutes of Texas, 1925.

SECTION 24. Section 2 of Article 9.05, Insurance Code, is repealed.

SECTION 25. The initial membership of the board of directors of the Texas Title Insurance Guaranty Association created by Section 14, Article 9.48, Insurance Code, shall consist of the four members of the Texas Title Advisory Association serving immediately before this Act takes effect, two members chosen by the State Board of Insurance from employees or officers of the agents and one member who is a public representative. The terms of the four members who served as members of the advisory association expire on the day on which their terms as advisory association members would have expired. The State Board of Insurance shall designate the terms of the additional members to expire so that the scheme for the terms of members is established as provided by Section 14, Article 9.48, Insurance Code.

SECTION 26. "Covered claim" as defined by Paragraphs C and D, Subdivision (2), Section 5, Article 9.48, Insurance Code, with respect to administrative expenses of a receivership or conservatorship estate of an impaired insurer, agent, or unauthorized insurer operating in this state, applies to all impaired insurers, agents, or unauthorized insurers which are in conservatorship or receivership on or after the effective date of this Act.

SECTION 27. The first payment of guaranty fees provided by Section 6, Article 9.48, Insurance Code, is due for the period beginning on the effective date of this Act and ending on December 31, 1987, and must be made on or before February 1, 1988.

Floor Amendment No. 2 - Gavin

Amend **S.B. 873** by adding the following sections and renumbering subsequent sections accordingly:

SECTION 1. Section 5, Texas Property and Casulty Insurance Guaranty Act (Article 21.28-C, Insurance Code), is amended by adding Subsections (11) and (12) to read as follows:

(11) "Unauthorized insurer" means a person or insurer that has engaged in activities prohibited by Section 3, Article 1.14-1 of this code.

(12) "Nonmember of the association" includes farm mutual insurance companies, mortgage guaranty insurance companies, Mexican casulty insurance companies, risk retention groups, and all persons and entities authorized to act as agents under this code including, without limitation, managing general agents, local recording agents, surplus lines agents, and agents subject to Article 21.07 of this code and who participated in transactions involving lines of insurance within the scope of this Act.

SECTION 2. Section 7, Texas Property and Causualty Insurance Guaranty Act (Article 21.28-C, Insurance Code), is amended to read as follows:

Sec. 7. ASSESSMENTS. Whenever the Commissioner determines that an insurer has become an impaired insurer the receiver appointed in accordance with Article 21.28 of the Insurance Code or the conservator appointed under the authority of Article 21.28-A of the Insurance Code shall promptly estimate the amount of additional funds, by lines of business, needed to supplement the assets of the impaired insurer immediately available to the receiver or the conservator for the purpose of making payment of all covered claims. The receiver or conservator shall advise the board of directors of the association of such estimates, and the board shall make available from the account maintained by the association for each line of business funds sufficient to enable the receiver or conservator to carry out an efficient program of paying the covered claims of the impaired insurer. The board shall make additional funds available as the actual need therefor arises for each impaired insurer.

When the board of directors shall determine that additional funds are needed in any of the three accounts, they shall advise the Commissioner who shall make such assessments as may be needed to produce the necessary funds. The Commissioner in determining the proportionate amount to be paid by individual insurers under an assessment shall take into consideration the lines of business written by the impaired insurer and shall assess individual insurers in proportion to the ratio that the total net direct written premium collected in the State of Texas by the insurer for such line or lines of business during the next preceding year bears to the total net direct written premium collected by all insurers (except impaired insurers) in the State of Texas for such lines of business. Assessments during a calendar year may be made up to, but not in excess of, two percent (2%) of each insurer's net direct written premium for the preceding calendar year in the lines of business for which the assessments are being made. If the maximum assessment in any calendar year does not provide an amount sufficient for payment of covered claims of impaired insurers, assessments may be made in the next and successive calendar years.

Insurers designated as impaired insurers by the Commissioner shall be exempt from assessment from and after the date of such designation and until the Commissioner determines that such insurer is no longer an impaired insurer.

It shall be the duty of each insurer to pay the amount of its assessment to the association within thirty (30) days after the Commissioner gives notice of the assessment, and assessments may be collected on behalf of the association by the conservator or receiver through suits brought for that purpose. Venue for such suits shall lie in Travis County, Texas. Either party to said action may appeal to the

appellate court having jurisdiction over said cause and said appeal shall be at once returnable to said appellate court having jurisdiction over said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending. Neither the receiver, the conservator, nor the association shall be required to give an appeal bond in any cause arising hereunder.

Funds advanced by the association under the provisions of this Act shall not become assets of the impaired insurer but shall be deemed a special fund loaned to the receiver or the conservator for payment of covered claims, which loan shall be repayable to the extent available from the funds of such impaired insurer, as herein provided.

Income from the investment of any of the funds of the association may be transferred to the administrative account authorized in Section 14A(1) of this article. The funds in this account may be used by the association for the purpose of meeting administrative costs and other general expenses of the association. Upon notification by the association of the amount of any additional funds needed for the administrative account the Commissioner shall assess member insurers to obtain the needed funds in the same manner as hereinbefore set out, provided, that he shall take into consideration the net direct written premium collected in the State of Texas for all lines of business covered by this article and, provided further, that no assessment for administrative expenses incurred by a supervisor or conservator appointed by the Commissioner or a receiver appointed by a court of competent jurisdiction for a nonmember of the association or unauthorized insurer operating in this state shall exceed $1,000,000 each calendar year.

SECTION 3. Subsection E, Section 14, Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code), is amended to read as follows:

E. Prevention of Insolvencies and Impairments and Administration of Estates. To aid in the detection and prevention of insurer insolvencies and impairments and in the administration of receivership and conservatorship estates:

(1) The board of directors shall[~~, upon majority vote,~~] notify the Commissioner of any information indicating any member, unauthorized insurer, or nonmember of the association may be unable or potentially unable to fulfill its contracts, policies, or contractual obligations and may request appropriate investigation and action by the Commissioner who may, in his discretion, make such investigation and take such action as he deems appropriate. In carrying out its duties under this Act, and on written request by the Commissioner, the board of directors shall authorize expenditure of funds from the administrative account for reasonable and necessary administrative expenses incurred by a supervisor or conservator appointed by the Commissioner or a receiver appointed by a court of competent jurisdiction for a nonmember of the association or unauthorized insurer operating in this state in those instances in which the Commissioner has notified the board of directors or the board of directors has otherwise become aware that:

(a) the nonmember of the association or unauthorized insurer has insufficient liquid assets to pay the expenses of administering the receivership or conservatorship of the nonmember of the association or unauthorized insurer;

(b) insufficient funds are available from abandoned funds as provided by Section 8 of Article 21.28 of the Insurance Code; and

(c) insufficient funds are available to the State Board of Insurance from appropriations for use in meeting those administrative expenses.

Funds spent by the association under this provision shall not become assets of the nonmember of the association or unauthorized insurer but are considered a special fund loaned to the receiver or the conservator for payment of administrative expenses, which loan is repayable to the extent available from the funds of the nonmember of the association or unauthorized insurer.

(2) The board of directors shall advise and counsel with the Commissioner upon matters relating to the solvency of insurers. The Commissioner shall call a meeting of the board of directors when he determines that an insurer is insolvent or impaired and may call a meeting of the board of directors when he determines that a danger of insolvency or impairment of an insurer exists. Such meetings shall not be open to the public and only members of the board of directors, members of the State Board of Insurance, the Commissioner, and persons authorized by the Commissioner shall attend such meetings. The board of directors shall, upon majority vote, notify the Commissioner of any information indicating that an insurer may be unable or potentially unable to fulfill its contractual obligations and request a meeting with the Commissioner. At such meetings the Commissioner may divulge to the board of directors any information in his possession and any records of the State Board of Insurance, including examination reports or preliminary reports from examiners relating to such insurer. The Commissioner may summon officers, directors, and employees of an insolvent or impaired insurer (or an insurer the Commissioner considers to be in danger of insolvency or impairment) to appear before the board of directors for conference or for the taking of testimony. Members of the board of directors shall not reveal information received in such meetings to anyone unless authorized by the Commissioner or the State Board of Insurance or when required as witness in court. Board members and all of such meetings and proceedings under this section shall be subject to the same standard of confidentiality as is imposed upon examiners under Article 1.18 of the Insurance Code, as amended, except that no bond shall be required of a board member.

The board of directors shall, upon request by the Commissioner, attend hearings before the Commissioner and meet with and advise the Commissioner, liquidator, or conservator appointed by the Commissioner, on matters relating to the affairs of an impaired insurer and relating to the amount and timing of partial assessments and the marshalling of assets and the processing and handling of contractual obligations.

(3) The board of directors may, upon majority vote, make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be considered public documents. Reports or recommendations made by the board of directors to the Commissioner, liquidator, or conservator shall not be considered public documents, and there shall be no liability on the part of and no cause of action against a member of the board of directors or the board of directors for any report, individual report, recommendation, or individual recommendation by the board of directors or members to the Commissioner, liquidator, or conservator.

(4) The board of directors may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of member insurer impairments.

(5) The board of directors shall, at the conclusion of any member insurer impairment in which the association carried out its duties under this article or exercised any of its powers under this article, prepare a report on the history and causes of such impairment, based on the information available to the association, and submit a report on same to the Commissioner.

(6) Any insurer that has an officer, director, or employee serving as a member of the board of directors shall not lose the right to negotiate for and enter into contracts of reinsurance or assumption of liability or contracts of substitution to provide for liabilities for contractual obligations with the receiver or conservator of an impaired insurer. The entering into any such contract shall not be deemed a conflict of interest.

(7) The association or any insurer assessed under this article shall be an interested party under Section 3(h) of Article 21.28 of the Insurance Code, as amended.

SECTION 4. The authority granted in Subsection E, Section 14, Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code) to the board of directors of the association to expend funds from the administrative account for administrative expenses incurred by a supervisor or conservator appointed by the Commissioner or a receiver appointed by a court of competent jurisdiction for a nonmember of the association or unauthorized insurer operating in this state in certain instances expires on September 1, 1991.

SECTION 5. The authority granted by Subsection E, Section 14, Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code) to the board of directors of the association to expend funds from the administrative account in certain instances for administrative expenses incurred by a supervisor or conservator appointed by the Commissioner or a receiver appointed by a court of competent jurisdiction for a nonmember of the association or unauthorized insurer operating in this state applies to all nonmembers of the association and unauthorized insurers which are in supervision, conservatorship or receivership on or after the effective date of this Act.

The amendments were read.

Senator Glasgow moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 933 WITH HOUSE AMENDMENT

Senator Barrientos called **S.B. 933** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment - Richardson

Amend **S.B. 933** as follows:

(1) On page 4, line 8, immediately before "person", insert "action of the".

(2) On page 4, line 8, immediately after "district", insert "or by the expiration of the person's employment contract".

(3) On page 4, line 9, strike "1986" and substitute "1987".

(4) On page 4, line 12, immediately after "services", insert "either".

(5) On page 4, line 14, immediately after "district", insert "or the contract under which the person was employed as a teacher could not be renewed without creating a violation of Article 5996a".

(6) On page 4, line 15, immediately after "(3)", insert "either".

(7) On page 4, line 15, immediately after "resulted", insert "or the renewal of the contract would not have created a violation of Article 5996a".

(8) On page 8, line 18, strike "and sworn to".

(9) On page 8, line 18, after the period, insert "A written appointment of a campaign treasurer is invalid if it does not include the statement unless the appointment is made in a manner other than by the use of a form prescribed by the secretary of state.".

(10) On page 8, line 22, strike "1986" and substitute "1987".

The amendment was read.

Senator Barrientos moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 1075 WITH HOUSE AMENDMENT

Senator Tejeda called **S.B. 1075** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment - Hury

Amend **S.B. 1075** by adding new Subsections (c) and (d) in Section 2 to read as follows:

(c) Nothing in this Act shall be construed to prevent an attorney from paying secretarial, paralegal, or other ordinary and reasonable expenses necessarily and actually incurred by the attorney for the preparation of legal instruments nor does it prevent a person from completing lease or rental forms which have been prepared by an attorney licensed in this state and approved by such attorney for the particular kind of transaction involved, or which have been prepared by the property owner or prepared by an attorney and required by the property owner. The provisions of this Act do not apply to a licensed real estate broker or salesman performing the acts of a real estate broker pursuant to the provisions of the Real Estate License Act, Article 6573a, Vernon's Texas Civil Statutes.

(d) Cumulative Remedies. The provisions of this Act are not exclusive and in no way limit or restrict the definition of the practice of law contained in the State Bar Act, Article 320a-1, Vernon's Texas Civil Statutes, nor do the provisions of this act limit or restrict any remedy provided in the State Bar Act or any other law designed to eliminate the unauthorized practice of law by lay persons and lay agencies.

The amendment was read.

Senator Tejeda moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 1083 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 1083** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Connelly

Amend **S.B. 1083** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 1(a), Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The holder of a check or its assignee, agent, representative, or any other person retained by the holder to seek collection of the face value of the dishonored check on return of the check to the holder following its dishonor by a payor may charge the drawer or endorser a reasonable processing fee, which shall not exceed $15. Notwithstanding any other provisions of law, a loan agreement made under Chapter 3 or 4, Title 79, Revised Statutes (Article 5069-1.01 et seq., Vernon's Texas Civil Statutes), may provide that on return of a dishonored check given in payment under the agreement, the holder may charge the obligor under the agreement the processing fee authorized by this Act, and the fee may be added to the unpaid

balance owed under the agreement, except that interest may not be charged on the fee during the term of the agreement.

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

Floor Amendment - Hilbert

Amend **C.S.S.B. 1083** on page 1 by adding the following Section, renumber the sections accordingly.

SECTION 1. Section 32.41, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) An offense under this section is not a lesser included offense of an offense under Section 31.03 or 31.04 of this code.

SECTION 2. (a) The change in law made by this Act applies only to the punishment for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

The amendments were read.

Senator Henderson moved to concur in House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1170 WITH HOUSE AMENDMENTS

Senator Krier called **S.B. 1170** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Schlueter

Amend **S.B. 1170** by adding a new SECTION 3 to read as follows:

SECTION 3. Section 171.063(a), Tax Code, is amended to read as follows:

(a) A nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), (5), (6), or (7), of the Internal Revenue Code of 1954, as it existed on January 1, 1975, is exempted from the franchise tax or a corporation exempted under Section 501(c)(2) or (25) of the Internal Revenue Code of 1986, is exempted from the franchise tax, if the corporation or corporations for which it holds title to property is either exempt from or not subject to the franchise tax.

Renumber subsequent sections.

Committee Amendment No. 2 - Schlueter

Amend **S.B. 1170** at page 1, line 9 by adding the following:

Surplus includes unrealized, estimated, or contingent losses or obligations or any writedown of assets other than those listed in Subsection (i) of this section, net of appropriate income tax provisions.

Amend **S.B. 1170** at page 1, line 14 by deleting the following:

"Debt" does not include unrealized, estimated, or contingent losses or obligations or any other writedown of assets.

Amend **S.B. 1170** at page 1, line 20, by adding, between the words "principles" and "do", the words "are unsettled or".

The amendments were read.

Senator Krier moved to concur in the House amendments.

POINT OF ORDER

Senator Anderson raised the Point of Order that Amendment No. 1 is not germane to the bill.

The President sustained the Point of Order.

Question - Shall the Senate concur in the House amendments?

SENATE BILL 1189 WITH HOUSE AMENDMENTS

Senator Uribe called **S.B. 1189** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - A. Moreno

Amend **S.B. 1189** by adding two new sections appropriately numbered to read as follows and renumber the subsequent sections:

SECTION 3. Section 61.004(b), Agriculture Code, is amended to read as follows:

(b) If in accordance with the rules of the department the kind of seed in a container is generally labeled by variety but the label does not state the variety, the label shall show the name of the kind and be printed with: "Variety Not Stated,[;]" except for the seed used in planting cotton, which must be labeled by variety. The label on hybrid seed shall state that the seed is hybrid. A person may not use the word "type" in any labeling in connection with the name of an agricultural seed variety.

SECTION 4. Section 61.016(c), Agriculture Code, is amended to read as follows:

(c) This chapter does not prevent one farmer from selling to another farmer seed grown on his or her own farm without having the seed tested or labeled as required by this chapter if the seed is cottonseed or if the seed:

(1) is not advertised in the public communications media outside the vendor's home county;

(2) is not sold or offered or exposed for sale by an individual or organization for the farmer; and

(3) is not shipped by a common carrier.

Amendment No. 1 on Third Reading - A. Moreno

Amend **S.B. 1189** by deleting Amendment No. 1 adopted on second reading of said bill.

The amendments were read.

Senator Uribe moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 1279 WITH HOUSE AMENDMENTS

Senator Edwards called **S.B. 1279** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Berlanga

Amend **S.B. 1279** by adding a new section to be numbered appropriately and to read as follows:

SECTION _____. Article 1941 (a), Revised Statutes, is amended by adding Section 1A to read as follows:

Sec. 1A. OPTICAL DATA STORAGE PROCESS. For the purposes described by Section 1 of this Act, a county clerk, county recorder, or clerk of a county court may adopt and use an optical data storage process for the storage of records by optical disk. This Act applies, to the extent feasible, to the optical data storage process, the optical disk used in that process, and the records stored by that process in a manner equivalent to the manner in which this Act applies to a microfilm process, the film used in that process, and the records stored by that process.

Floor Amendment No. 2 - Vowell

Amend **S.B. 1279** by renumbering Sections 5 and 6 of the bill as Sections 14 and 15 and by inserting new Sections 5-13 to read as follows:

SECTION 5. Section 1, Bond and Warrant Law of 1931, as amended, (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) In this Act:

(1) The word "city" [~~as used in this Act~~] shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

(2) The term "governing body" [~~as used in this Act~~] shall include the governing body of every city, whether designated as "Board of Aldermen," "City Council," "City Commission," or otherwise.

(3) The [~~For the purposes of this Act the~~] term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

(4) The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

(5) The term "time warrant" [~~as used in this Act~~] shall include any warrant issued by a city not payable out of current funds.

(6) The term "exempted procurements" shall include any of the following:

(A) [~~(1)~~] procurements made in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens or to preserve the property of the city;

(B) [~~(2)~~] procurements necessary to preserve or protect the public health or safety of the citizens of the city;

(C) [~~(3)~~] procurements made necessary by unforeseen damage to public property, machinery, or equipment;

(D) [~~(4)~~] procurements for personal or professional services;

(E) [~~(5)~~] procurements for work done and paid for by the day, as such work progresses;

(F) [~~(6)~~] the purchase of land or right-of-way; and

(G) [~~(7)~~] procurements where the functional requirements of the city can be satisfied by only one source. By way of example without limitation, this provision shall apply to procurements where competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or books; purchases of electric power, gas, water, and other utility

services; and the purchase of captive replacement parts or components for equipment.

(7) The term "high technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including but not limited to: information processing equipment, software and firmware used in conjunction with information processing equipment, telecommunications equipment, radio and microwave systems, electronic distributed control systems (including building energy management systems) as well as technical services related to such equipment and goods.

(8) The term "separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(9) The term "sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(10) The term "component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) The short title of this Act shall be "Bond and Warrant Law of 1931."

(c) Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session, provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

SECTION 6. Subsection (h), Section 2, Bond and Warrant Law of 1931, as amended, (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

(h) Criminal Penalty; Removal. (1) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section [~~Act~~] commits an offense. The offense is a Class B [~~C~~] misdemeanor.

(2) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the city with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that city. This subdivision does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(4) A city officer or employee who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 7. Section 2, The Certificate of Obligation Act of 1971, as amended, (Article 2368a.1, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (i), (j), and (k) to read as follows:

(i) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(j) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(k) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 8. Section 6, The Certificate of Obligation Act of 1971, as amended, (Article 2368a.1, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) Criminal Penalty; Removal. (1) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section commits an offense. The offense is a Class B misdemeanor.

(2) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the issuer with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that issuer. This subdivision does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(4) An officer or employee of an issuer who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 9. Section 2, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (6), (7), and (8) to read as follows:

(6) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 10. Section 14, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. CRIMINAL PENALTY; REMOVAL. (a) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] makes or authorizes separate, sequential, and/or component purchases in order to avoid the competitive bidding requirements of Section 3 of this Act commits an offense. The offense is a Class B misdemeanor [~~and shall, upon final conviction, result in the immediate removal of the county officer or employee from office~~].

(b) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] violates Section 3 of this Act, other than by conduct described by Subsection (a) of this section, commits an offense. The offense is a [~~Class C misdemeanor, except that a violation of the competitive bidding requirements under Subsection (a) of this section is a~~] Class B misdemeanor.

(c) The final conviction of an officer or employee for an offense under Subsection (a) or (b) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the

removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the county with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that county. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(d) A county officer or employee who intentionally or knowingly violates this Act, other than by conduct described by Subsection (a) or (b) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 11. Subchapter Z, Chapter 21, Education Code, as amended, is amended by adding Section 21.9011 to read as follows:

Sec. 21.9011. ENFORCEMENT OF PURCHASE PROCEDURES: CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) or (b) of Section 21.901 of this code commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) or (b) of Section 21.901 of this code, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a school district for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the school district with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that school district. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a school district who intentionally or knowingly violates Section 21.901 of this code, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 12. Chapter 770, Acts of the 66th Legislature, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding

requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence violates the competitive bidding requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a governmental entity for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the governmental entity with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that governmental entity. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a governmental entity who intentionally or knowingly violates this Act, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 13. (a) The change in law made by this Act applies only to punishment and removal for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

Floor Amendment No. 1 on Third Reading - Hinojosa

Amend **S.B. 1279** as follows:

(1) On page 1, between lines 18 and 19, insert the following:

(4) "Employee" means a person who has been employed by any state agency, office, or division for at least three consecutive months and whose employment is other than on a temporary or intermittent basis.

(5) "Employing agency" means the department, commission, board, office, or other agency of the legislative, judicial, or executive branches of state government, including an institution of higher education as defined by Section 61.003, Education Code, by whom the employee is employed.

(6) "Child" means a biological or adopted child or a legal ward.

(7) "Employment benefits" means all benefits provided or made available to employees, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(8) "Catastrophically ill child" means a child under the age of 18 who suffers from a severe chronic, disabling, or life-threatening illness or an injury which requires continuing medical treatment or rehabilitation.

(2) On page 6, between lines 12 and 13, insert new Sections 7, 8, 9, 10, and 11, and renumber the subsequent sections accordingly:

SECTION 7. PARENTAL LEAVE FOR THE BIRTH, ADOPTION, OR CATASTROPHIC ILLNESS OF A CHILD. (a) An employee of the state shall be entitled to a period of up to 24 weeks of parental leave on request:

(1) on the birth of a child of the employee;

(2) on the placement for adoption or foster care of a child with the employee; or

(3) to attend to a child who is catastrophically ill.

(b) Leave under this section:

(1) shall be leave without pay; and

(2) shall be in addition to any annual leave, sick leave, temporary medical leave, or other leave or compensatory time otherwise available to the employee.

(c) If the leave is scheduled so as not to disrupt unduly the operations of the employing agency, an employee may elect to use leave under this section immediately before or after or otherwise in coordination with any period of annual leave or compensatory time otherwise available to the employee.

(d) An employing agency may require an employee who plans to take a leave pursuant to this Act to give reasonable notice of the approximate date such leave shall commence and estimated duration of the leave. If both spouses are employees, only one spouse at a time is entitled to parental leave and such combined leave time shall not exceed 12 months subject to any extensions authorized by Subsection (e) of this section.

(e) After an employee has notified the employing agency as to the period of leave desired, any extension of the leave shall be subject to approval by the employing agency.

(f) After giving reasonable notice of the intention to do so, an employee may shorten the duration of the leave.

(g) Nothing in this Act shall preclude any further or alternative agreement between an employee and an employing agency for reduced leave schedules, part-time employment, or deferred leave, upon the birth, adoption, or catastrophic illness of a child.

SECTION 8. EMPLOYMENT AND BENEFITS PROTECTION. (a) Any employee who exercises any right provided under this Act shall be entitled, on return from the leave:

(1) to be restored by the employer to the position held by the employee when the leave commenced; or

(2) if such restoration is not feasible, to be restored to a position with equivalent status, benefits, pay, and other terms and conditions of employment; or

(3) if the employing agency's circumstances make it impossible or unreasonable to restore the employee to the same or an equivalent position, to be given an opportunity for the next similar position available.

(b) The taking of leave under this Act shall not result in the loss of any benefit accrued before the date on which the leave commenced.

(c) Nothing in this section shall be considered to entitle any restored employee to the accrual of any benefits during the period of leave.

(d) It is the intention of this legislature to address the needs of children who suffer from severe chronic or possibly terminal illnesses, such as cancer; those who have experienced acute illnesses requiring extensive care and rehabilitation, such as cerebral meningitis; those who have sustained serious bodily injuries requiring extended periods of healing or rehabilitation; and any others whose physical conditions require extensive care or treatment. It is not the intention of this legislature to address in this Act those less debilitating conditions, such as allergies, which may require ongoing treatment but which do not seriously impair the normal life and activities of the child.

SECTION 9. PROHIBITION OF COERCION OR RETALIATION. (a) An employee may not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the exercise of the rights of the employee under this Act.

(b) For the purposes of this section, "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit such as appointment, promotion, or compensation or taking or threatening to take any reprisal such as deprivation of appointment, promotion, or compensation.

SECTION 10. MAINTENANCE OF INSURANCE BENEFITS. An employee enrolled in a health benefits plan who is placed on a leave status under this Act may elect to continue health benefits enrollment while on leave status and arrange to pay into the Employees Retirement System of Texas, through the employing agency of the employee, the appropriate employee and state contributions.

SECTION 11. ENFORCEMENT. The Commission on Human Rights shall have the authority to enforce the provisions of this Act under Articles 6 and 7 of the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes).

(3) On page 6, line 19, strike "this Act expires" and substitute "Sections 2, 3, 4, 5, and 6 of this Act expire".

(4) On page 6, lines 21 and 22, strike "this Act expires" and substitute "Sections 2, 3, 4, 5, and 6 of this Act expire".

The amendments were read.

Senator Edwards moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1279** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Caperton, Washington, Parmer and Sarpalius.

SENATE BILL 1315 WITH HOUSE AMENDMENTS

Senator Caperton called **S.B. 1315** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Berlanga

Amend **S.B. 1315** as follows:

Insert the following Section 22 and renumber all subsequent Sections accordingly:

"SECTION 22. Section 33, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, V.T.C.S.) is amended by inserting the following subsection (6) and renumbering all subsections of Section 33 accordingly:

(6) reimburse a private individual or entitiy funds expended to construct roads or improvements which have been or will be dedicated or otherwise transferred to public use or purchase roads or improvements contructed by a private individual or entity, whether such construction occurs prior to or after the creation of the district;

Floor Amendment No. 2 - Berlanga

Amend **S.B. 1315** as follows:

Insert the following Section 23 in lieu of the existing Section 23:

SECTION 23. Section 52, Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, V.T.C.S.) is amended to read as follows:

"Section 52. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of the principal of and interest on the bonds in any one of the following manners:

(1) from the levy and collection of ad valorem taxes or, by complying with the procedures set forth in Section 51.502 through 51.506 of the Texas Water Code, as amended, adopting any other plan of taxation authorized therein. To the extent that the provisions of this Act refer to ad valorem taxes, such provisions shall be deemed to refer to taxes levied on any basis of taxation for which provision is herein made if the board determines to levy on a basis other than the ad valorem basis [~~on all taxable property within the district~~];

(2) by pledging all or any part of the fees assessed under Section 71 of this Act; or

(3) from a combination of the sources listed in Subdivision (1) and (2) of this section."

The amendments were read.

Senator Caperton moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1355 WITH HOUSE AMENDMENTS

Senator Caperton called **S.B. 1355** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Uher

Amend Section 1 of **S.B. 1355** in Subsection (e) by adding after the word "entity" and before the words "to develop" the following language:
"which includes as an integral part of the review process members of the category of licensee being reviewed"

Floor Amendment No. 2 - Uher

Amend Section 1 of **S.B. 1355** in Subsection (f) by adding after the word "entity" and before the words "to review" the following language:
"which includes as an integral part of the review process members of the category of licensee being reviewed"

Floor Amendment No. 3 - Uher

Amend Section 1 of **S.B. 1355** by striking Subsection (j) in its entirety and substituting the following:

(j) The board shall appoint five members to each special advisory committee who are health care providers and are licensees of that provider group who are knowledgeable and qualified in a worker's compensation practice. These members shall be appointed with the advice of the respective professional associations. The Board shall also appoint four members to each advisory committee with one being a representative of the association, one being a representative of the employers, one being a representative of the employees, and one being a representative of the association of attorneys that represent claimants in workers compensation.

Floor Amendment No. 4 - Uher

Amend Section 1 of **S.B. 1355** by striking Subsection (n) in its entirety and substituting the following language:

(n) The board is authorized to make rules necessary to implement this section including:

(1) the right to charge the association a reasonable fee for access to or evaluation of health care treatment, fees, or charges pursuant to the Act; and

(2) the right to charge the health care provider who overutilizes the guideline and treatment utilization system instituted under this Act a reasonable fee for access to or evaluation of health care treatment, fees or charges pursuant to the Act; and

(3) the right to compel production of documents as related to the board's duties under this section.

Floor Amendment No. 5 - Uher

Amend Section 1 of **S.B. 1355** by adding the following language after the first sentence of Subsection (d) as follows:

"The board shall give due consideration to a relative value scale in developing a guideline for fees and charges for physicians."

Floor Amendment No. 6 - T. Smith

Amend **S.B. 1355** as follows:

On page 1, line 20, add after paragraph (c)(1) the following:

(3) an internal program of systematic monitoring of medical charges to insure that the guidelines are not exceeded. An annual report shall be made to the legislature which shall indicate the degree to which the fees paid comply with the guidelines.

The amendments were read.

Senator Caperton moved to concur in House amendments.

The motion prevailed viva voce vote.

SENATE BILL 560 WITH HOUSE AMENDMENTS

Senator Blake called **S.B. 560** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Millsap

Amend **S.B. 560** as follows:

Amend Section 1(a) of **S.B. 560** to read as follows:

(a) The cost to any person requesting noncertified photographic reproductions of public records comprised of pages up to legal size shall not be excessive. The State [~~Board of Control~~] Purchasing and General Services Commission shall from time to time determine the actual cost of standard size reproductions and shall periodically publish these cost figures for use by agencies in determining charges to be made pursuant to this Act. When a request is received for standard or legal size photographic reproduction of more than fifty (50) pages, the charge for obtaining a standard or legal size photographic reproduction shall be in an amount that reasonably includes all costs related to retrieving and reproducing the record, including costs of materials and labor.

Floor Amendment No. 2 - C. Evans

Amend **S.B. 560** by adding two appropriately numbered new sections immediately before the emergency section to read as follows and by renumbering the emergency section appropriately:

SECTION ___. Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), is amended by adding Section 4A to read as follows:

Sec. 4A. EXAMINATION OF PUBLIC INFORMATION. (a) A person requesting public information must complete the examination of the information within 10 days after the date the custodian of the information makes it available to the person.

(b) The custodian shall extend the initial examination period by an additional 10 days if, within the initial period, the person requesting the information files with the custodian a written request for additional time. The custodian shall extend an additional examination period by another 10 days if, within the additional period, the person requesting the information files with the custodian a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the custodian if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

(d) Regardless of the provisions of this section making information available for examination, the custodian may refile in the records of the governmental body any information that was previously made available for examination if:

(1) the custodian has reasonable grounds to believe that the person requesting the information has completed the examination of the information;

(2) the time during which the information may be examined expires; or

(3) the person requesting the information does not examine the information for any period of 10 consecutive days.

(e) After the information is refiled in the records of the governmental body, the custodian may refuse to honor a subsequent request for any part of that same information if the request:

(1) is made within 60 days after the date the custodian begins to refile the information; and

(2) is made by the person who previously requested the information or by another person acting in concert with the previous requester.

SECTION ___. Section 5(b), Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Neither the custodian nor his agent who controls the use of public records shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of establishing proper identification and the public records being requested or establishing whether the custodian is authorized under Subsection (e) of Section 4A of this Act to refuse to honor the request for the records. The[~~, and the~~] custodian or his agent shall give, grant, and extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this Act.

Floor Amendment No. 1 on Third Reading - Millsap

Amend Floor Amendment No. 2 to **S.B. 560**, adopted on second reading, as follows:

(1) On page 1, line 20, between "for" and "use", insert "immediate".

(2) On page 2, strike lines 3-5 and substitute the following:

"(1) the person requesting the information informs the custodian that he has completed the examination of the information;".

Floor Amendment No. 2 on Third Reading - Horn

Amend **S.B. 560** by adding the following section in the appropriate place and renumbering the bill accordingly:

SECTION _____. Section 2, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), is amended by adding Subsection (r) to read as follows:

(r) This Act does not prohibit the board of regents or other governing body of an institution of higher education, as defined by Section 61.003 of the Education Code, from holding an open or executive meeting by telephone conference call. Each part of a meeting that is required to be open to the public and that is held by a conference call must be available to be heard by the public at the normal meeting place for the board of regents or, in the case of Systems, the board or regents conference room at the System office and must be tape recorded. The tape recording must be made available to the public. A meeting held by conference call is subject to the same notice requirements that apply to other meetings. For purposes of the notice, the place of the meeting by conference call is considered to be the normal meeting place for the board of regents or, in the case of Systems, the board of regents conference room at the System office. Telephone conference calls shall be restricted to special called meetings requiring immediate action when it is otherwise difficult or impossible to convene a quorum of the board of regents in one location.

The amendments were read.

Senator Blake moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 560** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Blake, Chairman; Brown, Harris, Sims and Brooks.

SENATE BILL 1170 WITH HOUSE AMENDMENTS

The Senate resumed consideration of the House amendments to **S.B. 1170**.

Question - Shall the Senate concur in the House amendments?

Senator Krier moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 1170** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Krier, Chairman; Jones, Harris, Green and Anderson.

SENATE BILL 1357 WITH HOUSE AMENDMENT

Senator Brooks called **S.B. 1357** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Danburg

Amend **S.B. 1357** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. The Houston Pilots Licensing and Regulatory Act (Article 8280a, Vernon's Texas Civil Statutes) is amended by adding Article 7 to read as follows:

ARTICLE 7. LIABILITY OF PILOTS

Sec. 7.01. DECLARATION OF LEGISLATIVE INTENT RELATING TO LIABILITY OF PILOTS. (a) The stimulation and preservation of maritime commerce on the pilotage grounds of this state is declared to be affected with the public interest and the limitation and regulation of liability of pilots is necessary to such stimulation and preservation of maritime commerce and is deemed to be in the public interest.

(b) To accomplish the stimulation and preservation of maritime commerce it is necessary to limit the liability of the pilots.

(c) The legislature hereby declares that this Act is designed to effect the ends and purposes listed in this section and to maintain pilotage fees at reasonable levels.

Sec. 7.02. PILOTS NOT LIABLE FOR CERTAIN ACTS OR OMISSIONS. A pilot is not liable either directly or as a member of an organization of pilots for any claims arising from acts or omissions of any other pilot or organization of pilots that relate directly or indirectly to pilot services.

Sec. 7.03. LIMITING LIABILITY OF PILOTS—LIABILITY OF VESSEL, OWNER, OR OPERATOR NOT LIMITED. (a) A ship's pilot licensed to act as such by the State of Texas and providing service to or from ports of Harris County, Texas, is not liable for damages in excess of the amount of $1,000 for damages or loss occasioned by the pilot's errors, omissions, fault, or neglect in the performance of pilot services, except as may arise by reason of the wilful misconduct or gross negligence of the pilot.

(b) Nothing in this section exempts the vessel or its owner or operator from liability for damage or loss occasioned by that ship to a person or property on the grounds that:

(1) the ship was piloted by a Texas state pilot licensed under this Act; or

(2) the damage or loss was occasioned by the error, omission, fault, or neglect of a Texas state pilot licensed under this Act.

(c) A pilot is not liable for any injury, damage, loss, or expense to any legal entity arising out of or connected with any act or omission that relates directly or indirectly to the performance of pilot services in excess of the amount of $1,000. However, this limitation of liability does not apply to either:

(1) wilful misconduct on the part of the pilot;

(2) liability for exemplary damages based on the gross negligence of the pilot for which no other person is jointly or severally liable; or

(3) acts or omissions relating to the ownership and operation of the pilot boats unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(d) When any suit or action is brought in any court against a pilot for any such act or omission for which liability is limited as provided by this section and other claims are made or anticipated in respect of the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege liability of the pilot exceeding $1,000.

SECTION 2. (a) This Act takes effect September 1, 1987.

(b) This Act applies only to pilots licensed or certified by the Board of Pilot Commissioners for the ports of Harris County.

(c) This Act governs over statutes, common law, or decisions inconsistent with this Act.

(d) A pilot's liability is limited under this Act as to any claims covered by this Act that are initially asserted after the effective date of this Act whether or not the services of the pilot were performed under a contract or pilotage rates.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Brooks moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 947 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 947** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - J. Harris

Amend **S.B. 947** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 5.112, Water Code, as amended, is amended to read as follows:

Sec. 5.112. PUBLIC TESTIMONY POLICY. The commission shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission [~~department~~].

SECTION 2. Sections 6.001, 6.019, and 6.052, Water Code, as added by Chapter 39, Acts of the 69th Legislature, Regular Session, 1985, are amended to read as follows:

Sec. 8.001 [~~6.001~~]. DEFINITIONS. In this chapter:

(1) "Commission" means the Multi-State Water Resources Planning Commission.

(2) "Commissioner" means a member of the commission.

(3) "Board" means the Texas Water Development Board [~~"Department" means the Texas Department of Water Resources~~].

Sec. 8.019 [~~6.019~~]. STAFF. The board [~~department~~] shall provide necessary staff and support to the commission to assist the commission in carrying out this chapter.

Sec. 8.053 [~~6.053~~]. STUDIES. The commission shall request the board [~~department~~] to prepare studies that consider utilization of only that floodwater that is determined to be in excess of the reasonably foreseeable needs of any area where that floodwater is located.

SECTION 3. Chapter 6, Water Code, as added by Chapter 795, Acts of the 69th Legislature, Regular Session, 1985, is amended by adding Section 6.107 to read as follows:

Sec. 6.107. POWER TO ENTER LAND. Any member or employee of the board may enter any person's land, natural waterway, or artificial waterway for the purpose of making an investigation that would, in the judgment of the executive administrator, assist the board in the discharge of its duties.

SECTION 4. Subsection (d), Section 11.132, Water Code, as amended, is amended to read as follows:

(d) The commission may act on the application without holding a public hearing if:

(1) not less than 30 days before the date of action on the application by the commission, the applicant has published the commission's notice of the

application at least once in a newspaper regularly published or circulated within the section of the state where the source of water is located;

(2) not less than 30 days before the date of action on the application by the commission, the commission mails a copy of the notice by first-class mail, postage prepaid, to:

(A) each claimant or appropriator of water from the source of water supply, the record of whose claim or appropriation has been filed with the commission [~~in the department~~]; and

(B) all navigation districts within the river basin concerned; and

(3) within 30 days after the date of the newspaper publication of the commission's notice, a public hearing has not been requested in writing by a commissioner, the executive director, or an affected person who objects to the application.

SECTION 5. Sections 11.143 and 11.147, Water Code, as amended, are amended to read as follows:

Sec. 11.143. DOMESTIC AND LIVESTOCK RESERVOIR—USE FOR OTHER PURPOSES. (a) The owner of a dam or reservoir exempted under Section 11.142 of this code who desires to use water from the dam or reservoir for purposes other than domestic or livestock use shall obtain a permit to do so. He may obtain a regular permit, a seasonal permit, or a permit for a term of years. He may elect to obtain the permit by proceeding under this section or under the other provisions of this chapter governing issuance of permits.

(b) If the applicant elects to proceed under this section, he shall submit to the commission a sworn application, on a form furnished by the commission, containing the following information:

(1) the name and post-office address of the applicant;

(2) the nature and purpose of the use and the amount of water to be used annually for each purpose;

(3) the major watershed and the tributary (named or unnamed) on which the dam or reservoir is located;

(4) the county in which the dam or reservoir is located;

(5) the approximate distance and direction from the county seat of the county to the location of the dam or reservoir;

(6) the survey or the portion of the survey on which the dam or reservoir is located and, to the best of the applicant's knowledge and belief, the distance and direction of the midpoint of the dam or reservoir from a corner of the survey, which information the executive director may require to be marked on an aerial photograph or map furnished by the commission;

(7) the approximate surface area, to the nearest acre, of the reservoir when it is full and the average depth in feet when it is full; and

(8) the approximate number of square miles in the drainage area above the dam or reservoir.

(c) If the permit is sought for irrigation, the application must also specify:

(1) the total number of irrigable acres in the area;

(2) the number of acres to be irrigated within the area in any one year; and

(3) the approximate distance and direction of the land to be irrigated from the midpoint of the dam or reservoir.

(d) Except as otherwise specifically provided by this subsection, before the commission may approve the application and issue the permit, it shall give notice and hold a hearing as prescribed by this section. The commission may act on the application without holding a public hearing if:

(1) not less than 30 days before the date of action on the application by the commission, the applicant has published the commission's notice of the

application at least once in a newspaper regularly published or circulated within the section of the state where the source of water is located;

(2) not less than 30 days before the date of action on the application by the commission, the commission mails a copy of the notice by first-class mail, postage prepaid, to each person whose claim or appropriation has been filed with the commission [~~department~~] and whose diversion point is downstream from that described in the application; and

(3) within 30 days after the date of the newspaper publication of the commission's notice, a public hearing is not requested in writing by a commissioner, the executive director, or an affected person who objects to the application.

(e) In the notice, the commission shall:

(1) state the name and post-office address of the applicant;

(2) state the date the application was filed;

(3) state the purpose and extent of the proposed appropriation of water;

(4) identify the source of supply and the place where the water is stored; and

(5) specify the time and place of the hearing.

(f) The notice shall be published only once, at least 20 days before the date stated in the notice for the hearing on the application, in a newspaper having general circulation in the county where the dam or reservoir is located. At least 15 days before the date set for the hearing, the commission shall transmit a copy of the notice by first-class mail to each person whose claim or appropriation has been filed with the commission and whose diversion point is downstream from that described in the application.

(g) [~~(f)~~] If on the date specified in the notice prescribed by Subsection (d) of this section, the commission determines that a public hearing must be held, the matter shall be remanded for hearing without the necessity of issuing further notice other than advising all parties of the time and place where the hearing is to convene.

(h) [~~(g)~~] The applicant shall pay the filing fee prescribed by Section 12.111(b) of this code at the time he files the application.

(i) [~~(h)~~] The commission shall approve the application and issue the permit as applied for in whole or part if it determines that:

(1) there is unappropriated water in the source of supply;

(2) the applicant has met the requirements of this section;

(3) the water is to be used for a beneficial purpose;

(4) the proposed use is not detrimental to the public welfare or to the welfare of the locality; and

(5) the proposed use will not impair existing water rights.

Sec. 11.147. EFFECTS OF PERMIT ON BAYS AND ESTUARIES AND INSTREAM USES. (a) In this section, "beneficial inflows" means a salinity, nutrient, and sediment loading regime adequate to maintain an ecologically sound environment in the receiving bay and estuary system that is necessary for the maintenance of productivity of economically important and ecologically characteristic sport or commercial fish and shellfish species and estuarine life upon which such fish and shellfish are dependent.

(b) In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. For permits issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, the commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system.

(c) For the purposes of making a determination under Subsection (b) of this section, the commission shall consider among other factors:

(1) the need for periodic freshwater inflows to supply nutrients and modify salinity to preserve the sound environment of the bay or estuary, using any available information, including studies and plans specified in Section 11.149 of this code and other studies considered by the commission to be reliable; together with existing circumstances, natural or otherwise, that might prevent the conditions imposed from producing benefits;

(2) the ecology and productivity of the affected bay and estuary system;

(3) the expected effects on the public welfare of not including in the permit some or all of the conditions considered necessary to maintain the beneficial inflows to the affected bay or estuary system;

(4) the quantity of water requested and the proposed use of water by the applicant, as well as the needs of those who would be served by the applicant;

(5) the expected effects on the public welfare of the failure to issue all or part of the permit being considered; and

(6) for purposes of this section, the declarations as to preferences for competing uses of water as found in Sections 11.024 and 11.033, Water Code, as well as the public policy statement in Section 1.003, Water Code.

(d) In its consideration of an application to store, take, or divert water, the commission shall consider the effect, if any, of the issuance of the permit on existing instream uses and water quality of the stream or river to which the application applies.

(e) The commission shall also consider the effect, if any, of the issuance of the permit on fish and wildlife habitats.

(f) On receipt of an application for a permit to store, take, or divert water, the commission shall send a copy of the permit application and any subsequent amendments to the Parks and Wildlife Department. At its option, the Parks and Wildlife Department may be a party in hearings on applications for permits to store, take, or divert water. In making a final decision on any application for a permit, the commission, in addition to other information, evidence, and testimony presented, shall consider all information, evidence, and testimony presented by the Parks and Wildlife Department and the board [~~department~~].

(g) The failure of the Parks and Wildlife Department to appear as a party does not relieve the commission of the requirements of this section.

SECTION 6. Subsection (b), Section 11.207, Water Code, is amended to read as follows:

(b) The report shall state:

(1) the quantity of water which was obtained from the well;

(2) the nature of the uses to which the water was applied;

(3) the change in the level of the well's water table; and

(4) other information required by the commission [~~department~~].

SECTION 7. Section 11.3571, Water Code, is redesignated as Section 16.1871, Water Code, and amended to read as follows:

Sec. 16.1871 [~~11.3571~~]. ACQUISITION DATE. (a) If the board has made an initial payment prior to September 1, 1977, to acquire a state facility, other than a facility acquired under a contract with the United States, the state facility shall be deemed to have been acquired prior to September 1, 1977, for purposes of Section 16.186 [~~11.356~~] of this code. If the board makes its initial payment on or after September 1, 1977, to acquire a state facility, other than a facility acquired under a contract with the United States, the state facility shall be deemed to have been acquired on or after September 1, 1977, for purposes of Section 16.186 [~~11.356~~] of this code.

(b) If the board has executed a contract with the United States prior to September 1, 1977, to purchase a state facility, the state facility shall be deemed to

have been acquired prior to September 1, 1977, for purposes of Section 16.187 [~~11.357~~] of this code. If the board executes a contract with the United States on or after September 1, 1977, to purchase a state facility, the state facility shall be deemed to have been acquired on or after September 1, 1977, for purposes of Section 16.187 [~~11.357~~] of this code.

SECTION 8. Section 15.001, Water Code, as amended, is amended to read as follows:

Sec. 15.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Water Development Board.

(2) "Commission" means the Texas Water Commission.

(3) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(4) "Executive director" means the executive director of the Texas Water Commission.

(5) [~~(4)~~] "Political subdivision" means a city, county, district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, any other political subdivision of the state, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes).

(6) [~~(5)~~] "Project" means:

(A) any undertaking or work to conserve, convey, and develop surface or subsurface water resources in the state, to provide for the maintenance and enhancement of the quality of the water of the state, to provide nonstructural and structural flood control, drainage, subsidence control, recharge, chloride control, and desalinization, and to carry out other purposes defined by board rules; or

(B) any undertaking or work outside the state to provide for the maintenance and enhancement of the quality of water by eliminating saline inflow through well pumping and deep well injection of brine.

(7) [~~(6)~~] "Fund" means the water assistance fund.

(8) [~~(7)~~] "Loan fund" means the water loan assistance fund.

(9) [~~(8)~~] "Conservation" means:

(A) the development of water resources; and

(B) those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

SECTION 9. Sections 15.102 and 15.103, Water Code, as amended, are amended to read as follows:

Sec. 15.102. FINANCIAL ASSISTANCE. The loan fund may be used by the board to provide loans of financial assistance to political subdivisions for the construction, acquisition, improvement, or enlargement of projects involving water conservation, water development, or water quality enhancement, providing nonstructural and structural flood control, or drainage, project recreation lands and revenue-generating recreational improvements[~~, or subsidence control~~] within any watershed, or providing recharge, chloride control, subsidence control, or desalinization as provided by legislative appropriations, this chapter, and the board rules.

Sec. 15.103. APPLICATION FOR ASSISTANCE. (a) In an application to the board for [~~a loan of~~] financial assistance from the loan fund, the applicant shall include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision operates and was created;

(3) the total cost of the project;

(4) the amount of state financial assistance requested;

(5) the plan for repaying the total cost of the project; and

(6) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for a loan of financial assistance from the loan fund unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules.

(c) The rules shall not restrict or prohibit the board from requiring additional factual material from an applicant.

(d) If an applicant has a program of water conservation, he shall state in his application that he has such a program and shall describe that program in the manner required by board rules.

(e) If the applicant claims an exemption under Subsection (c), Section 15.106 [~~17.125~~], of this code, he shall state the exemption in his application and provide information relating to the exemption as required by board rules.

SECTION 10. Subsection (b), Section 15.106, Water Code, is amended to read as follows:

(b) Before the board grants the application or provides any financial assistance under an application, it shall require an applicant to adopt or to have already implemented a program of water conservation for the more efficient use of water that incorporates the practices, techniques, or technology prescribed by Subdivision (9)(B), Section 15.001, of this code and that the board [~~department~~] determines will meet reasonably anticipated local needs and conditions. The program may include but is not limited to any or all of the following:

(1) restrictions on discretionary water uses, such as lawn watering;

(2) plumbing code standards for water conservation in new building construction;

(3) retrofit programs to improve water-use efficiency in existing buildings;

(4) educational programs;

(5) universal metering;

(6) conservation-oriented water rate structures;

(7) drought contingency plans; and

(8) distribution system leak detection and repair.

SECTION 11. Subsection (a), Section 15.1113, Water Code, as amended, is amended to read as follows:

(a) The board may inspect the construction of a project any time to assure that:

(1) the contractor is substantially complying with the approved engineering plans of the project [~~as submitted when approval of the feasibility of the project was sought~~]; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

SECTION 12. Sections 15.114 and 15.115, Water Code, as amended, are amended to read as follows:

Sec. 15.114. ALTERATION OF PLANS. After [~~board~~] approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive administrator [~~development fund manager~~] authorizes the alteration. For a waste water treatment plant or other facility required to have commission approval of plans and specifications, the commission must give its approval before a substantial or material alteration is made in those plans.

Sec. 15.115. CERTIFICATE OF APPROVAL. The executive administrator [~~board~~] may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to the approved plans [~~as approved by the board or as altered with the development fund manager's approval~~];

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

SECTION 13. Subsection (a), Section 15.212, Water Code, is amended to read as follows:

(a) On receipt by the executive administrator [~~director~~] from the paying agent for any insured bond of a written notice by registered or certified mail that a payment on the bond is due but has not been made to the paying agent by the issuer and that the issuer's reserves are insufficient to cover the payment, the executive administrator [~~director~~] shall have a deposit of funds made with the paying agent sufficient to cover the payment due on the bond less any amount already held by the paying agent to pay the principal of and interest on the bond.

SECTION 14. Sections 15.214, 15.215, 15.216, 15.218, 15.307, 15.329, 15.330, and 15.331, Water Code, as amended, are amended to read as follows:

Sec. 15.214. INSPECTION OF PROJECTS. (a) The board [~~department~~] may inspect at any time the construction of a project being constructed with proceeds of revenue bonds insured by the board to assure that:

(1) the contractor is substantially complying with the approved engineering plans of the project [~~as submitted when approval of the feasibility of the project was sought~~]; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the board [~~department~~] does not subject the state to any civil liability.

Sec. 15.215. ALTERATION OF PLANS. After [~~board~~] approval of engineering plans, a political subdivision or water supply corporation may not make any substantial or material alteration in the plans unless the executive administrator [~~director~~] authorizes the alteration.

Sec. 15.216. CERTIFICATE OF APPROVAL. The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans [~~as approved by the board or as altered with the executive director's approval~~];

(2) failure to construct the project in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

Sec. 15.218. REPORT. (a) Not later than January 1 of each odd-numbered year, the board [~~department~~] shall prepare and submit to the governor, lieutenant governor, and speaker of the house a report relating to the financial impact of the bond insurance program during the immediately preceding biennium.

(b) The report shall include:

(1) the total amount of insurance coverage authorized by the board during the biennium;

(2) the number of insurance coverage authorizations granted by the board;

(3) a list of the issuers receiving insurance coverage from the board during the biennium and the amount of insurance coverage provided to each issuer;

(4) an analysis of the marketability of the bonds of the issuers receiving insurance coverage during the biennium and the effect that the insurance coverage had on interest rates and bond ratings for those issuers;

(5) an analysis of the marketability of bonds issued by the state and its agencies during the biennium and the effect that the bond insurance program had on interest rates on state bonds and the state's bond rating;

(6) an analysis of the impact on the commercial bond market and bond interest rates generally during the biennium as a result of the implementation of the bond insurance program with particular emphasis on the impact on bonds of political subdivisions and water supply corporations that did not participate in the program;

(7) recommendations for changes in the bond issuance program that will favorably affect marketability of state bonds and issuer's bonds, bond ratings, and interest rates; and

(8) any other information, analyses, and recommendations that the board [~~department~~] considers necessary to give the governor and the legislature a complete understanding of the financial impact of the bond insurance program.

(c) The state comptroller and the state treasurer on request shall provide to the board [~~department~~] all information and assistance necessary for the board [~~department~~] to prepare this report.

Sec. 15.307. FACILITIES WANTED BY POLITICAL SUBDIVISION. The board shall not acquire any facility to the extent that the board finds that the political subdivision:

(1) is willing and reasonably able to finance the acquisition of the facility;

(2) has qualified by obtaining the necessary permit; and

(3) has proposals that are inconsistent [~~consistent~~] with the objectives of the state water plan.

Sec. 15.329. INSPECTION OF PROJECTS. (a) The board may inspect the construction of a project any time to assure that:

(1) the contractor is substantially complying with the approved engineering plans of the project [~~as submitted when approval of the feasibility of the project was sought~~]; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the board does not subject the state to any civil liability.

Sec. 15.330. ALTERATION OF PLANS. After [~~board~~] approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive administrator [~~development fund manager~~] authorizes the alteration. For a waste water treatment plant or other facility required to have commission approval of the plans and specifications, the commission must give its approval before a substantial or material alteration is made in those plans.

Sec. 15.331. CERTIFICATE OF APPROVAL. The executive administrator [~~board~~] may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans [~~approved by the board or as altered with the development fund manager's approval~~];

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

SECTION 15. Subsection (g), Section 15.406, Water Code, is amended to read as follows:

(g) The board may require that regional facility plans developed under contracts entered into under this section be made available to the commission [~~department~~] as provided by board rules.

SECTION 16. Sections 15.434, 15.533, 15.540, and 16.232, Water Code, as amended, are amended to read as follows:

Sec. 15.434. USE OF MONEY IN FUND. Money deposited to the credit of the agricultural soil and water conservation fund, on appropriation by the legislature to the board [~~department~~], the Department of Agriculture, the State Soil and Water Conservation Board, the Texas Agricultural Experiment Station, the Texas Agricultural Extension Service, public colleges and universities, and other state agencies shall be used for the following purposes:

(1) agricultural water conservation technical assistance programs;

(2) agricultural water conservation, education, and demonstration programs;

(3) purchase of equipment, including demonstration and educational equipment;

(4) grants made to underground water conservation districts for the purchase of equipment under programs established by Subchapter H of this chapter;

(5) research in water utilization and conservation including artificial recharge and secondary recovery of underground water;

(6) desalinization;

(7) weather modification;

(8) technical assistance programs for developing on-farm soil and water conservation plans developed jointly by landowners and operators and local soil and water conservation districts, as provided by Subchapter H, Chapter 201, Agriculture Code;

(9) research and demonstration relating to the production of native and low-water-use plants and water-efficient crops;

(10) a pilot program for low-interest loans for the purchase of agricultural water conservation systems established by Subchapter I of this chapter; and

(11) research, demonstration, and education relating to brush control.

Sec. 15.533. APPLICATION. A lender that desires to obtain a loan under this subchapter shall file with the executive administrator [~~director~~] an application in the manner and in the form provided by board rules.

Sec. 15.540. RESERVE FUND. The conservation loan account is created in the Texas Water Development Fund and the board [~~department~~] shall deposit in that account a portion of the amounts appropriated to the agricultural soil and water conservation fund that is sufficient to provide a reserve to pay the state's portion of any defaults under Section 15.538 of this code.

Sec. 16.232. LOCATION OF PROJECTS; REPORTS. The executive director [~~administrator~~] shall maintain files reflecting engineering reports, studies, drawings, and staff findings and recommendations pertaining to the location and effect of reclamation projects.

SECTION 17. The title of Subchapter B, Chapter 16, Water Code, is amended to read as follows:

SUBCHAPTER B. DUTIES OF THE EXECUTIVE ADMINISTRATOR [~~DIRECTOR~~]

SECTION 18. Section 18.015, Water Code, is amended to read as follows:

Sec. 18.015. ADVISORY COMMITTEES. The commission may establish advisory committees to advise the commission [~~department~~] and to make recommendations to the commission [~~department~~] concerning legislation, policies, administration, research, and other matters.

SECTION 19. Subdivision (22), Section 26.001, Water Code, as amended (effective on delegation of NPDES authority), is amended to read as follows:

(22) "Identified state supplement to an NPDES permit" means any part of a permit on which the commission [~~board~~] has entered a written designation to indicate that the commission [~~board~~] has adopted that part solely in order to carry out the commission's [~~board's~~] duties under state statutes and not in pursuance of administration undertaken to carry out a permit program under approval by the Administrator of the United States Environmental Protection Agency.

SECTION 20. The title to Subchapter B, Chapter 18, Water Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION [~~BOARD~~]

SECTION 21. Sections 26.0151 and 26.025, Water Code, as amended, are amended to read as follows:

Sec. 26.0151. PUBLIC INFORMATION. (a) The commission [~~department~~] shall provide for publishing or otherwise releasing on a regular basis as public information:

(1) the results of inspections and investigations conducted under Section 26.014 of this code; and

(2) any other information routinely prepared by the commission [~~department~~] relating to compliance with this chapter or with a rule or order adopted under this chapter.

(b) The commission [~~department~~] shall establish a procedure by which, in response to a written request, a person or organization will be sent a copy of an inspection, investigation, or compliance report for a specified facility or system or for facilities or systems in a specified area or, on a regular basis, a copy of the information released under Subsection (a) of this section.

(c) The commission [~~department~~] shall charge a reasonable fee for each copy sent under Subsection (b) of this section. The fee must be set at an amount that is estimated to recover the full cost of producing and copying and mailing a copy of the report and must be paid in cash or by cashier's check.

(d) A copy of a report shall be sent to the person or organization requesting it not later than the 30th day after the date on which the fee is paid or on which the report is made, whichever is later.

(e) This section does not apply to any information excepted under Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

Sec. 26.025. HEARINGS ON STANDARDS; NOTICE TO WHOM. Notice of a hearing under Section 26.024 of this code shall be given to each of the following that the commission believes may be affected:

(1) each local government whose boundary is contiguous to the water in question or whose boundaries contain all or part of the water, or through whose boundaries the water flows;

(2) the holders of rights to appropriate water from the water in question as shown by the records of the commission [~~department~~]; and

(3) the holders of permits from the commission to discharge waste into or adjacent to the water in question.

SECTION 22. Subsection (e), Section 26.0191, Water Code, as amended, is amended to read as follows:

(e) At the hearing, the commission shall affirm, modify, or set aside the emergency order. Any hearing on an emergency order shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), or the rules of the commission. Any set of commission [~~department~~] rules concerning a hearing on an emergency order

must include provisions for presentation of evidence by the applicant under oath, presentation of rebuttal evidence, and cross-examination of witnesses.

SECTION 23. Subsection (a), Section 26.043, Water Code, as amended, is amended to read as follows:

(a) The legislature recognizes that various river authorities and municipal water districts and authorities of the state have signed, and that others are authorized to sign and may sign, a document entitled "The State of Texas Water Pollution Control Compact" (hereinafter called the "compact"), which was approved by Order of the Texas Water Quality Board on March 26, 1971, and which is now on file in the official records of the commission [~~department~~], wherein each of the signatories is by law an official agency of the state, created pursuant to Article XVI, Section 59 of the Texas Constitution and operating on a multiple county or regional basis, and that collectively those signatories constitute an agency of the state authorized to agree to pay, and to pay, for and on behalf of the state not less than 25 percent of the estimated costs of all water pollution control projects in the state, wherever located, for which federal grants are to be made pursuant to Clause (7), Subsection (b), Section 1158, Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1158), or any similar law, in accordance with and subject to the terms and conditions of the compact. The compact provides a method for taking advantage of increased federal grants for water pollution control projects by virtue of the state payment which will be made from the proceeds from the sale of bonds by the signatories to the compact. The compact is hereby ratified and approved, and it is hereby provided that Section 30.026 of this code shall not constitute a limitation or restriction on any signatory with respect to any contract entered into pursuant to the compact or with respect to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made, and such signatory shall not be required to obtain the consent of any other river authority or conservation and reclamation district which is not a signatory with respect to any such contract or project. Each signatory to the compact is empowered and authorized to do any and all things and to take any and all action and to execute any and all contracts and documents which are necessary or convenient in carrying out the purposes and objectives of the compact and issuing bonds pursuant thereto, with reference to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made.

SECTION 24. Subsection (c), Section 26.044, Water Code, as amended by Section 1.089, Chapter 795, Acts of the 69th Legislature, Regular Session, 1985, is repealed, and that subsection as amended by Section 79, Chapter 239, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(c) The commission [~~board~~] may delegate the administration and performance of the certification function to the executive director or to any other governmental entity. The commission [~~board~~] shall collect the following fees from applicants for certification:

Boat Certificates (annual):	
Initial Certificates for Pump-out	$35
Pump-out Renewal	$25
Marine Sanitation Device (biennial):	
Boat over 26 Feet or Houseboat	$15
Boat 26 Feet or less with Permanent Device	$15

All certification fees shall be paid to the entity performing the certification function. All fees collected by any state agency shall be deposited in a special fund for use by that agency in administering and performing the certification function and shall not be deposited in the General Revenue Fund of the state.

SECTION 25. Section 21.101, Water Code (Section 26.048, Vernon's Texas Water Code), is redesignated as Section 16.093, Water Code, and is amended to read as follows:

Sec. 16.093 [~~21.101~~]. FEDERAL GRANTS FOR THE CONSTRUCTION OF TREATMENT WORKS; PROCESSING FEES. (a) The board may execute agreements with the United States Environmental Protection Agency or its successor agency and any other federal agency that administers programs providing federal grants to local governments for the construction of treatment works, as defined in Section 17.272 [~~21.602~~] of this code. The board may exercise all duties and responsibilities required for the administration by the board of the federal construction grant program.

(b) Each applicant for a federal construction grant, under a grant program administered by the board, shall pay to the board a reasonable grant processing fee as prescribed by the board. The grant processing fee charged by the board shall be cost-eligible under the grant program and shall not exceed one-half of one percent of the total eligible project cost, including the planning, design, and construction phases, for any one project. The board shall promulgate regulations establishing schedules for timely payment of grant processing fees. For grants awarded in steps under a federal program, the time schedule for payment of grant processing fees shall provide for payment reasonably apportioned among each step grant awarded. The grant processing fee for each step grant or for any other grant not awarded in steps shall be due and payable immediately following the award of such grant. No grant processing fee shall be levied for any grant awarded prior to the effective date of this Act; but the grant processing fee established in this Subsection (b) shall be levied on grants awarded on or after the effective date of this Act where the board has processed the grant pursuant to an agreement with the United States Environmental Protection Agency, or its successor agency, or any other federal agency that administers programs providing federal grants to local governments for the construction of treatment works.

(c) All grant processing fees collected by the board shall be deposited in a special fund of the state treasury for use by the board in processing and administering the grant programs, and shall not be deposited in the general revenue fund of the state.

SECTION 26. Subsection (b), Section 26.084, Water Code, as amended, is amended to read as follows:

(b) Before exercising the authority granted in this section, the commission shall find affirmatively:

(1) that there is an existing or proposed regional or area-wide system designated under Section 26.083 of this code which is capable or which in the reasonably foreseeable future will be capable of serving the waste collection, treatment, or disposal needs of the person or persons who are the subject of an action taken by the commission under this section;

(2) that the owner or operator of the designated regional or area-wide system is agreeable to providing the service;

(3) that it is feasible for the service to be provided on the basis of waste collection, treatment, and disposal technology, engineering, financial, and related considerations existing at the time, exclusive of any loss of revenue from any existing or proposed waste collection, treatment, or disposal systems in which the person or persons who are the subject of an action taken under this section have an interest;

(4) that inclusion of the person or persons who are the subject of an action taken by the commission under this section will not suffer undue financial hardship as a result of inclusion in a regional or area-wide system; and

(5) that a majority of the votes cast in any election held under Section 26.087 [~~21.206~~] of this code favor the creation of the regional or area-wide system or systems operated by the designated regional entity.

SECTION 27. Subsection (c), Section 26.087, Water Code, as amended, is amended to read as follows:

(c) Notice of the election shall state the day and place or places for holding the election, and the proposition to be voted on. The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which the regional or area-wide system or systems is to be located. The first publication of the notice shall be at least 14 days before the day set for the election. Notice of the election shall be given to the local governments and to owners and operators of any waste collection, treatment, and disposal systems who in the judgment of the commission [~~board~~] may be affected.

SECTION 28. Section 26.217, Water Code, as amended, effective on delegation of NPDES authority, is amended to read as follows:

Sec. 26.217. VENUE. Venue for prosecution of any alleged violation of Section 26.212 [~~21.552~~] is in the county court, the county criminal court, or the county court-at-law of the county in which the violation is alleged to have occurred.

SECTION 29. Subsection (c), Section 26.267, Water Code, as amended, is amended to read as follows:

(c) Notwithstanding any other provision of this subchapter, the state or the commission [~~department~~] shall utilize any and all procedures relating to releases or threatened releases of solid wastes contained in the Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes) prior to utilizing the provisions of this subchapter with respect to such releases or threatened releases.

SECTION 30. Subsections (a) and (e), Section 26.268, Water Code, are amended to read as follows:

(a) This section is cumulative of all penalties and enforcement provisions provided elsewhere to the commission, except that the commission [~~department~~] may not assess penalties under this section for violations of this subchapter which are also violations of any permit, rule, or order applicable to hazardous waste under the Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes).

(e) The penalties authorized by this subchapter for discharges and spills shall not apply to any discharge or spill promptly reported and where reasonable precautions to minimize the spill's impacts and reasonable efforts to clean it up were made by the responsible person in accordance with the rules and orders of the commission, unless the commission [~~department~~] finds that the discharge or spill is the result of the negligence of the responsible person.

SECTION 31. The title to Subchapter B, Chapter 27, Water Code, is amended to read as follows:

SUBCHAPTER B. JURISDICTION OF COMMISSION [~~DEPARTMENT~~]

SECTION 32. Subsection (g), Section 27.036, Water Code, as added by Chapter 921, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

(g) Application for injection well permits covering brine mining submitted to the Texas Water Commission [~~Department of Water Resources~~] before the effective date of this section for which permits have not been issued by the commission [~~Texas Water Commission~~] shall be transmitted to the railroad commission [~~Railroad Commission of Texas~~].

SECTION 33. Subsections (d), (e), and (f), Section 27.051, Water Code, as amended, are amended to read as follows:

(d) The commission [~~Texas Water Commission~~], in determining if the use or installation of an injection well for the disposal of hazardous waste is in the public interest under Subsection (a)(1) of this section, shall consider, but shall not be limited to the consideration of:

(1) compliance history of the applicant in accordance with the provisions of Subsection (e) of this section;

(2) whether there is a practical, economic, and feasible alternative to an injection well reasonably available to manage the types and classes of hazardous waste; and

(3) whether the applicant will maintain sufficient public liability insurance for bodily injury and property damage to third parties that is caused by sudden and non-sudden accidents or will otherwise demonstrate financial responsibility in a manner adopted by the commission [~~department~~] in lieu of public liability insurance. A liability insurance policy which satisfies the policy limits required by the hazardous waste management regulations of the commission [~~department of water resources~~] for the applicant's proposed pre-injection facilities shall be deemed "sufficient" under this subdivision if the policy also covers the injection well itself.

(e) The commission [~~department of water resources~~] shall establish a procedure by rule for its preparation of compliance summaries relating to the history of compliance and noncompliance by the applicant with the rules adopted or orders or permits issued by the commission [~~department of water resources~~] under this chapter for any injection well for which a permit has been issued under this chapter. The compliance summaries shall be made available to the applicant and any interested person after the commission [~~department of water resources~~] has completed its technical review of the permit application and prior to the promulgation of the public notice relating to the issuance of the permit. Evidence of compliance or noncompliance by an applicant for an injection well for the disposal of hazardous waste with the rules adopted or orders or permits issued by the commission [~~department of water resources~~] under this chapter may be offered by any party at a hearing on the applicant's application and admitted into evidence subject to applicable rules of evidence. All evidence admitted, including compliance history, shall be considered by the commission [~~department of water resources~~] in determining whether to issue, amend, extend or renew a permit.

(f) In the issuance of a permit for a hazardous waste injection well into a salt dome, the commission [~~department of water resources~~] shall consider the location of any geologic fault in the salt dome in the immediate proximity of the injection well bore, the presence of an underground water aquifer, and the presence of sulfur mines or oil and gas wells in the area.

SECTION 34. Sections 41.0082, 42.009, 43.0052, 44.009, and 58.186, Water Code, as amended, are amended to read as follows:

Sec. 41.0082. COOPERATION OF TEXAS [~~DEPARTMENT OF~~] WATER COMMISSION [~~RESOURCES~~]. The Texas [~~Department of~~] Water Commission [~~Resources~~] shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs.

Sec. 42.009. COOPERATION OF TEXAS [~~DEPARTMENT OF~~] WATER COMMISSION [~~RESOURCES~~]. The Texas [~~Department of~~] Water Commission [~~Resources~~] shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs.

Sec. 43.0052. COOPERATION OF TEXAS [~~DEPARTMENT OF~~] WATER COMMISSION [~~RESOURCES~~]. The Texas [~~Department of~~] Water Commission [~~Resources~~] shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs.

Sec. 44.009. COOPERATION OF TEXAS [~~DEPARTMENT OF~~] WATER COMMISSION [~~RESOURCES~~]. The Texas [~~Department of~~] Water Commission [~~Resources~~] shall cooperate with the members in the performance of their duties and shall furnish them any available data and information they need.

Sec. 58.186. OBTAINING TOPOGRAPHIC MAPS AND DATA. The Texas Water Development Board [~~department~~] shall furnish to a district topographic maps and data concerning projects undertaken by the district.

SECTION 35. Subsection (d), Section 64.011, Water Code, as amended, is amended to read as follows:

(d) The executive administrator [~~director~~] of the Texas Water Development Board [~~Department of Water Resources~~] shall prepare available evidence relating

to the import area demonstrating the cost and benefit to be reasonably expected from the importation of water into the area and the estimated quantities of water that are or may be made available and are required for import into the area, as well as evidence showing the economic, environmental, and human costs and benefits that will result within each county within the import area if water is imported into the area.

SECTION 36. Section 66.001, Water Code, is amended to read as follows:

Sec. 66.001. DEFINITIONS. In this chapter:

(1) "District" means a stormwater control district.

(2) "Commission" means the Texas Water Commission.

(3) [~~"Department" means the Texas Department of Water Resources.~~

[~~(4)~~] "Executive director" means the executive director of the commission [~~department~~].

(4) [~~(5)~~] "Board" means the board of directors of a district.

(5) [~~(6)~~] "Director" means a member of the board.

SECTION 37. Subsection (d), Section 66.019, Water Code, is amended to read as follows:

(d) A copy of the commission's order including its findings and decision shall be mailed to the petitioners as provided by rules of the commission [~~department~~].

SECTION 38. Section 45.006, Water Code, is repealed.

SECTION 39. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Montford moved to concur in the House amendment.

On motion of Senator Montford and by unanimous consent, the motion to concur in the House amendment was withdrawn.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to concur in Senate amendments to **H.B. 1219** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: S. Johnson, Chairman; Ovard, Parker, Morales and Geistweidt.

The House refused to concur in Senate amendments to **H.B. 890** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Colbert, Chairman; Patronella, G. Thompson, Melton and Wallace.

The House refused to concur in Senate amendments to **H.B. 1300** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: T. Smith, Chairman; Morales, Blackwood, Waldrop and Parker.

The House refused to concur in Senate amendments to **H.B. 1299** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: T. Smith, Chairman; Blackwood, Waldrop, Ovard and Danburg.

The House refused to concur in Senate amendments to **H.B. 1889** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Arnold, Chairman; Blair, H. Cuellar, Aikin and Uher.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1889

Senator Johnson called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1889** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1889** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Johnson, Chairman; Sims, Barrientos, McFarland and Montford.

SENATE BILL 1421 WITH HOUSE AMENDMENT

Senator Brooks called **S.B. 1421** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Heflin

Delete lines 12 and 13 on page 1 of **S.B. 1421** and substitute in lieu thereof the following:

"is an officer, partner, or employee (~~Act~~) and said dentist shall be exempt from the provisions of this (~~Act~~) Article when performing such service."

The amendment was read.

Senator Brooks moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE RESOLUTION 682

Senator Blake offered the following resolution:

WHEREAS, With the death of the Honorable Ben Ramsey on March 27, 1985, the State of Texas lost one of its most esteemed and revered elder statesmen whose name will be forever etched on the roll call of memorable Texas heroes; and

WHEREAS, The loss of this exceptional gentleman has been profound not only for his family and friends but for all Texans; and

WHEREAS, Throughout his 38 years of distinguished public service as a member of the Texas House of Representatives, as a member of the Texas Senate,

as Lieutenant Governor, and as a member of the Railroad Commission, his visions and dreams for his beloved state became a concrete reality through his diligence and tenacity; his accomplishments in the fields of highway improvements, public education, and conservation continue to benefit all Texans; and

WHEREAS, His reserved and courtly air belied a fierce love of Texas and commitment to uphold the principles of liberty and justice upon which it was founded; and

WHEREAS, Elected lieutenant governor in 1951, he guided the ship of state wisely and judiciously to unparalleled growth and prosperity; and

WHEREAS, Cherishing his role as presiding officer of the Texas Senate, he leaves behind a legacy of duty, honor, and courage for our state's future political leaders and statesmen; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby authorize the designation of a suitable room in the East Wing of the Capitol as The Ben Ramsey Conference Room in permanent and lasting homage to this outstanding Texan.

The resolution was read.

On motion of Senator Edwards and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Blake and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

The President introduced the family of Governor Ramsey: Mrs. Florine Ramsey and daughters, Ann, MariBen, Rita Ramsey Kreisle and the many friends gathered for the dedication of The Ben Ramsey Conference Room.

(Senator Brooks in Chair)

SENATE BILL 1436 WITH HOUSE AMENDMENT

Senator Krier called **S.B. 1436** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Hury

On page 2, line 13, after ; insert or; strike lines 14 and 15; and on line 16, strike (4) and substitute (3).

On page 3, lines 7-9, strike Section 154.023 as added by the bill and renumber the following sections accordingly.

The amendment was read.

Senator Krier moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 612

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 612** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	HACKNEY
BARRIENTOS	AIKIN
WASHINGTON	GLOSSBRENNER
SARPALIUS	CEVERHA
ANDERSON	HILBERT
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2556

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2556** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

McFARLAND	CAMPBELL
MONTFORD	S. JOHNSON
BROWN	PERRY
ARMBRISTER	LUCIO
SIMS	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE JOINT RESOLUTION 55
WITH HOUSE AMENDMENT

The Senate resumed consideration of **S.J.R. 55** with House amendment.

Question - Shall the Senate concur in the House amendment?

On motion of Senator Parmer and by unanimous consent, the motion to not concur in the House amendment was withdrawn and **S.J.R. 55** was returned to the House for further consideration.

SENATE BILL 1382 WITH HOUSE AMENDMENTS

Senator Jones called **S.B. 1382** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Connelly

Amend **S.B. 1382** on page 1, line 11 by adding the words "and which are subject to the limitations of Section 146 of the Code" after the word "Constitution".

Committee Amendment No. 2 - Connelly

Amend **S.B. 1382** on page 4 line 15 by deleting the word "Subsection" and inserting in lieu thereof the word "subsections" and on line 15 by adding the words "and (c)" between the words "(1)" and "of".

Committee Amendment No. 3 - Connelly

Amend **S.B. 1382** on page 7 line 7 by deleting the word "obligations" and inserting in lieu thereof the word "bonds".

The amendments were read.

Senator Jones moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 947 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 947** from the President's table for consideration of the House amendment to the bill.

The House amendment having been laid before the Senate and read previously, Senator Montford again moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE CONFEREES ON SENATE BILL 1497 DISCHARGED

On motion of Senator Farabee and by unanimous consent, the Senate conferees on **S.B. 1497** were discharged.

SENATE BILL 1497 WITH HOUSE AMENDMENTS

Senator Farabee moved to concur in the House amendments to **S.B. 1497**.

The motion prevailed viva voce vote.

VOTE ON FINAL PASSAGE OF HOUSE BILL 2146 RECONSIDERED

On motion of Senator Brown and by unanimous consent, the vote by which **H.B. 2146** was finally passed was reconsidered.

Question - Shall **H.B. 2146** be finally passed?

VOTE ON SUSPENSION OF THREE-DAY RULE ON HOUSE BILL 2146 RECONSIDERED

On motion of Senator Brown and by unanimous consent, the vote by which the Three-Day Rule was suspended on **H.B. 2146** was reconsidered.

Question - Shall the Three-Day Rule be suspended?

VOTE ON PASSAGE TO THIRD READING ON HOUSE BILL 2146 RECONSIDERED

On motion of Senator Brown and by unanimous consent, the vote by which **H.B. 2146** was passed to third reading was reconsidered.

Question - Shall the bill be passed to third reading?

VOTE ON ADOPTION OF AMENDMENT TO HOUSE BILL 2146 RECONSIDERED

Question - Shall Floor Amendment No. 1 by Senator Krier to **H.B. 2146** be adopted?

On motion of Senator Brown and by unanimous consent, the amendment was tabled.

The bill was again passed to third reading viva voce vote.

HOUSE BILL 2146 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2146** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was again read third time and was again finally passed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT SENATE BILL 696

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 696** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CAPERTON	HALEY
EDWARDS	GLOSSBRENNER
URIBE	COLBERT
KRIER	PEREZ
BROOKS	A. MORENO
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED ON ACT

relating to due process for public school employees on term contracts.

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

SECTION 1. Section 21.209, Education Code, is amended to read as follows:

Sec. 21.209. PROBATION. (a) The board of trustees of any school district may provide by written policy for a probationary period not to exceed the first two years of continuous employment in the district, except that the probationary period shall not exceed one year for a person who has been employed as a teacher in public education for at least five of the eight years prior to initial employment in the district. The [~~in which case the~~] provisions of this subchapter shall not apply during such probationary period.

(b) A teacher dismissed for good cause from the school district in which the teacher was most recently employed may agree by written contract to a probationary period for the first two years of continuous employment.

SECTION 2. This Act takes effect September 1, 1987.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to concur in Senate amendments to **H.B. 1512** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: A. Smith, Martinez, Jones, A. Hill and Givens.

The House refused to concur in Senate amendments to **H.B. 2056** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Wallace, Chairman; Warner, R. Cuellar, Aikin and Lucio.

The House refused to concur in Senate amendments to **H.B. 2124** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: J. Harris, Chairman; C. Johnson, Shelley, Kuempel and Yost.

The House refused to concur in Senate amendments to **H.B. 33** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: P. Hill, Chairman; Roberts, Granoff, Patronella and Shelley.

The House has concurred in Senate amendments to the following House Bills by a non-record vote:

H.B. 440
H.B. 766
H.B. 947
H.B. 1078
H.B. 1453

H.B. 1606
H.B. 1675
H.B. 1931
H.B. 1939
H.B. 2035
H.B. 2193
H.B. 2456

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 890

Senator Green called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 890** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 890** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Tejeda, Anderson, Washington and Whitmire.

SENATE RESOLUTION 708

Senator Green offered the following resolution:

S.R. 708, Suspending Senate rules to permit the Conference Committee on **H.B. 890** to consider certain matters.

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1226

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1226** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GLASGOW	WILLIAMSON
ARMBRISTER	AIKIN

ZAFFIRINI	UHER
BROWN	SHAW
	GARCIA
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RESOLUTION 709

Senator Parker offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 96 (a) (4), Rules of the Senate, 70th Legislature, 1987, is suspended as provided by Senate Rule 96 (f), to enable the Senate to the extent described in this Resolution to permit the conference committee appointed to adjust the differences between the House and Senate versions of **H.B. 2181**, relating to higher education, including the responsibilities, roles, funding and management of public agencies and institutions of higher education, by authorizing the conferees to consider and take action by adding a new section to read as follows:

Section 1. Section 108.36, Education Code, subsection (a), is amended by striking the language and substituting the following:

(a) Lamar University at Orange and Lamar University at Port Arthur shall each be a separate campus of Lamar University operated as a two-year undergraduate center offering associate degrees or certification programs in academic, technical and vocational areas. Lower-division academic courses to support these programs are authorized. The associate degree and certification programs shall relate to Southeast Texas employment needs. The center shall have areas—teaching, research, and public service. Faculty research, using the facilities provided for and consistent with the primary function of the center, is encouraged. Funding for research should be from private sources, competitively acquired sources, and appropriated public funding.

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1196

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1196** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BARRIENTOS	VALIGURA
WHITMIRE	PATRONELLA
PARMER	DANBURG
GREEN	DUTTON

JOHNSON
On the part of the Senate

BETTS
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

(Senator Glasgow in Chair)

SENATE BILL 962 WITH HOUSE AMENDMENTS

Senator Barrientos called **S.B. 962** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Harrison

Amend **S.B. 962** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subsection B-1, Section 7, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

B-1. (a) No home rule or general law city may annex any area, whether publicly or privately owned, unless the width of such area at its narrowest point is at least 1,000 [~~500~~] feet, except that a city may annex an area that is less than 1,000 [~~500~~] feet in width if the corporate limits of the city are contiguous with the property on at least two sides and except that adjacent cities may accomplish mutually agreeable adjustments in their boundaries of areas that are less than 1,000 [~~500~~] feet in width. Provided, further, that the prohibition in this section against annexing an area less than 1,000 [~~500~~] feet in width shall not apply to any annexation initiated upon written petition of the owner or owners or of a majority of the qualified voters of the area to be annexed or an annexation which abuts or is contiguous to another jurisdictional boundary.

(b) Land on an island bordering on the Gulf of Mexico which is not accessible by public road or common carrier ferry facility may not be annexed by a city, town or village, including a home rule city, without the consent of the owner or owners of such land and notwithstanding the provisions of the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), the extraterritorial jurisdiction of a city, town or village, including a home rule city, shall not extend to or cover any such land on any such island without the consent of the owner or owners thereof. A city, town or village, including a home rule city, is also prohibited from taking property on any such island by exercising its power of condemnation or eminent domain.

(c) All annexation proceedings initiated for the purpose of including the site of a state institution or facility within a city are hereby and in all respects validated as of the date of such proceedings.

SECTION 2. The Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is amended by adding Section 7c to read as follows:

Sec. 7c. CERTAIN STRIP ANNEXATIONS PROHIBITED. A city may not annex during any one-year period any strip of territory, including a strip following the course of a road, highway, river, stream, or creek, that is, at its narrowest point, less than 1,000 feet in width and is located farther than three miles from the preexisting boundaries of the city. All of the land within the extraterritorial jurisdiction of a city as of April 30, 1987, remains subject to all the provisions of this Act that limit or regulate the extension or creation of any jurisdiction by another municipality, and all mutually agreed extraterritorial jurisdictional boundaries are validated and remain in effect.

SECTION 3. Subsection B, Section 7, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

B. A city may annex, for full or limited purposes, in any one calendar year only territory equivalent in size to ten percent (10%) of the total corporate area of such city as of the first day of that calendar year. In computing the total amount of territory which may be annexed in any one (1) calendar year, there shall be excluded from such ten per cent (10%) the following: (1) territory caused to be annexed by a request of a majority of the qualified resident voters in the territory and the owners of fifty per cent (50%) or more of the land in the territory, (2) territory annexed which is owned by the city, the county, the State, or the Federal Government which is used for a public purpose, (3) territory annexed at the request of a majority of the voters residing in such territory, and (4) territory annexed at the request of the owner or owners thereof.

SECTION 4. Subsections A, B, and C, Section 10, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), are amended to read as follows:

A. Prior to the publication of notice of a hearing required under Section 6 of this Act, the governing body of the city proposing the annexation shall direct its planning or other appropriate department to prepare a service plan that provides for the extension of municipal services into each area to be annexed. For purposes of this Section, providing services includes having services provided by any method or means by which the city extends municipal services to any other area of the city. In no event shall a service plan require the creation of another political subdivision, nor shall a service plan require a landowner in the newly-annexed area to fund the capital improvements necessary to provide such services in a manner inconsistent with the requirements of Senate Bill 336, Acts of the 70th Legislature, unless otherwise agreed to by the landowner.

B. The service plan shall include:

(1) a program under which the city will provide police protection, fire protection, solid waste collection, maintenance of water and waste water facilities, maintenance of roads and streets (including lighting), the maintenance of parks, playgrounds, and swimming pools, and the maintenance of any other publicly owned facility, building, or service within each particular area within sixty (60) days after the effective date of the annexation of that particular area; and

(2) a program under which the city will initiate the acquisition or construction of any capital improvements necessary for providing municipal services adequate to serve the development proposed for the particular area, the construction to begin within two (2) [~~and one half (2 1/2)~~] years of the effective date of the annexation of the particular annexed area, and to be substantially complete within four and one-half years of the effective date of the annexation of the particular annexed area, and the acquisition or construction of the facilities to be accomplished by purchase, lease, or other contract or by the city's succeeding to the powers, duties, assets and obligations of conservation and reclamation districts, as may be authorized or required by law. The construction of the capital improvements required under this subsection shall be accomplished in a continuous process, and shall be completed as soon as reasonably possible, consistent with generally-accepted local engineering and architectural standards and practices; provided, however, the city will be deemed to be in compliance with this subsection if the construction process is interrupted for any reason by circumstances beyond the direct control of the city. The requirement that construction of capital improvements must be substantially completed within four and one-half years shall not apply to a development project or proposed development project within an annexed area if the annexation of the area was initiated by petition or request of the owners of land in the annexed area, and the city and the landowners have mutually agreed in writing that the development project within that area, because of its size or projected manner of

development by the developer, is not reasonably expected to be completed within four and one-half years after the annexation. [~~No moneys received from the sale of bonds or evidenced by other instruments of indebtedness may be allocated to the annexed area for a period of one hundred and eighty (180) days.~~]

C. [~~(1)~~] In no event shall a service plan provide fewer services or a lower level of services in the area to be annexed than were in existence in that area at the time immediately preceding the annexation or which are otherwise available in other areas of the city with land uses and population densities similar to those reasonably contemplated or projected by the landowner or developer in the newly-annexed area. However, it is not the intent of this Act to require that a uniform level of services be provided to all areas of the city where differing characteristics of topography, land utilization, and population density are considered as a sufficient basis for providing differing service levels. [~~Nothing in this Act shall be construed to limit or repeal home rule charter provisions providing for annexation for limited purposes other than ad valorem taxation.~~

[~~(2) Notwithstanding any other provision of this Act, no city may amend its charter to authorize annexations for limited purposes. Provided, further, the area of a city's extraterritorial jurisdiction may not be extended by any annexations except for full purposes.~~

[~~(3) Subdivision (2) of this subsection expires June 1, 1987.~~]

SECTION 5. The Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended by adding Article 970c to read as follows:

Art. 970c. LIMITED-PURPOSE ANNEXATION

Sec. 1. APPLICATION TO HOME-RULE CITY. This Act applies to home-rule cities over 225,000 population.

Sec. 2. AUTHORITY TO ANNEX FOR LIMITED PURPOSES. The governing body of a city, if authorized under its home rule charter, by ordinance may annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area. An area annexed for limited purposes continues to be within the extraterritorial jurisdiction of the city for all purposes. No city may be incorporated in a limited purpose area without the consent of the annexing city. To be annexed for limited purposes, an area must be:

(1) within a city's extraterritorial jurisdiction; and

(2) contiguous to the corporate boundaries of the city, at a point where the city's corporate area is wider than 1,000 feet.

Sec. 3. PLANNING REPORT AND REGULATORY PLAN. (a) Before the 10th day before the date of the first hearing required by Section 4 of this Act is held, the city must prepare a report regarding the proposed annexation of an area for limited purposes and make the report available to the public. Notice of the availability of the report shall be published at least twice in a newspaper of general circulation within the area proposed to be annexed. Such notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. The report must contain the results of the planning study conducted for the area in accordance with Subsection (b) of this section and must contain the regulatory plan prepared for the area in accordance with Subsection (c) of this section.

(b) The planning study must:

(1) project the kinds and levels of development that will occur in the area in the next 10 years if the area is not annexed for limited purposes and also if the area is annexed for limited purposes;

(2) describe the issues the city considers to give rise to the need for the annexation of the area for limited purposes and the public benefits to result from the limited purpose annexation;

(3) analyze the economic, environmental, and other impacts the annexation of the area for limited purposes will have on the residents, real property owners, and businesses in the area; and

(4) identify the proposed zoning of the area upon annexation and inform the public that any comments regarding the proposed zoning will be considered at the public hearings for the proposed limited purpose annexation.

(c) The regulatory plan must:

(1) identify the kinds of land use and other regulations that will be imposed in the area if it is annexed for limited purposes;

(2) state in the regulatory plan the date upon which the city shall annex the area for full purposes, which date must be within three years after the date the area is annexed for limited purposes. If the city fails to annex the area for full purposes within the prescribed three-year period, any affected person may petition the district court to compel the annexation of the area for full purposes or the deannexation of such area. Upon a finding that the city has failed to annex the area for full purposes within three years following the date the area was annexed for limited purposes, the court shall enter an order requiring the city to annex the area for full purposes or to deannex the area. If an area is deannexed, the area may not be annexed again by the city for five years. The requirement that an area be annexed for full purposes within three years after it has been annexed for limited purposes may be waived and the date for full purpose annexation postponed by mutual written agreement between the city and a majority of the affected landowners.

(d) In each of the three years for which an area may be annexed for limited purposes, the city must take certain prescribed steps toward the full purpose annexation of the area. Failure to meet these planning objectives may render the limited purpose annexation void as provided by Section 12 of this Act.

(1) By the end of the first year after an area is annexed for limited purposes, the city must develop a land use and intensity plan as a basis for services and capital improvements projects planning.

(2) By the end of the second year after an area is annexed for limited purposes, the city must include the area in its long-range financial forecast and must include the area in the city's program to identify future capital improvements projects.

(3) By the end of the third year after an area has been annexed for limited purposes, projects intended to serve the area must be included in the adopted capital improvements program, and must identify potential sources of funding for capital improvements.

Sec. 4. PUBLIC HEARINGS. (a) Before instituting proceedings for annexing an area for limited purposes, the governing body of the city must hold two public hearings on the proposed annexation. Each member of the public who wishes to present testimony or evidence regarding the proposed limited-purpose annexation must be given the opportunity to do so. At the hearing, the city shall hear and consider the appropriateness of the application of ordinances in the area to be annexed for limited purposes.

(b) The hearings must be held on or after the 40th day but before the 20th day before the date the annexation proceedings are instituted. A notice of the hearings must be published in a newspaper of general circulation in the city and in the area proposed for annexation, and the notice must be in the format prescribed by Subsection (a) of Section 3 of this Act. The notice for each hearing must be published at least once on or after the 20th day but before the date of the hearing and must contain:

(1) a statement of the purpose of the hearing;

(2) a statement of the date, time, and place of the hearing; and

(3) a general description of the location of the area proposed to be annexed for limited purposes.

Sec. 5. ADOPTION OF REGULATORY PLAN BY GOVERNING BODY. (a) At the time the governing body of the city adopts an ordinance annexing an area for limited purposes, the governing body must also adopt by ordinance a regulatory plan for the area.

(b) The regulatory plan adopted by the governing body must be the same as the regulatory plan prepared under Subsection (c) of Section 3 of this Act unless the governing body finds and states in the ordinance the reasons for the adoption of a different regulatory plan.

(c) The governing body by ordinance may change a regulatory plan adopted under Subsection (b) of this section, if in the ordinance making the change, the governing body finds and states the reasons for the adoption of the change.

Sec. 6. PERIOD FOR COMPLETION OF ANNEXATION. (a) The annexation of an area for limited purposes must be completed within 90 days after the date the governing body institutes the annexation proceedings.

(b) If a landowner requests full purpose annexation prior to the twentieth day before the ordinance is passed annexing his land for limited purposes, the city shall, in lieu of annexing the land for limited purposes, within six months institute full purpose annexation proceedings.

Sec. 7. EFFECT OF ANNEXATION ON VOTING RIGHTS, ELIGIBILITY FOR OFFICE, AND TAXING AUTHORITY. (a) The qualified voters of an area annexed for limited purposes are entitled to vote in city elections regarding the election or recall of members of the governing body of the city or regarding the amendment of the city charter. The voters may not vote in any bond election. At least five but no more than fifteen days prior to the first election held in which the residents of an area annexed for limited purposes are entitled to vote, the city shall publish notice in the form of a quarter-page advertisement in a newspaper of general circulation in the city notifying such residents that they are eligible to vote in such election, and the location of the polling place(s).

(b) A resident of the area is not eligible to be a candidate for or to be elected to a municipal office.

(c) The city may not impose a tax on any property in an area annexed for limited purposes or on any resident of the area for an activity occurring in the area. The city may impose reasonable charges, such as building inspection and permit fees, on residents or real property owners for actions or procedures performed by the city in connection with the limited purposes for which the area is annexed.

Sec. 8. EFFECT OF ANNEXATION ON EXTRATERRITORIAL JURISDICTION. The annexation of an area for limited purposes does not extend the city's extraterritorial jurisdiction.

Sec. 9. CONSENSUAL ANNEXATION. The city shall have the authority to annex for limited purposes any property for which the owner of that land has filed with the city a statement evidencing the owner's desire that the land be annexed for limited purposes. The city may annex the land within 150 days after the date the statement is filed with the city, if the proposed limited purpose annexation is approved by the city. With respect to any larger parcels of property, consent of at least 51 percent of the total affected territory represented by the respective property owners must be evidenced by appropriate signatures on the limited purpose annexation request.

Sec. 10. EFFECT OF ANNEXATION ON OTHER GRANTS OF AUTHORITY. This Act does not affect the authority of a city to annex an area for limited purposes under Articles 1183 through 1187, Revised Statutes, or under any other statute granting the authority to annex an area for limited purposes.

Sec. 11. ANNEXATION FOR FULL PURPOSES. On or before the date prescribed by the regulatory plan under Section 3(c)(3) of this Act, the city must annex the area for full purposes.

Sec. 12. ENFORCEMENT. From and after September 1, 1987, any city annexing an area for limited purposes shall take the steps toward full purpose annexation as required in Section 3(d) of this Act. In the event a city fails to take the steps required in Section 3(d), any affected person may petition the district court to compel the annexation of a particular area for full purposes or the deannexation of such area. Upon a finding that the city has failed to take the steps required in Sec. 3(d), the court shall enter an order requiring the city to annex the area for full purposes or to deannex the area.

Sec. 13. CERTAIN STRIP ANNEXATIONS PROHIBITED. A city may not annex for limited purposes any strip of territory, including a strip following the course of a road, highway, river, stream, or creek, that is, at its narrowest point, less than 1,000 feet in width and is located farther than three miles from the preexisting boundaries of the city.

Sec. 14. CERTAIN STRIP ANNEXATIONS DISANNEXED. Any city that has annexed for limited purposes any strip of territory as specified in Section 13 of this article shall annex that territory for full purposes by September 1, 1988. In the event the city fails to annex that territory for full purposes by September 1, 1988, that territory shall be automatically disannexed, and may not be annexed again by the city for five years.

SECTION 6. The provisions of Article 970c as added by this Act apply only to limited purpose annexations completed on or after September 1, 1987.

SECTION 7. Any area annexed for limited purposes prior to September 1, 1987 shall be annexed for full purposes not later than December 31, 1988. If the city fails to complete the annexation of such area for full purposes by December 31, 1988, thereafter any land located in the area shall be disannexed by the city if the owner of the land files with the city a statement of the owner's desire for the land to be disannexed; except that with respect to a platted subdivision, a disannexation statement must be signed by the owners of at least 51 percent of the total territory with the subdivision. Any owner of land annexed for limited purposes prior to September 1, 1987 shall give the city at least ninety (90) days advance notice of his intention to file a statement of his desire to be disannexed from the city. The city shall disannex the land within 30 days after the date the statement is filed with the city. Any land deannexed pursuant to this section may not be annexed by the city for either full or limited purposes within five years after such deannexation.

SECTION 8. This Act takes effect September 1, 1987.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Saunders

Amend **C.S.S.B. 962** as follows:

On page 4, lines 18 and 19, delete the phrase "the development proposed" and strike through the word "for" between the words "serve" and "the";

On page 5, lines 26 and 27, delete the words "by the landowner or developer";

On page 6, lines 25 and 26, delete the words "An area annexed for limited purposes continues to be within the extraterritorial jurisdiction of the city for all purposes."

On page 9, line 27, add the words "rural and urban" between the words "of" and "ordinances";

On page 11, line 1, delete the subsection letter "(a)"; and

On page 11, lines 5 through 9, delete all of Subsection (b).

Floor Amendment No. 2 - T. Smith

Amend **C.S.S.B. 962** by adding the following new SECTIONS 8 and 9 and renumbering existing Sections 8 and 9 accordingly:

SECTION 8. Subsection B, Section 8, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

B. (1) No political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services, roadways or drainage may be created within the area of the extraterritorial jurisdiction of any city without the written consent of such city granted in accordance with the provisions of this Subsection and the Texas Water Code. The city's consent shall not place any conditions or restrictions on the creation of the district other than those expressly provided in Chapter 54, Subchapter B, Section 54.016(e), Texas Water Code. Should the governing body of such city fail or refuse to grant permission for the creation of such proposed political subdivision upon terms mutually agreeable within ninety (90) [~~sixty (60)~~] days after receipt of a written request for same, a majority of the qualified resident voters in the territory of such proposed political subdivision and the owner or owners of fifty percent (50%) or more of the land in such proposed political subdivision may petition the governing body of such city and request such city to make available to such territory the water and/or sanitary sewer service contemplated by the proposed political subdivision. Should the governing body of the city and a majority of the qualified resident voters and the owner or owners of fifty percent (50%) or more of the land in such proposed political subdivision fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within one hundred twenty (120) [~~six (6) months~~] days after receipt of such petition, such failure shall constitute authorization for the creation of the proposed political subdivision insofar as the provisions of this Subsection are concerned. If the city fails or refuses to grant permission for the inclusion of land in a district or to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within the time limits herein, the applicant may petition the Texas Water Commission for creation of the district or inclusion of the land in a district. The Water Commission shall allow creation of the district or inclusion of the land in a proposed district upon a finding that the City either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. Such commitment shall provide that construction of the facilities necessary to serve the land shall be commenced within two years and shall be substantially complete within four and one-half years from the date the petition was filed with the City.

(2) Upon any appeal taken to the district court from the Water Commission's ruling, all parties to the Water Commission hearing shall be made parties to the appeal. The court shall hear the appeal within one hundred and twenty (120) days from the date the appeal is filed. If the case is continued or appealed to a higher court beyond such one hundred and twenty (120) day period, the court shall require the appealing party or party requesting such continuance to post a bond or other adequate security in the amount of damages that may be incurred by any party as a result of such appeal or delay from the Water Commission action. The amount of the bond or other security shall be determined by the court after notice and hearing. Upon final disposition, a court may award damages, including any damages for delays, attorneys fees and costs of court to the prevailing party.

(C) A city shall immediately disannex any land which was annexed for limited purposes and was outside of a city's designated service area prior to the effective date of this Act and which becomes the subject of a valid petition for the creation of a non-city service district as defined in Chapter 54 of the Texas Water

Code unless such land is annexed for full purposes by the city prior to October 1, 1987 or the date the petition is filed with the city, whichever is earlier. Such disannexation shall occur upon the filing of such petition. A city shall not thereafter annex the land covered by such petition for full or limited purposes within sixty (60) months of such disannexation.

(D) A city may not unilaterally extend the time periods of this Article through the adoption of preapplication periods or by passage of any rules, resolutions, ordinances, or charter provisions; provided however, the city and the petitioner may jointly petition the Water Commission to request an extension of such time frames. Authorization for the creation of the proposed political subdivision, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate proceedings to create such political subdivision as otherwise provided by law. The provisions of this Subsection shall apply only to the area of such proposed political subdivision which lies within the extraterritorial jurisdiction of such city.

(E) If a city annexes a political subdivision for full or limited purposes, and such annexation either precludes or impairs the ability of the district to issue bonds as contemplated by the political subdivision, the city shall, simultaneously with the annexation by the city, pay in cash to the landowner or developer of the political subdivision a sum equal to one-half of all actual costs and expenses incurred by such landowner or developer in connection with the political subdivision which would otherwise have been reimbursable from bond proceeds under the rules and requirements of the Texas Water Commission. [~~This Subsection shall not apply to any such proposed political subdivision where a valid petition seeking its creation has been filed with the county clerk or other legally designated authority prior to the effective date of this Act.~~]

(F) Subject to the provisions of this subsection, a city may annex a political subdivision for full or limited purposes and the political subdivision, its taxing authority, and its board of directors may continue to exist for a period not to exceed ten (10) years from the date of such annexation; provided, that at the time of such annexation at least ninety percent (90%) of the water, wastewater, roads and drainage improvements for which district bonds are to be issued have been installed and are complete in accordance with the plans of such political subdivision to serve all of the area within its boundaries.

(G) In addition to any other powers conferred by law, a political subdivision created after January 1, 1985 shall have the power to construct and issue bonds and notes for the design, construction and maintenance of any roadways necessary to serve the existing or proposed development, including developer reimbursement in the same manner as water, wastewater and drainage facilities.

SECTION 9. Chapter 54, Subchapter B, Section 54.016, Subsections (a) through (d), Texas Water Code, is amended to read as follows:

Sec. 54.016. CONSENT OF CITY. (a) No land within the corporate limits of a city or within the extraterritorial jurisdiction of a city shall be included in a district unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district in accordance with the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes) and this Section. The request to a city for its written consent to the creation of a district shall be signed by a majority in value of the holders of title of the land within the proposed district as indicated by the county tax rolls or, if there are more than 50 persons holding title to the land in the proposed district as indicated by the county tax rolls, the request to the city will be sufficient if it is signed by 50 holders of title to the land in the district. A petition for the written consent of a city to the inclusion of land within a district shall describe the boundaries of the land to be included in the district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, and state the general nature of the work proposed

to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition. If, at the time a petition is filed with a city for creation of a district, the district proposes to connect to a city's water or sewer system, or proposes to contract with a regional water and wastewater provider which has been designated as such by the Texas Water Commission as of the date such petition is filed, to which the city has made a capital contribution for the water and wastewater facilities serving the area, the proposed district shall be designated as a "city service district". If such proposed district does not meet the criteria for a city service district at the time the petition seeking creation is filed, such district shall be designated as a "non-city service district". The city's consent shall not place any restrictions or conditions on the creation of a non-city service district as defined by Chapter 54 of the Texas Water Code other than those expressly provided in subsection (e) of this section and shall specifically not limit the amounts of the district's bonds. A city may not require annexation as a consent to creation of any district. A city shall not refuse to approve a district bond issue for any reason except that the district is not in compliance with valid consent requirements applicable to the district. If a city grants its written consent without the concurrence of the applicant to the creation of a non-city service district containing conditions or restrictions that the petitioning land owner or owners reasonably believe exceed the city's powers, such land owner or owners may petition the Commission to create the district and to modify the conditions and restrictions of the city's consent. The Commission, may declare any provision of the consent to be null and void.

(b) If the governing body of a city fails or refuses to grant permission for the inclusion of land within its extraterritorial jurisdiction in a district within 90 [~~120~~] days after receipt of a written request, a majority of the electors in the area proposed to be included in the district or the owner or owners of 50 percent or more of the land to be included may petition the governing body of the city and request the city to make available to the land the water or sanitary sewer service contemplated to be provided by the district.

(c) If the governing body of the city and a majority of the electors or the owner or owners of 50 percent or more of the land to be included in the district fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within 120 days [~~six months~~] after receipt of the petition, the failure shall constitute authorization for the inclusion of the land in the district under the provisions of this section. Authorization for the inclusion of such land within the district under the provisions of this section shall mean only authorization to initiate proceedings to include the land within the district as otherwise provided by this Act.

(d) The provisions of this section relating to the method of including land in a district without securing the written consent of a city applies only to land within the extraterritorial jurisdiction of a city and does not apply to land within the corporate limits of a city. If the city fails or refuses to grant permission for the inclusion of land in a district or to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within the time limits contained within Subsections (b) or (c), the applicant may petition the Texas Water Commission for creation of the district or inclusion of the land in a district. The Water Commission shall allow creation or inclusion of the land in a proposed district upon a finding that the city either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment shall provide that construction of the facilities necessary to serve the land shall be commenced within two years, and shall be substantially complete within four and one-half years from the date the petition was filed with the city. Upon any appeal taken to the

district court from the Water Commission ruling, all parties to the Water Commission hearing shall be made parties to the appeal. The court shall hear the case within one hundred and twenty (120) days from the date the appeal is filed. If the case is continued or appealed to a higher court beyond such one hundred and twenty (120) day period, the court shall require the appealing party in the case of appeal to a higher court or party requesting such continuance to post a bond or other adequate security in the amount of damages that may be incurred by any party as a result of such appeal or delay from the Water Commission action. The amount of the bond or other security shall be determined by the court after notice and hearing. Upon final disposition, a court may award damages, including any damages for delays, attorneys fees and costs of court to the prevailing party. Under no circumstances shall land within the corporate limits of a city be included in a district without the written consent, by ordinance or resolution, of the city. The provisions of this section shall apply whether the land is proposed to be included in the district at the time of creation of a district or to be included by annexation to a district. After the effective date of this act, a district shall not allow the owner of a tract to connect to the district's water or wastewater system unless such tract is a legally subdivided lot which is part of a recorded subdivision plat or is otherwise legally exempt from the subdivision requirements of the applicable governmental authority.

The amendments were read.

Senator Barrientos moved to concur in House amendments.

The motion prevailed viva voce vote.

SENATE CONCURRENT RESOLUTION 66 WITH HOUSE AMENDMENT

Senator Brooks called **S.C.R. 66** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

Committee Amendment - Grusendorf

Amend **S.C.R. 66** on page 2, by striking lines 1-4.

The amendment was read.

Senator Brooks moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE CONCURRENT RESOLUTION 136 WITH HOUSE AMENDMENT

Senator Brooks called **S.C.R. 136** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

Committee Amendment - S. Hudson

Amend **S.C.R. 136** by striking out the word "ruling" on line 23, and add in lieu thereof, "interpretive bulletin".

The amendment was read.

Senator Brooks moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 1439 WITH HOUSE AMENDMENTS

Senator Brooks called **S.B. 1439** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Clemons

Amend **S.B. 1439** as follows:

(1) On page 1, delete lines 23, 24 and 25 through page 2, line 1 and insert the following:

"(3) "Individual treatment plan" means a treatment plan with specific attainable goals and objectives appropriate to both the patient and the treatment modality of the program that is developed under the supervision of a licensed physician."

(2) On page 2, line 25, after "individual treatment plan", insert "and the attending physician certifies that such treatment is in lieu of hospitalization".

Floor Amendment No. 1 On Third Reading - Haley

Amend **S.B. 1439** by adding several new sections after Section 2 and renumbering the subsequent sections:

SECTION 1. SHORT TITLE. This portion of this Act may be cited as the Medical Radiologic Technologist Certification Act.

SECTION 2. PURPOSE. It is the purpose of this Act to protect the health and safety of the people of this state from the harmful effects of excessive radiation used for medical purposes by establishing minimum standards for the certification of medical radiologic technologists.

SECTION 3. DEFINITIONS. In this Act:

(1) "Advisory board" means the Medical Radiologic Technologist Advisory Board.

(2) "Department" means the Texas Department of Health.

(3) "Radiologic technology" means the administration of radiation to a person for medical purposes.

(4) "Radiation" means ionizing radiation in amounts beyond normal background levels from sources such as medical and dental radiologic procedures.

(5) "Radiologic procedure" means any procedure or article intended for use in the diagnosis of disease or other medical or dental conditions in humans (including diagnostic X rays or nuclear medicine procedures) or the cure, mitigation, treatment, or prevention of disease in humans that achieves its intended purpose through the emission of radiation.

(6) "Practitioner" means a doctor of medicine, osteopathy, podiatry, dentistry, or chiropractic who is licensed under the laws of this state and who prescribes radiologic procedures for other persons.

(7) "Medical radiologic technologist" means a person certified under this Act, other than a practitioner, who, under the direction of a practitioner, intentionally administers radiation to other persons for medical purposes.

(8) "Certification" means an authorization to administer radiation to a person for medical purposes.

(9) "General certification" means an authorization to perform radiologic procedures authorized by this Act.

(10) "Limited certification" means an authorization to perform radiologic procedures that are limited to specific parts of the human body.

(11) "Temporary certification, general or limited," means an authorization to perform radiologic procedures for a limited period, not to exceed one year.

(12) "Registered Nurse" means a person licensed by the Texas State Board of Nurse Examiners to practice professional nursing.

SECTION 4. CREATION OF MEDICAL RADIOLOGIC TECHNOLOGIST ADVISORY BOARD. (a) The Medical Radiologic Technologist Advisory Board is created as an advisory board to the Texas Board of Health. The Texas Board of Health shall appoint 12 members who must have the following qualifications:

(1) two must be consumers;

(2) three must be medical radiologic technologists who meet the qualifications for certification under this Act;

(3) one must be a nuclear medicine technologist;

(4) one must be a radiation therapy technologist;

(5) one must be a licensed physician who is a general practitioner or a family practitioner;

(6) one must be a licensed physician who is a radiologist;

(7) one must be a chiropractor;

(8) one must be a medical radiation physicist engaged in the instruction of radiologic technologists; and

(9) one must be a hospital administrator.

(b) Members are appointed for staggered terms of six years, with four members' terms expiring January 1 of each even-numbered year. If a vacancy occurs on the advisory board, the Texas Board of Health shall appoint a person having the appropriate qualifications to serve the unexpired portion of the term.

(c) The advisory board may adopt rules for the conduct of its activities and may elect a chairman from among its members. The members serve without compensation, but a member of the advisory board is entitled to receive the per diem and travel allowance authorized by the General Appropriations Act for state employees.

(d) The advisory board shall recommend for the consideration of the Texas Board of Health rules to implement standards adopted under this Act and shall recognize existing standards that apply to the scope of practice for both general and limited certifications.

(e) The advisory board shall recommend for the approval of the Texas Board of Health examinations that may be required by rules adopted under this Act.

SECTION 5. DUTIES OF TEXAS BOARD OF HEALTH. (a) The Texas Board of Health shall adopt rules establishing:

(1) minimum standards for issuing, renewing, suspending, and revoking certificates issued under this Act;

(2) minimum standards for the approval of curricula and programs to train individuals to perform radiologic procedures and for rescinding the approval; and

(3) minimum standards for the approval of instructors to teach approved curricula or programs to train individuals to perform radiologic procedures and for rescinding the approval.

(b) The Texas Board of Health shall establish different classes of certificates to include all radiologic procedures used in the course and scope of the practice of practitioners licensed in this state. The Texas Board of Health may issue general and limited certificates and general and limited temporary certificates.

(c) When adopting minimum standards for certifying medical radiologic technologists, the Texas Board of Health may establish criteria for issuing a

certificate to a person licensed or otherwise registered as a medical radiologic technologist by another state, the American Registry of Radiologic Technologists, the District of Columbia, or a territory of the United States whose requirements for licensure or registration were at the date of licensing or registration substantially equal to the requirements set forth in this Act.

(d) The Texas Board of Health may establish guidelines, which may include requirements for continuing education for medical radiologic technologists, and the Texas Board of Health may prepare and conduct an examination for applicants for a certificate.

(e) The Texas Board of Health may adopt rules necessary to implement this Act.

SECTION 6. ADMINISTRATION. The certification program required under this Act shall be administered by the bureau of licensing and certification of the Texas Board of Health.

SECTION 7. AUTHORIZATION TO PERFORM PROCEDURE. (a) Except as otherwise provided by this section, to perform a radiologic procedure a person must hold a certificate issued under this Act.

(b) A person is not required to hold a certificate issued under this Act to perform a radiologic procedure if the person is a practitioner and performs the procedure in the course and scope of the profession for which the person holds the license.

(c) A person is not required to hold a certificate issued under this Act to perform radiologic procedures if the person performs the procedures under the instruction or direction of a practitioner if the person and the practitioner are in compliance with rules adopted under Section 8 of this Act.

(d) A person who performs a radiologic procedure in a hospital that participates in the federal Medicare program or that is accredited by the Joint Commission on Accreditation of Hospitals, and who has received appropriate instruction and training in the use and operation of diagnostic radiologic equipment consistent with either the federal Medicare standards for certification of hospitals or the accreditation standards of the Joint Commission on Accreditation of Hospitals, may perform radiologic procedures without a certificate issued under this Act. A hospital that instructs and trains a person in the performance of radiologic procedures shall develop a protocol for the instruction and training.

SECTION 8. AGENCY RULES. (a) This section applies to the Texas State Board of Medical Examiners, The Texas Board of Chiropractic Examiners, the State Board of Dental Examiners, the Texas State Board of Podiatry Examiners, or Texas State Board of Nurse Examiners.

(b) Each agency, other than the Texas State Board of Nurse Examiners, subject to this section shall adopt rules in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) to regulate the manner in which a licensee of the agency may order, instruct or direct another person in the performance of radiologic procedures.

(c) Rules adopted under this section must:

(1) require a person, other than a registered nurse, who is not certified under this Act to register with the agency that licenses the practitioner under whom the person performs radiologic procedures;

(2) establish reasonable and necessary fees to cover the administrative costs incurred by the agency in administering a registration program created under this subsection;

(3) establish grounds for the suspension, revocation, or nonrenewal of a registration issued under this subsection;

(4) identify radiologic procedures that are more dangerous or hazardous and may only be performed by a practitioner or by a medical radiological technologist certified under this Act;

(5) establish safety standards and procedures for the operation of equipment used to perform radiologic procedures; and

(6) establish standards for the training and supervision of the operators of the equipment.

(d) In adopting rules under Subsection (c) of this section, an agency may take into account whether the radiologic procedure will be performed by a registered nurse.

(e) The Texas State Board of Nurse Examiners may adopt rules governing registered nurses performing radiologic procedures under Subsections (b) and (d) of Section 7 of this Act and shall require registered nurses performing radiologic procedures under Subsection (b) of Section 7 to register with the Texas State Board of Nurse Examiners and to identify the practitioner ordering those procedures. The board shall notify the agency licensing the practitioner that the nurse has registered with the board.

SECTION 9. APPLICATION PROCEDURES; RULES; FEES. (a) Application for certificates shall be made to the department on a form and under rules prescribed by the Texas Board of Health. A nonrefundable application fee determined by the Texas Board of Health shall accompany the application. Applicants who meet the minimum standards adopted under Section 5 of this Act shall be issued a certificate by the department that shall be valid for a period established by the Texas Board of Health.

(b) Applications for approval of curricula and training programs shall be made to the department on forms and under rules prescribed by the Texas Board of Health. Curricula and training programs that meet the minimum standards adopted under Section 5 of this Act shall be approved by the department, and such approval may be reviewed annually by the department. The Texas Board of Health may set a fee for approval of curricula and training programs not to exceed the estimated amount that is projected by the department to be required for the evaluation of the curricula or training program.

(c) Applications for approval of instructors shall be made to the department on forms and under rules prescribed by the Texas Board of Health. Instructors who meet the minimum standards adopted under Section 5 of this Act shall be approved by the department. That approval may be reviewed annually by the department.

(d) The Texas Board of Health may set fees for examination, certificate issuance, and certificate renewal. The Texas Board of Health shall set the fees in amounts that are reasonable to cover the costs of administering this Act without the use of additional general revenue funds.

SECTION 10. DISPOSITION OF FUNDS. All fees received by the department under this Act shall be deposited in the state treasury to the credit of the general revenue fund and may be appropriated only for the administration of this Act.

SECTION 11. DISCIPLINARY ACTIONS. (a) The department is authorized to take the following disciplinary actions for the violation of any provisions of this Act or rules adopted under this Act:

(1) suspension, revocation, or nonrenewal of a certificate; and

(2) rescission of curriculum, training program, or instructor approval.

(b) The procedure by which the department takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by department rules for a contested case hearing and by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 12. NONTRANSFERABILITY OF CERTIFICATE. A certificate issued under this Act is not transferable.

SECTION 13. PENALTY. (a) A person who is required to be certified under this Act commits an offense if the person knowingly administers a radiologic

procedure to another person without holding a valid certificate issued by the department.

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

SECTION 14. TERMS OF INITIAL MEMBERS; INITIAL MEETING. (a) Four initial members appointed to the Medical Radiologic Technologist Advisory Board serve for terms expiring January 1, 1990, four initial members serve for terms expiring January 1, 1992, and four initial members serve for terms expiring January 1, 1994. The 12 initial members shall draw lots to determine the lengths of their terms. The Texas Board of Health shall make the initial appointments not later than January 1, 1988.

(b) The advisory board shall hold its initial meeting by January 1988 to organize, begin work, and set future meeting dates.

SECTION 15. EFFECTIVE DATE; TRANSITION. (a) This Act takes effect September 1, 1987, except that Sections 7 and 13 take effect January 1, 1989, and Section 9 takes effect January 1, 1988.

(b) On application on a form prescribed by the Texas Board of Health and on payment of the application fee, that board shall issue a general certificate to practice as a radiologic technologist to a person who:

(1) on September 1, 1987, holds a certificate or other authorization to perform radiologic procedures that was issued by a regulatory program recognized by the board; or

(2) has performed radiologic procedures for not less than two years during the five years preceding September 1, 1987.

(c) On application on a form prescribed by the Texas Board of Health and on payment of the application fee, that board shall issue a limited certificate to practice as a radiologic technologist to a person who has performed radiologic procedures for not less than one year during the five years preceding September 1, 1987.

(d) The Texas State Board of Medical Examiners, The Texas Board of Chiropractic Examiners, the State Board of Dental Examiners, and the Texas State Board of Podiatry Examiners shall adopt rules under Section 8 of this Act not later than January 1, 1988.

SECTION 16. SEVERABILITY. If any provision of this Act or the application of this Act to any person is held to be invalid, that invalidity does not affect other provisions or applications of this Act that may be given effect without the invalid provision or application, and for that purpose the provisions of this Act are severable.

SECTION 17. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 2 On Third Reading - Clemons

Amend Amendment No. 1, **S.B. 1439**, second reading, as follows:

(1) On line 6, place an underlined period after "program" and strike "that is developed".

(2) Strike lines 7, 8, 9, and 10.

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 245 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **S.B. 245**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator McFarland, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1947

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1947** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS	ROBNETT
GREEN	MARCHANT
BLAKE	CLARK
WHITMIRE	LARRY
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RESOLUTION 707

Senator Edwards offered the following resolution:

S.R. 707, Suspending Senate rules to permit the Conference Committee on **S.B. 380** to consider certain matters.

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 2124

Senator Armbrister called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2124** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2124** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chairman; Blake, Brown, Farabee and Sims.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 270 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **S.B. 270**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 28, 1987.)

On motion of Senator Green, the Conference Committee Report was adopted by the following vote: Yeas 18, Nays 8.

Yeas: Armbrister, Barrientos, Blake, Caperton, Edwards, Green, Johnson, Krier, Lyon, Montford, Parmer, Santiesteban, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Anderson, Brooks, Brown, Glasgow, Jones, Leedom, Sarpalius, Sims.

Absent: Farabee, Harris, Henderson, McFarland, Parker.

(President in Chair)

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House refused to concur in Senate amendments to **H.B. 2611** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: D. Hudson, Chairman; Hollowell, Clark, Oakley and Hunter.

The House refused to concur in Senate amendments to **H.B. 2592** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Watkins, Chairman; Hury, Seidlits, Wolens and Edwards.

The House has adopted the Conference Committee Reports on the following House bills by a non-record vote:

H.B. 176	**H.B. 1285**
H.B. 367	**H.B. 1294**
H.B. 650	**H.B. 1718**
H.B. 994	**H.B. 1785**
H.B. 1261	**H.B. 1866**
H.B. 1262	**H.B. 1869**

The House has concurred in Senate amendments to the following House bills and resolution by a non-record vote:

H.B. 2560
H.B. 2291
H.C.R. 213

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 2008 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business, Senate Rule 73 and the the Intent Calendar rule were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2008, Relating to creation of a local economic development agency having the powers to tax and issue bonds and the power of eminent domain.

The bill was read second time.

Senator Tejeda offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 2008** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) Texas has continuing needs for regional public transportation combined with regional terminal complexes and other facilities which enhance area economic development by creating new jobs, maintaining existing jobs, and generally improving conditions under which a regional economy may prosper; and a necessary relationship exists between the need for regional economic development facilities and coordinated mass public transportation; and

(g) Rapid transit authorities, in conjunction with their principal cities and other affected municipalities, should have necessary powers to obtain, construct, and own stations and terminal complexes which include regional economic development facilities within currently authorized tax levels subject to approval at an election within the authority; and successful development of such complexes will enhance economic development of the area within the boundaries of the authority and will be a beneficial and integral part of the comprehensive regional transit plan for such area; and

(h) It is also a vital part of comprehensive coordinated mass public transportation that certain rapid transit authorities be made secure in their authority to include as part of their comprehensive transit plan parking facilities and the regulation of parking.

SECTION 2. Subsections (e) and (f), Section 2 of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(e) "Mass transit" means transportation of passengers and hand carried packages and/or baggage of said passengers by means of motorbus, trolley coach, street railway, rail, suspended overhead rail, elevated railways, subways, or any other surface, overhead or underground transportation (except taxicabs), or by any combination of the foregoing and, for an authority created before January 1, 1980, in which the principal city has a population of less than 1,200,000 as determined by the most recent federal decennial census, includes the establishment and operation of public parking facilities.

(f) "System" means all real and personal property of every kind and nature whatsoever, owned or held at any time by an authority for mass transit purposes, including (without limiting the generality of the foregoing), land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment and facilities (including vehicle parking areas and facilities and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations,

terminals, yards, cars, and buses), control houses, signals and land, facilities and equipment for the protection and environmental enhancement of all such facilities, and, for an authority created before January 1, 1980, in which the principal city has a population less than 1,200,000 as determined by the most recent federal decennial census, public parking areas, garages, facilities, and lots.

SECTION 3. Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsections (r) and (s) as follows:

(r) An authority created before January 1, 1980, in which the principal city has a population less than 1,200,000 as determined by the most recent federal decennial census shall have the power to construct, improve, maintain, repair, and operate public parking areas, garages, facilities, or lots located within its boundaries. The authority shall have the power to establish, maintain, and collect reasonable rates for the use of the public parking areas and garages. However, all actions must be approved by the governing body of the principal city.

(s) In addition to the power granted in Subsection (r) of this section, such an authority shall have the power to regulate public parking in public parking areas, garages, facilities, and lots in the principal city to the extent that the principal city delegates such powers to the authority under an interlocal agreement between the principal city and the authority.

SECTION 4. Section 6C, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (e) and relettering the remaining subsections accordingly:

(e) Any station or terminal complex of an authority created before January 1, 1980, in which the principal city had a population of less than 1,200,000 as determined by the most recent federal decennial census may include regional economic development facilities if approved by both the board of the authority and the governing body of the principal city and, if the station or terminal complex is to be built within the city limits or extraterritorial jurisdiction of a city or town other than the principal city, by the governing body of the city or town in whose city limits or extraterritorial jurisdiction the complex is to be located. "Regional economic development facilities" means facilities which will lead to the creation of new jobs, maintain existing jobs or generally improve the conditions under which a local economy may prosper, and which include, but are not limited to facilities used primarily for conventions, entertainment, special events, professional and amateur sports, or other lawful purposes. A station or terminal complex may include regional economic development facilities in addition to facilities provided in Subsection (d) of this section. In order to provide for the planning, acquisition, establishment, development, and construction of a complex which includes regional economic development facilities, an increase in a tax may be approved in accordance with the provisions of this Act at an election for that purpose called by a majority vote of both the governing body of the principal city and the governing body of the authority for which a notice is given which includes a statement or description of the purpose of the increase and includes a statement that after five years the tax increase may be used only for mass transit purposes other than the regional economic development facilities portions of the station or terminal complex if approved by the voters at an election held at that time. An election to approve a tax increase under this subsection may be called only by resolution adopted by both the governing body of the principal city and the governing body of the authority and only if a petition signed by 10 percent of the qualified voters of the authority requesting the election has been submitted to the board of the authority before the resolution is adopted. To be valid, a petition must state that it is intended to initiate an election to increase the authority's sales and use tax rate for purposes of establishing and operating a regional economic development facility, must include

the ballot proposition to be used in the election, and the signatures must be collected during the period beginning on the 180th day before the date the petition is submitted to the board. The ballot proposition must include a specific description of the regional economic development projects to be financed by the increase in the sales and use tax rate, and funds derived from the tax rate increase may be used only to finance projects described in the ballot proposition. If the board of the authority does not act on the petition within 30 days from the date the petition is submitted, the petition is considered valid. The board of the authority and the governing body of the principal city must each hold a separate public hearing on the ballot proposition before calling for the election. An election to approve a tax increase under this subsection may not be held within one year after a previous election to approve a tax increase under this section. The total of all such taxes, including the increase, shall not exceed the limits provided in this Act and shall be subject to all the terms and conditions of this Act. An increase in tax approved for the planning, acquisition, establishment, development, and construction of a station or terminal complex which includes regional economic development facilities shall be dedicated and used for such purposes only for five years from the date such increase takes effect. At the end of the five years, the board of the authority shall decrease the tax rate to its previous level unless it affirmatively determines that the increased tax is necessary for lawful purposes other than the regional economic development facilities portions of the station or terminal complex and submits the question of continuing the increased tax rate to an election held in accordance with this Act. The increased tax rate is continued in effect only if a majority of the qualified voters voting at the election vote to continue the increased tax rate. Otherwise, the board shall decrease the tax rate to its previous rate. Any funds not used for the regional economic development facilities portions of the station or terminal complex may be used for other lawful purposes. The actual planning, acquisition, establishment, development, construction, improvement, maintenance, operation, regulation, protection, and policing of the regional economic development facilities portions of the station or terminal complex may be done by the authority or by agreement or agreements between the authority and a city, county, other public or private entity, or a combination thereof, as may be agreed upon and subject to such covenants, conditions, and restrictions as the board and governing bodies deem to be in the public interest and necessary to carry out the purposes of this section. To be effective, an agreement made by the board of the authority under this subsection must be approved by the governing body of the principal city in the authority.

(f) [~~(e)~~] The authority may sell, lease, or otherwise transfer lands or interests in land acquired within a station or terminal complex, and may enter into contracts with respect to it, in accordance with the comprehensive transit plan approved by the board, subject to such covenants, conditions, and restrictions, including covenants running with the land and obligations to commence construction within a specified time, as the board may deem to be in the public interest or necessary to carry out the purposes of this section, all of which shall be incorporated into the instrument transferring or conveying title or right of use. Any lease, sale, or transfer shall be at fair value, taking into account the use designated for the land in the comprehensive transit plan for the system and the restrictions on, and the covenants, conditions, and obligations assumed by, the purchaser, lessee, or transferee. However, if the authority offers the property for sale, the original owner from whom the property was acquired by eminent domain proceedings or through threat of eminent domain proceedings has the first right to repurchase at the price at which it is offered to the public.

(g) [~~(f)~~] No station or mass transit facility may be considered a "station or terminal complex" governed by this section unless it has been designated as such in the comprehensive transit plan pursuant to the specific authority granted by this section.

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

The amendment was read.

Senator Tejeda offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **H.B. 2008** by adding a new section appropriately numbered to read as follows:

SECTION . Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 6G to read as follows:

Sec. 6G. WITHDRAWAL FROM CERTAIN AUTHORITIES. (a) This section applies only to an authority created before January 1, 1980, with a principal city having a population of less than 1,200,000 according to the most recent federal census.

(b) In this section, "unit of election" means an incorporated municipality or an unincorporated area of a county designated by a commissioners court under Section 5 of this Act as a discrete unit for purposes of a confirmation election.

(c) In addition to any other manner provided by law, a unit of election other than a principal city may withdraw from an authority as provided by this section. The governing body of the unit of election shall call an election in the unit of election on the question of withdrawing from the authority if a petition is submitted to the governing body signed by not less than 10 percent of the qualified voters of the unit of election on the date the petition is submitted requesting that an election to withdraw from the authority be held. The governing body must determine whether the petition is valid not later than the 30th day after the date the petition is submitted. If the governing body does not act within that period, the petition is considered valid. A signature on the petition may not be counted for purposes of validating the petition if it is signed earlier than the 120th day before the date the petition is submitted to the governing body. An election may not be held under this section on a date earlier than one year from the date of the most recent election held under this section.

(d) An election called under this section shall be held on the first uniform election date for that type of election under the Election Code following the expiration of 90 days after the date the election is called. Immediately on calling an election, the governing body of the unit of election shall give notice of the election to the board, the State Department of Highways and Public Transportation, and the comptroller of public accounts.

(e) In an election called under this section, the ballot shall be printed to permit voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?" The election shall be held in the regular precincts and at the regular voting places of the unit of election in accordance with the Election Code. The governing body of the unit of election shall canvass the returns of the election at the earliest practicable date after the election. If a majority of the qualified voters voting at the election vote in favor of the proposition, the authority shall continue in the unit of election. If a majority of the qualified voters voting at the election vote against the proposition, the authority ceases to exist in the unit of election at midnight on the date the election returns are canvassed, and the financial obligations of the authority attributable to the unit of election cease to accrue at that time.

(f) On the effective date of the withdrawl of a unit of election from an authority created under this Act, all public transportation services provided by the authority to the unit of election shall cease. The withdrawl, however, does not affect any existing or future rights of the authority to proceed through the corporate limits of the unit of election to continue uninterrupted service to other units of election that have not withdrawn or that become a part of the authority in the future.

(g) The withdrawl of a unit of election under this section is subject to the requirements of the federal and state constitutions prohibiting the impairment of contracts. Taxes shall continue to be collected in the unit of election until an amount of taxes equal to the total financial obligations of the unit of election to the authority has been collected. To determine the amount of the total financial obligations of the unit of election, the board shall compute, as of the date of withdrawl, the total of:

(1) the current obligations of the authority authorized in the current budget and contracted for by the authority;

(2) the amount of contractual obligations outstanding at that time for capital or other expenditures in the current or subsequent years, the payment of which has not been made or provided for from the proceeds of notes, bonds, or other obligations;

(3) all amounts due and to become due in the current and subsequent years on all notes, bonds, or other securities or obligations for debt issued by the authority and outstanding;

(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, bond or note holders, or other creditors or contractors;

(5) any additional amount, which may include an amount for contingent liabilities, determined by the board to be the amount necessary for the full and timely payment of the current and continuing obligations of the authority, to avoid a default or impairment of those obligations; and

(6) any additional amount determined by the board to be necessary and appropriate to allocate to the unit of election because of current and continuing financial obligations of the authority that relate specifically to the unit of election.

(h) The unit of election's share of the financial obligations of the authority under the first five computations required by Subsection (g) of this section shall be in the same ratio that the population of the unit of election has to the total population of the authority, according to the most recent and available population data of an agency of the federal government, as determined by the board. The unit of election's total financial obligation is its share of the first five computations required by Subsection (g) of this section plus the amount allocated directly to the unit of election under the last computation required by Subsection (g) of this section and less the unit of election's share of the total amount of the unencumbered assets of the authority that consist of cash, cash deposits, certificates of deposit, and bonds, stocks, and other negotiable securities. The unit of election's share of those assets is determined according to population in the same manner as provided for determining the unit of election's share of the first five computations required by Subsection (g). The board shall certify to the governing body of the unit of election and to the comptroller of public accounts the amount of the total financial obligation of the unit of election. The comptroller of public accounts shall continue to collect taxes in the unit of election until an aggregate amount equal to the total financial obligation of the unit of election has been collected and actually paid to the authority. After that amount has been collected, the comptroller of public accounts shall discontinue collecting in the unit of election the taxes imposed under this Act.

The amendment was read and was adopted viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment was adopted viva voce vote.

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

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

HOUSE BILL 2008 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2008** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1371

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1371** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROOKS	PIERCE
ARMBRISTER	McKINNEY
GLASGOW	DANBURG
ANDERSON	GLOSSBRENNER
JOHNSON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to minimum standards for long-term care coverage and the provision of low-dose mammography benefits coverage under certain accident and sickness insurance coverage and coverage of health maintenance organizations and the regulation of home health agencies.

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

SECTION 1. Subsection (F), Section 1, Chapter 397, Acts of the 54th Legislature, 1955 (Article 3.70-1, Vernon's Texas Insurance Code), is amended by adding Subdivision (5) to read as follows:

(5) The Board shall adopt rules and regulations establishing minimum standards for benefits for long-term care coverage under individual and group policies and certificates of accident and sickness insurance delivered or issued for

delivery in this state including group coverages delivered or issued for delivery by companies subject to Chapter 20 of this code and under policies and evidences of coverages delivered or issued for delivery in this state by health maintenance organizations under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

SECTION 2. Section 8, Chapter 397, Acts of the 54th Legislature, 1955 (Article 3.70-8, Vernon's Texas Insurance Code), is amended to read as follows:

Sec. 8. NON-APPLICATION TO CERTAIN POLICIES. Nothing in this Act shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance except as provided in [~~Section 2,~~] Subsections (B) and (C) of Section 2 and Subdivision (5) of Subsection (F) of Section 1; or (4) life insurance endowment or annuity contracts or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value, special benefit, or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract, or (5) any policy written under the provisions of Senate Bill No. 208, Acts of the 51st Legislature, 1949.

SECTION 3. Section 9, Texas Health Maintenance Organization Act (Article 20A.09, Vernon's Texas Insurance Code), is amended by adding Subsection (h) to read as follows:

(h) Article 3.70-1(F)(5) of the Insurance Code applies to health maintenance organizations other than those health maintenance organizations offering only a single health care service plan.

SECTION 4. Section 2, Chapter 397, Acts of the 54th Legislature, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended by adding Subchapter (H) to read as follows:

(H) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast. Each individual policy or group policy of accident and sickness insurance, except for policies that only provide coverage for specified disease or other limited benefit coverage but including policies issued by companies subject to Chapter 20, Insurance Code, that covers a female 35 years old or older and that is delivered, issued for delivery, or renewed in this state must include coverage in an amount of not less than $100 for an annual screening by low-dose mammography for the presence of occult breast cancer.

SECTION 5. Article 3.74, Insurance Code, is amended by adding Section 3A to read as follows:

Sec. 3A. COVERAGE FOR MAMMOGRAPHY. (a) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast.

(b) Each medicare supplement policy delivered, issued for delivery, or renewed in this state must include coverage in an amount of not less than $100 for an annual screening by low-dose mammography for the presence of occult breast cancer.

SECTION 6. Section 7, Chapter 642, Acts of the 66th Legislature, 1979 (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) Department rules must require, at a minimum, that before the department may approve an application for a license, other than a renewal or branch office license, the applicant must provide the following information to the department:

(1) documentation establishing that, at a minimum, the applicant has sufficient financial resources to provide the services required by this Act and by the department during the term of the license;

(2) a list of the management personnel for the proposed home health agency, a description of their qualifications, and a plan to provide continuing training and education for the personnel during the term of the license;

(3) documentation establishing that the applicant is capable of meeting the minimum standards relating to quality of care established by the department; and

(4) a plan that provides for the orderly transfer of care of the applicant's clients if the applicant is unable to maintain or deliver home health services under the license.

SECTION 7. Chapter 642, Acts of the 66th Legislature, 1979 (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CORPORATE APPLICANTS. (a) If an applicant for a license, other than a renewal or branch office license, proposes to operate a home health agency through a partnership, corporation, or other business entity that includes members that are not individuals or through a corporation in which any of the stock is owned by another corporation, the applicant must:

(1) establish a corporation under Texas law if the applicant is not a Texas corporation;

(2) allow the department to review the competence and financial resources of any stockholder who holds at least 10 percent of the stock of the Texas corporation;

(3) allow the department to review the history and financial resources of each parent or health-related subsidiary of the Texas corporation;

(4) grant the Texas corporation full authority to operate the home health agency and any subsequent home health agencies for which the applicant may seek licensure under this Act;

(5) disclose to the department any information the department needs to conduct the reviews required by this subsection; and

(6) establish a registered agent as required by Article 2.09, Texas Business Corporation Act, to receive service of process in this state.

(b) The department may not approve the application unless the department is satisfied that approval is justified based on the competence, history, and financial resources of the Texas corporation, each parent or health-related subsidiary of the proposed Texas corporation, and the directors, officers, controlling persons, and principal stockholders of the Texas corporation and any parent or health-related subsidiary of the Texas corporation.

(c) The department may adopt rules implementing this section.

(d) Information received by the department that relates to the competence and financial resources fo the applicant is confidential and may not be disclosed to the public.

SECTION 8. Section 8, Chapter 642, Acts of the 66th Legislature, 1979 (Article 4447u, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. LICENSE FEES. (a) Within the limits prescribed by Subsections (b) and (c) of this section, the [~~The~~] board shall set the home health service license fee in an amount that is reasonable to meet the costs of administering this Act.

(b) The board shall set the fee for an initial Class A or Class B license at not less than $600 nor more than $1,200.

(c) The board shall set the fee for renewal of a branch office license at not less than $200 nor more than $300.

(d) [~~; but the fee may not be less than $300 nor more than $750 for a Class A or Class B license, nor less than $100 nor more than $300 for a branch office license.~~] A fee charged under this section is nonrefundable [~~except as provided by Subsection (b) of this section~~].

SECTION 9. This Act takes effect September 1, 1987, and applies to all policies and certificates delivered, issued for delivery, or renewed in this state on or after January 1, 1988. Policies and certificates delivered, issued for delivery, or renewed in this state before September 1, 1987, are governed by the law as it existed at the time the policies and certificates were delivered, issued for delivery, or renewed, and those delivered, issued for delivery, or renewed in this state after August 31, 1987, and before January 1, 1988, are governed by the law in effect immediately before this Act took effect and those laws are continued in effect for those purposes.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1652

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 30, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1652** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GLASGOW	MILLSAP
McFARLAND	C. EVANS
ANDERSON	CAIN
	HURY
	PATRONELLA
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

RECESS

On motion of Senator Brooks, the Senate at 12:22 p.m. took recess until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Reports on the following Senate bills and resolution by a non-record vote:

S.B. 202
S.B. 245
S.C.R. 68
S.B. 323
S.B. 522
S.B. 530
S.B. 893
S.B. 1191
S.B. 1424

The House has adopted the Conference Committee Reports on the following House bills by a non-record vote:

H.B. 1912
H.B. 2445
H.B. 2194
H.B. 858
H.B. 923

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1405**: Wright, Chairman; McWilliams, McDonald, Denton and Ceverha.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1279**: Berlanga, Chairman; Hinojosa, Danburg, Guerrero and Geistweidt.

The House refused to concur in Senate amendments to **H.B. 2024** and has requested the appointment of a Conference Committee to consider the differences between the two Houses: Gibson, Chairman; P. Moreno, Collazo, Holzheauser and Denton.

The House has concurred in Senate amendments to the following House bills by a non-record vote:

H.B. 1814
H.B. 967

The House reconsidered the vote by which the House adopted the Conference Committee Report on **H.B. 2243**, discharged the committee and appointed the following: P. Hill, Guerrero, Vowell, Granoff and A. Hill.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 560**: Millsap, Chairman; Horn, C. Evans, Laney and Willis.

The House has adopted the Conference Committee Report on **S.J.R. 17** by a record vote of 144 ayes, 0 noes, 1 present-not voting.

The House has adopted the Conference Committee Report on **H.B. 1169** by a record vote of 112 ayes, 29 noes, 3 present-not voting.

The House has adopted the Conference Committee Report on **H.B. 1196** by a record vote of 140 ayes, 0 noes, 1 present-not voting.

The House reconsidered the vote by which the House refused to concur in Senate amendments to **H.B. 2181**. The House discharged the conferees, and concurred in Senate amendments to **H.B. 2181** by a record vote of 125 ayes, 15 nays, 0 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1848

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1848** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS	COLBERT
FARABEE	CULBERSON
BARRIENTOS	GLOSSBRENNER
On the part of the Senate	On the part of the House

The Conference Committee Report was again read and was filed with the Secretary of the Senate.

BILLS AND RESOLUTIONS SIGNED

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

H.B. 65 (Again signed)

H.B. 150	**H.B. 1191**	**H.B. 2107**	**H.J.R. 83**
H.B. 273	**H.B. 1230**	**H.B. 2158**	**H.J.R. 104**
H.B. 384	**H.B. 1237**	**H.B. 2190**	**S.C.R. 122**
H.B. 390	**H.B. 1303**	**H.B. 2320**	**S.B. 115**
H.B. 494	**H.B. 1412**	**H.B. 2337**	**S.B. 163**
H.B. 530	**H.B. 1511**	**H.B. 2449**	**S.B. 168**
H.B. 752	**H.B. 1523**	**H.B. 2546**	**S.B. 651**
H.B. 925	**H.B. 1586**	**H.B. 2623**	**S.B. 666**
H.B. 942	**H.B. 1622**	**H.C.R. 107**	**S.B. 977**
H.B. 1006	**H.B. 1818**	**H.C.R. 152**	**S.B. 1038**

H.B. 1084	**H.B. 1826**	**H.C.R. 165**	**S.B. 1373**
H.B. 1085	**H.B. 1827**	**H.C.R. 177**	**S.B. 1441**
H.B. 1160	**H.B. 1906**	**H.C.R. 202**	**S.B. 1502**
H.B. 2083	**H.C.R. 237**		

CONFERENCE COMMITTEE ON HOUSE BILL 573

Senator Tejeda called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 573** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 573** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Tejeda, Chairman; Krier, Zaffirini, Green and Armbrister.

CONFERENCE COMMITTEE ON HOUSE BILL 2611

Senator Lyon called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2611** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2611** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chairman; Parmer, Leedom, Anderson and Sims.

CONFERENCE COMMITTEE ON HOUSE BILL 2056

Senator Green called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2056** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2056** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Montford, Whitmire, Caperton and Santiesteban.

SENATE BILL 1514 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 1514** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Colbert

Amend **S.B. 1514** by striking Section 1, lines 5 through 15, and substituting the following:

SECTION 1. Section 4(b), Chapter 796, Acts of the 67th Legislature, Regular Session, 1981 (Article 2372d-8, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) As to a hotel located in an incorporated city with a population of 1,200,000 or more, according to the most recent federal census, the applicable percentage is two [~~three~~] percent until January 1, 2001 [~~1984~~], and one percent on or after that date. As to any other hotel, the applicable percentage is seven percent, except that until January 1, 2001, the applicable percentage is eight percent in a county with a population of more than 2,000,000 according to the most recent federal census.

Floor Amendment No. 2 - Martinez

Amend **S.B. 1514** as follows:

(1) On page 1, line 19, strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) On page 2, line 26, strike "one-tenth" and substitute "15 percent".

(3) On page 2, after line 27, insert the following:

(d) A county with a population of more than 2,000,000 according to the most recent federal census shall endeavor to coordinate its promotional and advertising activities conducted under authority of Subsection (a)(4) of this section with the city having the greatest population in the county.

The amendments were read.

Senator Henderson moved to concur in the House amendments.

The motion prevailed viva voce vote.

CONFERENCE COMMITTEE ON SENATE BILL 185 DISCHARGED

On motion of Senator Glasgow and by unanimous consent, the Senate conferees on **S.B. 185** were discharged.

SENATE BILL 185 WITH HOUSE AMENDMENTS

Senator Glasgow moved to concur in the House amendments to **S.B. 185.**

The motion prevailed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1191 ADOPTED

Senator Brown called from the President's table the Conference Committee Report on **S.B. 1191.** (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Brown, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE JOINT RESOLUTION 9 ADOPTED

Senator Brown called from the President's table the Conference Committee Report on **S.J.R. 9.** (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Brown, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE BILL 236 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 236** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - S. Thompson

Amend **S.B. 236** as follows:

On Page 1, line 6, replace the word "shall" with "may";
On Page 1, line 11, replace the word "shall" with "may";
and delete Subsection (c) on Page 1.

The amendment was read.

Senator Montford moved to concur in the House amendment.

The motion prevailed viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 323 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.B. 323**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 2024

Senator Edwards called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2024** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 2024** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Edwards, Chairman; Caperton, Anderson, Green and Glasgow.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 298 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **S.B. 298**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2597 ADOPTED

Senator Henderson called from the President's table the Conference Committee Report on **H.B. 2597**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Henderson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 417 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **S.B. 417**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

(Senator Armbrister in Chair)

CONFERENCE COMMITTEE REPORT ON SENATE BILL 893 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **S.B. 893**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Caperton, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 696 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **S.B. 696**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Caperton, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 650 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **H.B. 650**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Caperton, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1131 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **S.B. 1131**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

SENATE RESOLUTION 710

Senator Brooks offered the following resolution:

WHEREAS, We are honored today to have visitors in the Senate, The Honorable Ni Yao-Li, Counsel General of the Peoples Republic of China, and Mr. Wu Nin-Xian, Commercial Counsel of the Peoples Republic of China; and

WHEREAS, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; Now, therefore be it

RESOLVED, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Brooks presented the Honorable Ni Yao-Li and Mr. Wu Nin-Xian to the Senate and they were welcomed by the Senate.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1459

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1459** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONTFORD	T. SMITH
SIMS	WHALEY
SANTIESTEBAN	FINNELL
BROWN	SHEA
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 612 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 612**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on **S.J.R. 12** by a record vote of 138 ayes, 0 noes, 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 858 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **H.B. 858**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Brooks, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1848 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **H.B. 1848**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Brooks, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 712

Senator Parker offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to recognize Judge Neil Caldwell of the 23rd Judicial Court who was recently selected to serve as Texas State Artist; and

WHEREAS, A distinguished jurist and legal scholar, Judge Caldwell was born in Gulf, Texas, on November 13, 1929, to Allen and Mattye Hester Caldwell; and

WHEREAS, He gallantly served his country in the United States Army from 1951 until 1953; and

WHEREAS, After receiving his bachelor of arts degree from The University of Texas in 1954 and his LL.B in 1957, he was admitted to the Texas Bar in 1956; and

WHEREAS, A former instructor at South Texas College of Law, Judge Caldwell was elected to the Texas House of Representatives in 1960; and

WHEREAS, Loyally and faithfully addressing the needs of his Brazoria County constituency for 16 years, he was named one of the Ten Best Legislators by Texas Monthly magazine; and

WHEREAS, A true Renaissance man, he was described as "thoroughly honest, intelligent . . . probably the best all-around member . . . talented painter, sculptor, and pianist; and

WHEREAS, During tedious legislative proceedings, Judge Caldwell delighted his colleagues with his quick sketches and caricatures; and

WHEREAS, Turning an avocation into a passionate commitment, Judge Caldwell has studied art at The University of Texas, published a book of political cartoons, and illustrated two government textbooks; and

WHEREAS, His artistic renderings have won rave reviews at shows across the Southwest and Mexico; and

WHEREAS, Sharing his fascination with the worlds of politics and arts is his gracious wife, Mary Lou; together, they take pride in the accomplishments of their children, Bruce, Matthew, and Declan Caldwell and Leigh Ann Kozak; and

WHEREAS, An unabashed sentimentalist, Judge Caldwell is a doting grandfather to Taylor Kozak; and

WHEREAS, His versatility, charm, and obvious enjoyment of life have earned him hordes of friends and admirers who are proud to recognize him on his elevation to the position of Texas State Artist; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby extend sincere congratulations to Neil Caldwell on being named Texas State Artist; and, be it further

RESOLVED. That a copy of this resolution be prepared for him as an expression of highest respect and friendship from the Texas Senate.

The resolution was read.

On motion of Senator Green and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was read and was adopted viva voce vote.

GUEST PRESENTED

Senator Parker escorted Judge Caldwell to the President's Rostrum.

The Senate welcomed this distinguished guest and extended congratulations to him on being named the Texas State Artist.

SENATE RESOLUTION 713

Senator Edwards offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That Rule 96(a)(2), Rules of the Senate 70th Legislature, 1987, is suspended, as provided by Senate Rule 96(f), to enable the Senate to the extent described in this resolution to permit the conference committee appointed to adjust the differences between the House and Senate versions of **H.B. 1402**, relating to intellectual property, to successfully conclude the committee's deliberations, by authorizing the conferees to add language in both bills concerning the governing of faculty workload as follows:

Add a new SECTION 2 in the Senate version dealing with rules governing faculty academic workload. An institution of higher education shall recognize that classroom teaching, basic and applied research, and professional development are important elements of faculty academic workloads by giving appropriate weight to each activity, when determining the standards for faculty academic workload. An institution may give the same or different weight to each activity and to other activities recognized by the institution as important elements of faculty academic workloads.

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1294 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **H.B. 1294**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

RECORD OF VOTES

Senators Caperton, Parker and Washington asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 176 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **H.B. 176**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Lyon, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1226 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 1226**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Glasgow, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Truan, Uribe, Zaffirini.

Nays: Washington, Whitmire.

CONFERENCE COMMITTEE ON HOUSE BILL 1512

Senator Henderson called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1512** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 1512** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Henderson, Chairman; Harris, Jones, Brown and McFarland.

SENATE BILL 1081 WITH HOUSE AMENDMENTS

The Senate resumed consideration of the House amendments to **S.B. 1081**. (The amendments having been laid before the Senate and read previously)

Senator Henderson moved that the Senate concur in House amendments Nos. 1 and 2, refuse to concur in House Amendment No. 3 to **S.B. 1081** and return the bill to the House for further consideration.

The motion prevailed viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 356 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **H.B. 356**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

VOTE ON FINAL PASSAGE OF HOUSE BILL 1933 RECONSIDERED

On motion of Senator Barrientos and by unanimous consent, the vote by which **H.B. 1933** was finally passed was reconsidered.

Question - Shall **H.B. 1933** be finally passed?

VOTE ON SUSPENSION OF THREE-DAY RULE ON HOUSE BILL 1933 RECONSIDERED

On motion of Senator Barrientos and by unanimous consent, the vote by which the Three-Day Rule was suspended was reconsidered.

Question - Shall the Three-Day Rule be suspended?

VOTE ON PASSAGE TO THIRD READING OF HOUSE BILL 1933 RECONSIDERED

On motion of Senator Barrientos and by unanimous consent, the vote by which **H.B. 1933** was passed to third reading was reconsidered by the following vote: Yeas 31, Nays 0.

Question - Shall the bill be passed to third reading?

VOTE BY WHICH AMENDMENT TO HOUSE BILL 1933 ADOPTED RECONSIDERED

On motion of Senator Barrientos and by unanimous consent, the vote by which the amendment by Senator Glasgow to **H.B. 1933** was adopted was reconsidered.

Question - Shall the amendment be adopted?

On motion of Senator Barrientos and by unanimous consent, the amendment by Senator Glasgow to **H.B. 1933** was tabled.

The bill was again passed to third reading viva voce vote.

HOUSE BILL 1933 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1933** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was again finally passed viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2611

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2611** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

LYON	D. HUDSON
ANDERSON	HOLLOWELL

PARMER	CLARK
	OAKLEY
	HUNTER
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 102

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 102** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	DELCO
JOHNSON	RODRIGUEZ
BROOKS	WATKINS
PARMER	RANGEL
KRIER	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 573

Senator Tejeda submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 573** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

TEJEDA	D. HUDSON
ARMBRISTER	REPP
ZAFFIRINI	HOLLOWELL

KRIER	SHINE
GREEN	HIGHTOWER
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1652 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 1652**. (The Conference Committee Report having been filed with the Senate and read today)

On motion of Senator Glasgow, the Conference Committee Report was adopted viva voce vote.

RECORD OF VOTES

Senators Jones and Washington asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

CONFERENCE COMMITTEE REPORT HOUSE BILL 784

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
May 31, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 784** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

LYON	BLACKWOOD
SARPALIUS	A. HILL
EDWARDS	HUNTER
	PARKER
	CEVERHA
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1373

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1373** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	HARRISON
BARRIENTOS	WATERFIELD
GLASGOW	EDGE
SANTIESTEBAN	CARRIKER
	ROBINSON
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 812

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 812** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	YOST
KRIER	TAYLOR
GREEN	RILEY
	RUSSELL
	LEONARD
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 538

Senator Sims submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 538** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SIMS	RICHARDSON
ZAFFIRINI	ROBERTS
BROWN	CALLAZO
ARMBRISTER	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2328

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2328** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	C. HARRIS
ANDERSON	SEIDLITS
BROWN	SHINE
FARABEE	DUTTON
TEJEDA	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1196 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 1196**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON SENATE BILL 1517 DISCHARGED

On motion of Senator Caperton and by unanimous consent, the Conference Committee on **S.B. 1517** was discharged.

SENATE BILL 1517 WITH HOUSE AMENDMENT

On motion of Senator Caperton, the Senate concurred in the House amendment to **S.B. 1517** by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 23

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 23** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	ROBERTS
HENDERSON	PARKER
GLASGOW	HURY
	D. MORALES
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

On motion of Senator Brown, the Conference Committee Report was withdrawn.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 923 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **H.B. 923**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1947 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **H.B. 1947**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Harris, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1261 ADOPTED

Senator Anderson called from the President's table the Conference Committee Report on **H.B. 1261**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Anderson, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1262 ADOPTED

Senator Sims called from the President's table the Conference Committee Report on **H.B. 1262**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator Sims, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1285 RECOMMITTED

Senator Sims called from the President's table the Conference Committee Report on **H.B. 1285**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

Senator Sims moved that the Conference Committee Report on **H.B. 1285** be adopted.

Senator Harris made the substitute motion that the Conference Committee Report on **H.B. 1285** be recommitted to the Conference Committee.

The substitute motion prevailed by the following vote: Yeas 19, Nays 11.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Green, Harris, Henderson, Johnson, Krier, McFarland, Montford, Parker, Parmer, Tejeda, Truan, Washington, Whitmire, Zaffirini.

Nays: Brown, Caperton, Edwards, Farabee, Jones, Leedom, Lyon, Santiesteban, Sarpalius, Sims, Uribe.

Absent: Glasgow.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 791 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **H.B. 791**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2119

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2119** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

FARABEE	LUCIO
WASHINGTON	PRICE
McFARLAND	A. LUNA
HARRIS	LARRY
BROOKS	MARTINEZ
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1459 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **H.B. 1459**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Montford, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT SENATE BILL 229

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 229** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD	HALEY
McFARLAND	A. LUNA
CAPERTON	HOLLOWELL
PARMER	GUERRERO
EDWARDS	TALLAS
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of certain telecommunications carriers.

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

SECTION 1. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), as amended by Chapters 99, 263, and 274, Acts of the 68th Legislature, Regular Session, 1983, is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796(17)(D) and 796(18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system or the manufacture, distribution, installation, or maintenance of customer premise communications equipment and accessories; and provided further that nothing in this Act shall be construed to apply to telegraph services, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the Public Mobile Radio Services rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies under the Domestic Public Land Mobile Radio Service and Rural Radio Service rules of the Federal Communications Commission; and provided further that interexchange telecommunications carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system who are not dominant carriers are also telecommunications utilities, but the commission's regulatory authority as to them is only as hereinafter defined;

(B) "dominant carrier" when used in this Act means (i) a provider of any particular communication service which is provided in whole or in part over a telephone system who as to such service has sufficient market power in a telecommunications market as determined by the commission to enable such provider to control prices in a manner adverse to the public interest for such service in such market; and (ii) any provider of local exchange telephone service within a certificated exchange area as to such service. A telecommunications market shall be statewide until January 1, 1985. After this date the commission may, if it determines that the public interest will be served, establish separate markets within the state. Prior to January 1, 1985, the commission shall hold such hearings and require such evidence as is necessary to carry out the public purpose of this Act and to determine the need and effect of establishing separate markets. Any such provider determined to be a dominant carrier as to a particular telecommunications service in a market shall not be presumed to be a dominant carrier of a different telecommunications service in that market.

(3) [~~the transmitting, storing, distributing, selling, or furnishing of potable water to the public or for resale to the public for any use, or the collection, transportation, treatment, or disposal of sewage, or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a city, town or other political subdivision of this state~~

~~or a water supply or sewer service corporation.~~] The term "public utility" or "utility" shall not include any person or corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others. The term "electric utility" shall not include any person or corporation not otherwise a public utility that owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility, if the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation.

SECTION 2. Section 18, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by amending Subsections (c) and (d) and by adding Subsections (l), (m), (n), (o), (p), (q), and (r) to read as follows:

(c) The commission shall only have the following jurisdiction over all interexchange telecommunications carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system who are not dominant carriers:

(1) to require registration as provided in Subsection (d) of this section;

(2) to conduct such investigations as are necessary to determine the existence, impact, and scope of competition in the telecommunications industry, including identifying dominant carriers and defining the telecommunications market or markets, and in connection therewith may call and hold hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders, and other actions of the commission; [~~and~~]

(3) to require the filing of such reports as the commission may direct from time to time;

(4) to require the maintenance of statewide average rates or prices of telecommunications service;

(5) to require that every local exchange area have access to interexchange telecommunications service, except that an interexchange telecommunications carrier must be allowed to discontinue service to a local exchange area if comparable service is available in the area and the discontinuance is not contrary to the public interest. This section does not authorize the commission to require an interexchange telecommunications carrier that has not provided services to a local exchange area during the previous 12 months and that has never provided services to that same local exchange area for a cumulative period of one year at any time in the past to initiate services to that local exchange area; and

(6) to require the quality of interexchange telecommunications service provided in each exchange to be adequate to protect the public interest and the interests of customers of that exchange if the commission determines that service to a local exchange has deteriorated to the point that long distance service is not reliable.

(d) All providers of communications service described in Subsection (c) of this section who are providing such service to the public on the effective date of this Act shall register with the commission within 90 days of the effective date of this Act. All providers of communications service described in Subsection (c) of this section who commence such service to the public thereafter shall register with the commission within 30 days of commencing service. Such registration shall be accomplished by filing with the commission a description of the location and type of service provided, the cost to the public of such service, and such other registration

information as the commission may direct. Notwithstanding any other provision of this Act, an interexchange telecommunications carrier doing business in this state shall continue to maintain on file with the commission tariffs or lists governing the terms of providing its services.

(l) Notwithstanding any other provision of this Act, the commission may enter such orders as may be necessary to protect the public interest, including the imposition on any specific service or services of its full regulatory authority under Articles III through XI of this Act, if the commission finds upon notice and hearing that an interexchange telecommunications carrier has engaged in conduct that demonstrates the ability to control prices in a manner adverse to the public interest.

(m) Notwithstanding any other provision of this Act, the commission may enter such orders as may be necessary to protect the public interest if the commission finds upon notice and hearing that an interexchange telecommunications carrier has:

(1) failed to maintain statewide average rates;

(2) abandoned interexchange message telecommunications service to a local exchange area in a manner contrary to the public interest; or

(3) engaged in a pattern of preferential or discriminatory activities prohibited by Sections 45 and 47 of this Act, except that nothing in this Act shall prohibit volume discounts or other discounts based on reasonable business purposes.

(n) In any proceeding before the commission alleging conduct or activities by an interexchange telecommunications carrier against another interexchange carrier in contravention of Subsections (l), (m), and (o) of this section, the burden of proof shall be upon the complaining interexchange telecommunications carrier; however, in such proceedings brought by customers or their representatives who are not themselves interexchange telecommunications carriers or in such proceedings initiated by the commission's general counsel, the burden of proof shall be upon the respondent interexchange telecommunications carrier. However, if the commission finds it to be in the public interest, the commission may impose the burden of proof in such proceedings on the complaining party.

(o) The commission shall have the authority to require that a service provided by an interexchange telecommunications carrier described in Subsection (c) of this section be made available in an exchange served by the carrier within a reasonable time after receipt of a bona fide request for such service in that exchange, subject to the ability of the local exchange carrier to provide the required access or other service. No carrier shall be required to extend a service to an area if provision of that service would impose, after consideration of the public interest to be served, unreasonable costs upon or require unreasonable investments by the interexchange telecommunications carrier. The commission may require such information from interexchange carriers and local exchange carriers as may be necessary to enforce this provision.

(p) Before January 15 of each odd-numbered year, the commission shall report to the legislature on the scope of competition in regulated telecommunications markets and the impact of competition on customers in both competitive and noncompetitive markets, with a specific focus on rural markets. The report shall include an assessment of the impact of competition on the rates and availability of telecommunications services for residential and business customers and shall specifically address any effects on universal service. The report shall provide a summary of commission actions over the preceding two years that reflect changes in the scope of competition in regulated telecommunications markets. The report shall also include recommendations to the legislature for further legislation that the commission finds appropriate to promote the public interest in the context of a partially competitive telecommunications market.

(q) The commission may exempt from any requirement of this section an interexchange telecommunications carrier that the commission determines does not

have a significant effect on the public interest, and it may exempt any interexchange carrier which solely relies on the facilities of others to complete long distance calls if the commission deems this action to be in the public interest.

(r) Requirements imposed by Subsections (c), (d), (l), (m), (n), (o), (p), and (q) of this section on an interexchange telecommunications carrier shall apply to nondominant carriers and shall constitute the minimum requirements to be imposed by the commission for any dominant carrier.

SECTION 3. Section 78, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 78. An assessment is hereby imposed upon each public utility within the commission's jurisdiction, including interexchange telecommunications carriers, serving the ultimate consumer equal to one-sixth of one percent of its gross receipts from rates charged the ultimate consumers in Texas for the purpose of defraying the costs and expenses incurred in the administration of this Act. Thereafter the commission shall, subject to the approval of the Legislature, adjust this assessment to provide a level of income sufficient to fund the commission and the office of public utility counsel. Any interexchange telecommunications carrier found dominant as to any service market under Section 100(b) or filing a petition under Section 100(f) of this Act shall be required to reimburse the Office of Public Utility Counsel for the costs of participation before the commission on behalf of residential ratepayers in any of the proceedings under Section 100 of this Act to the extent found reasonable by the commission. Recovery of costs under this section by the Office of Public Utility Counsel shall not exceed $175,000 per annum. Nothing in this Act or any other provision of law shall prohibit interexchange telecommunications carriers who do not provide local exchange telephone service from collecting the fee imposed under this Act as an additional item separately stated on the customer bill as "Utility Gross Receipts Assessment."

SECTION 4. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Sections 100 and 101 to read as follows:

Sec. 100. (a) The provisions of this section are applicable only to interexchange telecommunications carriers which do not provide local exchange service. A carrier dominant under this section for a service market is a dominant carrier for that service market under Section 3(c)(2) of this Act.

(b) The commission shall on or before November 1, 1987, initiate an evidentiary proceeding to determine whether any interexchange telecommunications carrier is dominant, as defined by Subsection 3(c)(2)(B) of this Act and in consideration of the relevant factors in Subsection (h) of this section, as to any service market as determined by the commission. The proceeding must result in a determination of dominance or nondominance in each service market no later than December 31, 1988. For the purposes of this section, the term "service market" shall mean the relevant market for each telecommunications service, and such markets shall be geographically statewide. The commission may group services which are closely related into one service market. Failure of the commission to make any determination required by this subsection by December 31, 1988, shall entitle any affected party to petition for a writ of mandamus or any other extraordinary relief from any court of competent jurisdiction to compel the commission to make the required determination.

(c) In connection with the proceeding required in Subsection (b) of this section, the commission shall determine the status of interLATA interexchange competition, the effect of such competition on the public interest, and whether any interLATA interexchange carrier has sufficient market power as to any service market or markets to enable it to control prices in a manner adverse to the public interest. The commission shall report its findings and its recommendations for legislation, if any, to the legislature before January 15, 1989.

(d) If the commission finds that an interexchange telecommunications carrier is not a dominant carrier as to any service market, such carrier shall be subject as to such service only to those provisions of this Act applicable to nondominant carriers. An interexchange telecommunications carrier shall remain subject to the provisions of this Act applicable to dominant carriers in any service market in which that carrier remains or is found by the commission to be dominant. Any interexchange telecommunications carrier which is dominant as to any service provided in any service market shall be presumed dominant as to any new service which is the same as, equivalent to, or substitutable within the same service market for such dominant service. Any new service markets are subject to the approval and determination of dominance by the commission.

(e) The commission shall on or before November 1, 1987, initiate a rulemaking proceeding to determine a method and develop a framework for the separation of costs among any fully regulated services, regulated competitive services, and unregulated services for the purposes of Subsections (k) and (l) of this section. The purpose of this proceeding shall be to establish a methodology for separation of these costs in any subsequent proceedings relating to the rates for fully regulated services. This proceeding shall not be an inquiry into the specific costs or rates of any telecommunications carrier. The commission shall take evidence to assist in the development of a methodology and shall allow for cross-examination of witnesses limited to the purposes of this subsection. Information required by the commission to carry out the requirements of this section may be obtained pursuant to the authority granted by Section 101 of this Act. The commission shall adopt rules pursuant to this subsection no later than November 1, 1988. Failure of the commission to make the required determinations on or before November 1, 1988, shall entitle any affected party to petition for a writ of mandamus or any other extraordinary relief from any court of competent jurisdiction to compel the commission to make the required determination.

(f) Any interexchange telecommunications carrier found dominant in any service market in the proceeding required by Subsection (b) of this section may petition the commission for a determination of whether the carrier is no longer a dominant carrier in any one or more service markets. Upon the request of any affected party or on its own motion, the commission shall hold a hearing and shall make its determination under this subsection within 185 days of the filing of this petition. Unless otherwise authorized by the commission, no interexchange telecommunications carrier may file a petition under this paragraph until after January 15, 1990. The commission shall establish reasonable rules regarding the frequency of filing such petitions under this subsection.

(g) An interexchange telecommunications carrier seeking to be found nondominant in any service market pursuant to Subsections (b) and (f) of this section shall have the burden of proof to show such nondominance and shall provide all information required by the commission; provided that such carrier shall not have the burden to produce any information which is solely in the possession or control of another person or persons and which that person or persons refuse to provide; however, nothing in this subsection shall alter or reduce the overall burden of proof of such carrier as to dominance.

(h) In making any determination required by Subsections (b) and (f) of this section, the commission shall consider all factors it considers relevant to its determination, including but not limited to the following:

(1) the number and size of telecommunications utilities and other persons providing the same, equivalent, or substitutable service in the relevant market;

(2) the extent to which the same, equivalent, or substitutable service is available in the relevant market;

(3) the ability of customers in the relevant market to obtain the same, equivalent, or substitutable services at comparable rates, terms, and conditions;

(4) the ability of telecommunications utilities or other persons to make the same, equivalent, or substitutable service readily available in the relevant market at comparable rates, terms, and conditions;

(5) the degree to which alternative interexchange facilities are available to resellers of interexchange telecommunications service;

(6) the market share of interexchange telecommunications utilities or other persons providing the same, equivalent, or substitutable service or services in the relevant market;

(7) the existence of any significant barrier to the entry or exit of a provider of the service in the relevant market;

(8) the extent to which one-plus equal access is available to interexchange telecommunications carriers and end users;

(9) the financial condition of telecommunications utilities or other persons providing the same, equivalent, or substitutable service in the relevant market insofar as shown by public information and documents.

(i) The legislature finds that the rules adopted by the commission and published in the Texas Register, Vol. 12, Number 25 (12 Tex. Reg. 1083), are within the authority granted by this Act and are hereby validated. This section shall not be construed to expand the authority of the commission under Section 18(a) of this Act as adopted in 1983.

(j) For the purposes of this section, a regulated competitive service is defined as a service provided by an interexchange telecommunications carrier which is dominant in that service market for which the commission has determined that sufficient competition exists or for which the commission has determined that sufficient competition exists such that it is in the public interest to utilize a range of rates; a fully regulated service is defined as a service provided by an interexchange telecommunications carrier which is dominant in that service market and which is not a regulated competitive service.

(k) It is further the policy of this state to ensure that any fully regulated services of interexchange telecommunications utilities do not subsidize either directly or indirectly the unregulated services or regulated competitive services of such utilities. In that regard, fully regulated services shall not recover any of the direct, indirect, joint, or common costs, including any increased cost due to the risk of competition, not associated with fully regulated services. It is the purpose of this section to direct the commission and grant the commission the authority necessary to assure that any fully regulated services offered by interexchange telecommunications utilities do not subsidize unregulated services or regulated competitive services.

(l) The commission shall not allow any fully regulated services offered by interexchange telecommunications utilities to recover any of the direct, indirect, joint, or common costs, including any increased costs due to the risk of competition, not associated with the fully regulated services offered by such utilities.

Sec. 101. Notwithstanding any other provision of this Act, the commission is granted all investigative and subpoena powers necessary to obtain any information necessary to carry out the requirements of Section 100 of this Act and in connection therewith may call and hold hearings and issue subpoenas to compel the attendance of witnesses and the production of papers and documents.

SECTION 5. Sections 2 and 3 of this Act take effect December 31, 1988. The remaining sections take effect September 1, 1987.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2085 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 2085**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT SENATE BILL 1407

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1407** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McFARLAND	HIGHTOWER
ANDERSON	AIKIN
FARABEE	RICHARDSON
CAPERTON	TELFORD
BLAKE	A. MORENO
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the issuance of bonds to finance certain state facilities.

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

SECTION 1. DEFINITIONS. In this Act:

(1) "Authority" means the Texas Public Building Authority.

(2) "Board" means the board of directors of the authority.

(3) "Review board" means the bond review board.

SECTION 2. REVIEW BOARD. (a) The bond review board is composed of:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the State Treasurer; and

(5) the comptroller of public accounts.

(b) The governor is chairman of the review board.

(c) If the speaker of the house of representatives is not permitted by the constitution of this state to serve as a voting member of the board, the speaker serves as a nonvoting member of the board.

(d) Bonds may not be issued under this Act, and proceeds of bonds issued under this Act may not be used to finance a project, unless the issuance or project, as applicable, has been reviewed and approved by the review board.

(e) The review board may adopt rules governing application for review, the review process, and reporting requirements.

(f) A member of the review board may not be held liable for damages resulting from the performance of the member's functions under this Act.

SECTION 3. TEXAS DEPARTMENT OF CORRECTIONS MASTER PLAN. Proceeds of bonds issued under this Act may not be distributed to the Texas Department of Corrections or otherwise used to finance a project of that department unless the department has submitted to the review board a master plan for construction of corrections facilities. The plan must be in the form, contain the information, and cover the period prescribed by the review board.

SECTION 4. GENERAL OBLIGATION BONDS. (a) The authority may issue up to $500 million in general obligation bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions. The proceeds may be used to refinance an existing obligation for a purpose described by this subsection. The authority may issue general obligation bonds to refund revenue bonds issued under this Act.

(b) The bonds may be issued at a rate of interest, according to the terms, and in a form determined by the authority.

(c) The authority by rule shall establish guidelines, criteria, and procedures for distributions of bond proceeds.

SECTION 5. REVENUE BONDS. (a) The authority may issue revenue bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions. The proceeds may be used to refinance an existing obligation for a purpose described by this subsection.

(b) On issuance of the bonds under this section, the board shall certify to the appropriate agency and to the comptroller of public accounts that the funds are available and shall deposit the bond proceeds in the State Treasury to the account of the appropriate agency.

(c) Once the funds are deposited and the comptroller of public accounts has certified that the funds are available and after transfer of any reserve funds or capitalized interest certified to be reasonably required by the authority and payment of the costs of issuance of the bonds based on a statement by the authority that specifies those costs, the appropriate agency may begin approved projects.

(d) With the concurrence of the board, the State Treasurer shall invest the unexpended bond proceeds and the investment income of those unexpended proceeds in investments approved by law for the investment of state funds. Any investment income required for project costs, and not required to be rebated to the federal government or used for debt service, as determined by the board, shall be credited to the appropriate agency. Investment income not required for project costs and not required to be rebated to the federal government or used for debt service shall be allocated as provided by Section 3.042, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes).

(e) The board may provide for the repayment of the principal of and interest on the bonds issued under this section from any source of funds lawfully available to the board. Bonds may not be scheduled to mature during the state fiscal year ending August 31, 1988, or August 31, 1989, and interest on the bonds for that period shall be capitalized and paid from bond proceeds.

(f) From funds appropriated for the purpose, the appropriate agency shall pay to the board pursuant to a lease agreement an amount determined by the board to be sufficient to:

(1) pay the principal of and interest on the bonds;

(2) maintain any reserve fund necessary to service the debt; and

(3) reimburse the authority for other costs and expenses relating to a project or outstanding bonds.

(g) Bonds issued under this section are subject to Sections 13, 14, 15, and 16, Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes).

(h) A state agency may enter lease agreements in the name of and on behalf of this state and may spend funds appropriated by the legislature for the purpose of making lease payments under this Act. Each state agency shall include in its biennial appropriation request an amount sufficient to pay the principal of and interest on outstanding bonds issued for that agency.

(i) Property financed by the authority under this section shall not become part of other property to which it may be attached or affixed or into which it may be incorporated, regardless of whether the other property is real or personal. The rights of a state agency in property financed by the authority under this section are those of a lessee, and no person claiming under or through such an agency shall acquire any greater rights with respect to that property.

SECTION 6. AMOUNT OF OUTSTANDING BONDS. At any one time, the combined amount of outstanding revenue bonds and outstanding general obligation bonds issued under this Act may not exceed $500 million.

SECTION 7. AUTHORIZED INVESTMENTS; SECURITY FOR PUBLIC FUNDS. (a) Bonds issued under this Act are a legal and authorized investment for a bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian or a sinking fund of a municipality, county, school district, or political subdivision of the state.

(b) The bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state. A bond may provide this security up to its value if all unmatured coupons are attached.

SECTION 8. REFUNDING BONDS. The authority may issue bonds to refund all or part of its outstanding bonds issued under this Act, including matured but unpaid interest.

SECTION 9. TAX EXEMPTION. Bonds issued under this Act, transactions relating to the bonds, and profits made in the sale of the bonds are exempt from taxation by the state, an agency or subdivision of the state, a municipality, or a special district.

SECTION 10. AUTHORIZATION. Before the authority may issue and sell bonds under this Act, the legislature by law must have authorized the specific projects in this Act, the General Appropriations Act, or the Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes).

SECTION 11. AMENDMENT. Subsection (a), Section (6), Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The governor biennially shall appoint a chairman from the board's members. The board biennially shall elect a [~~chairman and~~] vice-chairman from its members.

SECTION 12. EFFECTIVE DATE. (a) Except as provided by Subsection (b) of this section, this Act takes immediate effect.

(b) Section 4 of this Act takes effect on the date on which the constitutional amendment proposed by **S.J.R No. 56**, 70th Legislature, Regular Session, 1987, takes effect. If that amendment is not approved by the voters, that section has no effect.

SECTION 13. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1514

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1514** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	PENNINGTON
LEEDOM	TAYLOR
ANDERSON	STANISWALIS
PARMER	WALDROP
	WHALEY
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2556 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **H.B. 2556**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator McFarland, the Conference Committee Report was again adopted viva voce vote.

VOTE ON ADOPTION OF
CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2556 RECONSIDERED

On motion of Senator McFarland and by unanimous consent, the vote by which the Conference Committee Report on **H.B. 2556** was adopted was reconsidered.

Question - Shall the Conference Committee Report be adopted?

The Conference Committee Report on **H.B. 2556** was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
SENATE BILL 687

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 687** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

FARABEE	TOOMEY
JONES	T. SMITH
GLASGOW	HINOJOSA
McFARLAND	DENTON
CAPERTON	HILBERT
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the administration and management of certain courts; the compensation; education requirements; powers, including the power to appoint masters; and assignment of certain judges; and certain duties of the attorney general.

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

ARTICLE I. COURT ADMINISTRATION ACT

SECTION 1.01. Section 2.004, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.004. RULES. (a) The supreme court <u>may</u> [~~shall~~] adopt rules of administration setting policies and guidelines necessary or desirable for the operation and management of the court system and for the efficient administration of justice.

(b) The supreme court shall request the advice of the court of criminal appeals before adopting rules affecting the administration of criminal justice.

(c) The supreme court <u>may</u> [~~shall~~] consider the adoption of rules relating to:

(1) <u>nonbinding</u> time standards for pleading, discovery, motions, and dispositions;

(2) <u>nonbinding</u> dismissal of inactive cases from dockets, if the dismissal is warranted;

(3) <u>attorney's</u> [~~judicial~~] accountability for and incentives to avoid delay and to meet time standards;

(4) penalties for filing frivolous motions;

(5) firm trial dates [~~with a strict continuance policy~~];

(6) restrictive devices on discovery;

(7) a uniform dockets policy;

(8) formalization of [~~mandatory~~] settlement conferences or settlement programs; <u>and</u>

(9) standards for selection and management of nonjudicial personnel[;

[~~(10) establishment of a monthly statewide information reporting system from individual courts including the number of:~~

[~~(A) new cases filed;~~

[~~(B) types and numbers of cases filed, terminated, and pending at the beginning and at the end of each month;~~

[~~(C) cases pending past established time limits; and~~

[~~(D) continuances requested and granted;~~

[~~(11) emphasis on getting older cases to trial; and~~

[~~(12) regulation of attorneys with heavy case loads that inhibit the case flow system~~].

(d) Any rules adopted under this section remain in effect unless and until disapproved by the legislature. The clerk of the supreme court shall file with the secretary of state the rules or any amendments to the rules adopted by the supreme court under this section and shall mail a copy of the rules and any amendments to each registered member of the State Bar not later than the 120th day before the date on which they become effective. The supreme court shall allow a period of 60 days for review and comment on the rules and any amendments. The clerk of the supreme court shall report the rules or amendments to the rules to the next regular session of the legislature by mailing a copy of the rules or amendments to the rules to each elected member of the legislature on or before December 1 immediately preceding the session.

SECTION 1.02. Section 2.005, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.005. EDUCATION PROGRAMS. The supreme court shall, if adequate funding is available for education programs for judges and court personnel, ensure that adequate education programs are available on an equitable basis for judges and court personnel of all courts created under the constitution and laws of this state.

SECTION 1.03. Subsection (c), Section 4.003, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Except as provided by Section 4.011 of this chapter, the salaries, compensation, and expenses shall be paid through the county budget process of each county in the region in proportion to the population of the counties comprising the region [~~county~~] according to the latest official federal census and on certificates of approval of the presiding judge.

SECTION 1.04. Subsections (c) and (d), Section 4.010, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) An administrative assistant shall aid the presiding judge in carrying out the judge's duties under this chapter. The administrative assistant shall:

(1) perform the duties that are required by the presiding judge and by the rules of administration;

(2) conduct correspondence for the presiding judge;

(3) [~~keep a record of the proceedings of the administrative region and a complete record of the cases pending in the courts of the administrative region, including the time of their filing, the style and purposes of the causes, and their final disposition;~~

[~~(4)~~] under the direction of the presiding judge, make an annual report of the activities of the administrative region and special reports as provided by the rules of administration to the supreme court, which shall be made in the manner directed by the supreme court; and

(4) [~~(5)~~] attend to other matters that are prescribed by the council of judges.

(d) An administrative assistant, with the approval of the presiding judge, may purchase the necessary office equipment, stamps, stationery, and supplies and employ additional personnel as authorized by the [~~council of judges. The cost shall be divided pro rata among the counties and paid by the counties on the certificate of the~~] presiding judge.

SECTION 1.05. Subsections (b) and (d), Section 4.011, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Except as provided by Subsection (c) of this section, a presiding judge shall receive a salary not to exceed $10,000 [~~$5,000~~] a year. The Texas Judicial Council shall set the salary biennially and, in arriving at the amount of the salary, shall consider whether the presiding judge is active in administrative duties, performs part-time, or is a retired judge. The salary set by the Texas Judicial Council shall be apportioned [~~according to the number of district courts and statutory county courts in each judicial district comprising the administrative region, and the amount apportioned~~] to each county in the region [~~judicial district shall be apportioned~~] according to the population of the counties comprising the region as determined by the most recent [~~latest~~] federal decennial census and shall be paid through the county budget process.

(d) The council of judges shall set the salaries under Subsection (c) of this section at least biennially by majority vote. The salary shall be apportioned to each county in the region according to the population of the counties comprising the region as determined by the most recent federal decennial census [~~number of district courts and statutory county courts in each judicial district comprising the administrative region, and that amount shall be apportioned to the counties comprising the judicial district according to the number of such courts in each county~~].

SECTION 1.06. Section 4.014, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.014. JUDGES SUBJECT TO ASSIGNMENT. (a) Except as provided by Subsection (b) of this section, the [~~The~~] following judges may be assigned as provided by this chapter by the presiding judge of the administrative region in which the assigned judge resides:

(1) a regular district or statutory county court [~~at law~~] judge in this state;

(2) a district judge who is a retiree under Subtitle E, Title 110B, Revised Statutes, who has consented to be subject to assignment and who is on the list maintained by the presiding judge under [~~as required by~~] this chapter [~~section~~]; and

(3) a former district judge or retired or former statutory county court judge who certifies to the presiding judge a willingness to serve and to comply with the prohibitions relating to the practice of law imposed on a retired judge by Section 44.005, Title 110B, Revised Statutes, and who is on the list maintained by the presiding judge as required by this chapter [~~section~~].

(b) A statutory county court judge or a retired or former statutory county court judge may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.

SECTION 1.07. Section 4.015, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.015. LIST OF RETIRED AND FORMER [~~DISTRICT~~] JUDGES SUBJECT TO ASSIGNMENT. (a) Each presiding judge shall maintain a list of retired and former district and statutory county court judges who meet the requirements of this section.

(b) The presiding judge shall divide the list into area specialties of criminal, civil, or domestic relations cases. A retired or former judge may only be assigned to a case in the judge's area of specialty. A judge may qualify for assignment in more than one area of specialty.

(c) To be eligible to be named on the list, a retired or former [~~district~~] judge must:

(1) have served as a judge for at least four years in a district, statutory, or appellate court;

(2) have developed substantial experience in his area of specialty;

(3) not have been removed from office or resigned while under investigation for discipline or removal; [and]

(4) annually demonstrate that he has completed in the past calendar year the educational requirements for active district and statutory county court judges; and [at least five days of continuing legal education in courses approved by the state bar or the supreme court]

(5) certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state for a period of two years following the date of the election to serve.

SECTION 1.08. Section 4.016, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and by adding Subsection (c) to read as follows:

(a) A [Under rules prescribed by the council of judges, a] presiding judge from time to time shall assign the judges of the administrative region to hold special or regular terms of court in any county of the administrative region to try cases and dispose of accumulated business. [The assignment may be made during or after the consultation concerning the state of the business of the courts at a meeting of the judges of the administrative region and with or without an additional meeting of the judges.]

(c) The presiding judge of an administrative region may appoint a judge in the region to serve as acting presiding judge in the absence of the presiding judge. An acting presiding judge has all the rights, duties, and powers of the presiding judge.

SECTION 1.09. Subsections (a) and (c), Section 4.019, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A judge assigned under the provisions of this chapter has all the powers of the [a district] judge of the court to which he is assigned.

(c) A district or statutory county court judge shall:

(1) diligently discharge the administrative responsibilities of the office;

(2) rule on a case within 90 days after the case is taken under advisement;

(3) request the presiding judge to assign another judge [of the administrative region] to hear a motion relating to the recusal of the judge from a case pending in his court; and

(4) if an election contest or suit for the removal of a local official is filed in his court, request the presiding judge to assign another judge [of the administrative region] who is not a resident of the county to hold a regular or special term of court in that county to dispose of the suit.

SECTION 1.10. Subsection (b), Section 4.021, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) While serving in a county outside his judicial district or county, a [an active] judge is entitled to receive, in addition to his necessary expenses, additional compensation from the county to which he is assigned in an amount not to exceed the difference between the compensation of the assigned judge from all sources, exclusive of the per diem provided by Subsection (f) of this section, and the compensation received from all sources by the judge of the court to which he is assigned. The county shall pay the compensation provided by this subsection on approval of the presiding judge of the administrative region in which the court to which the judge is assigned is located.

SECTION 1.11. Section 4.022, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.022. EXPENSES AT MEETINGS. A judge who is required to attend an annual or special meeting prescribed by this chapter, or an educational course required by law, in addition to all other compensation allowed by law, is entitled to receive his actual travel expenses going to and returning from the place of the meeting or course and his actual expenses while attending the meeting or course.

SECTION 1.12. Subsections (a) and (c), Section 5.004, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A district or statutory county court judge may hear and determine a matter pending in any district or statutory county court in the county regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter. The authority of this subsection applies to an active, former, or retired judge assigned to a court having [~~any district court~~] jurisdiction as provided by Chapter 4 of this Act or Subtitle E, Title 110B, Revised Statutes.

(c) The [~~district~~] clerk shall file, docket, transfer, and assign the cases as directed by the local administrative judge in accordance with the local rules.

SECTION 1.13. The Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes) is amended by adding Section 8.001 to read as follows:

Sec. 8.001. DEFENSE OF JUDGES. The attorney general shall defend a state district judge, a presiding judge of an administrative region, or an active, retired, or former judge assigned under this Act in any action or suit in any court in which the judge is a defendant because of his office as judge if the judge requests the attorney general's assistance in the defense of the suit.

SECTION 1.14. Section 1, Chapter 275, Acts of the 64th Legislature, Regular Session, 1975 (Article 4412b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. [~~(a) The Attorney General of Texas is responsible for defending a state district judge or a presiding judge of an administrative region in any action or suit in the federal courts in which the judge is a defendant because of his office as judge if the judge requests the attorney general's assistance in the defense of the suit.~~

[~~(b)~~] The attorney general is responsible for defending a state grand jury commissioner or a state grand juror in an action or suit in any court [~~the federal courts~~] in which the commissioner or the juror is a defendant if:

(1) the suit involves an act of the defendant while in the performance of his duties as a grand jury commissioner or a grand juror; and

(2) the commissioner or the juror requests the attorney general's assistance in the defense of the suit.

SECTION 1.15. Subsection (d) of Section 4.008, Subsection (b) of Section 4.012, and Section 5.005, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), are repealed.

ARTICLE II. CONFORMING AMENDMENTS TO JUDICIAL TITLE, GOVERNMENT CODE

SECTION 2.01. Effective September 1, 1987, Chapter 74, Government Code, is amended by adding Section 74.024 to read as follows:

Sec. 74.024. RULES. (a) The supreme court may adopt rules of administration setting policies and guidelines necessary or desirable for the operation and management of the court system and for the efficient administration of justice.

(b) The supreme court shall request the advice of the court of criminal appeals before adopting rules affecting the administration of criminal justice.

(c) The supreme court may consider the adoption of rules relating to:

(1) nonbinding time standards for pleading, discovery, motions, and dispositions;

(2) nonbinding dismissal of inactive cases from dockets, if the dismissal is warranted;

(3) attorney's accountability for and incentives to avoid delay and to meet time standards;

(4) penalties for filing frivolous motions;

(5) firm trial dates;

(6) restrictive devices on discovery;

(7) a uniform dockets policy;

(8) formalization of settlement conferences or settlement programs; and

(9) standards for selection and management of nonjudicial personnel.

(d) Any rules adopted under this section remain in effect unless and until disapproved by the legislature. The clerk of the supreme court shall file with the secretary of state the rules or any amendments to the rules adopted by the supreme court under this section and shall mail a copy of the rules and any amendments to each registered member of the State Bar not later than the 120th day before the date on which they become effective. The supreme court shall allow a period of 60 days for review and comment on the rules and any amendments. The clerk of the supreme court shall report the rules or amendments to the rules to the next regular session of the legislature by mailing a copy of the rules or amendments to the rules to each elected member of the legislature on or before December 1 immediately preceding the session.

SECTION 2.02. Effective September 1, 1987, Section 74.003, Government Code, is renumbered and amended to read as follows:

Sec. 74.043 [~~74.003~~]. FACILITIES; FUNDING. (a) Adequate quarters for the operation of each administrative region [~~district~~] and the preservation of its records shall be provided in the courthouse of the county in which the presiding judge resides.

(b) Except for the salaries, compensation, and expenses provided by state appropriations, the counties composing the administrative region [~~district~~] shall pay, out of the general funds of the counties, the salaries, compensation, and expenses authorized and incurred to administer this chapter, including expenses for the purchase of professional liability insurance policies for regional presiding judges.

(c) Except as provided by Section 74.051 [~~74.018~~], the salaries, compensation, and expenses shall be paid through the county budget process of each county in the region in proportion to the population of the counties comprising the region [~~number of weeks provided by law for holding district court in the respective counties~~] and on certificates of approval of the presiding judge [~~judges~~].

SECTION 2.03. Effective September 1, 1987, Section 74.017, Government Code, is renumbered and amended to read as follows:

Sec. 74.050 [~~74.017~~]. ADMINISTRATIVE ASSISTANT. (a) The presiding judge may employ, directly or through a contract with another governmental entity, a full-time or part-time administrative assistant.

(b) An administrative assistant must have the qualifications established by rule of the supreme court.

(c) An administrative assistant shall aid the presiding judge in carrying out the judge's duties under this chapter. The administrative assistant shall:

(1) perform the duties that are required by the presiding judge and by the rules of administration;

(2) conduct correspondence for the presiding judge;

(3) [~~keep a record of the proceedings of the administrative district and a complete record of the cases pending in the courts of the administrative district, including the time of their filing, the style and purposes of the causes, and their final disposition;~~

[~~(4)~~] under the direction of the presiding judge, make an annual report of the activities of the administrative region [~~district~~] and special reports as provided by the rules of administration to the supreme court, which shall be made in the manner directed by the supreme court; and

(4) [~~(5)~~] attend to other matters that are prescribed by the council of judges.

(d) An administrative assistant, with the approval of the presiding judge, may purchase the necessary office equipment, stamps, stationery, and supplies and employ additional personnel as authorized by the [~~council of judges. The cost shall be divided pro rata among the counties and paid by the counties on the certificate of the~~] presiding judge.

(e) An administrative assistant is entitled to receive the compensation from the state provided by the General Appropriations Act, from county funds, or from any public or private grant.

SECTION 2.04. Effective September 1, 1987, Section 74.018, Government Code, is renumbered and amended to read as follows:

Sec. 74.051 [~~74.018~~]. COMPENSATION. (a) In addition to all other compensation, expenses, and perquisites authorized by law, including this chapter, a presiding judge shall receive compensation as provided by this section for performing the duties of a presiding judge.

(b) Except as provided by Subsection (c), a presiding judge shall receive a salary not to exceed $10,000 [~~$5,000~~] a year. The Texas Judicial Council shall set the salary biennially and, in arriving at the amount of the salary, shall consider whether the presiding judge is active in administrative duties, performs part time, or is a retired judge. The salary set by the Texas Judicial Council shall be apportioned [~~according to the population of each judicial district comprising the administrative district, and the amount apportioned~~] to each county in the region [~~judicial district shall be apportioned to each county comprising the judicial district~~] according to the population of the counties comprising the region and shall be paid through the county budget process [~~county~~].

(c) A presiding judge who is a retired district or appellate judge and presides over an administrative region [~~district~~] with 40 or more district courts or statutory county courts is entitled to an annual salary of not less than $5,000 a year nor [~~or~~] more than the following amount, according to the number of those [~~district~~] courts in the administrative region [~~district~~]:

Number of Courts Salary Limit
40 to 59 $15,000
60 to 79 $25,000
80 or more $30,000

(d) The council of judges shall set the salaries under Subsection (c) at least biennially by majority vote. The salary shall be apportioned to each county in the region according to the population of the counties comprising the region [~~assessed property valuation of each judicial district comprising the administrative district, and that amount shall be apportioned to the counties comprising the judicial district according to the assessed property valuation of each county~~].

(e) Each county comprising the administrative region [~~district~~] shall pay annually to the presiding judge, out of the officers' salary fund or the general fund of the county, the amount of the salary apportioned to it as provided by this section and the other expenses authorized by this chapter that are not paid by state appropriations. The presiding judge shall place each county's payment of salary and other expenses in an administrative fund, from which the salary and other expenses shall be paid. The salary shall be paid from the administrative fund in 12 equal monthly payments.

SECTION 2.05. Effective September 1, 1987, Section 74.032, Government Code, is renumbered and amended to read as follows:

Sec. 74.054 [~~74.032~~]. JUDGES SUBJECT TO ASSIGNMENT. (a) Except as provided by Subsection (b), the [~~The~~] following judges may be assigned as provided by this chapter by the presiding judge of the administrative region [~~district~~] in which the assigned judge resides:

(1) a regular district or statutory county court judge in this state;

(2) a district judge who is a retiree under Subtitle E, Title 110B, Revised Statutes, [and] who has consented to be subject to assignment, and who is on the list maintained by the presiding judge under this chapter; and

(3) a former district judge or retired or former statutory county court judge who[:

[(A) is not more than 70 years of age;

[(B) was elected at a general election or appointed by the governor, and has not been defeated for reelection or removed from office by impeachment, the supreme court, the governor on address of the legislature, the State Commission on Judicial Conduct, or the abolishment of the judge's court by the legislature; and

[(C)] certifies to the presiding judge a willingness to serve and to comply with the prohibitions relating to the practice of law imposed on a retired judge by Section 44.005, Title 110B, Revised Statutes, and who is on the list maintained by the presiding judge as required by this chapter.

(b) A statutory county court judge or a retired or former statutory county court judge may not be assigned to hear a matter pending in a district court outside the county of the judge's residence.

SECTION 2.06. Effective September 1, 1987, Section 74.033, Government Code, is renumbered and amended to read as follows:

Sec. 74.056 [74.033]. ASSIGNMENT BY PRESIDING JUDGE. (a) A [Under rules prescribed by the council of judges, a] presiding judge from time to time shall assign the judges of the administrative region [district] to hold special or regular terms of court in any county of the administrative region [district] to try cases and dispose of accumulated business. [The assignment may be made during or after the consultation concerning the state of the business of the courts at a meeting of the district judges of the administrative district and with or without an additional meeting of the judges.]

(b) The presiding judge of one administrative region [district] may request the presiding judge of another administrative region [district] to furnish judges to aid in the disposition of litigation pending in a county [judicial district] in the administrative region [district] of the presiding judge who makes the request.

(c) The presiding judge of an administrative region may appoint a judge in the region to serve as acting presiding judge in the absence of the presiding judge. An acting presiding judge has all the rights, duties, and powers of the presiding judge.

SECTION 2.07. Effective September 1, 1987, Section 74.036, Government Code, is renumbered and amended to read as follows:

Sec. 74.059 [74.036]. POWERS AND DUTIES. (a) A judge assigned under the provisions of this chapter has all the powers of the [a district] judge of the court to which he is assigned.

(b) A [district] judge shall extend the regular terms of the court, or call the special terms, that are necessary to carry out the purposes of this chapter and to dispose of pending litigation. If a term is extended, the other terms of the court may be opened and held as usual, and a term of court in that district does not fail because of the extension. By entering an order on the minutes of the court, the judge of a district court or statutory county court or a judge assigned [to a district] by the presiding judge may convene a special term of the court for the trial of cases, the entry of orders, and the disposition of the business before the court.

(c) A district or statutory county court judge shall:

(1) diligently discharge the administrative responsibilities of the office;

(2) rule on a case within 90 days [three months] after the case is taken under advisement;

(3) request the presiding judge to assign another judge [~~of the administrative district~~] to hear a motion relating to the recusal of the [~~district~~] judge from a case pending in his court; and

(4) if an election contest or a suit for the removal of a local official is filed in his court, request the presiding judge to assign another judge [~~of the administrative district~~] who is not a resident of the county to hold a regular or special term of court in that county to dispose of the suit.

SECTION 2.08. Effective September 1, 1987, Section 74.037, Government Code, is renumbered and amended to read as follows:

Sec. 74.061 [~~74.037~~]. COMPENSATION WHILE ASSIGNED. (a) The salary, compensation, and expenses of a judge while assigned under this chapter shall be paid in accordance with this chapter and other law of this state.

(b) While serving in a county outside his judicial district or county, a [~~an active district~~] judge is entitled to receive, in addition to his necessary expenses, additional compensation from the county to which he is assigned in an amount not to exceed the difference between the compensation of the assigned judge from all sources, exclusive of the per diem provided by Subsection (f), and the compensation received from all sources by the judge of the court to which he is assigned. The county shall pay the compensation provided by this subsection on approval of the presiding judge of the administrative region [~~district~~] in which the court to which the judge is assigned is located.

(c) The salary of a retired judge while assigned under this chapter shall be paid out of money appropriated from the general revenue fund for that purpose in an amount equal to the difference between all the retirement benefits received by the judge as a retired district judge and the compensation from all sources of the judge of the court to which he is assigned. The salary of a retired judge while assigned shall be determined pro rata for the period of time that the judge actually sits as the assigned judge.

(d) For services actually performed while assigned under this chapter, a former [~~district~~] judge shall receive from county funds and money appropriated by the legislature the same amount of salary, compensation, and expenses that the regular judge is entitled to receive from the county and from the state for those services. The presiding judge of the administrative region [~~district~~] shall certify to the county and the state the services rendered under this chapter by a former [~~district~~] judge and the share to be paid by the state. The amount certified by the presiding judge as the state's share shall be paid from an item in the Judicial Section—Comptroller's Department of the General Appropriations Act for the payment of salaries of district and criminal district judges.

(e) When a district or statutory county court judge is assigned under this chapter to a court outside his own district or county [~~and out of his own counties~~], the judge, in addition to all other compensation authorized by law, is entitled to receive his actual expenses in going to and returning from his assignment and his actual living expenses while in the performance of his duties under the assignment. The county in which the duties are performed shall pay the expenses out of the general fund of the county on accounts certified and approved by the presiding judge of the administrative region [~~district~~] for that county.

(f) When a district or statutory county court judge is assigned under this chapter to a court outside his own district or county [~~and out of his own counties~~], the judge, in addition to all other compensation and expenses authorized by law, is entitled to receive a per diem of $25 for each day or fraction of a day that the judge spends outside his district or county [~~and his counties~~] in the performance of his duties under the assignment. The state shall pay the per diem in the same manner that it pays the judge's salary on certificates of approval by the chief justice or the presiding judge of the administrative region [~~district~~] in which the judge resides.

SECTION 2.09. Effective September 1, 1987, Section 74.038, Government Code, is renumbered and amended to read as follows:

Sec. 74.062 [~~74.038~~]. EXPENSES AT MEETINGS. A judge who is required to attend an annual or special meeting prescribed by this chapter, or an educational course required by law, in addition to all other compensation allowed by law, is entitled to receive his actual travel expenses going to and returning from the place of the meeting or course and his actual expenses while attending the meeting or course.

SECTION 2.10. Effective September 1, 1987, Chapter 74, Government Code, is amended by adding Sections 74.025, 74.055, and 74.094 to read as follows:

Sec. 74.025. EDUCATION PROGRAMS. The supreme court shall, if adequate funding is available for education programs for judges and court personnel, ensure that adequate education programs are available on an equitable basis for judges and court personnel of all courts created under the constitution and laws of this state.

Sec. 74.055. LIST OF RETIRED AND FORMER JUDGES SUBJECT TO ASSIGNMENT. (a) Each presiding judge shall maintain a list of retired and former district and statutory county court judges who meet the requirements of this section.

(b) The presiding judge shall divide the list into area specialties of criminal, civil, or domestic relations cases. A retired or former judge may only be assigned to a case in the judge's area of specialty. A judge may qualify for assignment in more than one area of specialty.

(c) To be eligible to be named on the list, a retired or former judge must:

(1) have served as a judge for at least four years in a district, statutory, or appellate court;

(2) have developed substantial experience in his area of specialty;

(3) not have been removed from office or resigned while under investigation for discipline or removal;

(4) annually demonstrate that he has completed in the past calendar year the educational requirements for active district and statutory county court judges; and

(5) certify to the presiding judge a willingness not to appear and plead as an attorney in any court in this state for a period of two years following the date of the election to serve.

Sec. 74.094. HEARING CASES. (a) A district or statutory county court judge may hear and determine a matter pending in any district or statutory county court in the county regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter. The authority of this subsection applies to an active, former, or retired judge assigned to a court having jurisdiction as provided by Subchapter C of this chapter or by Subtitle E, Title 110B, Revised Statutes.

(b) The judges shall try any case and hear any proceeding as assigned by the local administrative judge.

(c) The clerk shall file, docket, transfer, and assign the cases as directed by the local administrative judge in accordance with the local rules.

(d) Judges of district courts and statutory county courts may serve as masters and magistrates of courts, other than their own, subject to other provisions of law and court rules.

SECTION 2.11. Effective September 1, 1987, Chapter 74, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. DEFENSE OF JUDGES

Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall defend a state district judge, a presiding judge of an administrative region, or an active,

retired, or former judge assigned under this chapter in any action or suit in any court in which the judge is a defendant because of his office as judge if the judge requests the attorney general's assistance in the defense of the suit.

SECTION 2.12. Effective September 1, 1987, Subsection (d), Section 74.015, Government Code, is repealed.

SECTION 2.13. Effective September 1, 1987, Subsection (b) of Section 74.052 and Section 74.095, Government Code, as added by Senate Bill No. 895, Acts of the 70th Legislature, Regular Session, 1987, are repealed.

SECTION 2.14. Effective September 1, 1987, Sections 2.005, 4.003, 4.010, 4.011, 4.013, 4.014, 4.015, 4.016, 4.019, 4.021, 4.022, 5.004, and 8.001, Court Administration Act (Article 200a-1, Vernon's Texas Civil Statutes), are repealed.

ARTICLE III. MISCELLANEOUS COURT PROVISIONS

SECTION 3.01. Chapter 21, Government Code, is amended by adding Section 21.008 to read as follows:

Sec. 21.008. DISTRICT COURT SUPPORT ACCOUNT. (a) The district court support account of the judicial fund is created to be administered by the office of court administration as directed by the supreme court.

(b) The comptroller shall allocate to the district court support account such amounts from the judicial fund as may be designated in the General Appropriations Act.

(c) The district court support account may be used only for court-related purposes for the support of the district courts of this state to defray the salaries of support personnel and other expenses incurred in the operations of the courts, the necessary expenses of the administrative judicial districts, and for the administration of this section.

(d) The State Board of Regional Judges is created to administer the funds appropriated to this account and to the child support and court management account of the judicial fund created by Section 21.007. The board shall be composed of the nine regional administrative judges of the state, who shall have the authority to organize, elect officers, and make such rules as may be necessary for the proper administration of these accounts.

(e) The office of court administration shall file a report with the Legislative Budget Board at the end of each fiscal year showing disbursements from the account and the purpose for each disbursement. All funds expended are subject to audit by the comptroller and the State Auditor.

(f) Funds allocated for personnel may be used to pay in full or in part the salary of an employee, to supplement the salary of an existing employee, or to hire additional personnel.

(g) It is the purpose of this section to increase the funds available for the administration of justice in each county in this state and to provide funding to be used for court-related purposes for the support of the judicial branch of this state. Funds available from the judicial fund and its special account may be supplemented by local or federal funds and private or public grants. A county commissioners court may not reduce the amount of funds provided for these purposes because of the availability of funds from the judicial fund or the special account.

SECTION 3.02. Subchapter A, Chapter 54, Government Code, is amended to read as follows:

SUBCHAPTER A. FAMILY LAW MASTERS

Sec. 54.001. APPOINTMENT. (a) A judge of a district court or other court having jurisdiction of suits [~~affecting the parent-child relationship~~] under Title 1, 2, or 4, Family Code, may appoint either a full-time or a part-time master to perform the duties authorized by this subchapter if the commissioners court of a county in which the court has jurisdiction authorizes the employment of a master.

(b) If a court has jurisdiction in more than one county, a master appointed by that court may serve only in a county in which the commissioners court has authorized the master's appointment.

(c) If more than one district [~~court~~] or other court having jurisdiction of suits under Title 1, 2, or 4, Family Code, [~~affecting the parent-child relationship~~] has jurisdiction in a county, the commissioners court may authorize the appointment of a master for each court or may authorize one or more masters to share service with two or more courts.

(d) If a master serves more than one court, the master's appointment must be made with the unanimous approval of all the judges under whom the master serves.

(e) This section shall not apply to masters appointed under Section 14.82, Family Code.

Sec. 54.002. QUALIFICATIONS. To be eligible for appointment as a master, a person must meet the requirements and qualifications to serve as a judge of the court or courts to which the master is appointed [~~be:~~

[~~(1) a resident of this state; and~~

[~~(2) licensed to practice law in this state~~].

Sec. 54.003. COMPENSATION. (a) A master shall be paid a [~~is entitled to the~~] salary determined by the commissioners court of the county in which the master serves.

(b) If a master serves in more than one county, the master shall be paid [~~is entitled to~~] a salary as determined by agreement of the commissioners courts of the counties in which the master serves.

(c) The master's salary is paid from the county fund available for payment of officers' salaries.

(d) This section does not apply to a master appointed under Section 14.82, Family Code.

Sec. 54.004. TERMINATION OF SERVICES. (a) A master who serves a single court serves at the will of the judge of that court.

(b) The services of a master who serves more than two courts [~~one court~~] may be terminated by a majority vote of all the judges of the courts which [~~whom~~] the master serves.

(c) The services of a master who serves two courts may be terminated by either of the judges of the courts which the master serves.

(d) This section shall not apply to masters appointed under Section 14.82, Family Code.

Sec. 54.005. CASES [~~CASE~~] THAT MAY BE REFERRED. (a) The judge of a court having a master appointed may refer to the master any aspect of a civil case involving a matter over which the referring court has jurisdiction under Title 1, 2, or 4, Family Code, or under Chapter 46 or 76, Human Resources Code, and, after notice to all parties of the time and place of hearing, the master may preside over any hearing including the following:

(1) a hearing for a temporary order in all actions or suits for support by one spouse against another;

(2) a motion or suit to modify a temporary or final order;

(3) a suit affecting the parent-child relationship involving temporary orders;

(4) an application for a temporary injunction involving temporary possession or use of property;

(5) a habeas corpus proceeding, including any necessary hearing authorized by the Family Code;

(6) a motion to transfer;

(7) a motion for contempt for failure or refusal to obey a temporary or final order;

(8) an action brought under Chapter 21, Family Code;

(9) an action for the protection of the family;

(10) a matter on which the parties agree;

(11) a matter in which a party is entitled to a default judgment;

(12) an action brought under Chapter 46 or 76, Human Resources Code;

(13) a divorce action in which a waiver of citation is on file; and

(14) any other matter referred by the judge that is in the jurisdiction of the court, including pretrial motions, discovery, summary judgments, and other matters governed by the Texas Rules of Civil Procedure.

(b) The judge of a court having a master appointed may also refer to the master a trial on the merits over which the master may preside unless one or more parties files a written objection to the master hearing the trial. If an objection is filed, the trial on the merits shall be heard by the referring court. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

(c) The referring court may not allow a master to conduct a contested trial on the merits to terminate parental rights unless the affected parties give written consent to the contested trial being conducted by the master. Except in cases in which written consent is given by the affected parties to a contested trial on the merits, any order terminating parental rights issued pursuant to a master's report resulting from the contested trial is void.

(d) On appointment of a master, any pending or future cases under Title 1, 2, or 4, Family Code, or under Chapter 46 or 76, Human Resources Code, may be referred to the master, except as the referring court may limit. [~~A judge may refer to a master any civil case involving a motion:~~

[~~(1) of contempt for failure or refusal:~~

[~~(A) to pay child support, temporary support, or separate maintenance; or~~

[~~(B) to comply with a court order concerning possession of or access to a child who has been the subject of a suit affecting the parent-child relationship; or~~

[~~(2) to modify a decree in a suit affecting the parent-child relationship that provides for access to or support, conservatorship, or possession of a child.~~]

Sec. 54.006. ORDER OF REFERRAL. (a) To refer cases [~~a case~~] to a master, the referring court [~~a judge~~] must issue an order of referral [~~specifying the master's duties~~].

(b) The order of referral may limit the power or duties of a master[:

[~~(1) limit the powers of a master and direct the master to report only on specific issues, do particular acts, or receive and report on evidence only;~~

[~~(2) set the time and place for the hearing;~~

[~~(3) prescribe a closing date for the hearing; and~~

[~~(4) provide a date for the filing of the master's report~~].

Sec. 54.007. POWERS AND DUTIES. Except as limited by an order of referral, a master [~~to whom a case is referred~~] may:

(1) conduct hearings;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on admissibility of evidence;

(5) issue summons for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) recommend the judgment to be made in a case;

(11) regulate all proceedings in a hearing before the master; and

(12) do any act and take any measure necessary and proper for the efficient performance of the master's duties [~~required by the order of referral~~].

Sec. 54.008. ATTENDANCE OF BAILIFF [~~NOTICE OF HEARING~~]. A bailiff may attend a hearing held by a master if directed by the referring court [~~Before a master holds a hearing, each party shall be given notice of the time and place of the hearing as provided by law~~].

Sec. 54.009. WITNESS. (a) A witness appearing [~~who appears~~] before a master [~~and~~] is [~~sworn is~~] subject to the penalties for perjury provided by law.

(b) A referring court may issue attachment against and may fine or imprison a witness whose failure to appear before a master after being summoned or whose refusal to answer questions has been certified to the court.

Sec. 54.010. REPORT [~~PAPERS~~] TRANSMITTED TO COURT; NOTICE [~~JUDGE~~]. (a) At the conclusion of any hearing conducted by a master and on the preparation of a master's report, the master shall transmit to the referring court all papers relating to the case, with the master's signed and dated report.

(b) After the master's report has been signed, the master shall give to the parties participating in the hearing notice of the substance of the report. The master's report may contain the master's findings, conclusions, or recommendations. The master's report must be in writing in a form as the referring court may direct. The form may be a notation on the referring court's docket sheet.

(c) Notice of the right of appeal to the judge of the referring court shall be given to all parties. This notice may be given at the hearing or by posting the notice inside or outside of the courtroom of the referring court or otherwise as the referring court directs. [~~At the conclusion of a hearing, a master shall transmit to the referring judge any papers relating to the case, including the master's findings and a statement that notice of the findings and of the right to a hearing before the judge has been given to any principal, minor, and the parent, guardian, or custodian of any principal who is a minor.~~]

Sec. 54.011. JUDICIAL ACTION ON MASTER'S REPORT. After the master's report is filed, and unless the parties have filed a written notice of appeal to the referring court, the referring court may adopt, approve, or reject the master's report, hear further evidence, or recommit the matter for further proceedings as the referring court considers proper and necessary in the particular circumstances of the case. [~~(a) A referring court may adopt, modify, correct, reject, reverse, or recommit for further information a master's report.~~

[~~(b) If the master recommends a judgment, the court may approve the recommendation and hear further evidence before rendering a judgment.~~]

Sec. 54.012. APPEAL TO REFERRING COURT [~~HEARING BEFORE JUDGE~~]. (a) Any party is entitled to a hearing by the judge of the referring court, if within three days, computed in the manner provided by Rule 4 of the Texas Rules of Civil Procedure, after the master gives the notice required in Subsection (b) of Section 54.010, an appeal of the master's report is filed with the referring court.

(b) The first day of the appeal time to the referring court begins on the day after the day on which the master gives the notice required in Subsection (b) of Section 54.010.

(c) The notice required under Subsection (b) of Section 54.010 may be given in open court or may be given by certified mail, return receipt requested. If the notice is given by certified mail, return receipt requested, the master shall certify the date of mailing and the notice is considered to have been given on the third day after the date of the mailing.

(d) All appeals to the referring court shall be in writing specifying the findings and conclusions of the master that are objected to and the appeal shall be limited to those findings and conclusions.

(e) On appeal to the referring court, the parties may present witnesses as in a hearing de novo on the issues raised in the appeal.

(f) Notice of any appeal to the referring court shall be given to opposing counsel pursuant to Rule 72 of the Texas Rules of Civil Procedure.

(g) If an appeal to the referring court is filed by a party, any other party may file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(h) The referring court, after notice to the parties, shall hold a hearing on all appeals not later than the 30th day after the date on which the initial appeal was filed with the referring court.

(i) Prior to any hearing before a master, the parties may waive the right of appeal to the referring court in writing or on the record.

(j) Failure to appeal to the referring court, by waiver or otherwise, a master's report that is approved by the referring court does not deprive any party of the right to appeal to or request other relief from a court of appeals or the supreme court. The date of the signing of an order or judgment by the referring court is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court. [~~(a) After receiving notice of the master's findings, any principal or a minor or the minor's parent, guardian, or custodian is entitled to a hearing before the judge of the referring court.~~

[~~(b) Notice of the right to a hearing before the judge may be given at the hearing before the magistrate or otherwise as the referring court directs.~~

[~~(c) A request for a hearing must be filed with the referring court not later than the third day after the date notice of the master's findings is received by the principal, minor, parent, guardian, or custodian.~~

[~~(d) The court may allow the hearing at any time.~~]

Sec. 54.013. DECREE OR ORDER OF COURT. If an appeal to the referring court [~~a hearing before the judge~~] is not filed [~~requested~~] or the right to an appeal to the referring court [~~a hearing~~] is waived, the findings and recommendations of the master become the decree or order of the referring court only on the referring court's signing an order or decree conforming to the master's report [~~on adoption by an order of the judge~~].

Sec. 54.014. JURY TRIAL DEMANDED. If a jury trial is demanded and a jury fee paid in a trial on the merits [~~proceeding~~], the master shall refer any matters requiring a jury [~~the case~~] back to the referring court for a full trial [~~hearing~~] before the referring court and jury. [~~The hearing is subject to the usual rules of the court.~~]

Sec. 54.015. EFFECT OF MASTER'S REPORT PENDING APPEAL. Pending appeal of the master's report to the referring court, the decisions and recommendations of the master are in full force and effect and are enforceable as an order of the referring court, except for orders providing for incarceration or for the appointment of a receiver.

Sec. 54.016. INAPPLICABILITY OF THIS SUBCHAPTER TO MASTERS APPOINTED PURSUANT TO RULE 171, TEXAS RULES OF CIVIL PROCEDURE. Masters appointed by the referring court pursuant to Rule 171 of the Texas Rules of Civil Procedure have all the duties and powers set forth in the order of appointment and are not governed by this subchapter.

Sec. 54.017. IMMUNITY. A master appointed under this subchapter has the judicial immunity of a district judge. All existing immunity granted masters by law, express or implied, continues in full force and effect.

Sec. 54.018. COURT REPORTER. A court reporter is not required during a hearing held by a master appointed under this subchapter. A party, the master, or the referring court may provide for a reporter during the hearing. The record may be preserved by any other means approved by the master. The referring court or master may tax the expense of preserving the record as costs.

SECTION 3.03. Chapter 54, Government Code, is amended by adding a new Subchapter F to read as follows:

SUBCHAPTER F. JUVENILE LAW MASTERS IN HARRIS COUNTY

Sec. 54.501. APPOINTMENT. (a) A majority of the judges of the courts that are designated as juvenile courts in Harris County may determine that one or more full-time or part-time masters are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of masters needed.

(c) Subject to the determination of need and the approval of the commissioners court of Harris County, each judge may appoint one or more masters to serve the judge's court.

(d) Judges may act together to appoint a master to serve their courts.

Sec. 54.502. QUALIFICATIONS. A master must:

(1) be a citizen and resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Sec. 54.503. ORDER OF APPOINTMENT. The order appointing a master must be entered in the minutes of each court making the order and state:

(1) the master's name and state bar identification number;

(2) the name of each court the master will serve; and

(3) the date the master's service is to begin.

Sec. 54.504. COMPENSATION. The commissioners court shall set the compensation for masters and determine the total amount the county will pay as compensation for masters.

Sec. 54.505. JUDICIAL IMMUNITY. A master appointed under this Act has the same judicial immunity as a district judge.

Sec. 54.506. TERMINATION OF EMPLOYMENT. (a) A master who serves a single court serves at the will of the judge of that court.

(b) The employment of a master who serves two courts may be terminated by either of the judges of those courts.

(c) The employment of a master who serves more than two courts may be terminated by a majority of the judges of those courts.

(d) To terminate a master's employment, the appropriate judges must sign a written order of termination. The order must state:

(1) the master's name and state bar identification number;

(2) each court ordering termination; and

(3) the date the master's employment ends.

Sec. 54.507. WITHDRAWAL OF APPOINTMENT FOR A PARTICULAR COURT. The judge of a court for which a master has been appointed may withdraw the master's appointment to that court by written order. The order must state:

(1) the master's name and state bar identification number;

(2) the name of the court ordering the withdrawal; and

(3) the date the master's services end as to that court.

Sec. 54.508. CASES THAT MAY BE REFERRED. A judge may refer to a master any civil case or portion of a civil case brought:

(1) under Title 1, 2, 3, or 4, Family Code;

(2) in connection with Rule 308-A, Texas Rules of Civil Procedure; or

(3) in connection with Chapter 46 or 76, Human Resources Code.

Sec. 54.509. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Sec. 54.510. POWERS. (a) An order of referral may limit the use or power of a master.

(b) Unless limited by published local rule, by written order, or by an order of referral, a master may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(c) A master may administer oaths.

Sec. 54.511. EFFECT ON TEMPORARY RESTRAINING ORDER. (a) The referral of a case or a portion of a case to a master does not affect a party's right to have a court grant or extend a temporary restraining order and does not prevent the expiration of a temporary restraining order.

(b) Until a judge signs an order concerning the findings and recommendations of a master, the findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of that order.

Sec. 54.512. JURY. (a) Except as provided by Subsection (b), if a jury trial is demanded in a case referred to a master, the master shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of a master to handle pretrial matters referred to the master.

Sec. 54.513. COURT REPORTER. (a) A court reporter need not be provided during a hearing conducted by a master.

(b) Notwithstanding Subsection (a), a referring judge may require a reporter at any hearing.

Sec. 54.514. FAILURE TO COMPLY WITH SUMMONS OR ORDER. If an attorney, party, witness, or any other person fails to comply with a summons or order, the master may certify in writing that failure to the referring court for appropriate action.

Sec. 54.515. WITNESSES. (a) A witness appearing before a master is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.514 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Sec. 54.516. RETURN TO REFERRING COURT; FINDINGS. After a hearing is concluded, the master shall send to the referring judge all papers relating to the case and the written findings of the master.

Sec. 54.517. COURT ACTION ON REPORT. (a) After the court receives the master's report, the court may adopt, modify, correct, reject, or reverse the master's report or may recommit it for further information, as the court determines to be proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Sec. 54.518. DECREE OR JUDGMENT. The finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Sec. 54.519. MASTERS IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Sec. 54.520. REFEREES. (a) A master appointed under this subchapter may serve as a referee as provided by Sections 51.04(g) and 54.10, Family Code.

(b) A referee appointed under Section 51.04(g), Family Code, may be appointed to serve as a master under this Act.

SECTION 3.04. Chapter 25, Alcoholic Beverage Code, as amended, is amended by adding Section 25.051 to read as follows:

Sec. 25.051. MASTERS IN CERTAIN COUNTIES. (a) The county judge of a county with a population of 750,000 or more may appoint a master to hear a permit application under this chapter in the manner provided by Section 61.311 of this code for the appointment of a master to hear a license application.

(b) A master shall give notice of a hearing before the master to each person entitled to notice of a hearing before a judge under Section 25.05 of this code.

SECTION 3.05. Chapter 26, Alcoholic Beverage Code, as amended, is amended by adding Section 26.06 to read as follows:

Sec. 26.06. MASTERS IN CERTAIN COUNTIES. The county judge of a county with a population of 750,000 or more may appoint a master to hear a permit application under this chapter in the manner provided by Section 61.311 of this code for the appointment of a master to hear a license application.

SECTION 3.06. Subchapter B, Chapter 61, Alcoholic Beverage Code, as amended, is amended by adding Section 61.311 to read as follows:

Sec. 61.311. MASTERS IN CERTAIN COUNTIES. (a) The county judge of a county with a population of 750,000 or more may appoint a master to hear an application under this chapter.

(b) A master must be a citizen of this state and must be well informed in the law of this state.

(c) A master is entitled to a salary set by the county judge and approved by the commissioners court of the county in which the master serves.

(d) An order referring a case to a master may:

(1) specify or limit the powers of the master and direct the master to report only on particular issues, do particular acts, or receive and report only on evidence;

(2) set the time and place for beginning and closing a hearing; and

(3) set a date for filing a report.

(e) Except as limited or specified by an order referring a case, a master may:

(1) swear witnesses for hearings;

(2) examine witnesses;

(3) hear evidence;

(4) rule on admissibility of evidence;

(5) make findings of fact on evidence;

(6) recommend an order to be entered by the referring judge; and

(7) do any other act necessary and proper for the efficient performance of the master's duties under the order.

(f) At the conclusion of a hearing, a master shall transmit to the referring judge any papers relating to the case, including the master's findings.

(g) A referring judge may adopt, modify, correct, reject, reverse, or recommit for further information a master's report.

(h) An applicant is entitled to a hearing before the judge, and the master shall give each applicant written notice of that right and a copy of the master's findings. A request for a hearing before the judge must be filed with the judge not later than the third day after the date notice of the master's findings is received by the applicant. The right to a hearing before the judge may be waived.

(i) A master may be an employee of the alcoholic beverage commission designated by the administrator. The commission is entitled to receive reimbursement for its expenses in connection with furnishing a master under this subsection. If the commission and the commissioners court of the county in which the master serves do not have a contract providing for reimbursement of expenses, the county judge may not appoint a master to hear an application under this subsection.

SECTION 3.07. Subsection (a), Section 61.32, Alcoholic Beverage Code, is amended to read as follows:

(a) If [~~On hearing an application, if~~] the county judge finds that all facts stated in the application are true and no legal ground to refuse a license exists, he shall enter an order certifying those findings and give the applicant a copy of the order. If the county judge finds otherwise, he shall enter an order accordingly.

SECTION 3.08. The following are repealed:

(1) Subchapter B, Chapter 54, Government Code;

(2) Section 1, Chapter 851, Acts of the 69th Legislature, Regular Session, 1985 (former Article 1918b, Vernon's Texas Civil Statutes); and

(3) Chapter 667, Acts of the 69th Legislature, Regular Session, 1985 (Article 1918f-1, Vernon's Texas Civil Statutes).

SECTION 3.09. A person who was, before the effective date of this Act, appointed a master under a law repealed by Section 3.08 of this Act is reappointed as a master in his position for the court or courts he serves.

SECTION 3.10. Sections 3.04, 3.05, 3.06, and 3.07 of this Act take effect September 1, 1987, and apply only to an application for an alcoholic beverage license or permit that is filed with a county judge on or after that date.

ARTICLE IV. MISCELLANEOUS PROVISIONS

SECTION 4.01. Except as otherwise provided by this Act, this Act takes effect immediately.

SECTION 4.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 784 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **H.B. 784**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Lyon, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House reconsidered the vote by which the House finally passed **S.B. 1081** by a non-record vote. The vote was reconsidered on House amendment number three by a non-record vote. House amendment number three was tabled by a non-record vote. The House finally passed **S.B. 1081** as amended by a non-record vote.

The House reconsidered the vote by which the House refused to concur in Senate amendments to **H.B. 2056**, and discharged the conferees. The House then concurred in Senate amendments to **H.B. 2056** by a non-record vote.

The House reconsidered the vote by which the House refused to concur in Senate amendments to **H.B. 2571** and discharged the conferees. The House then concurred in Senate amendments to **H.B. 2571** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 102 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 102**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

(President Pro Tempore Parker in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1869 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **H.B. 1869**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Brooks, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2235

Senator Anderson submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2235** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ANDERSON	HINOJOSA
BARRIENTOS	CAVAZOS
BROOKS	CARRIKER
SANTIESTEBAN	H. CUELLAR
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE ON HOUSE BILL 1300

Senator Caperton called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1300** and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **H.B. 1300** before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Caperton, Chairman; Farabee, Glasgow, McFarland and Washington.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 812 ADOPTED

Senator Brown called from the President's table the Conference Committee Report on **H.B. 812**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Brown, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 538 ADOPTED

Senator Sims called from the President's table the Conference Committee Report on **H.B. 538**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Sims, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2328 ADOPTED

Senator Armbrister called from the President's table the Conference Committee Report on **H.B. 2328**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON SENATE BILL 1170 DISCHARGED

On motion of Senator Krier and by unanimous consent, the Conference Committee on **S.B. 1170** was discharged.

SENATE BILL 1170 WITH HOUSE AMENDMENTS

Senator Krier moved that the Senate concur in the House amendments to **S.B. 1170**.

The motion prevailed viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1889

Senator Johnson submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1889** have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass.

JOHNSON	ARNOLD
BARRIENTOS	H. CUELLAR
McFARLAND	AIKIN
MONTFORD	UHER
SIMS	BLAIR
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2243 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 2243**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 28, 1987.)

On motion of Senator Edwards, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2611 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **H.B. 2611**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Lyon, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1514 ADOPTED

Senator Brown called from the President's table the Conference Committee Report on **H.B. 1514**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Brown, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Green.

CONFERENCE COMMITTEE ON HOUSE BILL 2571 DISCHARGED

On motion of Senator Armbrister and by unanimous consent, the Conference Committee on **H.B. 2571** was discharged.

CONFERENCE COMMITTEE ON HOUSE BILL 2056 DISCHARGED

On motion of Senator Green and by unanimous consent, the Conference Committee on **H.B. 2056** was discharged.

SENATE RESOLUTION 711

Senator Farabee offered the following resolution:

S.R. 711, Suspending Senate rules to permit the Conference Committee on **H.B. 373** to consider certain matters.

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2119 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **H.B. 2119**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 687 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **S.B. 687**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 573 RECOMMITTED

Senator Tejeda called from the President's table the Conference Committee Report on **H.B. 573**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Tejeda and by unanimous consent, the Conference Committee Report was recommitted to the Conference Committee.

CONFERENCE COMMITTEE REPORT HOUSE BILL 23

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 23** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	ROBERTS
HENDERSON	PARKER
GLASGOW	HURY
	MORALES
On the part of the Senate	On the part of the House

The Conference Committee Report was again read and was again filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1407 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **S.B. 1407**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator McFarland, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE JOINT RESOLUTION 12 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **S.J.R. 12**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 31, 1987.)

On motion of Senator McFarland, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Nays: Jones.

Present-not voting: Washington.

VOTE ON ADOPTION OF CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1652 RECONSIDERED

On motion of Senator Glasgow and by unanimous consent, the vote by which the Conference Committee Report on **H.B. 1652** was adopted was reconsidered.

Question - Shall the Conference Committee Report on **H.B. 1652** be adopted?

The Conference Committee Report on **H.B. 1652** was again adopted by the following vote: Yeas 29, Nays 2.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Jones, Washington.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Reports on the following bills by a non-record vote:

H.B. 791
H.B. 1387
S.B. 417

S.B. 1131
S.B. 696

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1889 ADOPTED

Senator Johnson called from the President's table the Conference Committee Report on **H.B. 1889**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Johnson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2235

Senator Anderson called from the President's table the Conference Committee Report on **H.B. 2235**. (The Conference Committee Report having been filed with the Senate and read today.)

Senator Anderson moved adoption of the Conference Committee Report.

On motion of Senator Anderson and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

(President in Chair)

CONFERENCE COMMITTEE REPORT ON SENATE BILL 229 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.B. 229**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Montford, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2235 ADOPTED

Senator Anderson called from the President's table the Conference Committee Report on **H.B. 2235**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Anderson, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1371

On motion of Senator Brooks and by unanimous consent, the following corrected copy of the Conference Committee Report on **S.B. 1371** was filed.

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1371** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROOKS	PIERCE
ARMBRISTER	McKINNEY
GLASGOW	DANBURG
ANDERSON	GLOSSBRENNER
JOHNSON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to minimum standards for coverage under certain accident and sickness insurance policies and certificates of insurance and for licensing of certain health agencies.

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

SECTION 1. Subsection (F), Section 1, Chapter 397, Acts of the 54th Legislature, 1955, as amended (Article 3.70-1, Vernon's Texas Insurance Code), is amended by adding Subdivision (5) to read as follows:

(5) The Board shall adopt rules and regulations establishing minimum standards for benefits for long-term care coverage under individual and group policies and certificates of accident and sickness insurance delivered or issued for delivery in this state including group coverages delivered or issued for delivery by companies subject to Chapter 20 of this code and under policies and evidences of coverages delivered or issued for delivery in this state by health maintenance organizations under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

SECTION 2. Section 8, Chapter 397, Acts of the 54th Legislature, 1955, as amended (Article 3.70-8, Vernon's Texas Insurance Code), is amended to read as follows:

Sec. 8. NON-APPLICATION TO CERTAIN POLICIES. Nothing in this Act shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance except as provided in [~~Section 2,~~] Subsections (B) and (C) of Section 2 and Subdivision (5) of Subsection (F) of Section 1; or (4) life insurance endowment or annuity contracts or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value, special benefit, or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract, or (5) any policy written under the provisions of Senate Bill No. 208, Acts of the 51st Legislature, 1949.

SECTION 3. Section 9, Texas Health Maintenance Organization Act, as amended (Article 20A.09, Vernon's Texas Insurance Code), is amended by adding Subsection (h) to read as follows:

(h) Article 3.70-1(F)(5) of the Insurance Code applies to health maintenance organizations other than those health maintenance organizations offering only a single health care service plan.

SECTION 4. Section 7, Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) Department rules must require, at a minimum, that before the department may approve an application for a license, other than a renewal or branch office license, the applicant must provide the following information to the department:

(1) documentation establishing that, at a minimum, the applicant has sufficient financial resources to provide the services required by this Act and by the department during the term of the license;

(2) a list of the management personnel for the proposed home health agency, a description of their qualifications, and a plan to provide continuing training and education for the personnel during the term of the license;

(3) documentation establishing that the applicant is capable of meeting the minimum standards relating to quality of care established by the department; and

(4) a plan that provides for the orderly transfer of care of the applicant's clients if the applicant is unable to maintain or deliver home health services under the license.

SECTION 5. Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CORPORATE APPLICANTS. (a) If an applicant for a license, other than a renewal or branch office license, proposes to operate a home health agency through a partnership, corporation, or other business entity that includes members that are not individuals or through a corporation in which any of the stock is owned by another corporation, the applicant must:

(1) establish a corporation under Texas law if the applicant is not a Texas corporation;

(2) allow the department to review the competence and financial resources of any stockholder who holds at least 10 percent of the stock of the Texas corporation;

(3) allow the department to review the history and financial resources of each parent or health-related subsidiary of the Texas corporation;

(4) grant the Texas corporation full authority to operate the home health agency and any subsequent home health agencies for which the applicant may seek licensure under this Act;

(5) disclose to the department any information the department needs to conduct the reviews required by this subsection; and

(6) establish a registered agent as required by Article 2.09, Texas Business Corporation Act, to receive service of process in this state.

(b) The department may not approve the application unless the department is satisfied that approval is justified based on the competence, history, and financial resources of the Texas corporation, each parent or health-related subsidiary of the proposed Texas corporation, and the directors, officers, controlling persons, and principal stockholders of the Texas corporation and any parent or health-related subsidiary of the Texas corporation.

(c) The department may adopt rules implementing this section.

(d) Information received by the department that relates to the competence and financial resources of the applicant is confidential and may not be disclosed to the public.

SECTION 6. Section 8, Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. LICENSE FEES. (a) Within the limits prescribed by Subsections (b) and (c) of this section, the [~~The~~] board shall set the home health service license fee in an amount that is reasonable to meet the costs of administering this Act.

(b) The board shall set the fee for an initial Class A or Class B license at not less than $600 nor more than $1,200.

(c) The board shall set the fee for renewal of a branch office license at not less than $200 nor more than $300.

(d) [~~; but the fee may not be less than $300 nor more than $750 for a Class A or Class B license, nor less than $100 nor more than $300 for a branch office license.~~] A fee charged under this section is nonrefundable [~~except as provided by Subsection (b) of this section~~].

SECTION 7. Section 2, Chapter 397, Acts of the 54th Legislature, 1955, as amended (Article 3.70-2, Vernon's Texas Insurance Code), is amended by adding Subsection (H) to read as follows:

(H) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast. Each individual policy or group policy of accident and sickness insurance that covers a female 35 years old or older and that is delivered, issued for delivery, or renewed in this state, except for policies that provide coverage for specified disease or other limited benefit coverage but including policies issued by companies subject to Chapter 20, Insurance Code, must include coverage for an annual screening by low-dose mammography for the presence of occult breast cancer within the provisions of the policy that is not less favorable than for other radiological examinations and subject to the same dollar limits, deductibles, and co-insurance factors.

SECTION 8. Article 3.74, Insurance Code, is amended by adding Section 3A to read as follows:

Sec. 3A. COVERAGE FOR MAMMOGRAPHY. (a) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast.

(b) Each Medicare supplement policy delivered, issued for delivery, or renewed in this state must include coverage for an annual screening by low-dose mammography for the presence of occult breast cancer within the provisions of the policy that is not less favorable than for other radiological examinations and subject to the same dollar limits, deductibles, and co-insurance factors.

SECTION 9. This Act takes effect September 1, 1987, and applies to all policies and certificates delivered, issued for delivery, or renewed in this state on or after January 1, 1988. Policies and certificates delivered, issued for delivery, or renewed in this state before September 1, 1987, are governed by the law as it existed at the time the policies and certificates were delivered, issued for delivery, or renewed, and those delivered, issued for delivery, or renewed in this state after August 31, 1987, and before January 1, 1988, are governed by the law in effect immediately before this Act took effect and those laws are continued in effect for those purposes.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1371 ADOPTED

On motion of Senator Brooks, the Conference Committee Report on **S.B. 1371** was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT SENATE BILL 257

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 257** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

FARABEE	GIBSON
BROOKS	C. EVANS
EDWARDS	GLOSSBRENNER
McFARLAND	GUERRERO
ZAFFIRINI	MADLA
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the continuation, composition, powers, and duties of the Texas Department of Mental Health and Mental Retardation and to the provision of mental health and mental retardation and related services; providing a penalty.

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

ARTICLE 1

SECTION 1.01. Section 1.01, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.01. PURPOSE AND POLICY. (a) It is the purpose of this Act to provide for [~~the conservation and restoration of mental health among the people of this state, and toward this end to provide for~~] the effective administration and coordination of mental health services at the state and local levels[~~, and to provide, coordinate, develop, and improve services for the mentally retarded persons of this state to the end that they will be afforded the opportunity to develop their respective mental capacities to the fullest practicable extent and to live as useful and productive lives as possible~~].

(b) It is the goal of the state to provide a comprehensive range of services for mentally ill and mentally retarded persons who are in need of publicly supported care, treatment, or habilitation. In providing those services, efforts will be made to coordinate services and programs with the services and programs provided by other governmental entities to minimize duplication and to share with other governmental entities in financing those services and programs [~~The legislature declares that the public policy of this state is to encourage local agencies and private~~

~~organizations to assume responsibility for the effective administration of mental health and mental retardation services, with the assistance, cooperation, and support of the Texas Department of Mental Health and Mental Retardation created by this Act~~].

(c) Recognizing that there exists a variety of alternatives for serving the mentally disabled, it is the purpose of this Act to provide for a continuum of services. The continuum of services shall include facilities operated by the Texas Department of Mental Health and Mental Retardation, as well as community services provided by the department and other entities through contracts with the department. It [~~and it~~] is the policy of this state that when appropriate and feasible, mentally ill and mentally retarded persons shall be afforded treatment in their own communities.

(d) The public policy of this state is that mental health and mental retardation services be the responsibility of local agencies and organizations to the greatest extent possible. The Texas Department of Mental Health and Mental Retardation will assist the local agencies and organizations by coordinating the implementation of a statewide system of services. The department will provide state-administered mental health and mental retardation services and provide technical assistance for and regulation of the programs that receive funding through contracts with the department.

(e) It is also the public policy of this state to offer services first to those persons who are most in need. Therefore, funds appropriated by the legislature for mental health and mental retardation services may be expended only to provide services to the priority populations identified in the department's long-range plan.

SECTION 1.02. (a) Subdivision (7), Section 1.02, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201, Vernon's Texas Civil Statutes), is amended to read as follows:

(7) "Mental retardation services" includes all services concerned with research, prevention, and the detection of mental retardation and all services related to the education, training, habilitation [~~rehabilitation~~], care, treatment, supervision, and control of mentally retarded persons, except the education of school-age individuals that the public educational system is authorized to provide.

(b) Subdivision (7), Section 1.02, Texas Mental Health and Mental Retardation Act (Article 5547-201, Vernon's Texas Civil Statutes), as amended by this section, takes effect September 1, 1988.

SECTION 1.03. Section 1.02, Texas Mental Health and Mental Retardation Act (Article 5547-201, Vernon's Texas Civil Statutes), is amended by amending Subdivision (10) and by adding Subdivisions (11) through (16) to read as follows:

(10) "Medical Director" means the Medical Director of the Texas Department of Mental Health and Mental Retardation, [~~"Director of Operations" means the director~~] appointed under Section 2.07 of this Act.

(11) "Community center" means a center established under Article 3 of this Act.

(12) "ICF-MR" means the medical assistance program serving mentally retarded persons receiving care in intermediate care facilities.

(13) "Local mental health authority" means a local service provider selected by the department to plan, facilitate, coordinate, or provide services to mentally ill persons in a local service area.

(14) "Local mental retardation authority" means a local service provider selected by the department to plan, facilitate, coordinate, or provide services to mentally retarded persons in a local service area.

(15) "Priority client population" means those groups of mentally ill or mentally retarded persons identified by the department as being most in need of mental health or mental retardation services.

(16) "State school" means a state-supported and structured residential facility operated by the department to provide to clients with mental retardation a variety of services, including medical treatment, specialized therapy, and training in the acquisition of personal, social, and vocational skills.

SECTION 1.04. Sections 2.01, 2.01A, and 2.01B, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2.01. COMPOSITION OF DEPARTMENT. The Texas Department of Mental Health and Mental Retardation shall consist of a Texas Board of Mental Health and Mental Retardation, a Commissioner of Mental Health and Mental Retardation, a Medical Director [~~Director of Operations, a Deputy Commissioner for Management and Support~~], a Deputy Commissioner for Mental Health Services, a Deputy Commissioner for Mental Retardation Services, [~~an Executive Deputy Commissioner,~~] a staff under the direction of the Commissioner, Medical Director [~~the Director of Operations~~], and the Deputy Commissioners, and the following facilities and institutions together with such additional facilities and institutions as may hereafter by law be made a part of the Department:

(1) the Central Office of the Department;
(2) the Austin State Hospital;
(3) the San Antonio State Hospital;
(4) the Terrell State Hospital;
(5) the Wichita Falls State Hospital;
(6) the Rusk State Hospital;
(7) the Big Spring State Hospital;
(8) the Kerrville State Hospital;
(9) the Vernon State Hospital;
(10) the Austin State School;
(11) the Travis State School;
(12) the Mexia State School;
(13) the Abilene State School;
(14) the Lufkin State School;
(15) the Richmond State School;
(16) the Denton State School;
(17) the Corpus Christi State School;
(18) the Lubbock State School;
(19) the Brenham State School;
(20) the Fort Worth State School;
(21) the San Antonio State School;
(22) the San Angelo State School;
(23) the Harris County Psychiatric Center [~~Texas Research Institute of Mental Sciences~~];
(24) the Beaumont State Center;
(25) the Amarillo State Center;
(26) the El Paso State Center;
(27) the Rio Grande State Center;
(28) the Laredo State Center;
(29) the Waco Center for Youth;
(30) the Leander Rehabilitation Center.

Sec. 2.01A. EMPLOYEES [~~AND SALARIES~~]. (a) The Commissioner shall develop an intraagency career ladder program one part of which shall require the intraagency posting concurrently with any public posting of all nonentry level positions [~~number of employees and the salaries shall be as fixed in the general appropriations bill~~].

(b) The Commissioner or the Commissioner's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal

employment opportunity by which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement shall include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the Department's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the Department's work force of all persons of whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to address appropriately areas of significant underutilization in the Department's work force of all persons of whom federal or state guidelines encourage a more equitable balance.

(c) The policy statement required by Subsection (b) of this section shall be filed with the Governor's office not later than November 1, 1987, cover an annual period, and be updated at least annually. The Governor's office shall develop a biennial report to the Legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the Legislature.

(d) Not later than November 1, 1988, the Department shall prepare and submit to the Board a report documenting the impact of its efforts to reduce any underutilization in the Department's work force of all persons of whom federal or state guidelines encourage a more equitable balance. The report shall also include:

(1) information on the number of complaints of employment discrimination filed against the Department with the Texas Commission on Human Rights in fiscal years 1986, 1987, and 1988;

(2) the nature of the complaints;

(3) the facilities or offices involved in the complaints; and

(4) the current status of the complaints.

(e) Not later than January 1, 1989, the Board shall submit copies of the report required in Subsection (d) of this section to the Texas Commission on Human Rights and to the appropriate committees of the House and Senate.

(f) The Board shall adopt policies that clearly define the respective responsibilities of the Board and the staff of the Department.

(g) The Department shall inform its members and employees as often as is necessary of:

(1) the qualifications for office or employment prescribed by this Act; and

(2) their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(h) The Commissioner shall develop a system under which the job performance of Department employees is evaluated annually. All merit pay for Department employees must be based on the system established under this subsection.

Sec. 2.01B. APPLICATION OF SUNSET ACT. The Texas Department of Mental Health and Mental Retardation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the Department [~~department~~] is abolished and this article expires September 1, 1999 [~~1987~~].

SECTION 1.05. (a) Sections 2.02 and 2.03, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2.02. MEMBERS OF BOARD. (a) The Board consists of nine members appointed by the Governor with the advice and consent of the Senate.

(b) The members must be representatives of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) owns or controls directly or indirectly more than a 10 percent interest in a business entity or other organization regulated by the Department or receiving funds from the Department; or

(2) uses or receives a substantial amount of tangible goods, services, or funds from the Department, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses, or other than as a parent or guardian of a client or patient receiving services from the Department.

(c) Appointments to the Board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

Sec. 2.03. TERMS OF OFFICE. [~~(a)~~] Each member holds office for a term of six years and until his successor is appointed and qualified.

[~~(b) Three of the first nine members appointed by the Governor shall serve terms expiring on January 31, 1967; three shall serve terms expiring on January 31, 1969; and three shall serve terms expiring on January 31, 1971.~~]

(b) A member of the Texas Board of Mental Health and Mental Retardation who is serving a term as a member on August 31, 1987, is not required to have, during that term or during any subsequent and consecutive term, the public membership qualifications required by Section 2.02, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), as amended by this section. The member is not subject to removal for the failure to have such a qualification.

SECTION 1.06. (a) Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Sections 2.02A and 2.03A to read as follows:

Sec. 2.02A. RESTRICTIONS ON BOARD MEMBERSHIP AND EMPLOYMENT. (a) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the Department, may not serve as a member of the Board or act as the general counsel to the Department.

(b) An officer, employee, or paid consultant of a trade association in the field of mental health or mental retardation may not be a member of the Board or an employee of the Department.

(c) A person who is the spouse of an officer, employee, or paid consultant of a trade association in the field of mental health or mental retardation may not be a member of the Board and may not be an employee of the Department, including an employee exempt from the state's classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For purposes of this section, a trade association is a nonprofit, cooperative, voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

Sec. 2.03A. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (b) of Section 2.02 of this Act for appointment to the Board;

(2) does not maintain during the member's service on the Board the qualifications required by Subsection (b) of Section 2.02 of this Act for appointment to the Board;

(3) violates a prohibition established by Section 2.02A of this Act;

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than one-half of the regularly scheduled Board meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the Board.

(b) The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

(c) If the Commissioner has knowledge that a potential ground for removal exists, the Commissioner shall notify the Chairman of the Board of the ground. The Chairman of the Board shall then notify the Governor that a potential ground for removal exists.

(b) A member of the Texas Board of Mental Health and Mental Retardation who is serving a term as a member on August 31, 1987, is not required to have, during that term or any subsequent and consecutive term, the membership qualifications required by Section 2.02A, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), as added by this section. The member is not subject to removal for the failure to have such a qualification.

SECTION 1.07. Section 2.05, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) The Board shall adopt policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the Board.

SECTION 1.08. Section 2.07, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.07. COMMISSIONER AND MEDICAL DIRECTOR [~~DIRECTOR OF OPERATIONS~~]. (a) The Board shall appoint a qualified person to serve as Commissioner.

(b) The Commissioner shall, subject to Board approval, appoint a qualified person to serve as Medical Director [~~of Operations~~].

(c) To be qualified for the office of Commissioner, a person must have professional training and experience in the administration or management of comprehensive health care or human service operations and must have demonstrated proven administrative and management ability preferably in the health care area [~~be a physician licensed to practice in this state and must have proven administrative experience and ability~~].

(d) To be qualified for appointment as Medical Director [~~of Operations~~], a person must be a physician licensed to practice in this state and must have proven administrative experience and ability in comprehensive health care or human service operations [~~have professional training and experience and demonstrate proven administrative and management ability, preferably in the health care area~~].

(e) The Commissioner is responsible for the administration of the Department and for[~~. Except for the administration of the medical and other programmatic functions, the Director of Operations is responsible for assisting the Commissioner in~~] assuring the effectual and efficient administration of the Department. The Medical Director reports to the Commissioner and is responsible for the quality and appropriateness of services by developing policies relating to clinical services regulated by the Department and those delivered in Department facilities or under contract to the Department and directing the standards and quality assurance program, a utilization review program, a physician recruitment and retention program, and a peer review program for physicians and other clinical staff employed by or under contract to the Department.

(f) The Commissioner holds office at the pleasure of the Board.

(g) The Commissioner is designated as the state mental health authority and the state mental retardation authority.

SECTION 1.09. Subsection (b), Section 2.08, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) To be qualified for appointment as Deputy Commissioner for Mental Health Services, a person must be a physician licensed to practice in this state, must have completed a three-year residency in psychiatry approved by the American Board of Psychiatry and Neurology, and must have proven administrative abilities in mental health services [~~have at least three years of specialized training in psychiatry~~]. This subsection applies to any Deputy Commissioner for Mental Health Services appointed after September 1, 1987.

SECTION 1.10. Subsection (a), Section 2.08A, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Department [~~board~~] shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the Department [~~board~~] during the preceding fiscal year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act.

SECTION 1.11. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Sections 2.08B and 2.09 to read as follows:

Sec. 2.08B. AUDITS. (a) The State Auditor shall audit the financial transactions of the Department at least once during each biennium.

(b) The director of the internal audit unit shall report directly to the Commissioner.

(c) Each audit report shall be submitted directly to the Board.

Sec. 2.09. PUBLIC INFORMATION AND COMPLAINTS. (a) The Department shall prepare information of public interest describing the functions of the Department and describing the procedures by which complaints are filed with and resolved by the Department. The Department shall make the information available to the general public and appropriate state agencies.

(b) The Board by rule shall establish methods by which consumers or service recipients are notified of the name, mailing address, and telephone number of the Department for the purpose of directing complaints to the Department. The Board may provide for the notification through inclusion of the information:

(1) on each registration form, application, or written contract for services of an entity regulated under this Act or of an entity the creation of which is authorized by this Act;

(2) on a sign that is prominently displayed in the place of business of each entity regulated under this Act or of each entity the creation of which is authorized by this Act; or

(3) in a bill for service provided by an entity regulated under this Act or by an entity the creation of which is authorized by this Act.

(c) If a written complaint is filed with the Department that relates to an entity regulated by the Department, the Department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the complainant and the entity regulated by the Department of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) The Department shall keep an information file about each complaint filed with the Department that relates to an entity regulated by the Department.

SECTION 1.12. Subsections (c) and (d), Section 2.12, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The Commissioner shall, with the approval of the Board, appoint the head of each facility [~~or institution~~] that is administered by the Department. The person

appointed as head of a facility [~~or institution~~] serves at the pleasure of the Commissioner.

(d) The Commissioner shall establish, for key departmental personnel [~~who are subject to Board approval~~], qualifications which balance clinical and programmatic knowledge and management experience.

SECTION 1.13. Section 2.24, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.24. APPLICATION OF HEALTH PLANNING ACT [~~CERTIFICATE OF NEED REQUIREMENT~~]. The acquisition, development, construction, modification, and expansion of facilities, provision of additional services, and expansion of existing services under Articles 2, 3, and 4 of this Act are subject to the applicable provisions of the Texas Health Planning and Development Act (Article 4418h, Vernon's Texas Civil Statutes)[~~, *including requirements for a certificate of need or an exemption certificate*~~].

ARTICLE 2

SECTION 2.01. Section 2.10, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.10. ADVISORY COMMITTEES. The Board shall appoint a medical advisory committee[~~, a citizens' planning advisory committee,~~] and any other advisory committees it deems necessary to assist in the effective administration of the mental health and mental retardation programs of the Department. [~~The citizens' planning advisory committee shall advise the Department on all stages of the development and implementation of the Department's long-range strategic plan.~~] The Department may reimburse [pay] the members of any such committees [~~and the members of any advisory committees, the creation of which is approved by the Board,~~] for travel costs incurred in connection with the exercise of their duties for the Department at rates authorized to be paid to state officers and employees under the provisions of the General Appropriations Act.

SECTION 2.02. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.10A to read as follows:

Sec. 2.10A. CITIZENS' PLANNING ADVISORY COMMITTEE. (a) The Board shall appoint a nine-member citizens' planning advisory committee.

(b) The Board shall appoint:

(1) three persons who have demonstrated an interest in and knowledge of the Department system and the legal, political, and economic environment in which the Department operates;

(2) three persons who have expertise in the development and implementation of long-range plans; and

(3) three members of the general public.

(c) In addition to the requirements of Subsection (b) of this section, at least one member must be a consumer of services for the mentally ill or a family member of a consumer of services for the mentally ill, and at least one member must be a consumer of services for the mentally retarded or a family member of a consumer of services for the mentally retarded.

(d) The committee shall:

(1) advise the Department on all stages of the development and implementation of the long-range plan required by Section 2.12B of this Act;

(2) review the development, implementation, and any necessary revisions of the long-range plan;

(3) review the Department's biennial budget request and assess the degree to which the request allows for implementation of the long-range plan; and

(4) advise the Board on:

(A) the appropriateness of the long-range plan;

(B) any identified problems related to the implementation of the plan;

(C) any necessary revisions to the plan; and

(D) the adequacy of the Department's budget request.

(e) The Board shall review the committee's reports in conjunction with information provided by the Department on the long-range plan or the biennial budget request.

(f) The Board shall allow the committee opportunities to appear before the Board as needed.

(g) Before a Board meeting relating to the development, implementation, or revision of the Department's long-range plan, the Department shall, in a timely manner, provide the committee with any information that will be presented to the Board.

(h) Before submitting the Department's biennial budget request to the Board for discussion or approval, the Department shall, in a timely manner, provide the committee with a copy of the budget request.

(i) The Department shall provide the committee with the staff support necessary to allow the committee to fulfill its duties.

(j) The committee shall provide copies of its reports to the Board, the Governor, Lieutenant Governor, Speaker of the House, and the appropriate legislative committees.

SECTION 2.03. Subsections (a) and (c), Section 2.12A, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Every two years, the [~~The~~] commissioner shall, consistent with the purposes and policies of this Act, determine for persons exhibiting the various forms of mental disability the types of services for the mentally disabled that can be most economically and effectively delivered at the community level and those mental health services that can be most economically and effectively delivered by the facilities of the Department [~~department~~]. This determination shall include an assessment of the limits, if any, that should be placed on the duration of services to be provided an individual either at the community level or at the departmental facility level. The Department shall also conduct a biennial review of the types of services provided by the Department and shall determine if services of comparable quality can be made available through community providers at a cost that is less than the cost to the Department to provide the services.

(c) The commissioner shall report [~~the results of~~] his findings [~~determination~~] to the legislature, the Legislative Budget Board, and the Governor's budget office in conjunction with the Department's [~~department's~~] biennial appropriations request.

SECTION 2.04. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.12C through 2.12E to read as follows:

Sec. 2.12C. PROPOSALS FOR EXTENDED CARE. (a) In this section, "extended care unit" means a residential unit in a departmental facility that contains chronically mentally ill patients who require 24-hour supervision, long-term care, maintenance, and limited programming.

(b) The Department shall actively solicit proposals from community providers to operate community residential programs that will provide at least the same services that are provided by an extended care unit. A proposal may be designed to serve all or part of the population of an extended care unit.

(c) The Department shall require each provider to offer adequate assurances of ability to provide the services, meet Department standards, and safeguard the safety and well-being of each patient.

(d) The Department may fund a proposal through a contract if:

(1) the provider agrees to provide at least the same services that are provided by an extended care unit for the population the provider proposes to serve;

(2) the provider agrees to provide those services at a cost that is equal to or less than the cost to the Department to provide the services;

(3) the provider agrees to meet the requirements prescribed by Subsection (c) of this section; and

(4) the provider, if it is not the local mental health authority, has signed a memorandum of agreement with the local authority outlining the responsibilities for continuity of care and monitoring.

(e) The appropriate local mental health authority shall monitor the services provided to a patient placed in a program funded under this section. The Department may monitor any service for which it contracts.

(f) The Department retains responsibility for the care of a patient in a program funded under this section. If a program funded under this section ends or does not provide the required services, the Department may terminate the contract. If the Department terminates a contract, the Department shall provide the services or find another program that will provide the services.

Sec. 2.12D. PROPOSALS FOR TRANSITIONAL CARE. (a) In this section, "transitional living unit" means a residential unit that is designed for the primary purpose of facilitating the return of hard-to-place chronically mentally ill psychiatric patients from acute care units to the community through an array of services appropriate for those patients.

(b) The Department shall actively solicit proposals from community providers to operate transitional living units that will provide at least the same services that the Department traditionally provided in facility-based transitional care units. A proposal may provide that the community provider operate the transitional living unit in a community setting or on the grounds of a departmental facility.

(c) The Department shall require each provider to offer adequate assurances of ability to provide the required services, meet Department standards, and safeguard the safety and well-being of each patient. The Department shall also require each provider, if it is not the local mental health authority, to sign a memorandum of agreement with the local authority outlining the responsibilities of the provider and the local authority for continuity of care and monitoring.

(d) The Department may contract with a community provider if the provider agrees to meet the requirements prescribed by Subsections (b) and (c) of this section and agrees to provide services at a cost that is equal to or less than the cost to the Department to provide the services.

(e) The appropriate local mental health authority shall monitor the services provided to a patient placed in a program funded under this section. The Department may monitor any service for which it contracts.

Sec. 2.12E. PROPOSALS FOR GERIATRIC CARE. (a) In this section, "elderly resident" means an individual residing in a departmental facility who is 65 years of age or older.

(b) At least every two years the Department shall solicit proposals from community providers to operate community residential programs for elderly residents.

(c) The Department shall require each provider to offer adequate assurances of ability to provide the required services, meet Department standards, and safeguard the safety and well-being of each resident. The Department shall also require each provider, if it is not the local mental health or mental retardation authority, to sign a memorandum of agreement with the local authority outlining the responsibilities for continuity of care and monitoring. The Department may

fund a proposal if the provider agrees to provide services for elderly residents at a cost that is equal to or less than the cost to the Department to provide the services.

(d) The appropriate local mental health or mental retardation authority shall monitor the services provided to a resident placed in a program funded under this section. The Department may monitor any service for which it contracts.

SECTION 2.05. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.13A to read as follows:

Sec. 2.13A. USE OF FUNDS FOR VOLUNTEER PROGRAMS IN COMMUNITY CENTERS. The Department may allocate any funds available and appropriated for the purpose of providing volunteer services to develop or expand volunteer programs in community centers. The Department shall develop formal policies that encourage the growth and development of volunteer services in community centers.

SECTION 2.06. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.17A to read as follows:

Sec. 2.17A. EMPLOYMENT OPPORTUNITIES FOR PATIENTS AND CLIENTS. (a) Each departmental facility and community center shall annually assess the feasibility of converting entry level support positions into employment opportunities for patients and clients in the facility's or center's service area.

(b) In making the assessment, each facility and community center shall consider the feasibility of using an array of job opportunities that may lead to competitive employment, including sheltered employment and supported employment.

(c) Each facility and community center shall annually submit a report to the Department demonstrating that the facility or center has assessed the possibility of converting positions as required by Subsection (a) of this section.

(d) The Department shall compile information from the reports required by Subsection (c) of this section and shall make the information available to each designated provider in a service area.

SECTION 2.07. Article 2, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.18 to read as follows:

Sec. 2.18. ANNUAL EVALUATION OF ELDERLY RESIDENTS. (a) In this section, "elderly resident" means an individual residing in a departmental facility who is 65 years of age or older.

(b) At least annually, the Department shall evaluate each elderly resident in a departmental facility to determine if the person can be appropriately served in a less restrictive setting. The proximity to the client of family, friends, and advocates concerned with the client's well-being shall be a consideration as to whether the client should be moved from a department facility or to a different department facility.

(c) If the elderly resident is in a departmental mental health facility, the resident's treating physician shall conduct the evaluation. If the elderly resident is in a departmental mental retardation facility, the appropriate interdisciplinary team shall conduct the evaluation.

(d) If the Department determines that an elderly resident can be appropriately served in a less restrictive setting, the Department shall actively attempt to place the resident, in coordination with the local mental health and mental retardation authority, in a less restrictive setting.

(e) In attempting to place an elderly resident in a less restrictive setting, the Department shall recognize that a nursing home may not be able to meet the special needs of an elderly person who has resided in a departmental mental health or

mental retardation facility. To ensure that an appropriate placement is made, the Department shall, as part of the evaluation required by Subsection (b) of this section, identify the special needs of each elderly resident, the type of services that will best meet those needs, and the type of facility that will best provide those services.

(f) Each local mental health or mental retardation authority is responsible for providing continuing care for each elderly resident placed in the authority's service area under this section.

SECTION 2.08. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.29 to read as follows:

Sec. 2.29. MANDATORY REPORTING OF PHYSICIAN MISCONDUCT OR MALPRACTICE. (a) If the Department receives an allegation that a physician employed or under contract with the Department has committed an action that constitutes a ground for the denial or revocation of the physician's license under Section 3.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), the Department shall report the allegation to the Texas State Board of Medical Examiners in the manner provided by Section 4.02 of that Act.

(b) The Department shall provide the Texas State Board of Medical Examiners with a copy of any report or finding relating to an investigation of an allegation reported to the Texas State Board of Medical Examiners.

SECTION 2.09. (a) Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.30 to read as follows:

Sec. 2.30. LIEN. (a) The Department and each community center has a lien to secure reimbursement for the cost of providing support, maintenance, and treatment to a mentally ill patient or mentally retarded client.

(b) The lien attaches to:

(1) all nonexempt real and personal property owned or later acquired by the mentally ill patient or mentally retarded client or by a person legally responsible for the support of the patient or client;

(2) a judgment of a court in this state or the decision of a public agency in a proceeding brought by the patient or client or by a person on the patient's or client's behalf to recover damages arising from an injury for which the patient or client was admitted to a departmental facility or community center; and

(3) the proceeds of a settlement of a cause of action or a claim by the patient or client arising from an injury for which the patient or client was admitted to a departmental facility or community center.

(c) The lien is for the amount sought as reimbursement for the cost of providing support, maintenance, and treatment to a mentally ill patient or mentally retarded client. However, if the patient or client received the services in a departmental facility, the amount sought may not exceed the amount the Department is authorized to charge under Section 4, Chapter 152, Acts of the 45th Legislature, Regular Session, 1937 (Article 3196a, Vernon's Texas Civil Statutes), or under Section 61, Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes). If the patient or client received the services in a community center, the amount sought may not exceed the amount the community center is authorized to charge under Section 3.14, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes).

(d) To secure the lien, the Department or community center must file written notice of the lien with the county clerk of the county in which:

(1) the patient or client, or the person legally responsible for the support of the patient or client, owns property; or

(2) the patient or client received or is receiving services.

(e) The notice must contain:

(1) the name and address of the patient or client;

(2) the name and address of the person legally responsible for the support of the patient or client, if applicable;

(3) the period during which the departmental facility or community center provided services or a statement that services are currently being provided; and

(4) the name and location of the departmental facility or community center.

(f) Thirty days prior to filing the written notice of the lien with the county clerk, the department shall notify by certified mail the mentally ill patient or mentally retarded client and the person legally responsible for the support of the patient or client. Notice shall contain a copy of the charges along with the statutory procedures regarding the filing of liens and procedures developed by the department for contesting the charges. The department shall adopt as rules the procedures to be used to contest the charges.

(g) The county clerk shall record on the written notice the name of the patient or client and the name and address of the departmental facility or community center and, if requested by the person filing the lien, the name of the person legally responsible for the support of the patient or client. The clerk shall index the notice record in the name of the patient or client and, if requested by the person filing the lien, in the name of the person legally responsible for the support of the patient or client.

(h) The notice record must include an attachment that contains a verified account of the charges made by the departmental facility or community center and the amount due to the facility or center. The superintendent or director of the facility or center must swear to the validity of the account. The account is presumed to be correct, and in a suit to cancel the debt and discharge the lien or to foreclose on the lien, the account is sufficient evidence to authorize a court to render a judgment for the facility or center.

(i) To discharge the lien, the superintendent or director of the departmental facility or community center or a claims representative of the facility or center must execute and file with the county clerk of the county in which the lien notice was filed a certificate stating that the debt covered by the lien has been paid, settled, or released and authorizing the clerk to discharge the debt. The county clerk shall record a memorandum of the certificate and the date on which it was filed. The filing of the certificate and recording of the memorandum discharge the lien.

(b) Section 2.30, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), as added by this section, takes effect September 1, 1988.

SECTION 2.10. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.32 to read as follows:

Sec. 2.32. DETERMINATION OF SAVINGS. (a) The Department shall determine the degree to which the costs of operating departmental facilities for the mentally ill and mentally retarded in compliance with applicable standards are affected as populations in the facilities fluctuate.

(b) In making the determination required by Subsection (a) of this section, the Department shall:

(1) assume that the current level of services and necessary state of repair of the facilities will be maintained; and

(2) include sufficient funds to allow the Department to comply with the requirements of litigation and applicable standards.

(c) If the Department realizes savings in the operation of departmental facilities for the mentally ill, the Department shall allocate those funds to community-based mental health programs.

(d) If the Department realizes savings in the operation of departmental facilities for the mentally retarded, the Department shall allocate those funds to increase funding of community-based mental retardation programs.

SECTION 2.11. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.33 to read as follows:

Sec. 2.33. BUDGET INFORMATION FOR 71ST LEGISLATURE. (a) The Department shall determine the amount of funds per 100,000 persons the Department budgeted to each service area for community mental health and mental retardation services during the 1988-1989 fiscal years.

(b) In the Department's budget request for the 1990-1991 fiscal biennium, the Department shall include information detailing the amount of funds necessary to provide the same amount of funding per 100,000 persons in each local service area as the Department budgeted during the 1988-1989 fiscal biennium in the service area that received the greatest per capita funding.

(c) This section expires September 1, 1991.

SECTION 2.12. (a) Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.34 to read as follows:

Sec. 2.34. COMPETITIVE REVIEW REQUIREMENT. (a) It is the policy of the state that the Department establish procedures to:

(1) promote more efficient use of public funds;

(2) ensure periodic review of agency management and support activities in order to improve agency operations, better determine costs, increase agency productivity, and remain competitive with the private sector; and

(3) ensure that activities that are available through the private sector are provided by state government only if the state can provide the service at a lower cost.

(b) In the development of such procedures, the Department shall comply with any competitive review purchasing program provisions contained in **S.B. 298** or **H.B. 584** as enacted by the 70th Legislature in its regular session in 1987.

(b) This section applies only if **S.B. 298** or **H.B. 584** is enacted by the 70th Legislature in its regular session in 1987 and contains a provision related to the competitive review purchasing program.

SECTION 2.13. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.35 to read as follows:

Sec. 2.35. COORDINATION OF SERVICES FOR CHILDREN AND YOUTH. The Department shall designate an employee authorized in the exempt salary schedule for the Department to be responsible for planning and coordinating services and programs for children and youth. The employee shall also be responsible for budget and policy review, as well as interagency coordination of services to children and youth.

SECTION 2.14. (a) Subchapter L, Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes), is amended by adding Section 59A to read as follows:

Sec. 59A. DEVELOPMENT OF JOINT LONG-RANGE PLAN. (a) The department and the Texas Department of Human Services shall develop a joint long-range plan for services to persons with developmental disabilities, including mental retardation.

(b) The commissioner of each department shall appoint necessary staff to develop the joint plan through research of appropriate topics and through the use of public hearings to obtain testimony from persons with knowledge of or interest in state services to persons with developmental disabilities, including mental retardation.

(c) In developing the joint plan, the departments shall consider existing plans or studies made by the departments.

(d) The joint plan developed by the departments must address at least the following topics:

(1) the needs of persons with developmental disabilities, including mental retardation, in the state;

(2) how state services should be structured to meet those needs;

(3) how the ICF-MR program, the waiver program under Section 1915(c), federal Social Security Act, other programs under Title XIX, federal Social Security Act, and other federally funded programs can best be structured and financed to assist the state in delivering services to persons with developmental disabilities, including mental retardation;

(4) the statutory limits and rule or policy changes that are necessary to ensure the controlled growth of the programs under Title XIX, federal Social Security Act, and other federally funded programs;

(5) methods for expanding services available through the ICF-MR program to "persons with related conditions" as defined by federal regulations relating to the medical assistance program; and

(6) the cost of implementing the joint plan.

(e) If necessary, the departments shall modify their respective long-range plans and any other existing plans relating to the provision of services to persons with developmental disabilities, including mental retardation, to incorporate the provisions of the joint plan.

(f) The departments shall review and update the joint plan biennially. Each department shall consider the updated joint plan in any future modifications of that department's long-range plans and in each future budget request.

(g) This section does not affect the authority of the department and the Texas Department of Human Services to carry out their separate functions as established by state and federal law.

(b) The Texas Board of Mental Health and Mental Retardation and the Texas Board of Human Services shall jointly review and approve the plan required by Section 59A, Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes), as added by this section, not later than June 1, 1988. The board of each department shall present the plan to the 71st Legislature not later than February 1, 1989. The Texas Department of Mental Health and Mental Retardation and the Texas Department of Human Services shall consider the results of the plan in the development of their respective budget requests for the 1990-1991 fiscal year.

SECTION 2.15. Section 61, Mentally Retarded Persons Act of 1977, as amended (Article 5547-300, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 61. SUPPORT, [~~AND~~] MAINTENANCE, AND TREATMENT OF RESIDENTS. (a) The department shall establish by rule a sliding fee schedule for the payment of the cost of support, maintenance, and treatment by the parents of a mentally retarded person under 18 years of age who is a resident in a residential care facility operated by the department. The fee must be based on the parents' net taxable income and ability to pay. At the election of the parents, the parents' net taxable income is determined by the parents' most recent current financial statements or federal income tax returns. The sliding fee schedule must be designed to recover, from a mentally retarded person's parents who have sufficient income and ability to pay, the cost to the state of providing support, maintenance, and treatment to the mentally retarded person. In determining the portion of the cost of support, maintenance, and treatment that the parents of a minor are required to pay under this subsection, the department shall adjust, when appropriate, the

payment required under the department's fee schedule to allow for consideration of other factors affecting the parents' ability to pay. No person shall be denied services because of inability to pay. [~~The parents of a mentally retarded person under 18 years of age who is a resident in a residential care facility operated by the department shall pay, if able to do so, the portions of the cost of support and maintenance of the mentally retarded person as may be applicable under the following formula:~~

[~~If the amount shown as "Net Taxable Income" of the parents as reported on their latest current financial statement or on their latest Federal Income Tax return at the election of the parent or guardian is:~~	~~The Monthly payment per child shall not exceed:~~
[~~Less than $4,000~~	~~$ 5~~
[~~4,000—4,999~~	~~10~~
[~~5,000—5,999~~	~~20~~
[~~6,000—6,999~~	~~30~~
[~~7,000—7,999~~	~~40~~
[~~8,000—8,999~~	~~50~~
[~~9,000—9,999~~	~~60~~
[~~10,000—10,999~~	~~70~~
[~~11,000—11,999~~	~~80~~
[~~12,000—12,999~~	~~90~~
[~~13,000—13,999~~	~~100~~
[~~14,000—14,999~~	~~110~~
[~~15,000—15,999~~	~~120~~
[~~16,000—16,999~~	~~130~~
[~~17,000—17,999~~	~~140~~
[~~18,000—18,999~~	~~150~~
[~~19,000—19,999~~	~~160~~
[~~20,000—up~~	~~170~~]

No payment under the fee schedule [~~above formula~~] shall exceed [~~actual~~] cost to the state per resident[~~; and if the payment required under the formula is more than actual cost, then the amount paid shall be the actual cost~~]. If the parents are divorced, each parent's rate shall be based on his or her own [~~net taxable~~] income. If the divorced parents' combined fees are [~~net taxable income is~~] such that the maximum authorized fee [~~rate~~] is exceeded [~~called for~~] under the fee schedule [~~above formula~~], the maximum authorized fee [~~rate~~] shall be equitably allocated between the parents in accordance with rules established by the department; provided, however, that neither parent's allocated fee shall exceed the fee called for under the fee schedule for that parent [~~the ratio of each parent's net taxable income to the parents' combined net taxable income~~]. A fee [~~rate~~] shall not be established against a parent based on the fee schedule [~~above formula~~] to the extent that the parent actually pays court-ordered child support on behalf of the resident; however, the department shall consider such court-ordered child support to be the property and estate of the resident and may establish a fee [~~rate~~] based on the child support obligation in addition to any other fees [~~rates~~] authorized by this subsection.

(b) Parents of a mentally retarded person who is 18 years of age or older shall not be required to pay for his support, [~~and~~] maintenance, and treatment as a resident in a residential care facility operated by the department, but the mentally retarded person and his estate shall be liable for his support, [~~and~~] maintenance, and treatment regardless of his age, except as provided in Subsection (g) of this section.

(c) The unpaid portion of charges for support, [~~and~~] maintenance, and treatment due before the effective date of this Act, under agreements made before the effective date of this Act, shall remain as obligations of parents under previous law, but such preexisting agreements for payment of support, [~~and~~] maintenance, and treatment shall be in force after the effective date of this Act only to the extent of parental responsibility set forth in the department fee schedule [~~foregoing formula~~].

(d) Unpaid charges for support, [~~and~~] maintenance, and treatment accruing after the effective date of this Act due by parents for the support, [~~and~~] maintenance, and treatment of mentally retarded persons who are [~~minors and~~] residents in residential care facilities operated by the department shall be a claim in favor of the state for such support, [~~and~~] maintenance, and treatment, and shall constitute a lien against the parents' property and estate as provided by Section 2.30, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), but shall not constitute a lien against any other estate or property of the mentally retarded person.

(e) With respect to a mentally retarded person who is a resident in a residential care facility operated by the department, the cost of his support, [~~and~~] maintenance, and treatment may be determined under rules and regulations adopted by the department provided that total charges from all sources for support, [~~and~~] maintenance, and treatment shall not exceed the [~~actual~~] cost of such support, [~~and~~] maintenance, and treatment, and the costs determined under such rules and regulations shall constitute a claim by the state against the entire estate or any property of the mentally retarded person including but not limited to any share he may have by gift, descent, or devise in his parents' estates or any other person's estate, except as provided in Subsection (g) of this section.

(f) Child support payments for the benefit of a mentally retarded resident paid or owing by a parent pursuant to a divorce decree or other court order shall be considered by the department to be the property of the mentally retarded resident and his estate, and charges may be made against such child support obligations. [~~Charges made against such child support obligations shall not be limited to the maximum charge authorized by Subsection (a) of this section.~~] In determining the liability under the department fee schedule [~~Subsection (a) of this section~~] for a parent who is obligated to pay child support for the benefit of the resident, the department shall give the parent a credit against the monthly charge authorized for the parent by the department fee schedule [~~Subsection (a) of this section~~] for the amount of child support the parent actually pays for the benefit of the resident. The parent who receives the child support payments is liable for the monthly charges based on the child support obligation to the extent such payments are actually received in addition to the liability imposed by the department fee schedule [~~Subsection (a) of this section~~]. The department may, upon the failure of a parent to pay child support payments or upon the failure of a parent to pay charges based on the child support obligation, file a motion to modify the court order to require the support to be paid directly to the residential care facility in which the mentally retarded person resides for the resident's support, [~~and~~] maintenance, and treatment. The court may, in addition, order all past due child support to be paid to the residential care facility to the extent that charges have been made against the child support obligation.

(g) For the purposes of this subchapter no portion of the corpus or income of a trust or trusts, with an aggregate principal amount not to exceed $50,000, of which a mentally retarded person is a beneficiary shall be considered to be the property of such mentally retarded person or his estate, and no portion of the corpus or income of such trust shall be liable for the support, [~~and~~] maintenance, and treatment of such mentally retarded person regardless of his age. In order to qualify

for the exemption granted by this subsection, a trust must be created by a written instrument and a copy of the trust instrument must be provided to the department. A trustee of such a trust shall, upon request, provide the department with a current financial statement which reflects the value of the trust estate. If a current financial statement is not provided within 30 days of the department's request, the department may petition a district court to order the trustee to provide it with a current financial statement. The court shall hold a hearing on the department's petition within 45 days of the date it is filed and shall order the trustee to provide the department with a current financial statement if the court finds that the trustee has failed to provide the statement. Failure of the trustee to comply with the court's order may be punishable by contempt. For the purposes of this subsection, a guardianship established pursuant to the Texas Probate Code; a trust established pursuant to Chapter 142, Property Code [~~Article 1994, Revised Statutes, as amended~~]; the facility custodial account established pursuant to Chapter 251, Acts of the 52nd Legislature, Regular Session, 1951 (Article 3183c, Vernon's Texas Civil Statutes); the provisions of a divorce decree or other court order relating to child support obligations; an administration of a decedent's estate; or an arrangement whereby funds are held in the registry or by the clerk of a court is not a "trust" and is not entitled to the exemption contained in this subsection.

(h) The department may use the projected cost of providing residential services to establish the maximum charge that may be made to a payer [~~whose maximum payment is not prescribed by Subsection (a) of this section~~]. The department may establish maximum charges on a statewide per capita basis, on an individual facility per capita basis, on the basis of the type of service provided, or on any combination of these bases. The department may establish charges and accept payments that are in excess of the department's projected cost from a payer who is not an individual and whose method of determining the rate of reimbursement to a provider results in the excess.

SECTION 2.16. Section 4, Chapter 152, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 3196a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. The Texas Department of Mental Health and Mental Retardation shall establish by rule a sliding fee schedule for the payment of the cost of support, maintenance, and treatment by the parents of a patient under 18 years of age who is in a state mental health facility. The fee must be based on the parents' net taxable income and ability to pay. At the election of the parents, the parents' net taxable income is determined by the parents' most recent current financial statements or federal income tax returns. The sliding fee schedule must be designed to recover from a patient's parents who have sufficient income and ability to pay, the cost to the state of providing support, maintenance, and treatment to the patient. In determining the portion of the cost of support, maintenance, and treatment that the parents of a minor are required to pay under this subsection, the department shall adjust, when appropriate, the payment required under the department's fee schedule to allow for consideration of other factors affecting the parents' ability to pay. No person shall be denied services because of an inability to pay. Except as provided by Section 5A of this Act, the department may not charge a fee that exceeds the cost to the state to support, maintain, and treat a patient. [~~The Texas Department of Mental Health and Mental Retardation, directly or through an authorized agent or agents, may make contracts fixing the price for the support, maintenance, and treatment of patients in any State hospital under its management and control at a sum not to exceed the cost of same or for such part thereof as such respective patient, his relatives or guardian of his estate may be able to and agree to pay, and binding the persons making such contracts to payment thereunder.~~]

SECTION 2.17. Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Section 2.36 to read as follows:

Sec. 2.36. FEE ADVISORY COMMITTEE. (a) Not later than September 1, 1987, the Department shall appoint a seven-member fee advisory committee. At least four of the members must be parents of residents of a departmental facility. In making the appointments, the Department shall provide for a balance between parents of minors and adults in state hospitals and parents of minors and adults in state schools.

(b) The committee shall assist the Department in developing an equitable fee schedule as prescribed by Section 61, Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes), and by Section 4, Chapter 152, Acts of the 45th Legislature, Regular Session, 1937 (Article 3196a, Vernon's Texas Civil Statutes). The committee shall also advise the Board before adoption of the fee schedule and conduct a study of the impact of the fee schedule.

(c) The Department shall provide the committee with necessary support and technical assistance.

(d) In developing the fee schedule, the Department and committee shall consider the impact the fees would have on state general revenue and the state's ability to obtain reimbursement for services under Title XIX, federal Social Security Act.

(e) The committee shall submit a report to the 71st Legislature on the study prescribed by Subsection (b) of this section that includes any necessary statutory change or additional riders to the General Appropriations Act.

(f) This section expires on the date the committee submits to the 71st Legislature the report prescribed by Subsection (e) of this section.

SECTION 2.18. (a) Article 2, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding a new Section 2.37 to read as follows:

Sec. 2.37. JOINT STUDY OF TREATMENT FOR ABUSED CHILDREN. The Department and the Texas Department of Human Services shall conduct a joint study of current methods for treating abused children, the effectiveness of each method, and the feasibility of utilizing the methods in this state. The study shall consider fiscal impact and any necessary statutory changes. The findings from the study shall be submitted to the appropriate committees of the house and senate by January 1, 1989.

(b) This section expires on January 1, 1989.

SECTION 2.19. Section 2a, Interstate Compact on Mental Health (Article 5561f, Vernon's Texas Civil Statutes), as amended by Chapter 479, Acts of the 69th Legislature, Regular Session, 1985, and by Chapter 729, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

ARTICLE 3

SECTION 3.01.

Section 3.01, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-203, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (c) and by adding Subsection (d) to read as follows:

(a) Local agencies which may establish and operate community centers are a county, a city, a hospital district, a school district, or any organizational combination of two (2) or more of these. When community centers are established by an organizational combination, the governing bodies of such organizational combination shall enter into a contract between or among them which shall stipulate[:

[~~(1) the kinds and number of community centers, as that term is defined in subsection (b) below, which are to be established; and~~

[~~(2)~~] whether the board of trustees shall consist of not less than five (5) nor more than nine (9) members selected from the governing bodies of the organizational combination, or of not less than five (5) nor more than nine (9) members to be appointed from the qualified voters of the region to be served. This contract may be renegotiated or amended from time to time as necessary to [~~provide for the establishment of additional community centers or to~~] change the method of establishing a board of trustees.

(c) A community center is an agency of the state, a governmental unit, and a unit of local government as defined and specified by Chapters 101 and 102, Civil Practice and Remedies Code, and a local government as defined by Section 3, The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) [~~Section 2, Texas Tort Claims Act (Article 6252-19, Vernon's Texas Civil Statutes)~~].

(d) A community center may not be established unless the region to be served by the center contains a population of at least two hundred thousand (200,000), according to the most recent federal census.

SECTION 3.02. Subsections (c), (e), and (f), Section 3.11, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-203, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) A special fund to be known as the special community centers facilities construction and renovation fund is established in the state treasury. The fund may be used only to finance the construction of facilities by the Department or the renovation of buildings and facilities by community centers under this section. The Texas Board of Mental Health and Mental Retardation shall establish priorities for the use of facilities constructed or renovated under this section in terms of appropriate types of community-based services and alternative living arrangements for the mentally disabled. These priorities shall serve as a basis for criteria to be used by the Department in determining the eligibility of a proposal for facility construction or renovation. If the Department agrees to construct a facility for a community center, the agreement must include provision for a lease-purchase arrangement between the community center, the governing body of each local agency establishing the community center, and the Department. If the Department agrees to provide funding to renovate a building or facility owned or leased by a community center, the renovation funding agreement must include provision for obtaining a lien against the community center's buildings or facilities in an amount equal to the funding provided. The renovation funding agreement must also include a provision authorizing the Department to withhold state contract funds [~~grant-in-aid~~] if the community center fails to make repayments on time. The Department shall specify a leasing or repayment arrangement which includes an amortization of the cost of the facility or renovation over a period not to exceed forty (40) years. The agreement may provide for reasonable interest to be paid by the center on the total cost of the facility or renovation. The rate of interest may not exceed fifty (50) percent of the market interest rate, as determined by the Department, applicable at the time of the signing of the lease-purchase or renovation funding agreement to any establishing agency's revenue bonds if the agency were to issue bonds for the construction of the community center or for the renovation of the building or facility for the same term as the term covered by the lease-purchase or renovation funding agreement. The leasing payments shall be credited to the special community centers facilities construction and renovation fund toward the purchase of the facility by the community center. The repayments by a community center of funding provided to renovate a building or facility shall be credited to the special community centers facilities construction and renovation fund toward repayment of the funding and release of the lien.

(e) At such time as the community center has paid to the Department the amount specified under the terms of the renovation funding agreement, the

Department is authorized to and shall release the lien against the community center's buildings or facilities. If a payment is not made to the Department by the due date established in the renovation funding agreement, the community center is considered in default. On default by the community center, the Department shall send to the community center a written notice of default and a statement that the center must make the overdue payments before the expiration of sixty (60) days after the day on which the center receives the notice. If the community center does not make the overdue payments within the allotted time, the Department may withhold state contract funds [~~grant-in-aid~~] in the amount of the overdue payments or may terminate the renovation funding agreement and sue to foreclose on the lien.

(f) The community center may utilize state funds, including but not limited to state contract funds [~~grant-in-aid~~], for the operation of the facility, provided that the total amount of all state funds used in the actual operation of the facility may not exceed sixty (60) percent of the total operating budget of that facility. State funds received by the community center may not be used to pay leasing payment obligations or repayments of renovation funding under this section. Leasing payments and repayments of renovation funding do not qualify as operating expenses for determining the total operating budget of the facility. Construction, renovation, and operation of a facility under the provisions of this section are not grounds for receipt by a community center of additional contract funds [~~grant-in-aid~~] in excess of the amount of contract funds [~~grant-in-aid~~] the center would otherwise receive pursuant to the rules and regulations of the Department governing the distribution of such funds.

SECTION 3.03. (a) Article 3, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-203, Vernon's Texas Civil Statutes), is amended by adding Sections 3.12A and 3.12B to read as follows:

Sec. 3.12A. LIMITATION ON DEPARTMENT CONTROL AND REVIEW. (a) Except as provided by Subsection (b) of this section, it is the intent of the legislature that the Department limit its control over and routine reviews of community center programs to those programs that:

(1) use state funds or use required local funds that are matched with state funds;

(2) provide core or required services;

(3) provide services to former clients or patients of a departmental facility; or

(4) are affected by litigation in which the Department is a defendant.

(b) The Department may review any community center program if the Department has reason to suspect that a violation of a departmental rule has occurred or if the Department receives an allegation of patient or client abuse.

(c) The Department may determine if a program is subject to the Department's review if there is a question as to whether a particular program uses state funds or uses required local matching funds.

Sec. 3.12B. MEMORANDUM OF UNDERSTANDING ON PROGRAM REVIEWS. (a) The Department shall identify each state agency that reviews the services or programs of a community center.

(b) The Department, the Texas Department of Human Services, the Texas Rehabilitation Commission, the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Health, the Central Education Agency, the Texas State Board of Pharmacy, and any other agency identified by the Department under Subsection (a) of this section shall adopt a joint memorandum of understanding to maximize the use of each agency's reviews by eliminating duplication of program reviews unless duplicative reviews are necessary to comply with federal funding requirements.

(c) The joint memorandum may not reduce the degree of a community center's accountability to a state agency for the expenditure of funds that the community center received from that agency.

(d) Not later than the last month of each fiscal year, the Department and the other agencies shall review and update the joint memorandum.

(e) Each agency shall adopt the joint memorandum by rule. All revisions to the memorandum must be adopted by rule.

(b) Not later than December 31, 1987, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Rehabilitation Commission, the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Health, the Central Education Agency, the Texas State Board of Pharmacy, and each agency identified under Subsection (a), Section 3.12B, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes), as added by this section, shall adopt a joint memorandum of understanding as prescribed by Section 3.12B.

ARTICLE 4

SECTION 4.01. Article 4, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-204, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 4. [~~CONTRACTS FOR~~] COMMUNITY-BASED SERVICES

Sec. 4.01. RULES AND REGULATIONS OF THE DEPARTMENT. (a) The Department shall prescribe such rules, regulations and standards, not inconsistent with the Constitution and laws of this State, as it considers necessary and appropriate to insure adequate provision of community-based mental health and mental retardation services by departmental facility outreach programs or by community centers and other providers receiving contract funds as designated providers pursuant to Section 4.03 of this Act. Each designated provider [~~such~~] contract shall contain a provision authorizing the Department to have unrestricted access to all facilities, records, data, and other information under the control of the designated provider or subcontractor of the designated provider as necessary to enable the Department to audit, monitor, and review all financial and programmatic activities and services associated with the contract.

(b) Before any rule, regulation or standard is adopted the Department shall give notice and opportunity to interested persons to participate in the rule making.

(c) The rules, regulations and standards adopted by the Department under this Section shall be filed with the Secretary of State and shall be published and available on request from the Secretary of State.

(d) A copy of these rules shall be sent to each departmental facility outreach program and each community center or other provider receiving contract funds as a designated provider pursuant to Section 4.03 of this Act.

Sec. 4.02. PLAN. As soon as possible after its establishment the board of trustees of a community center shall submit to the Department:

(1) a copy of the contract between the participating local agencies, if applicable;

(2) a plan within the projected financial, physical and personnel resources of the region to be served to develop and make available to the residents of the region an effective mental health or mental retardation services program, or both, through a community center or centers.

Sec. 4.03. PROVISION OF [~~ELIGIBILITY FOR~~] COMMUNITY-BASED SERVICES [~~CONTRACTS~~]. (a) The Department shall insure that at a minimum the following services are available in each service area:

(1) 24-hour emergency screening and rapid crisis stabilization services;

(2) community-based crisis residential service or hospitalization;

(3) community-based assessments, including the development of interdisciplinary treatment plans and diagnosis and evaluation services;

(4) family support services, including respite care, as provided by Section 4.03A of this Act; [~~and~~]

(5) case management services;

(6) medication-related services, including medication clinics, laboratory monitoring, medication education, mental health maintenance education, and the provision of medication; and

(7) psychosocial rehabilitation programs, including social support activities, independent living skills, and vocational training.

In addition, the Department shall arrange for appropriate community-based services to be available in each service area, including the assignment of a case manager, for all persons discharged from departmental facilities or institutions in need of aftercare services or continuum of care.

(b) The Department shall identify and contract with one or more designated providers for each service area. Each designated provider shall provide, either directly or by subcontract, specific performance outcomes or services to address the needs of priority client populations as required by the Department and shall comply with the rules, regulations and standards established by the Department pursuant to Section 4.01 of this Act. Each designated provider shall coordinate its activities with those of other appropriate agencies providing care and treatment for individuals with drug or alcohol problems. In identifying a designated provider, the Department shall give preference to a community center located in a given service area established pursuant to Section 3.01 of this Act. If the Department is unable to negotiate a contract with a center to insure that specific required services for priority client populations are available in that service area, or if the Department determines that a center does not have the capacity to insure the availability of such services, the Department may contract with other local agencies or private providers or organizations to act as a designated provider for that service area. If the Department is unable to identify and contract with a designated provider in a service area, the Department shall provide the services required under this article directly through a departmental facility outreach program.

(c) The Department shall develop standards of care and mechanisms for monitoring the services provided by departmental facility outreach programs or by designated providers and their subcontractors. These standards shall be designated to insure that the quality of community-based services be consistent with the quality of care available in other departmental facilities and institutions. The Department shall biennially review these standards in conjunction with designated providers to determine if each standard is necessary to ensure the quality of care. The Department shall specify performance standards including outcome measures for evaluating the compliance of a departmental facility outreach program or designated provider with the provisions of its obligation or contract to provide specific services to priority client populations. The Department shall review the program quality and program performance results of each departmental facility outreach program and each designated provider at least once each fiscal year. The Department may determine the scope of each review on a case-by-case basis. In addition, to supplement departmental reviews, the Department shall assist designated providers in developing a peer review organization to provide self-assessments of programs [~~evaluate the performance of each designated provider prior to any contract renewal~~]. The Commissioner shall refuse to renew a contract with a designated provider and select other agencies, providers, or organizations to be the designated provider if an evaluation of the original provider's performance by the Department indicates an inability to insure the availability of the specific services to priority client populations required by the Department and the provisions of this Act.

(d) The Department may include in the terms of its contract with a designated provider a requirement that some or all of the state funds be matched by local support. [~~If such match is specified, it shall be uniformly required of all providers~~

~~or contractors in the service area.~~] Local support shall be in such proportions and amounts as may be determined by the Department. If such match is specified, it shall be uniformly required of all providers or contractors in the service area. The Department shall also establish a local match requirement for departmental facility outreach programs that provide community-based services required under this article. The requirement must be consistent with the requirements applied to designated providers. For the purpose of calculating the local share of the operating costs of a community center, departmental facility outreach program, or other designated provider, patient fee income, services, and facilities contributed by the designated provider and contributions by a county or city or other locally generated contributions may be counted as local support.

(e) The Department shall establish a uniform fee collection policy which is the same for community centers and other designated providers which is equitable, provides for collections, and maximizes contributions to local revenue.

Sec. 4.03A. RESPITE CARE. (a) The Department shall adopt rules relating to the provision of respite care and shall develop a system to reimburse providers of in-home respite care.

(b) The rules must:

(1) encourage the use of existing local providers;

(2) encourage family participation in the choice of a qualified provider;

(3) establish procedures for:

(A) determining the amount and type of in-home respite care to be authorized;

(B) reimbursing providers;

(C) handling appeals from providers;

(D) handling complaints from recipients of in-home respite care;

(E) providing emergency backup for in-home respite care providers; and

(F) advertising for, selecting, and training in-home respite care providers;

(4) specify the conditions and provisions under which a provider's participation in the program can be canceled; and

(5) regulate or prescribe any other procedure necessary to administer this section.

(c) The Department shall establish service and performance standards for departmental facilities and designated providers to use in operating the in-home respite care program. The Department shall establish the standards from information obtained from the families of patients and clients receiving in-home respite care and from providers of in-home respite care. The Department may obtain the information through the use of public hearings or from an advisory group.

(d) The service and performance standards established by the Department under Subsection (c) of this section must:

(1) prescribe minimum personnel qualifications the Department determines are necessary to protect health and safety;

(2) establish various levels of personnel qualifications that are dependent on the needs of the patient or client; and

(3) permit a health professional with a valid Texas practitioner's license to provide care that is consistent with the professional's training and license without requiring additional training unless the Department determines that additional training is necessary.

Sec. 4.04. AUDITING PROCEDURES. The board of trustees of a community center or the administrative authority of a designated provider other than a community center, as a condition precedent to its receiving contract funds under this Act, shall annually have its accounts audited by a Texas certified or public accountant licensed by the Texas State Board of Public Accountancy. Such audit

shall meet at least the minimum requirements as shall be, and in such form as may be, prescribed by the Department and approved by the State Auditor. A copy of each such annual audit, approved by the board of trustees of the community center or the administrative authority of the designated provider, shall be filed by the community center or designated provider with the Department on such date as the Department may specify. Where the board of trustees or administrative authority declines or refuses to approve the audit report, it shall nevertheless file with the said Department a copy of the audit report with its statement detailing its reasons for failure to approve the report. In addition to the copy furnished the Department, copies of each audit report shall be submitted to the Governor, the Legislative Budget Board and the Legislative Audit Committee. The Commissioner and the State Auditor, on behalf of the Department and the Legislative Audit Committee, respectively, shall have access to all vouchers, receipts, journals and other records as either may deem needed and appropriate for the review and analysis of audit reports.

Sec. 4.05. WITHHOLDING CONTRACT FUNDS [~~GRANT-IN-AID~~]. In accordance with a renovation funding agreement between the Department and a community center executed as prescribed by Section 3.11 of this Act, the Department may withhold contract funds [~~grant-in-aid~~] in the amount of the overdue payments from any center that fails to make timely repayments of funding provided to renovate a community center building or facility.

Sec. 4.06. REVIEW OF CRISIS RESIDENTIAL AND HOSPITALIZATION SERVICES. (a) As a condition precedent to receiving contract funds under this Act, the board of trustees of a community center shall review the method by which the center provides the crisis residential or hospitalization services, or both, required under Subdivision (2) of Subsection (a) of Section 4.03 of this Act.

(b) The board of trustees shall conduct the review every two years before a contract is due for renewal. The community center shall submit information to the Department describing the review process and the results of the review before a contract is due for renewal.

(c) The board of trustees shall conduct the review in accordance with Department rules. The review must include at least the following:

(1) an efficiency and performance review to identify the quantity and quality of services that are necessary in the next contract period;

(2) bid specifications for the quantity and quality of services identified under Subdivision (1) of this subsection;

(3) an estimate of the total cost to the community center to provide or to contract for the identified services in accordance with the bid specifications and using the most efficient means identified;

(4) a solicitation of bids from qualified providers based on the developed bid specifications; and

(5) an analysis of the submitted bids and a comparison of those bids with the center's estimate of the total cost for providing or contracting for the service required by Subdivision (3) of this subsection.

(d) In determining the estimate of the total cost to the community center required by Subdivision (3) of Subsection (c) of this section and the analysis of submitted bids required by Subdivision (5) of Subsection (c) of this section, the community center shall base the estimate and analysis on the method of service delivery that the community center is using in the current contract period. However, in determining the estimate of the total cost as required by Subdivision (3) of Subsection (c) of this section, the center may include modifications to the existing operations.

(e) The Department shall adopt rules establishing procedures and standards for the community centers to use in conducting the review required by this section. The rules must establish consistent standards for:

(1) the development of bid specifications;

(2) the center's estimate of the total cost to continue the existing method of service delivery; and

(3) the analysis of the bids submitted and the comparison of those bids with the center's estimate.

(f) Before the Department may renew a contract with a community center, the Department shall require the center to demonstrate that the center is providing crisis residential or hospitalization services, or both, using the method or provider that provides the services in compliance with departmental contracts and standards and at the lowest cost. The demonstration must be based on the review required by this section.

ARTICLE 5

SECTION 5.01. (a) The Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 5 to read as follows:

Art. 5. DEPARTMENTAL FACILITIES

Sec. 5.01. BUDGETS. (a) The Department shall develop budgets for its facilities that are based on uniform costs for specific types of services provided by a facility.

(b) The Department may deviate from the requirement of Subsection (a) of this section only if the Department documents that a legitimate reason exists for the deviation.

Sec. 5.02. CRITERIA FOR EXPANSION, CLOSURE, OR CONSOLIDATION. The Department shall establish objective criteria for determining when a new facility may be needed and when a facility may be expanded, closed, or consolidated.

Sec. 5.03. MANAGEMENT OF SURPLUS PROPERTY. (a) To the extent provided by this Act, the Department may lease, transfer, or otherwise dispose of any surplus real property including any improvements under its control and management or authorize the lease, transfer, or disposal of the property. Surplus property shall be defined as property designated by the Board to have minimal value to the present service delivery system and projected to have minimal value to the service delivery system as described in the Department's long-range plan required by Section 2.12B of this Act.

(b) The proceeds resulting from the lease, transfer, or disposal of real property including any improvements under this section shall be deposited to the credit of the Department in the Texas capital trust fund established under Article 601e, Revised Statutes. The proceeds and any interest from the proceeds may be appropriated only to fund improvements to the departmental system of facilities and to fund the special community centers facilities construction and renovation fund for improvements and renovations authorized under Subsection (c), Section 3.11, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes).

(c) All lease proposals shall be advertised once a week for four consecutive weeks in at least two newspapers, one of which shall be published in the city where the property is located or the nearest daily paper thereto and the other in some paper with statewide circulation. Each lease shall be subject to the approval of the Attorney General of Texas, both as to substance and as to form. The Board shall adopt proper forms and regulations, rules, and contracts, as will, in the best judgment, protect the interest of the state. The Department may reject any and all bids.

(d) This section does not authorize the Department to close or consolidate a facility used to provide mental health or mental retardation services without first obtaining legislative approval.

Sec. 5.04. USE OF DEPARTMENTAL FACILITIES BY SUBSTANCE ABUSERS. (a) The Department shall annually provide the Texas Commission on Alcohol and Drug Abuse with an analysis by county of the hospitalization rates of persons with substance abuse problems. The analysis must include information indicating which admissions were for persons who had only substance abuse problems and which admissions were for persons who had substance abuse problems but whose primary diagnoses were other types of mental health problems.

(b) Not later than September 1 of each even-numbered year, the Department and the Texas Commission on Alcohol and Drug Abuse shall jointly estimate the number of facility beds that should be maintained for persons who have substance abuse problems and who cannot be treated in the community.

Sec. 5.05. SERVICES FOR EMOTIONALLY DISTURBED CHILDREN AND YOUTH. (a) When evaluation and diagnostic services for emotionally disturbed children and youth are not immediately available through a local mental health authority, the Department shall, at each state mental health facility, make short-term evaluation and diagnostic services available for the emotionally disturbed children and youth who are referred to the Department by the Texas Department of Human Services.

(b) The Texas Department of Human Services is authorized to make payments for such services. Payments shall be based on fees jointly agreed to by both agencies. Any payments received per this agreement may be used by the Department to contract for community-based residential placements for emotionally disturbed children and youth.

(c) The Department shall maintain computerized data on emotionally disturbed children and youth. The data to be maintained shall contain individual and aggregate information on emotionally disturbed children and youth. The purpose of the information is to allow the Department to track services and placements and to conduct research on the treatment of emotionally disturbed children and youth. The Department is authorized to coordinate with the Texas Department of Human Services in developing the information. The Department shall make the information available to the state mental health facilities and the community mental health and mental retardation centers.

Sec. 5.06. REPORT ON APPLICATION FOR SERVICES. (a) The Department shall collect information on applications for residential and nonresidential services provided by the Department and a mental retardation authority and the actions of the Department and the mental retardation authority in response to each application. The information shall include the age, diagnosis, and legal status of the applicant; the date the application was received; and the date on which the Department or the mental retardation authority acted on the application.

(b) The Department shall use the information to prepare an annual report to the board on applications received and the disposition of the applications. The report shall not contain any information that would disclose the identity of any applicant for services.

(c) The Board shall submit copies of the report to the legislature by October 1 of each year. The report shall be subject to the provisions of the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

Sec. 5.07. STUDY ON FEASIBILITY OF CONSOLIDATING ADMINISTRATION OR OPERATION OF STATE CENTERS. (a) The Department shall conduct a study to determine the feasibility of consolidating by

contract or management agreement the administration or operation of the El Paso, Rio Grande, Laredo, Beaumont, and Amarillo state centers and the community centers located in the respective state center's service area.

(b) The Department shall determine if consolidation would result in the patients and clients receiving the same quality and quantity of services and would be more cost-effective than the current system of administration or operation.

(c) Not later than August 1, 1988, the Department shall prepare and submit to the Texas Sunset Commission, Legislative Budget Board, and the Governor's budget office a report that contains the results of the Department's efforts.

(d) The report required by Subsection (c) of this section must contain a specific plan to implement the consolidation of each state center and community center located in the same service area. The plan may provide that a state center shall contract to administer or operate the community center or that a community center shall contract to administer or operate the state center. The report must also contain an analysis of the positive and negative aspects of consolidating all or part of the administration or operation of the state centers and the appropriate community centers.

(e) In conducting the study and preparing the plan and report prescribed by this section, the Department shall include as a participant from each state center's service area:

(1) at least one parent who has a child with a mental handicap and who is currently using affected services in the area; and

(2) the state senators and representatives who represent the areas served by the state centers and community centers in that service area.

(f) This section expires September 1, 1988.

(b) Beginning with the 1990-1991 fiscal biennium, the Texas Department of Mental Health and Mental Retardation shall develop the budgets for departmental facilities in accordance with Section 5.01, Texas Mental Health and Mental Retardation Act (Article 5547-201 et seq., Vernon's Texas Civil Statutes), as added by this section.

(c) Not later than October 1, 1988, the Texas Board of Mental Health and Mental Retardation shall submit to the legislature the first report required by Section 5.06, Texas Mental Health and Mental Retardation Act (Article 5547-201 et seq., Vernon's Texas Civil Statutes), as added by this section.

SECTION 5.02. Section 1.11, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) In allocating grant funds, the commission shall consider the state facility hospitalization rate of substance abusers who are from the service area of the entity requesting the grant. In addition to the requirements of Subsection (f) of this section, an organization or other entity is not eligible for a grant of state funds for a treatment or rehabilitation program unless the program for which the funds are requested will, at a minimum, reduce state facility hospitalization of substance abusers by a percentage established by the commission.

ARTICLE 6

SECTION 6.01. (a) Article 2, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), is amended by adding Sections 2.31 and 2.31A to read as follows:

Sec. 2.31. DESIGNATION OF SINGLE PORTAL AUTHORITIES. (a) The Board shall adopt rules relating to the designation of local mental health authorities as single portal authorities. The Board shall also adopt rules governing commitments to a single portal authority and transfers of patients that involve a single portal authority. The rules must be based on the advice and recommendations of the single portal review committee established under Section 2.31A of this article.

(b) The Board shall also adopt rules that provide for emergency admission to a departmental mental health facility if obtaining approval from the authority could result in a delay that might endanger the patient or others.

(c) In developing rules under this section, the Board's first consideration must be satisfying individual patient treatment needs in the most appropriate setting. The Board shall also give consideration to reducing patient inconvenience resulting from admissions and transfers between providers.

(d) The Board may designate a local mental health authority as a single portal authority for a service area if:

(1) the Board determines that the authority operates or contracts for the licensed in-patient mental health facilities determined necessary by the Board;

(2) the Board determines that all core services required by Section 4.03 of this Act are available in the service area; and

(3) the single portal review committee:

(A) determined that the core services in the service area are of sufficient quality and quantity as measured by criteria established by the single portal review committee;

(B) determined that the local mental health authority meets the criteria set by the single portal review committee;

(C) received endorsement of the application from the county judges and police chiefs who have jurisdiction in the applicant's service area and from the superintendent of the departmental mental health facility serving the area; and

(D) approved the authority's application.

(e) If the Board designates a local mental health authority as a single portal authority, the Department shall notify each judge who has probate jurisdiction in the service area and any other person the single portal authority considers necessary of the designation and the new procedures required in the area.

Sec. 2.31A. SINGLE PORTAL REVIEW COMMITTEE. (a) The Board shall appoint a nine-member single portal review committee. The Board shall appoint:

(1) two persons who are representatives of consumers of mental health services;

(2) one person who is a representative of superintendents of departmental mental health facilities;

(3) one person who is a representative of directors of community centers;

(4) one person who is a representative of county judges;

(5) one person who is a representative of police chiefs;

(6) one person who is a representative of private psychiatric hospitals;

(7) one person who is a representative of licensed substance abuse facilities; and

(8) one person who is a representative of practicing private psychiatrists.

(b) Members serve staggered two-year terms with the terms of four members expiring every even-numbered year and the terms of five members expiring every odd-numbered year.

(c) The members receive no compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing official duties.

(d) The committee shall:

(1) develop criteria for the types, quantity, and quality of services that must be provided in an area for a local mental health authority to be designated as a single portal authority; and

(2) develop criteria for evaluating applications for designation as a single portal authority.

(e) The criteria shall include a requirement that the applicant obtain endorsements from the county judges, police chiefs, and superintendent of the departmental mental health facility in the applicant's service area.

(f) In developing all criteria, the committee shall attempt to reduce duplication by using existing departmental standards for quality of services, to the extent possible, and permitting the use of existing inspection reports as evidence of performance. The committee may establish additional criteria or require additional inspections or reports as needed.

(g) The Board shall adopt by rule the criteria developed by the committee.

(h) The Department shall provide the committee with necessary staff support and shall provide the committee with funds to hire any necessary additional staff. The committee may either contract with consultants to conduct site visits or use Department staff.

(i) The committee shall evaluate applications for designation as a single portal authority. The committee shall determine if:

(1) the applicant meets the criteria for designation; and

(2) the necessary core services are available in sufficient quality and quantity in the service area, as measured by criteria established by the single portal review committee.

(j) The committee shall make a recommendation to the Board on each application the committee reviews.

(b) On the effective date of this Act, the Texas Department of Mental Health and Mental Retardation shall appoint the members of the single portal review committee required by Section 2.31A, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), as added by this section. The department shall designate four members to serve terms ending in 1988 and five members to serve terms ending in 1989. The single portal review committee shall recommend criteria and procedures for reviewing applications for designation as a single portal authority to the Texas Board of Mental Health and Mental Retardation not later than May 1, 1988.

(c) The Texas Board of Mental Health and Mental Retardation must adopt the rules required by Sections 2.31 and 2.31A, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), as added by this section, not later than September 1, 1988. Beginning September 1, 1988, the board may designate local mental health authorities as single portal authorities. During the period from September 1, 1988, through August 31, 1989, the board may not designate more than six local mental health authorities as single portal authorities.

(d) By January 1, 1989, the single portal review committee shall prepare and submit a report to the Texas Board of Mental Health and Mental Retardation that describes any problems the committee encountered in carrying out its responsibilities under Sections 2.31 and 2.31A, Texas Mental Health and Mental Retardation Act (Article 5547-202, Vernon's Texas Civil Statutes), as added by this section. The report shall also include recommendations to the board and the 71st Legislature on how to improve the single portal review process. The board shall submit the committee's report to the appropriate committees of the house and senate by February 1, 1989.

SECTION 6.02. Section 4, Texas Mental Health Code, as amended (Article 5547-4, Vernon's Texas Civil Statutes), is amended by amending Subdivision (18) and by adding Subdivisions (23) and (24) to read as follows:

(18) "In-patient mental health facility" means a mental health facility which can provide 24-hour residential and psychiatric services that is operated by the department, is a private mental hospital licensed by the department, is a community center as defined in Subdivision (22) of this section or a facility operated by a community center or other entity designated by the department to provide mental health services, is that identifiable part of a general hospital that provides diagnosis, treatment, and care for mentally ill persons and which is licensed either by the department or the Texas Department of Health, or is a hospital operated by an agency of the United States.

(23) "Board" means the Texas Board of Mental Health and Mental Retardation.

(24) "Single portal authority" means a mental health authority designated as a single portal authority by the department.

SECTION 6.03. Section 25, Texas Mental Health Code (Article 5547-25, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 25. RIGHTS OF VOLUNTARY PATIENTS ADMITTED FOR IN-PATIENT CARE. (a) Every voluntary patient in an in-patient mental health facility has the following rights:

(1) the right to leave the mental health facility within 96 hours, after filing with the head of the mental health facility or his designee a written request for release, signed by the patient or someone on his behalf and with his consent, unless prior to the expiration of the 96-hour period:

(A) written withdrawal of the request for release is filed; or

(B) an application for court-ordered mental health services or emergency detention is filed and the patient is detained in accordance with the provisions of this code;

(2) the right of habeas corpus, which is not affected by admission to a mental health facility as a voluntary patient;

(3) the right to retain civil rights and legal capacity, which are not affected by admission to a mental health facility as a voluntary patient;

(4) the right to periodic review of his need for continued in-patient treatment;

(5) the right not to have an application for court-ordered mental health services filed while he is a voluntary patient unless in the opinion of the head of the facility he meets the criteria for court-ordered services and he is either absent without authorization or he refuses or is unable to consent to appropriate and necessary psychiatric treatment;

(6) the rights of patients set forth in Sections 80 and 81 of this code; and

(7) the right, within 24 hours of admission, to be informed orally in simple, nontechnical terms of these above-listed rights. In addition, the person shall be informed in writing of these same above-listed rights, in his primary language if possible. The above-listed rights shall be communicated to a hearing and/or visually impaired person through any means reasonably calculated to communicate these rights. The same explanation shall be given to the parent, guardian, or managing conservator of a minor.

(b) In addition to the rights provided by Subsection (a) of this section, the department shall notify each adult patient of the patient's right to have the department notify his family prior to discharge or release if the patient grants permission. If the patient grants permission for notification, the department or facility shall make a reasonable attempt to give the patient's family prior notice of the patient's release or discharge.

SECTION 6.04. Subsection (f), Section 26, Texas Mental Health Code (Article 5547-26, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) Such persons so apprehended may be detained in custody for a period which shall not exceed 24 hours from the time the person is presented to the facility, unless a written order for further detention is obtained; provided, however, that if the 24-hour period ends on a Saturday or Sunday or a legal holiday or before 4 p.m. on the first succeeding business day, then the period of detention shall end at 4 p.m. on the first succeeding business day [~~should the person be taken into custody after 12 noon on Friday or on a Saturday or Sunday or a legal holiday, then the 24-hour period allowed for obtaining the order permitting further detention shall begin at 9 a.m. on the first succeeding business day~~].

SECTION 6.05. Subsection (a), Section 28, Texas Mental Health Code (Article 5547-28, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Any adult person may execute an application for emergency detention of another. The application shall be in writing and shall state:

(1) that the applicant has reason to believe and does believe that the person evidences mental illness;

(2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others, which risk of harm shall be specified and described;

(3) that the applicant has reason to believe and does believe that the risk of harm is iminent unless the person is immediately restrained;

(4) that the applicant's beliefs are based on specific recent behavior, overt acts, attempts, or threats, which behavior, acts, attempts, or threats shall be described in specific detail; and

(5) the relationship, set forth in detail [~~if any~~], of the applicant to the person sought to be detained.

SECTION 6.06. Section 34, Texas Mental Health Code, as amended (Article 5547-34, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 34. RECOMMENDATION FOR TREATMENT. (a) The Commissioner of Mental Health and Mental Retardation shall designate a facility or provider in the county in which an Application for Court-Ordered Mental Health Services is filed to file with the court a recommendation for the most appropriate treatment alternative for the proposed patient. If the county is served by a single portal authority, the commissioner shall designate the authority to make the recommendation. If the county is not served by a single portal authority, the [~~The~~] commissioner may designate a community mental health and mental retardation center established pursuant to Section 3.01, Texas Mental Health and Mental Retardation Act, as amended (Article 5547-203, Vernon's Texas Civil Statutes), or any other appropriate facility or provider in the county to make the recommendation.

(b) The court shall direct the single portal authority or the designated facility or provider to file its recommendation with the court before the date set for the hearing.

(c) Except in an emergency as determined by the court, a hearing on an application may not be held before the recommendation required by this section is filed.

(d) This section does not relieve a county of any of its responsibilities under other provisions of this code for the diagnosis, care, or treatment of the mentally ill.

(e) [~~The extent to which a designated facility must comply with the provisions of this section shall be based on the commissioner's determination that the facility has sufficient resources to perform the necessary services.~~

[~~(f)~~] This section does not apply to a person for whom treatment in a private mental health facility is proposed.

SECTION 6.07. Section 36, Texas Mental Health Code (Article 5547-36, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and by adding Subsection (e) to read as follows:

(d) If the department has designated a single portal authority for the area, the [~~The~~] Order of Protective Custody shall direct a peace officer or other designated person to take the person into protective custody and immediately transport him to a facility of the single portal authority. If the department has not designated a single portal authority, the order shall direct the peace officer or other designated person to take the person to an appropriate in-patient mental health facility or other suitable place and detain him pending a probable cause hearing. If there is no appropriate in-patient mental health facility available, the person shall be transported to a facility deemed suitable by the mental health authority for that

county. The extent to which a designated mental health facility must comply with the provisions of this section shall be based on a determination by the commissioner of the department that the facility has sufficient resources to perform the necessary services. No person may be detained in a private mental health facility without first obtaining the consent of the head of the facility.

(e) If a single portal authority lacks the local resources to care for a person, the authority may transfer the person to a state hospital or, at the request of the authority, the judge may order the person detained in a state hospital.

SECTION 6.08. Subsection (b), Section 39, Texas Mental Health Code, as amended (Article 5547-39, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Except as provided by Subsection (e) of Section 36 of this code, if the department has designated a single portal authority for the area, the [~~The~~] person detained in protective custody shall be detained in a facility of the single portal authority. If the department has not designated a single portal authority, the person shall be detained in an appropriate in-patient mental health facility. If there is no appropriate in-patient mental health facility available, the person shall be detained in a facility deemed suitable by the mental health authority for that county. No person may be detained in protective custody in a nonmedical facility used for the detention of persons charged with or convicted of a crime except because of and during an extreme emergency and in no case for a period of more than 72 hours, excepting weekends, legal holidays, and extreme weather emergencies declared pursuant to Subsection (a) of Section 38 of this code. Persons detained in a nonmedical facility shall be kept separate from those persons charged with or convicted of a crime.

SECTION 6.09. Subsections (c) and (d), Section 49, Texas Mental Health Code (Article 5547-49, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) Waiver of trial by jury shall be in writing under oath and shall be signed and sworn to by the proposed patient and by his attorney. However, the proposed patient or his attorney may orally waive the right to a jury trial if the oral waiver is made in the presence of the court.

(d) Upon good cause shown, the court may permit an oral or written [a] waiver of jury trial properly made [~~and filed~~] to be withdrawn if the waiver is withdrawn at least seven days prior to the scheduled time of the hearing, in order to permit a hearing before a jury.

SECTION 6.10. Sections 50 and 51, Texas Mental Health Code, as amended (Articles 5547-50 and 5547-51, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 50. ORDER UPON HEARING ON APPLICATION FOR TEMPORARY MENTAL HEALTH SERVICES. (a) If upon the hearing on an Application for Court-Ordered Temporary Mental Health Services the judge or jury fails to find, on the basis of clear and convincing evidence, that the person is mentally ill and meets the criteria for court-ordered mental health services, the court shall enter its order denying the application and shall order the immediate release of the person if he is not at liberty.

(b) Upon the hearing, the judge or the jury, if one has been requested, shall determine that the person requires court-ordered mental health services only if it finds, on the basis of clear and convincing evidence, that:

(1) the person is mentally ill; and

(2) as a result of that mental illness the person meets at least one of the following additional criteria:

(i) is likely to cause serious harm to himself; or

(ii) is likely to cause serious harm to others; or

(iii) will, if not treated, continue to suffer severe and abnormal mental, emotional, or physical distress and will continue to experience deterioration of his ability to function independently and is unable to make a rational and informed decision as to whether or not to submit to treatment. If the judge or jury finds that the proposed patient meets at least one of these criteria, the judge or jury shall specify which of the three alternative criteria formed the basis of that decision.

(c) The clear and convincing evidence must include expert testimony and, unless waived, evidence of either a recent overt act or a continuing pattern of behavior in either case tending to confirm the likelihood of serious harm to the person or others or the person's distress and deterioration of ability to function.

(d) If upon the hearing the jury or judge determines that the person is mentally ill and meets the criteria for court-ordered mental health services, the judge shall then dismiss the jury, if any. The judge may hear additional evidence regarding alternative settings for care and shall enter an order providing for one of the following:

(1) The judge may enter an order committing the person to a mental health facility for in-patient care. Except as provided by Subsection (g) of this section, if the department has designated a single portal authority for the area, the judge shall commit the person to a facility of the single portal authority, to a private mental hospital, or to a hospital operated by an agency of the United States.

(2) The judge may enter an order requiring the person to participate in mental health services other than in-patient care, including but not limited to programs of community mental health and mental retardation centers and services provided by a private psychiatrist or psychologist.

(e) In determining the setting for care, the judge shall consider the recommendation for the most appropriate treatment alternative filed pursuant to Section 34 of this code. Mental health services shall be ordered in the least restrictive appropriate setting available.

(f) An order entered pursuant to this section shall specify a period not to exceed 90 days but shall not specify any shorter period of time.

(g) If a single portal authority lacks the local resources to care for a patient, the authority may transfer the patient to a state mental hospital or, at the request of the authority, the judge may commit the patient directly to a state mental hospital.

Sec. 51. ORDER UPON HEARING ON APPLICATION FOR EXTENDED MENTAL HEALTH SERVICES. (a) If upon the hearing on an Application for Court-Ordered Extended Mental Health Services the judge or jury fails to find, on the basis of clear and convincing evidence, that the person is mentally ill and meets the criteria for court-ordered mental health services, the court shall enter its order denying the application and shall order the immediate release of the person if he is not at liberty.

(b) Upon the hearing, the jury or the judge, if jury trial has been waived, shall determine that the person requires court-ordered mental health services only if it finds, on the basis of clear and convincing evidence, that:

(1) the person is mentally ill; and

(2) as a result of that mental illness the person meets at least one of the following additional criteria:

(i) is likely to cause serious harm to himself; or

(ii) is likely to cause serious harm to others; or

(iii) will, if not treated, continue to suffer severe and abnormal mental, emotional, or physical distress and will continue to experience deterioration of his ability to function independently and is unable to make a rational and informed choice as to whether or not to submit to treatment; if the judge or jury finds that the proposed patient meets at least one of these criteria, the judge or jury shall specify which of the three alternative criteria formed the basis of that decision; and,

(3) the condition of the person is expected to continue for more than 90 days; and, except where the person has already been subject to an Order for Extended Mental Health Services;[;]

(4) the person has either:

(i) received in-patient mental health services under court order pursuant to this code for at least 60 consecutive days within the 12 months immediately preceding the hearing; or

(ii) received in-patient mental health services under court order pursuant to Section 5 of Article 46.02, Code of Criminal Procedure, [~~1965, as amended,~~] for at least 60 consecutive days within the 12 months immediately preceding the hearing.

(c) The clear and convincing evidence must include expert testimony and evidence of either a recent overt act or a continuing pattern of behavior in either case tending to confirm the likelihood of serious harm to the person or others or the person's distress and deterioration of ability to function.

(d) If upon the hearing the judge or jury determines that the person is mentally ill and meets the criteria for court-ordered mental health services for an extended period, the judge shall then dismiss the jury, if any. The judge may hear additional evidence regarding alternative settings for care and shall enter an order providing for one of the following:

(1) The judge may enter an order committing the person to a mental health facility for in-patient care. Except as provided by Subsection (g) of this section, if the department has designated a single portal authority for the area, the judge shall commit the person to a facility of the single portal authority, to a private mental hospital, or to a hospital operated by an agency of the United States.

(2) The judge may enter an order requiring the person to participate in mental health services other than in-patient care, including but not limited to programs of community mental health and mental retardation centers and services provided by a private psychiatrist or psychologist.

(e) In determining the setting for care, the judge shall consider the recommendation for the most appropriate treatment alternative filed pursuant to Section 34 of this code. Mental health services shall be ordered in the least restrictive appropriate setting available.

(f) An order entered pursuant to this section shall specify a period not to exceed 12 months but shall not specify any shorter period of time.

(g) If a single portal authority lacks the local resources to care for a patient, the authority may transfer the patient to a state mental hospital or, at the request of the authority, the judge may commit the patient directly to a state mental hospital.

SECTION 6.11. Section 58, Texas Mental Health Code, as amended (Article 5547-58, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 58. DESIGNATION OF IN-PATIENT MENTAL HEALTH FACILITY. (a) In the Order for Temporary Mental Health Services or Order for Extended Mental Health Services specifying in-patient care, the court shall commit the patient to a designated mental health facility. Except as provided by Subsection (b) of this section, if the department has designated a single portal authority for the area, the court shall commit the patient to a facility of the single portal authority, to a private mental hospital, or to a hospital operated by an agency of the United States.

(b) If a single portal authority lacks the local resources to care for a patient, the court, at the request of the authority, shall commit the person to a mental health facility designated by the authority.

(c) A court may not commit a patient to an in-patient mental health facility operated by a community center or other entity designated by the department to provide mental health services unless the facility is licensed under Chapter 6 of this code.

SECTION 6.12. Subsections (a) and (c), Section 67, Texas Mental Health Code, as amended (Article 5547-67, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Before the furlough or discharge of a patient, the head of the mental health facility shall, in consultation with the patient and the mental health authority in the area in which the patient will live after discharge, and in accordance with department rules, develop a plan for continuing care for a patient for whom he determines the care is required. The plan will address the mental health and physical needs of the client. A patient to be discharged may refuse the services provided for by this section. Involvement of the mental health authority in discharge planning shall not apply to the furlough or discharge of a patient from a private mental health facility.

[~~(c) A community mental health and mental retardation center's involvement in discharge planning and continuing care services shall be to the extent that the center's resources have been determined by the commissioner to be available for those purposes.~~]

SECTION 6.13. Subsections (a) and (b), Section 73, Texas Mental Health Code, as amended (Article 5547-73, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Except as provided by Subsection (b) of this section, the [~~The~~] head of a mental health facility is authorized to admit and detain any patient in accordance with the following procedures provided in this code:

(1) Voluntary Admission

(2) Emergency Detention, Temporary Detention, or Protective Custody

(3) Court-Ordered Temporary Mental Health Services

(4) Court-Ordered Extended Mental Health Services

(b) The head of an in-patient mental health facility operated by a community center or other entity designated by the department to provide mental health services may not admit or detain a patient under an order for temporary or extended court-ordered mental health services unless the facility is licensed under Chapter 6 of this code. Nothing in this code prohibits the admission of voluntary patients to private mental hospitals in any lawful manner.

SECTION 6.14. Section 75, Texas Mental Health Code, as amended (Article 5547-75, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 75. TRANSFER TO STATE MENTAL HOSPITAL OR SINGLE PORTAL AUTHORITY FACILITY. (a) The department may transfer a patient from one state mental hospital to another or, with the consent of the authority, to a facility of a single portal authority, whenever such transfer is deemed advisable, except that a voluntary patient may not be transferred without his consent.

(b) If the department has designated a single portal authority for an area, the [~~The~~] head of an in-patient mental health facility, upon notice to the committing court and to the authority, may for any reason transfer an involuntary patient to a facility of the single portal authority. If the department has not designated a single portal authority for the area, the head of an in-patient mental health facility, upon notice to the committing court and to the department, may for any reason transfer an involuntary patient to a state mental hospital designated by the department; provided, however, that if the person suffers from mental retardation as well as mental illness, the facility may not transfer the person to a mental health facility operated by the Texas Department of Mental Health and Mental Retardation unless the commissioner of the department has determined that space is available in a unit of a departmental facility specifically designed to serve such persons. The head of the in-patient mental health facility shall obtain such determination prior to initiating the transfer.

(c) A single portal authority may transfer a patient from one authority facility to another whenever the transfer is deemed advisable, except that a voluntary patient may not be transferred without his consent.

(d) The department shall maintain an appropriate number of hospital-level beds for mentally retarded persons who are committed for court-ordered mental health services to meet the needs of the single portal authorities. The number of beds maintained must be based on the previous year's need.

SECTION 6.15. Section 81, Texas Mental Health Code (Article 5547-81, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) In addition to the rights provided by Subsection (a) of this section, the department shall notify each adult patient of the patient's right to have the department notify his family prior to discharge or release if the patient grants permission. If the patient grants permission for notification, the department or facility shall make a reasonable attempt to give the patient's family prior notice of the patient's release or discharge.

SECTION 6.16. Sections 88 and 90, Texas Mental Health Code, as amended (Articles 5547-88 and 5547-90, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 88. LICENSE REQUIRED. (a) Except as provided by Subsection (b) of this section, 90 [~~Ninety~~] days after the effective date of this code, no person or political subdivision may operate a mental hospital and no community center or other entity designated by the department to provide mental health services may operate a mental health facility that provides court-ordered mental health services unless licensed to do so by the department or the Texas Department of Health.

(b) A mental health facility operated by the department or by an agency of the United States is not required to obtain a license under this chapter.

(c) If a mental hospital licensed under this chapter is designated by the department to provide mental health services, the hospital is not required to obtain an additional license to provide court-ordered mental health services.

Sec. 90. APPLICATION FOR LICENSE. (a) Application for license to operate a private mental hospital or for a community center or other entity designated by the department to provide mental health services to operate a mental health facility that provides court-ordered in-patient mental health services shall be made on forms prescribed by the department. The department shall prepare the application forms and make them available upon request. The application shall be sworn to and shall set forth:

(1) the name and location of the mental hospital or mental health facility;

(2) the name and address of the physician to be in charge of hospital care and treatment of mental patients;

(3) the names and addresses of the owners of the hospital, including the officers, directors, and principal stockholders if the owner is a corporation or other association;

(4) the names and addresses of the members of the board of trustees of the community center or the names and addresses of the directors of the entity designated by the department to provide mental health services;

(5) the bed capacity to be authorized by the license;

(6) [~~(5)~~] the number, duties, and qualifications of the professional staff;

(7) [~~(6)~~] a description of the equipment and facilities of the hospital or mental health facility; and

(8) [~~(7)~~] such other information as the department may require, which may include affirmative evidence of ability to comply with such standards, rules, and regulations as the department may prescribe.

(b) The applicant shall submit a plan of the premises to be occupied as a mental hospital or mental health facility, describing the buildings and grounds and

the uses intended to be made of the various portions of the premises. The board shall adopt by rule a fee schedule for the review of the plan of the premises. The board shall also adopt by rule a fee schedule for field surveys of construction plans reviewed under this section. The fee adopted by the board for a plan review or a field survey shall not exceed $650.

SECTION 6.17. Chapter 6, Texas Mental Health Code, as amended (Article 5547-88 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 88A to read as follows:

Sec. 88A. LIMITATION ON CONTRACTS. A community center or other entity designated by the department to provide mental health services may not contract with a mental health facility to provide court-ordered mental health services unless the facility is licensed by the department or the Texas Department of Health.

SECTION 6.18. Subsections (a) and (b), Section 91, Texas Mental Health Code, as amended (Article 5547-91, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) After receipt of proper application for license and the required fees, the department shall make such investigation as it deems desirable. If the department finds that the premises are suitable and that the applicant is qualified to operate a mental hospital, or that the community center or other entity designated by the department to provide mental health services is qualified to operate a mental health facility that provides court-ordered in-patient mental health services, in accordance with the requirements and standards established by law and by the department, the department shall issue a license authorizing the designated licensee to operate a mental hospital or in-patient mental health facility on the premises described and for the bed capacity specified in the license. [~~However, if operation of the mental hospital involves acquisition, construction, or modification of a facility, a change in bed capacity, provision of new services, or expansion of existing services for which a certificate of need or an exemption certificate is required under the Texas Health Planning and Development Act, the department shall not issue the license unless and until the certificate of need or the exemption certificate has been granted to the applicant under that Act.~~]

(b) The [~~Subject to the applicable provisions of the Texas Health Planning and Development Act, the~~] authorized bed capacity may be increased at any time upon the approval of the department and may be reduced at any time by notifying the department.

SECTION 6.19. Section 92, Texas Mental Health Code, as amended (Article 5547-92, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 92. [~~APPLICATION AND LICENSE~~] FEES. (a) The board shall adopt by rule an [~~An~~] application fee and a license fee that shall accompany the application for a license to operate a mental hospital or for a community center or other entity designated by the department to provide mental health services to operate a mental health facility that provides court-ordered in-patient mental health services. If the department denies the license, only the license fee shall be returned. The department may establish staggered renewal dates and dates on which fees are due [~~The application fee is One Thousand Dollars ($1,000) plus Ten Dollars ($10) per bed. The annual license fee payable on August 31 of each year is Two Hundred Dollars ($200)~~].

(b) Fees adopted under this chapter must be based on the estimated cost to and the level of effort expended by the department to conduct the activity associated with the fee. The fees should be designed to recover 100 percent of the department's cost in granting the initial license and subsequent renewals but shall not exceed $250. The department shall annually review the fee schedules adopted under this chapter to ensure that fees charged continue to be based on the estimated costs to and the level of effort expended by the department.

(c) All [~~application fees and license~~] fees received by the department [~~State Health Department~~] under this chapter shall be deposited in the State Treasury and there set apart, subject to appropriations by the legislature, for the uses and purposes prescribed by this Act, including salaries, maintenance, travel expense, repairs, printing, and postage.

SECTION 6.20. Subsection (b), Section 93, Texas Mental Health Code (Article 5547-93, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) If, after investigation, the department finds that there is immediate threat to health or safety of patients or employees of a private mental hospital or a facility operated by a community center or other entity designated by the department to provide mental health services that is licensed under this chapter, the department may temporarily suspend a license for 10 days pending a hearing on the suspension order and may issue orders necessary for the welfare of the patients.

SECTION 6.21. Section 95, Texas Mental Health Code, as amended (Article 5547-95, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (d) and by adding Subsection (e) to read as follows:

(a) The department may prescribe such rules, regulations, and standards, not inconsistent with the constitution and the laws of this state, as it considers necessary and appropriate to ensure proper care and treatment of patients in private mental hospitals or mental health facilities operated by community centers or other entities designated by the department that provide court-ordered in-patient mental health services. The standards for community-based crisis stabilization and crisis residential services must be less restrictive than the standards for mental hospitals.

(d) A copy of these rules shall be sent to each licensed private mental hospital and each facility operated by a community center or other entity designated by the department to provide mental health services that is licensed under this chapter.

(e) The department rules must encourage mental health facilities licensed under this chapter to provide in-patient mental health services in ways that are appropriate for the diversity of the state.

SECTION 6.22. Subsection (b), Section 97, Texas Mental Health Code, as amended (Article 5547-97, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Any duly authorized agent of the department may at any reasonable time enter upon the premises of any private mental hospital or a facility operated by a community center or other entity designated by the department to provide mental health services that is licensed under this chapter to inspect the facilities and conditions, to observe the program for care and treatment, and to question employees of the hospital or facility and may have access for the purpose of examination and transcription to such records and documents as are relevant to the investigation.

SECTION 6.23. Subsection (b), Section 99, Texas Mental Health Code, as amended (Article 5547-99, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The department may maintain an action in the name of the State of Texas for injunction or other process against any person or political subdivision to restrain the unlicensed operation of a mental hospital or a facility operated by a community center or other entity designated by the department to provide mental health services that is required to be licensed under this chapter.

SECTION 6.24. Section 44, Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 44. ALTERNATIVE, FOLLOW-UP SUPPORTIVE SERVICES. The department shall provide appropriate alternative or follow-up supportive services consistent with available resources. Provision of alternative or follow-up supportive services shall be made by agreement between the department, the mental

retardation authority in the area in which the client will reside, and the client, parent of a minor, or guardian of the person, and shall be consistent with the rights guaranteed in Subchapters C, D, and E of this Act. Placement in a residential care facility, under the provisions of this Act, other than by transfer from another residential care facility shall be made only pursuant to Sections 34 and 37 of this Act.

SECTION 6.25. Subsection (b), Section 1, Chapter 543, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 5561c-1, Vernon's Texas Civil Statutes), is amended by amending Subdivision (6) and by adding Subdivision (8) to read as follows:

(6) "Mental health facility" includes:

(A) an inpatient or outpatient mental health facility operated by the Texas Department of Mental Health and Mental Retardation or by an entity designated by the Texas Department of Mental Health and Mental Retardation to provide mental health services, a political subdivision of the state, or any other legal entity;

(B) a community mental health and mental retardation center established under Section 3.01, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes), that provides mental health services; and

(C) the identifiable part of a general hospital that provides diagnosis, treatment, and care for mentally ill or drug-dependent persons.

(8) "Single portal authority" means a mental health authority designated as a single portal authority by the Texas Department of Mental Health and Mental Retardation.

SECTION 6.26. Section 10, Chapter 543, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 5561c-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. (a) In the order of commitment, the court shall commit the patient to a designated:

(1) state mental health facility if the Texas Department of Mental Health and Mental Retardation has not designated a single portal authority for the area;

(2) single portal authority facility if the Texas Department of Mental Health and Mental Retardation has designated an authority for the area;

(3) private mental health facility; or

(4) [~~(3)~~] agency of the United States operating a mental health facility.

(b) If a single portal authority lacks the local resources to care for a patient, the authority may transfer the patient to a state mental health facility, or at the request of the authority, the court may commit the patient directly to a state mental health facility.

SECTION 6.27. Section 3.02, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

(h) Except as provided by this subsection, if the Texas Department of Mental Health and Mental Retardation has designated a single portal authority for the area, the court may not directly commit a person to a state mental health facility, but instead may order the person committed to a program licensed by the commission, to a federal hospital, or to a facility operated by the single portal authority. If the single portal authority lacks the local resources to care for a patient, the authority may transfer the patient to a state mental health facility or, at the request of the authority, the court may commit the patient directly to a state mental health facility.

ARTICLE 7

SECTION 7.01. The Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 6 to read as follows:

Art. 6. REGISTRATION OF BOARDING HOMES

Sec. 6.01. DEFINITIONS. In this article:

(1) "Boarding home" means a residence or establishment that, in addition to food and shelter, provides services that meet some need beyond the basic provision of food and shelter to four or more persons who are not related to the owner or operator of the residence or establishment.

(2) "Registered boarding home" means a boarding home registered by a local mental health or mental retardation authority under this article.

(3) "Financial services" means any assistance in managing a resident's personal financial matters that the local mental health or mental retardation authority requires or permits the owner or operator of a registered boarding home to provide to the resident, including:

(A) cashing checks;

(B) holding funds for safekeeping in any manner; and

(C) assisting the resident in purchasing goods or services with the resident's personal funds.

(4) "Personal services" means any service other than shelter that the local mental health or mental retardation authority requires or permits the owner or operator of a registered boarding home to provide to a resident.

Sec. 6.02. APPLICATION TO BOARDING HOMES OPERATED BY DEPARTMENT OR AUTHORITY. A boarding home operated by the Department or a local mental health or mental retardation authority is not required to be registered under this article. However, each boarding home shall meet the standards prescribed by the appropriate authority under this article.

Sec. 6.03. POWERS AND DUTIES OF LOCAL MENTAL HEALTH OR MENTAL RETARDATION AUTHORITY. (a) Each local mental health or mental retardation authority shall:

(1) adopt guidelines relating to the registration of boarding homes;

(2) submit the guidelines to the Department for approval as provided by Section 6.04 of this article;

(3) adopt local standards for personal and financial services;

(4) register boarding homes as required by this article; and

(5) visit and inspect each registered boarding home to which the authority refers a patient or client at least annually to ensure that the home has been inspected, is in good standing with the local health and safety authorities, and is providing the personal and financial services that are appropriate for the residents' needs.

(b) The guidelines established by the local mental health or mental retardation authority must:

(1) require annual inspections of each registered boarding home to which the authority refers a patient or client as provided by Subsection (a)(5) of this section;

(2) require each registered boarding home to submit to the required annual inspection; and

(3) require each registered boarding home to comply with all applicable local health, sanitation, fire, and safety requirements.

(c) If the local mental health and mental retardation authorities in a service area are separate entities, the authorities shall adopt a memorandum of understanding to reduce duplication and clarify responsibilities in registering boarding homes in the service area.

(d) Each local mental health and mental retardation authority shall involve existing local authorities in the registration and inspection of boarding homes to the extent possible.

Sec. 6.04. SUBMISSION OF GUIDELINES TO DEPARTMENT. (a) Each local mental health or mental retardation authority shall submit the guidelines adopted under Subsection (a)(1) of Section 6.03 of this article to the Department for approval.

(b) The Department shall approve the guidelines if the guidelines:

(1) require annual inspections of each registered boarding home to which the authority refers a patient or client as provided by Section 6.03(a)(5) of this article;

(2) require each registered boarding home to submit to the required annual inspection; and

(3) require each registered boarding home to comply with all applicable local health, sanitation, fire, and safety requirements.

Sec. 6.05. WITHHOLDING FUNDS. The Department may withhold funds from a local mental health or mental retardation authority if the authority refers patients or clients to a boarding home that is not registered by the authority.

Sec. 6.06. PROVISION OF SERVICES BY LOCAL AUTHORITY. (a) If a local mental health or mental retardation authority registers a boarding home, the authority shall make the services required by Section 4.03 of this Act available to the residents who are otherwise eligible for mental health and mental retardation services.

(b) The authority shall notify the residents and owner or operator of the registered boarding home that the required services are available. The authority shall also:

(1) require the home to post the 24-hour emergency crisis number in a conspicuous place in the home; and

(2) allow boarding home staff and owners to participate in the training provided to the staff of the local authority if the training is applicable to the care of the residents in the boarding home or to the operation of the boarding home.

(c) A local mental health or mental retardation authority may not:

(1) charge a fee for providing training services to the staff of a boarding home; or

(2) charge a boarding home a fee for providing services to the residents of the home.

ARTICLE 8

SECTION 8.01. Title 9, Human Resources Code, as amended, is amended by adding Chapter 134 to read as follows:

CHAPTER 134. INTERAGENCY COUNCIL FOR GENETIC SERVICES

Sec. 134.001. (a) The Interagency Council for Genetic Services is established.

(b) The council consists of:

(1) a representative of the Texas Department of Mental Health and Mental Retardation, appointed by the commissioner of mental health and mental retardation;

(2) a representative of the Texas Department of Health, appointed by the commissioner of health;

(3) a representative of the Texas Department of Human Services, appointed by the commissioner of human services;

(4) a representative of The University of Texas health science centers, appointed by the chancellor of The University of Texas System;

(5) a representative of the public and private entities that contract with the Texas Department of Health to provide genetic services, elected from their membership; and

(6) two consumers of genetic services, family members of consumers of genetic services, or representatives of consumer groups related to the provision of genetic services, appointed by the governor.

(c) The members provided for by Subdivisions (5) and (6) of Subsection (b) of this section serve two-year terms and may be reappointed or reelected for subsequent terms. A representative of the Texas Department of Mental Health and Mental Retardation, Texas Department of Health, Texas Department of Human Services, or The University of Texas health science centers serves at the pleasure of

his respective commissioner or chancellor or until termination of his employment with the entity he represents.

(d) The members of the council shall annually elect one member to serve as chairperson.

(e) The council shall meet at least quarterly. Any actions taken by the council must be approved by a majority vote of the members present.

Sec. 134.002. APPLICATION OF SUNSET ACT. The Interagency Council for Genetic Services is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the council is abolished and this chapter expires September 1, 1989.

Sec. 134.003. STAFF. (a) The council may select and use lay and professional advisors as necessary.

(b) The Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Department of Human Services, and The University of Texas health science centers shall share the cost of providing clerical and advisory support staff to the council.

Sec. 134.004. DUTIES. The council shall:

(1) survey current resources for genetic services in the state;

(2) initiate a scientific evaluation of the current and future needs for the services;

(3) develop a comparable data base among providers that will permit the evaluation of cost-effectiveness and the value of different genetic services and methods of service delivery;

(4) promote a common statewide data base to study the epidemiology of genetic disorders;

(5) assist in coordinating statewide genetic services for all state residents;

(6) increase the flow of information among separate providers and appropriation authorities; and

(7) develop guidelines to monitor the provision of genetic services, including laboratory testing.

Sec. 134.005. USE OF FEDERAL FUNDS. If the Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Department of Human Services, or The University of Texas health science centers receive federal funds to be used only to coordinate and plan statewide genetic services, the department or system shall transfer the funds to the council to be used for the purposes for which the funds were received.

Sec. 134.006. ANNUAL REPORTS. The council shall annually submit a progress report to the boards of the Texas Department of Health, Texas Department of Mental Health and Mental Retardation, and Texas Department of Human Services and to the board of regents of The University of Texas System.

Sec. 134.007. REPORT TO 71ST LEGISLATURE. (a) Not later than February 1, 1989, the council shall submit a report to the 71st Legislature recommending improvements to the present system of providing genetic services. The report must also detail any actions taken by the council to improve the provision of genetic services. The report may include recommendations to improve the operation of the council.

(b) This section expires September 1, 1989.

SECTION 8.02. Section 26, Mentally Retarded Persons Act of 1977, as amended (Article 5547-300, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 26. RULES AND REGULATIONS. (a) The department shall promulgate rules and regulations to ensure the implementation of the rights guaranteed in Subchapters C, D, and E of this Act.

(b) The department shall promulgate rules and regulations to ensure that a client, parent of a minor, or guardian of the person has the opportunity to participate in planning with regard to the client's treatment and habilitation, including any decision to recommend or effect placement of the client in an alternative treatment setting. The rules and regulations shall include procedures for informing clients, parents, and guardians of the due process provisions in Section 43 of this Act, including the right to an administrative hearing and judicial review in county court of proposed transfers or discharges.

SECTION 8.03. Subchapter G, Mentally Retarded Persons Act of 1977, as amended (Article 5547-300, Vernon's Texas Civil Statutes), is amended by adding Section 27A to read as follows:

Sec. 27A. REQUIREMENT TO OBTAIN CONSENT. The department or a community center shall obtain legally adequate consent before providing mental retardation services. However, if the department or a community center has made all reasonable efforts to obtain legally adequate consent and cannot do so, nonresidential mental retardation services, including a comprehensive diagnosis and evaluation, can be provided. The department shall promulgate rules to define what shall constitute all reasonable efforts to obtain legally adequate consent and how these efforts shall be documented.

SECTION 8.04. Section 39, Mentally Retarded Persons Act of 1977, as amended (Article 5547-300, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 39. BY SERVICE PROVIDER. The service provider shall transfer, furlough the client to alternate placement, or discharge the client pursuant to this subchapter if the service provider determines:

(1) the placement of the client in the facility is no longer appropriate to the person's individual needs; or

(2) [~~When a service provider finds that placement of a client in a facility is no longer appropriate to the person's individual needs or that~~] the client can be better treated and habilitated in another setting [~~facility~~]; and

(3) placement in another setting, that can better treat and habilitate the client, has been secured[~~, the service provider shall transfer or discharge the client pursuant to this subchapter~~].

SECTION 8.05. (a) Section 57, Mentally Retarded Persons Act of 1977, as amended (Article 5547-300, Vernon's Texas Civil Statutes), is amended by adding Subsection (j) to read as follows:

(j) Notwithstanding the provisions of Subsections (a) through (i) of this section, the department may disclose a person's educational records to a school district that is or will be providing educational services to the person without first obtaining that person's written consent.

(b) Subsection (j), Section 57, Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes), as added by this section, takes effect September 1, 1988.

SECTION 8.06. Subchapter F, Chapter 23, Title 110B, Revised Statutes, is amended by adding Section 23.508 to read as follows:

Sec. 23.508. SERVICE OF CERTAIN MENTAL HEALTH AND MENTAL RETARDATION EMPLOYEES. (a) Except as provided by Subsection (i) of this section, the retirement system shall grant to each member eligible as provided by this section service credit in the retirement system for all service covered by credit in the Teacher Retirement System of Texas for which deposits are maintained in an active member account immediately before the person became a member of the retirement system.

(b) A member eligible to receive credit under this section is one who:

(1) was a member of the Teacher Retirement System of Texas as an employee of the Texas Department of Mental Health and Mental Retardation on

August 31, 1985, and on that date had normal duties requiring the person to provide educational services to school-age residents of state schools;

(2) became or becomes a member of this retirement system after August 31, 1985, and before September 2, 1988, as an employee of the Texas Department of Mental Health and Mental Retardation;

(3) is not a retiree of the Teacher Retirement System of Texas; and

(4) has no intervening employment between the member's previous position included in the coverage of the Teacher Retirement System of Texas and the member's employment by the Texas Department of Mental Health and Mental Retardation.

(c) The Texas Department of Mental Health and Mental Retardation shall certify employees who may be eligible to receive credit under this section and shall provide copies of the certifications to the retirement system and the Teacher Retirement System of Texas.

(d) Except as provided by Subsection (i) of this section, as soon as practicable after receipt of a certification of eligibility under Subsection (c) of this section, the Employees Retirement System of Texas shall determine eligibility and notify the Teacher Retirement System of Texas. On notification, the Teacher Retirement System of Texas shall transfer to the retirement system:

(1) a statement of the certified person's service credit in and compensation subject to contributions to the Teacher Retirement System of Texas;

(2) the person's accumulated contributions; and

(3) an amount from the state contribution account determined by the actuary of the Teacher Retirement System of Texas to be the amount required neither to increase nor to diminish the period required to amortize the unfunded liability of that system.

(e) A transfer under Subsection (d) of this section cancels the service credit and terminates the membership in the Teacher Retirement System of Texas of the person for whom the amounts are transferred.

(f) As soon as practicable after receipt of a transfer under Subsection (d) of this section, the retirement system shall grant the member for whom the amounts were transferred the credit provided by this section.

(g) Service for which credit is established under this section will be considered as if it were performed as a member of this retirement system and credit for the service may not be reestablished in the Teacher Retirement System of Texas.

(h) The legislature may appropriate to the Employees Retirement System of Texas amounts that are determined necessary to finance additional actuarial liabilities created by this section and not financed by the transfers provided by Subsection (d) of this section.

(i) The retirement system may not grant the eligible member the credit authorized by this section if:

(1) the actuary for this retirement system determines that an amount proposed to be transferred under Subsection (d) of this section, together with any appropriation made available as provided by Subsection (h) of this section, is not sufficient to finance the actuarial liabilities that would be created by the transfer; or

(2) the actuary for the Teacher Retirement System of Texas makes the determination provided by Subdivision (1) of Subsection (i) of Section 33.404 of this title.

SECTION 8.07. Subchapter E, Chapter 33, Title 110B, Revised Statutes, is amended by adding Section 33.404 to read as follows:

Sec. 33.404. CERTAIN MENTAL HEALTH AND MENTAL RETARDATION SERVICE. (a) Except as provided by Subsection (i) of this section, the retirement system shall grant to each member eligible as provided by

this section service credit in the retirement system for all service covered by credit in the Employees Retirement System of Texas for which deposits are maintained in an active member account, immediately before the person became a member of the retirement system.

(b) A member eligible to receive credit under this section is one who:

(1) was a member of the Employees Retirement System of Texas as an employee of the Texas Department of Mental Health and Mental Retardation on August 31, 1985, and on that date and on the date of termination with the department had normal duties requiring the person to provide educational services to school-age residents of state schools;

(2) became or becomes a member of this retirement system after August 31, 1985, and before September 2, 1988, as an employee of a school district;

(3) has normal duties requiring the member to provide educational services to school-age students;

(4) is not a retiree of the Employees Retirement System of Texas; and

(5) has no intervening employment between the member's previous employment by the Texas Department of Mental Health and Mental Retardation and the member's employment by a school district.

(c) The Texas Department of Mental Health and Mental Retardation shall certify the employees who may be eligible to receive credit under this section and shall provide copies of the certifications to the retirement system and the Employees Retirement System of Texas.

(d) Except as provided by Subsection (i) of this section, as soon as practicable after receipt of a certification of eligibility under Subsection (c) of this section, the Teacher Retirement System of Texas shall determine eligibility and notify the Employees Retirement System of Texas. On notification, the Employees Retirement System of Texas shall transfer to the retirement system:

(1) a statement of the certified person's credit in and compensation subject to contributions to the Employees Retirement System of Texas;

(2) the person's accumulated contributions; and

(3) an amount from the state accumulation account determined by the actuary of the Employees Retirement System of Texas to be the amount required neither to increase nor to diminish the period required to amortize the unfunded liability of that system.

(e) A transfer under Subsection (d) of this section cancels the service credit and terminates the membership in the Employees Retirement System of Texas of the person for whom the amounts are transferred.

(f) As soon as practicable after receipt of a transfer under Subsection (d) of this section, the retirement system shall grant the member for whom the amounts were transferred the credit authorized by this section.

(g) Service for which credit is established under this section will be considered as if it were performed as a member of this retirement system and credit for the service may not be reestablished in the Employees Retirement System of Texas.

(h) The legislature may appropriate to the Teacher Retirement System of Texas amounts that are determined necessary to finance additional actuarial liabilities created by this section and not financed by the transfers provided by Subsection (d) of this section.

(i) The retirement system may not grant the eligible member the credit authorized by this section if:

(1) the actuary for this retirement system determines that an amount proposed to be transferred under Subsection (d) of this section, together with any appropriation made available as provided by Subsection (h) of this section, is not sufficient to finance the actuarial liabilities that would be created by the transfer; or

(2) the actuary for the Employees Retirement System of Texas makes the determination provided by Subdivision (1) of Subsection (i) of Section 23.508 of this title.

SECTION 8.08. Subdivision (6), Subsection (a), Section 9.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(6) "Political subdivision" means a county, municipality, school district, [or] junior college district, or community center established or operating under Article 3, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes).

SECTION 8.09. Section 4, Chapter 270, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 4. DISPOSITION OF PROCEEDS. (a) The proceeds of the sale authorized by Section 1 of this Act are allocated as provided by this section.

(b) Fifty percent [~~The first $40 million~~] shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(c) Fifty percent [~~The next $18,500,000~~] is appropriated to the Texas Department of Mental Health and Mental Retardation for the biennium ending August 31, 1989 [~~1987~~]. That portion of the proceeds [~~amount~~] shall first be used for community center construction and renovation as provided in Section 3.11, Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes), necessary life safety code improvements, and the purchase of land and construction of facilities for a rehabilitation center to replace the one authorized for sale in Section 1 of this Act. Any balance may be used for other construction and improvements as approved by the Texas Board of Mental Health and Mental Retardation, or for residential contract services for juveniles.

[~~(d) Any balance remaining after the preceding allocations are satisfied shall be deposited in the State Treasury to the credit of the General Revenue Fund.~~]

SECTION 8.10. Section 3, Chapter 324, Acts of the 68th Legislature, Regular Session, 1983, is amended to read as follows:

Sec. 3. Notwithstanding the provisions in Section 3.11, Texas Mental Health and Mental Retardation Act, as amended, regarding lease-purchase agreements, the Tarrant County mental health and mental retardation community center is not required to enter into a lease-purchase agreement with the department for the construction of the psychiatric treatment facility authorized by Section 2 of this Act and for which funds have been appropriated by the 68th Legislature, Regular Session. As prescribed by Section 2.13, Texas Mental Health and Mental Retardation Act, the department may contract with the Tarrant County mental health and mental retardation community center to lease to the community center the facility authorized to be constructed under Section 2 of this Act for the purpose of operating a psychiatric treatment facility. Notwithstanding Section 3.11(f), Texas Mental Health and Mental Retardation Act (Article 5547-203, Vernon's Texas Civil Statutes), appropriations of state funds for the actual operation of the facility may not exceed 85 percent of the total operating budget of the facility [~~Subsection (d) of Section 3.11, Texas Mental Health and Mental Retardation Act, as amended, applies to the use of state funds by the community center for the operation of the psychiatric treatment facility~~].

SECTION 8.11. Subsection (c), Section 21, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is repealed.

SECTION 8.12. Chapter 61, Education Code, as amended, is amended by adding a new Subchapter K to read as follows:

SUBCHAPTER K. REPAYMENT OF CERTAIN STUDENT LOANS

Sec. 61.601. DEFINITIONS. In this subchapter:

(1) "Physical therapist" means a person licensed under Chapter 836, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512e, Vernon's Texas Civil Statutes).

(2) "Residential care facility" means a facility operated by the Texas Department of Mental Health and Mental Retardation that provides 24-hour services, including domiciliary services, directed toward enhancing the health, welfare, and development of persons with mental retardation.

Sec. 61.602. REPAYMENT AUTHORIZED. The coordinating board may provide, using funds appropriated for that purpose and in accordance with this subchapter and rules of the board, assistance in repayment of student loans for physical therapists who apply and qualify for the assistance.

Sec. 61.603. ELIGIBILITY. (a) To be eligible to receive repayment assistance, a physical therapist must apply to the coordinating board and have completed at least one year of practice as a physical therapist in a residential care facility.

(b) The coordinating board may by rule provide for repayment assistance on a pro rata basis for physical therapists practicing at least part-time in a residential care facility.

Sec. 61.604. LIMITATION. Upon qualifying for such assistance, a physical therapist may receive repayment assistance grants for each year of practice in a residential care facility, up to a maximum of five years.

Sec. 61.605. ELIGIBLE LOANS. (a) The coordinating board may provide repayment assistance for the repayment of any student loan for education at an institution of higher education, including loans for undergraduate education, received by a physical therapist through a lender in Texas.

(b) The coordinating board may not provide repayment assistance for a student loan that is in default at the time of the physical therapist's application.

Sec. 61.606. REPAYMENT. (a) The coordinating board shall deliver any repayment made under this subchapter in a lump sum directly to the lender.

(b) A repayment made under this subchapter may be applied only to the principal amount of the loan.

Sec. 61.607. ADVISORY COMMITTEE. The coordinating board may appoint an advisory committee from outside the board's membership to assist the board in performing its duties under this subchapter.

Sec. 61.608. ACCEPTANCE OF FUNDS. The coordinating board may accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.609. RULES. (a) The coordinating board shall adopt rules necessary for the administration of this subchapter, including a rule that sets a maximum amount of repayment assistance that may be received by a physical therapist in one year.

(b) The coordinating board shall distribute to each institution of higher education, the Texas Department of Mental Health and Mental Retardation, and appropriate professional associations copies of the rules adopted under this section and pertinent information in this subchapter.

ARTICLE 9

SECTION 9.01. Title 7, Human Resources Code, as amended, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. INTERAGENCY COUNCIL ON AUTISM AND PERVASIVE DEVELOPMENTAL DISORDERS

Sec. 114.001. SHORT TITLE. This chapter may be cited as the Interagency Council on Autism and Pervasive Developmental Disorders Act of 1987.

Sec. 114.002. DEFINITIONS. In this chapter:

(1) "Autism and other pervasive developmental disorders" means a subclass of mental disorders characterized by distortions in the development of

multiple basic psychological functions that are involved in the development of social skills and language, as defined by the Diagnostic and Statistical Manual, 3rd Edition.

(2) "Council" means the Interagency Council on Autism and Pervasive Developmental Disorders.

Sec. 114.003. INTERAGENCY COUNCIL. (a) The Interagency Council on Autism and Pervasive Developmental Disorders is established.

(b) The council is composed of:

(1) two public members who are family members of a person with autism or some other pervasive developmental disorder, appointed by the governor with the advice and consent of the senate; and

(2) one representative from each of the following state agencies, appointed by the commissioner of the respective agency:

(A) Texas Department of Mental Health and Mental Retardation;

(B) Texas Department of Health;

(C) Texas Department of Human Services;

(D) Central Education Agency; and

(E) Texas Rehabilitation Commission.

(c) The commissioner of each state agency shall appoint as that agency's representative the person in the agency who is most familiar with and best informed about autism and other pervasive developmental disorders.

(d) The public members appointed by the governor serve two-year terms that expire on February 1 of each odd-numbered year. The public members may be reappointed. A representative of a state agency serves at the pleasure of the commissioner of that agency. The members may not receive compensation or reimbursement for expenses.

(e) The members of the council shall annually elect one member to serve as chairperson.

(f) The council shall meet at least quarterly and shall adopt rules for the conduct of its meetings.

(g) Any actions taken by the council must be approved by a majority vote of the members present.

(h) The council shall establish policies and adopt rules to carry out its duties under this chapter.

Sec. 114.004. STAFF SUPPORT. The agencies represented on the council shall provide staff support to the council from among the agency staff who are responsible for coordinating services to persons with autism or other pervasive developmental disorders or to those persons' families. The council is not authorized to expend any funds on staff salaries.

Sec. 114.005. ADVISORY TASK FORCE. (a) The council shall establish an advisory task force composed of professionals, advocacy groups, and family members of persons with autism or other pervasive developmental disorders. The council shall appoint as many members to the task force as the council considers necessary to assist the council in performing its duties.

(b) The task force shall elect its own chairperson and shall meet and serve in accordance with council rules. The council may divide the task force into regional committees to assist the council in community level program planning and implementation.

Sec. 114.006. STATE PLAN. (a) The council shall develop a state plan to provide services to persons with autism or other pervasive developmental disorders to ensure that:

(1) the needs of those persons and their families are addressed statewide and that all available resources are coordinated to meet those needs;

(2) within existing resources, the full range of services that are available through existing state agencies is offered to those persons throughout their lives to the maximum extent possible;

(3) personnel training needs are assessed statewide and strategies are developed to meet those needs;

(4) incentives are offered to private sources to encourage the sources to maintain present commitments and to assist in developing new programs; and

(5) a procedure for reviewing individual complaints about services provided under this chapter is implemented.

(b) The council shall make written recommendations on the implementation of this chapter. If the council considers a recommendation that will affect an agency not represented on the council, the council shall seek the advice and assistance of the agency before taking action on the recommendation. On approval of the governing body of the agency, each agency affected by a council recommendation shall implement the recommendation. If an agency does not have sufficient funds to implement a recommendation, the agency shall request funds for that purpose in its next budget proposal.

(c) The council may not expend funds to implement the plan.

Sec. 114.007. DUTIES. (a) The council shall provide recommendations to the Texas Department of Mental Health and Mental Retardation as the state agency primarily responsible for implementing this chapter, including recommendations relating to the use of funds appropriated to the department to provide services to persons with autism or other pervasive developmental disorders.

(b) The council with the advice of the advisory task force shall address contemporary issues affecting services available to persons with autism or other pervasive developmental disorders in this state, including:

(1) successful intervention and treatment strategies, including transitioning;

(2) personnel preparation and continuing education;

(3) referral, screening, and evaluation services;

(4) day care, respite care, or residential care services;

(5) vocational and adult training programs;

(6) public awareness strategies;

(7) contemporary research;

(8) early identification strategies;

(9) family counseling and case management; and

(10) recommendations for monitoring autism service programs.

(c) The council with the advice of the advisory task force shall advise the legislature on legislation that is needed to develop further and to maintain a statewide system of quality intervention and treatment services for all persons with autism or other pervasive developmental disorders. The council may develop and recommend legislation to the legislature or comment on pending legislation that affects those persons.

(d) The council shall identify and monitor apparent gaps in services currently available from various state agencies for persons with autism or other pervasive developmental disorders and shall advocate improvements on behalf of those persons.

Sec. 114.008. REPORT. (a) The agencies represented on the council and the public members shall report to the council any requirements identified by the agency or person to provide additional or improved services to persons with autism or other pervasive developmental disorders.

(b) The council shall develop a strategy for establishing new programs to meet the requirements identified by the agencies and the public members.

Sec. 114.009. PROGRAM GUIDELINES. The council shall develop specific program guidelines for:

(1) instructional or treatment options;
(2) frequency and duration of services;
(3) ratio of staff to affected persons;
(4) staff composition and qualifications;
(5) eligibility determination; and
(6) other program features designed to ensure the provision of quality services.

Sec. 114.010. FUNDING REQUESTS FOR PROGRAMS. (a) A public or private service provider may apply for available funds to provide a program of intervention services for eligible persons with autism or other pervasive developmental disorders in areas of identified needs.

(b) To apply for funds, a person must submit a grant request to the council.

(c) The council shall adopt rules governing the submission and processing of funding requests.

Sec. 114.011. APPROVAL CRITERIA. (a) The council shall review each request for program funding on a competitive basis and shall consider:
(1) the extent to which the program would meet identified needs;
(2) the cost of initiating the program, if applicable;
(3) whether other funding sources are available;
(4) the proposed cost of the services to the client or the client's family; and
(5) the assurance of quality services.

(b) The council may not approve a funding request for a new program unless the service provider agrees to:
(1) operate and maintain the program within the guidelines established by the council;
(2) develop for each person with autism or other pervasive developmental disorders an individualized developmental plan that:
(A) includes family participation and periodic review and reevaluation; and
(B) is based on a comprehensive developmental evaluation conducted by an interdisciplinary team;
(3) provide services to meet the unique needs of each person with autism or other pervasive developmental disorders as indicated by the person's individualized developmental plan; and
(4) develop a method in accordance with rules adopted by the council and approved by the council to respond to individual complaints relating to services provided by the program.

(c) The council shall develop with the Texas Department of Mental Health and Mental Retardation procedures for allocating available funds to programs approved under this section.

(d) This chapter does not affect the existing authority of a state agency to provide services to a person with autism or other pervasive developmental disorders if the person meets the eligibility criteria established by this chapter. The council may modify the program standards if the council considers the modifications necessary for a particular program.

Sec. 114.012. FEES FOR SERVICES. (a) A service provider may charge a fee for services that is based on the client's or family's ability to pay. The fee must be used to offset the cost of providing or securing the services. If a service provider charges a fee, the provider must charge a separate fee for each type of service. In determining a client's or family's ability to pay for services, the provider must consider the availability of financial assistance or other benefits for which the client or family may be eligible.

(b) A state agency may charge a fee for services provided by the agency under this chapter that is based on the client's or family's ability to pay.

Sec. 114.013. APPLICATION OF SUNSET ACT. The Interagency Council on Autism and Pervasive Developmental Disorders is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the council is abolished and this chapter expires on the date established by law for the abolishment of the Texas Department of Mental Health and Mental Retardation.

ARTICLE 10

SECTION 10.01. The Alcohol and Substance Abuse Services Oversight Act is adopted to read as follows:

Sec. 1.01. SHORT TITLE. This Act may be cited as the Alcohol and Substance Abuse Services Oversight Act.

Sec. 1.02. DEFINITIONS. In this Act:

(1) "Commission" means the Texas Commission on Alcohol and Drug Abuse.

(2) "Committee" means the Alcohol and Substance Abuse Services Oversight Committee.

(3) "Alcohol or substance abuse services" means treatment, prevention, and education services, but specifically excludes law enforcement activities.

(4) "State agency" means a public entity in the executive branch of state government eligible under law to receive an appropriation, but does not include the office of the governor.

Sec. 1.03. COMMITTEE. (a) The Alcohol and Substance Abuse Services Oversight Committee is established. The committee consists of:

(1) three members of the senate, appointed by the lieutenant governor;

(2) three members of the house of representatives, appointed by the speaker of the house; and

(3) three persons appointed by the governor.

(b) Committee members serve two-year terms.

(c) The committee shall elect a presiding officer and an assistant presiding officer from its membership. The committee shall meet at the call of the presiding officer or at the request of a majority of the members.

(d) The committee shall be staffed by existing legislative and governor's office staff. The committee may require the commission to provide clerical support and any other assistance to the committee.

Sec. 1.04. POWERS AND DUTIES OF COMMITTEE. The committee shall:

(1) adopt necessary rules, including rules relating to:

(A) the minimum information each plan required under Section 1.06 of this Act must contain;

(B) deadlines for submitting each plan;

(C) procedures and deadlines for reviewing and evaluating each plan; and

(D) criteria for using the budget execution authority provided by this Act;

(2) set out the duties of the commission in implementing this Act; and

(3) evaluate and approve, disapprove, or amend each plan submitted under Section 1.06 of this Act.

Sec. 1.05. POWERS AND DUTIES OF COMMISSION. (a) The commission is designated as the state authority for coordinating services and assuring financial accountability for all alcohol and substance abuse funds expended by state entities.

(b) The commission shall provide assistance to each state agency required to submit a plan under Section 1.06 of this Act. After each plan has been submitted, the commission shall prepare a separate plan that consolidates and coordinates the other plans in an effort to limit duplication and to maximize the effective use of funds. The commission shall submit to the committee separate reports on each agency's plan and on the consolidated plan prepared by the commission.

(c) The commission shall develop, with the assistance of the affected state agencies, a plan for the use of federal funds for alcohol or substance abuse services received by the commission, the Central Education Agency, and the criminal justice agencies. The commission shall submit this plan to the committee.

(d) The committee may require a state agency that is required to submit a plan under Section 1.06 of this Act to submit to the committee financial reports, audit results, service criteria, and other necessary data. The committee may require the commission to collect and evaluate any such data, and the committee may authorize or require the commission to perform site visits.

Sec. 1.06. PREPARATION AND SUBMISSION OF PLAN. (a) Each state agency that provides alcohol or substance abuse services or expends state or federal funds for alcohol or substance abuse services shall prepare and submit to the commission a strategic plan detailing how the agency intends to provide the services or expend the funds during the next fiscal biennium.

(b) Each plan submitted by the Texas Department of Mental Health and Mental Retardation must include a designation of core services and accountability measures for community mental health or mental retardation centers.

(c) In preparing its plan for each biennium, each agency shall conduct public meetings and take public testimony.

(d) Each agency shall submit the plan required by this section in accordance with committee rules relating to the information the plan must contain, the date on which the plan must be submitted, and any other relevant requirements.

Sec. 1.07. REVIEW OF PLANS. (a) The committee shall review and evaluate the plan submitted by each state agency and the consolidated plan prepared by the commission. In reviewing and evaluating a plan, the committee shall consider whether or not the plan meets the goals of:

(1) providing accountability for funds expended;

(2) maximizing funds spent for services and minimizing funds spent on administrative costs;

(3) providing community-based services; and

(4) coordinating and planning for improved and cost-effective state services for all types of clients.

(b) The committee may approve, amend, or disapprove any plan submitted to the committee or may prepare a new plan or plans if necessary to accomplish the goals prescribed by Subsection (a) of this section. Once the committee has designated the manner in which a state agency may expend funds, the agency may not expend state or federal funds for alcohol or substance abuse services in a manner not approved by the committee.

(c) If approved by the vote of at least six members, the committee may authorize an emergency transfer of funds from one state agency to another if the committee determines that:

(1) the funds can be used in a more cost-effective manner by the second agency and failure to transfer the funds will result in diminished services;

(2) the transfer is necessary to accomplish the goals prescribed by Subsection (a) of this section and failure to transfer the funds will result in diminished services;

(3) an agency failed to submit a plan as prescribed by this Act or submitted an insufficient plan and because of the failure or insufficiency the agency does not have authority to expend funds and the lack of authority will result in diminished services; or

(4) the transfer is necessary to prevent the loss of federal funds.

(d) Agencies that receive federal funds for substance abuse services from the office of the governor shall include those funds in the plans prescribed by this Act, but the committee's authority to designate the manner in which an agency may expend funds and to transfer funds between state agencies does not apply to federal substance abuse funds received and distributed by the office of the governor.

(e) The office of the governor shall submit to the committee a report on all federal funds received for alcohol and substance abuse services and plans for their expenditure. The report shall include all federal funds received by the governor's office for alcohol and substance abuse services and for law enforcement activity relating to alcohol and substance abuse. The committee may review and comment on the governor's office's plans for expenditures of these funds.

(f) The oversight committee is the legislative review body for federal substance abuse funds if the legislature is not in session when legislative review of those funds is required.

Sec. 1.08. APPLICATION OF SUNSET ACT. The Alcohol and Substance Abuse Services Oversight Committee is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the council is abolished and this Act expires on the date established by law for the abolishment of the Texas Commission on Alcohol and Drug Abuse.

SECTION 10.02. Not later than September 15, 1987, the lieutenant governor, speaker of the house of representatives, and governor shall appoint the members of the Alcohol and Substance Abuse Services Oversight Committee.

SECTION 10.03. (a) Not later than October 1, 1987, each state agency required to submit a plan under Section 1.06, Alcohol and Substance Abuse Services Oversight Act, must submit its initial plan to the Texas Commission on Alcohol and Drug Abuse. The plan must cover the fiscal biennium that begins September 1, 1987.

(b) Not later than November 1, 1987, the Texas Commission on Alcohol and Drug Abuse shall prepare the consolidated plan prescribed by Section 1.05, Alcohol and Substance Abuse Services Oversight Act, prepare the reports on the plan submitted by each agency, and submit each report and plan to the Alcohol and Substance Abuse Services Oversight Committee.

(c) Not later than December 1, 1987, the Alcohol and Substance Abuse Services Oversight Committee shall make its final determinations on the plans submitted by the Texas Commission on Alcohol and Drug Abuse.

(d) Prior to expenditure of federal funds received for alcohol and substance abuse services and law enforcement activities relating to alcohol and substance abuse, the office of the governor shall submit to the committee the report required by Subsection (d) of Section 1.07 of this Act.

(e) If necessary, the Alcohol and Substance Abuse Services Oversight Committee may alter or waive any deadlines prescribed by this section.

SECTION 10.04. The Alcohol and Substance Abuse Services Oversight Committee shall evaluate the system established by the Alcohol and Substance Abuse Services Oversight Act and the general alcohol and substance abuse services system in this state. Not later than February 1, 1989, the committee shall submit a report to the legislature evaluating the systems and recommending any necessary changes.

ARTICLE 11

SECTION 11.01. Except as otherwise provided by this Act, this Act takes effect September 1, 1987.

SECTION 11.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was again read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE JOINT RESOLUTION 3

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.J.R. 3** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	SCHLUETER
WASHINGTON	McKINNEY
JONES	TAYLOR
BLAKE	HOLZHEAUSER
ANDERSON	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1183

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1183** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	GIBSON
SARPALIUS	LANEY
BARRIENTOS	STANISWALIS
SANTIESTEBAN	WATERFIELD
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1405

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1405** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROOKS	McDONALD
ZAFFIRINI	DENTON
WHITMIRE	CEVERHA
GREEN	WRIGHT
ANDERSON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to tests required by blood banks, records maintained by blood banks, and liability for certain activities involving human body parts; providing civil and criminal penalties.

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

SECTION 1. DEFINITIONS. In this Act:

(1) "Blood bank" means a blood bank, blood center, regional collection center, tissue bank, transfusion service, or other similar facility registered or licensed by the Office of Biologics of the United States Food and Drug Administration, and accredited by the American Association of Blood Banks and which obtains blood from voluntary donors as defined by the United States Food and Drug Administration and the American Association of Blood Banks, or qualified for membership in the American Association of Tissue Banks and which obtains blood from voluntary donors as defined by the United States Food and Drug Administration and the American Association of Blood Banks.

(2) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

(3) "HIV" means human immunodeficiency virus.

SECTION 2. AUTHORIZATION TO REQUIRE TESTS. A blood bank shall require donors to submit to tests for infectious diseases, including tests for AIDS, HIV, or hepatitis, and serological tests for contagious venereal disease, for each donation of blood. A blood bank is not required to obtain the donor's informed consent before administering tests for infectious diseases and is not required to provide counseling concerning the test results.

SECTION 3. CONFIDENTIALITY OF BLOOD BANK RECORDS. (a) The medical and donor records of a blood bank are confidential and may not be disclosed except as provided by this Act.

(b) A blood bank shall disclose all information required by law including HIV test results to:

(1) the Texas Department of Health, as required under the Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes);

(2) a local health authority, as required under the Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes);

(3) the Centers for Disease Control of the United States Public Health Service, as required by federal law or regulation; or

(4) any other local, state, or federal entity, as required by law or regulation.

(c) A blood bank shall disclose blood test results and the name of the person tested to:

(1) the physician or other person authorized by law who ordered the test;

(2) the physician attending the person tested; or

(3) the person tested or a person legally authorized to consent to the test on the person's behalf.

(d) A blood bank may report positive blood test results indicating the name of a donor with a possible infectious disease to other blood banks. A blood bank that reports a donor's name to other blood banks under this subsection may not disclose the infectious disease that the donor has or is suspected of having. A blood bank making a report as provided by this subsection is not considered to have breached a confidence arising out of any confidential relationship.

(e) A blood bank shall on request provide blood samples to hospitals, laboratories, and other blood banks for additional, repetitive, or different testing.

(f) A blood bank shall report blood test results which are found to be confirmed as HIV positive by the normal procedures blood banks presently use or found to be contaminated by other infectious diseases to the hospitals or other facilities where the blood was transfused or provided, to the physician who transfused the infected blood, or to the recipient of the blood. A blood bank may also report blood test results for statistical purposes. A blood bank that reports test results under this subsection may not disclose the name of the donor or person tested or any other information that could result in disclosure of the donor's or person's name, including addresses, social security numbers, designated recipients, or replacement donation information.

(g) All hospitals, physicians, health agencies, and other transfusers of blood shall follow the official "Operation Look-Back" procedure of the American Association of Blood Banks in notifying past and future recipients of blood and shall follow the procedures in a mandatory and strict fashion. The only exception to the notification of the recipient of blood shall be in the case of death of the recipient or the inability to locate the recipient.

(h) A blood bank may be required by a court of competent jurisdiction, after notice and hearing:

(1) to provide a recipient of blood from the blood bank (or an heir, parent, or guardian of a recipient or a personal representative of the recipient's estate) with results of tests, with donor identification deleted, of the blood of every donor of blood transfused into the recipient in accordance with Subsection (f) of this section; or

(2) if a blood bank fails or is unable to provide the test results described in Subdivision (1) of this subsection:

(A) to use every reasonable effort, including any effort which the court may direct, to locate any donor of the blood in question, and to obtain from any such person a sample of blood for testing, in which event the provisions of Section 2 of this Act shall apply, and to provide either or both, as the court may direct, test results of such blood or samples of such blood to an independent laboratory designated by the court for testing, the results of which test shall be made available to the recipient (or an heir, parent, or guardian of a recipient or the personal representative of a recipient's estate);

(B) in the event of a positive test result or in the event the blood bank fails or is unable to provide the test result or blood sample, to provide to the judge of said court in camera, under seal, such information as the court may determine to be necessary to satisfy the court that the blood bank has complied in all respects with this subsection and the court's order, or has demonstrated every reasonable effort to so comply; provided, however, that neither the name of a donor or other information that could result in disclosure of a donor's identity, such as address, social security number, designated recipients, or replacement donation information, may be divulged by the court to any other person. The court shall, however, upon motion by any party, order the taking of the deposition of the donor at a time certain and in a manner that maintains the anonymity of the donor. No party's attorney shall be denied the right to orally cross examine the donor.

(i)(1) A court of competent jurisdiction shall, upon the motion of any party, exercise the discovery powers granted in this subsection to the full extent that the exercise of such powers is reasonably necessary to obtain information from or relating to a donor other than that obtainable under Subsection (h) of this section, where such information is reasonably calculated to lead to the discovery of admissible evidence regarding any matter which is relevant to the subject matter of a pending proceeding, but cannot otherwise be obtained without threatening the disclosure of the name of a donor or other information that could result in disclosure of a donor's identity such as address, social security number, designated recipients, or replacement donation information.

(2) The discovery powers available to a court to obtain information of the type described in Subdivision (1) of this subsection are as follows:

(A) the court may order the deposition of any witness, including a donor, either orally or upon written questions and cross-questions propounded by the parties, or both;

(B) the court may compel the production of documents and things;

(C) any subpoena issued to a donor hereunder shall only be served in person at the residential address of the donor; provided, however, that upon a showing that service in person cannot be made at the donor's residence despite diligent efforts to do so, the court may order that the donor may be served at such other place or places as the court may direct.

(3) All discoverable information, including testimony, documents, or things, obtained through the exercise of the powers set forth in Subdivision (2) of this subsection shall be delivered to the parties by the court; provided, however, that the court shall first delete therefrom the name of any donor or other information that could result in the disclosure of a donor's identity, such as address, social security number, designated recipients, or any replacement donation information. The court may, in the information available to the parties, substitute fictitious names, such as "John Doe," or make such other changes as the court deems necessary to protect the confidentiality of the donor's identity. The confidential donor information described herein shall not under any circumstances be disclosed by the court to any other person, with the sole exception of the persons described in Paragraph (h)(2)(B) of this section, which persons shall not disclose such information to any other person.

(4) The exercise of the court's powers under Subdivision (2) of this subsection shall be governed by the Texas Rules of Civil Procedure, except to the extent of any conflict with this subsection.

(5) Any donor who provides information or blood samples under Subsection (h) of this section shall be immune from all liability arising out of the donation of the blood transfused in a recipient.

(j) A blood bank shall have no liability for the disclosure of information to a court in accordance with an order issued under Subdivision (2) of Section (h) of this section.

(k) There shall be no presumption of negligence or causation attaching to a donor's positive test result if the test result is obtained after the donation of blood or blood components which is the subject of discovery as provided in Subsection (h) of this section.

SECTION 4. LIABILITY. (a) Except as provided by Section 5 of this Act, a person who discloses blood bank records in violation of Section 3 of this Act is liable only for actual damages resulting from the negligent or intentional disclosure as may be proven in a court of law.

(b) This Act does not give rise to any liability under the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code).

SECTION 5. CIVIL AND CRIMINAL LIABILITY FOR DISCLOSING CERTAIN INFORMATION. (a) Any person who is injured by a violation of Subsection (d), (f), (h), or (i) of Section 3 of this Act may bring a civil action for damages. In addition, any person may bring an action to restrain a violation or threatened violation of Subsection (d), (f), (h), or (i) of Section 3 of this Act.

(b) If it is found in a civil action that a person or entity has violated Subsection (d), (f), (h), or (i) of Section 3 of this Act, the person or entity is liable for:

(1) actual damages;

(2) a civil penalty of not more than $1,000; and

(3) court costs and reasonable attorney's fees incurred by the person bringing the action.

(c) A blood bank or any person that discloses information in violation of Subsection (d), (f), (h), or (i) of Section 3 of this Act commits an offense. An offense under this subsection is a Class C misdemeanor.

(d) Each disclosure made in violation of Subsection (d) or (f) of Section 3 of this Act constitutes a separate offense.

SECTION 6. AMENDMENT. Section 77.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 77.003. LIMITATION OF LIABILITY. (a) A person who donates, obtains, prepares, transplants, injects, tranfuses, or transfers a human body part from a living or dead human to another human or a person who assists or participates in that activity is not liable as a result of that activity except for negligence, gross negligence, or an intentional tort.

(b) The Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code) does not apply with respect to claims for damages for personal injury or death resulting or alleged to have resulted from negligence on the part of the person described in Subsection (a) of this section in connection with an activity designated in said subsection.

(c) The implied warranties of merchantability and fitness do not apply to the furnishing of human body parts by blood banks, tissue banks, or other similar organizations. For purposes of this chapter, those human body parts are not considered commodities subject to sale or barter. [~~The person remains liable for the person's own negligence.~~]

SECTION 7. This Act shall be applied prospectively only. Nothing in this Act affects either procedurally or substantively a case that was filed in the courts of this state before the effective date of this Act.

SECTION 8. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1402

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1402** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	A. LUNA
ANDERSON	BLACKWOOD
SARPALIUS	CEVERHA
LYON	MARCHANT
	POLUMBO
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1512

Senator Henderson submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1512** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HENDERSON	A. SMITH
HARRIS	A. HILL
JONES	GIVENS
McFARLAND	A. JONES
BROWN	MARTINEZ
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 560

Senator Blake submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 560** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BLAKE	MILLSAP
HARRIS	HORN
BROWN	C. EVANS
SIMS	LANEY
BROOKS	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to costs incurred by governmental bodies in supplying certain public information and to public access to certain information.

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

SECTION 1. Subsections (a) and (b), Section 9, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The cost to any person requesting noncertified photographic reproductions of public records comprised of pages up to legal size shall not be excessive. The State Board of Control shall from time to time determine the actual cost of standard size reproductions and shall periodically publish these cost figures for use by agencies in determining charges to be made pursuant to this Act. The cost of obtaining a standard or legal size photographic reproduction shall be in an amount that reasonably includes all costs related to reproducing the record, including costs of materials, labor, and overhead unless the request is for 50 pages or less of readily available information.

(b) Charges made for access to public records comprised in any form other than up to standard sized pages or in computer record banks, microfilm records, or other similar record keeping systems, shall be set upon consultation between the custodian of the records and the State Board of Control, giving due consideration to the expenses involved in providing the public records making every effort to match the charges with the actual cost of providing the records. The costs of providing the record shall be in an amount that reasonably includes all costs related to providing the record, including costs of materials, labor, and overhead.

SECTION 2. Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), is amended by adding Section 4A to read as follows:

Sec. 4A. EXAMINATION OF PUBLIC INFORMATION. (a) A person requesting public information must complete the examination of the information

within 10 days after the date the custodian of the information makes it available to the person.

(b) The custodian shall extend the initial examination period by an additional 10 days if, within the initial period, the person requesting the information files with the custodian a written request for additional time. The custodian shall extend an additional examination period by another 10 days if, within the additional period, the person requesting the information files with the custodian a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the custodian if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

SECTION 3. Subsection (b), Section 5, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Neither the custodian nor his agent who controls the use of public records shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of establishing proper identification and the public records being requested or establishing whether the custodian is authorized under Subsection (e) of Section 4A of this Act to refuse to honor the request for the records. The[~~; and the~~] custodian or his agent shall give, grant, and extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this Act.

SECTION 4. Section 2, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), is amended by adding Subsection (r) to read as follows:

(r) This Act does not prohibit the board of regents or other governing body of an institution of higher education, as defined by Section 61.003 of the Education Code, from holding an open or executive meeting by telephone conference call. Each part of a meeting that is required to be open to the public and that is held by a conference call must be available to be heard by the public at the normal meeting place for the board of regents or, in the case of Systems, the board of regents conference room at the System office and must be tape recorded. The tape recording must be made available to the public. A meeting held by conference call is subject to the same notice requirements that apply to other meetings. For purposes of the notice, the place of the meeting by conference call is considered to be the normal meeting place for the board of regents or, in the case of Systems, the board of regents conference room at the System office. Telephone conference calls shall be restricted to special called meetings requiring immediate action when it is otherwise difficult or impossible to convene a quorum of the board of regents in one location.

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

The Conference Committee Report was read and was filed with the Secretary of the Senate.

RECESS

On motion of Senator Brooks, the Senate at 5:47 p.m. took recess until 7:00 p.m. today.

AFTER RECESS

The Senate met at 7:00 p.m. and was called to order by Senator Brooks.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on **S.B. 298** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 257** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 173** by a vote of 143 ayes, 2 noes, 1 present-not voting.

The House has adopted the Conference Committee Report on **H.B. 2328** by a non-record vote.

The House refused to concur in Senate amendments to **H.B. 2008** and requested the appointment of a Conference Committee to consider the differences between the two Houses. The following are appointed on the part of the House: Berlanga, Chairman; Cavazos, Roberts, Madla and Schoolcraft.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON SENATE BILL 560 ADOPTED

Senator Blake called from the President's table the Conference Committee Report on **S.B. 560**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Blake, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 257 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **S.B. 257**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 30, 1987.)

On motion of Senator Farabee, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2024

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2024** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	GIBSON
ANDERSON	DENTON
GLASGOW	P. MORENO
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 373

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 373** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

FARABEE	HACKNEY
ARMBRISTER	T. SMITH
CAPERTON	LUCIO
TEJEDA	MELTON
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE ON
HOUSE BILL 2008

Senator Armbrister called from the President's table the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2008** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2008** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chairman; Krier, Tejeda, Truan and Zaffirini.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1429

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1429** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LYON	CAMPBELL
BROWN	SHEA
SARPALIUS	MARCHANT
	LEWIS
	AIKIN
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the creation, organization, boundaries, powers, including the power of eminent domain, duties, functions, financing, and bond and tax authority of the St. Paul Water Improvement, Road, and Utility District No. 1.

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

SECTION 1. CREATION OF DISTRICT. On approval at an election called and held under Section 5 of this Act, the St. Paul Water Improvement, Road, and Utility District No. 1 is created pursuant to Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution as a water improvement, road, and utility district, which shall be a governmental agency, a body politic and corporate, and a political subdivision of this state.

SECTION 2. DEFINITIONS. In this Act:

(1) "District" means the St. Paul Water Improvement, Road, and Utility District No. 1.

(2) "City" means the city of St. Paul.

(3) "Board" means the board of directors of the district.

SECTION 3. BOUNDARIES. (a) The district includes all of the territory contained within the areas described by this section.

(b) Tract I is situated in Collin County, Texas, in the A.H. Burns Survey Abst. #64; in the W.D. Burnett Survey Abst. #56; in the Aaron West Survey Abst. #972; in the D. Yeamans Survey Abst. 1042 and being all of an 11 acre tract described in a Deed from Robert C. Cox to Stanley Moussa, and recorded in Volume 2080 page 266 of the Collin County Land Records and being all of a 58.247 acre tract described in a Deed from Rutledge Haggard, et al to Stanley A. Moussa and

recorded in Volume 1980 page 730 of the Collin County Land Records and all of an 11.618 acre tract described in a Deed from Rosser P. Miller, Jr., et ux Eula Fay Miller to Stanley A. Moussa and recorded in Volulme 2035 page 69 of the Collin County Land Records and being more fully described as follows:

BEGINNING at a 1/2" iron rod found in the Northeast corner of the said 11 acre tract.

THENCE North 89 deg 44 min 21 sec East with the Northerly most North line of the 11 acre tract a distance of 199.86 ft. to a 1/2" iron rod found. Same being the most Northerly and Westerly Northeast corner of the said 11 acre tract.

THENCE South 00 deg 39 min 26 sec East with the most Westerly East line of the said 11 acre tract a distance of 840.65 ft. to a 1/2" iron rod found.

THENCE North 89 deg 40 min 13 sec East with the most Southerly North line of the said 11 acre tract a distance of 923.33 ft. to a 1/2" iron rod found. Same being the most Southerly and Easterly Northeast corner of the said 11 acre tract.

THENCE South 08 deg 35 min 02 sec East with the most Easterly East line of the said 11 acre tract and the center line of Drain Drive a distance of 274.89 ft. to a 3/8" iron rod found. Same being the Southeast corner of the said 11 acre tract and also being in the North line of the said 58.247 acre tract.

THENCE North 89 deg 40 min 35 sec East with the North line of the said 58.247 acre tract and the center line of Drain Drive a distance of 506.06 ft. to a 3/8ths" iron rod. Said being the Northeast corner of the 58.247 acre tract and being the Northwest corner of the said 11.618 acre tract.

THENCE North 89 deg 17 min 31 sec East with the North line of the said 11.618 acre tract and the center line of Drain Drive a distance of 449.55 ft. to a 1/2" iron rod found. Same being the Northeast corner of the said 11.618 acre tract.

THENCE South 00 deg 38 min 42 sec West with the East line of the said 11.618 acre tract a distance of 1112.86 ft. to a 3/4" iron rod found. Same being the Southeast corner of the 11.618 acre tract.

THENCE North 89 deg 10 min 44 sec West with the South line of the said 11.618 acre tract a distance of 464.93 ft. to a 1/2" iron rod. Same being the Southwest corner of the 11.618 acre tract and also being in the East line of the 58.247 acre tract.

THENCE South 01 deg 22 min 23 sec West with the East line of the said 58.247 acre tract a distance of 562.73 ft. to a 1/2" iron rod. Same being the Southeast corner of the 58.247 acre tract.

THENCE South 89 deg 34 min 53 sec West with the Southerly most South line of the said 58.247 acre tract a distance of 1257.82 ft. to a 1/2" iron rod found. Same being the Southerly and Easterly most Southwest corner of the said 58.247 acre tract.

THENCE North 00 deg 09 min 41 sec West with the Easterly most West line of the said 58.247 acre tract a distance of 568.23 ft. to a 1/2" iron rod.

THENCE South 87 deg 37 min 08 sec West with the Northerly most South line of the said 58.247 acre tract a distance of 376.62 ft. to a 1/2" iron rod found. Same being the Northerly and Westerly most Southwest corner of the said 58.247 acre tract.

THENCE North 00 deg 52 min 13 sec East with the West line of the said 58.247 acre tract a distance of 236.69 ft. to a 1/2" iron rod found.

THENCE North 00 deg 25 min 13 sec East with the West line of the said 58.247 acre tract a distance of 860.39 ft. to a 1/2" iron rod found. Same being the Northwest corner of the said 58.247 acre tract and the Southwest corner of the said 11 acre tract.

THENCE North 01 deg 00 min 19 sec West with the West line of the said 11 acre tract a distance of 379.01 ft. to a 1/2" iron rod.

THENCE North 00 deg 27 min 00 sec West with the West line of the said 11 acre tract a distance of 733.98 ft. to the place of beginning containing 80.858 acres of land.

(c) Tract II is situated in Collin County, Texas and being in the Leroy Farmer Survey Abst. #334 and Josiah Turnham Survey Abst. #919 and the Mark L. Morris Survey Abst. #561 the Orpha Shelby Survey Abst. #800; W.D. Burnett Survey, Abst. #56; A.H. Burns Survey Abst. #64 and being part of a 592.9988 acre tract as described in a Deed from W.W. Carruth, Jr. to Moussa Development No. 3, recorded in Volume 2236 page 812 of the Collin County Land Records and being all of a 2.366 acre tract described in a Deed from Joseph L. George to Stanley A. Moussa, recorded in Volume 2123 page 586 of the Collin County Land Records, and being all of a 32.556 acre tract described in a Deed from Martin Meadows Corporation, a Texas Corporation to Stanley A. Moussa and recorded in Volume 1387 page 823 of the Collin County Land Records and being part of a 28.185 acre tract as described in a Deed from Kathleen M.Moore to Stanley A. Moussa, recorded in Volume 2018 page 356 of the Collin County Land Records and also being all of a 2.3465 acre tract described in a Deed from John Phillips and wife Geraldine Phillips to George Stanley Moussa, recorded in Volume 1804 page 210 of the Collin County Land Records and all of a 2.995 acre tract described in a Deed from Darrell Lee Morris, a single man to Mark Stanley Moussa, recorded in Volume 2205 page 413 of the Collin County Land Records and being part of a 39.532 acre tract described in a Deed from Kenneth W. Martin to Stanley A. Moussa, recorded in Volume 1982 page 306 of the Collin County Land Records and all of Lavon Recreation Center, an addition to the City of St. Paul, Collin County Texas and recorded in Volume F. Page 784 of the Collin County Map and Plat Records and all of the Lakeway Business Park in the City of St. Paul, Collin County, Texas and recorded in Volume G page 11 of the Collin County Map and Plat Records and being all of the right of way of F.M. Highway #2514, beginning at the East line of F.M. Hwy #1378 at Highway Station # 00§45.00 to State Highway Station #80§13.3 and being more fully described as follows:

BEGINNING at a 3/8" bridge spike found at the Southerly and Westerly most Southeast corner of the said 592.9988 acre tract.

THENCE North 89 deg 47 min 59 sec West with a South line of the said 592.9988 acre tract and the North line of St. Paul Road a distance of 1805.07 ft. to a 1/2" iron rod.

THENCE South 00 deg 27 min 16 sec East passing a 1/2" iron rod at 4 ft. Said iron rod being in the North right of way line of F.M. Hwy #2514 and continung on in all a distance of 30.92 ft. to a P.K. Nail in the center line of St. Paul Road. Same being the Northwest corner of a 2.366 acre tract.

THENCE North 89 deg 33 min 28 sec East with the North line of the said 2.366 acre tract and the center line of St. Paul road a distance of 419.15 ft. to a 3/8" iron rod found. Same being the Northeast corner of the 2.366 acre tract, said iron rod being in a T intersection of 2 county roads.

THENCE South 00 deg 06 min 39 sec West with the East line of the said 2.366 acre tract and the center line of a county road a distance of 442.32 ft. to a P.K. nail in the North right of way line of F.M. Highway #2514. Same being the Southeast corner of the said 2.366 acre tract.

THENCE South 89 deg 58 min 07 sec East with the North right of way line of F.M. Highway #2514 a distance of 50.03 ft. to a nail.

THENCE South 00 deg 05 min 48 sec East with the East right of way line of F.M. Hwy #2514, a distance of 950.20 ft. to a wood right of way marker.

THENCE South 16 deg 08 min 51 sec East with the East right of way line of F.M. Hwy #2514, a distance of 103.5 2 ft. to a wood right of way marker.

THENCE South 00 deg 20 min 19 sec East with the East right of way of F.M. Hwy #2514 a distance of 100.46 ft. to a wood right of way marker.

THENCE South 16 deg 34 min 42 sec West with the East right of way of F.M. Hwy #2514, a distance of 103.95 ft. to a wood right of way marker.

Thence South 00 deg 12 min 32 sec West with the East right of way of F.M. Hwy #2514 a distance of 142.18 ft. to a nail. Same being the beginning of a tangent curve to the right with a central angle of 06 deg 32 min 00 sec and a radius of 2914.79 ft.

THENCE In a Southwesterly direction with the arc of the said curve and the East right of way of F.M. Hwy #2514, an arc distance of 332.37 ft. to a nail at the end of the said curve. Said point being the point of tangency.

THENCE South 06 deg 36 min 01 sec West with the East right of way of F.M. Hwy #2514 a distance of 444.44 ft. to a 1/2" iron rod found.

THENCE North 83 deg 23 min 59 sec West departing the East right of way of F.M. Hwy #2514, a distance of 100 ft. to a nail in the West right of way line of F.M. Hwy 2514.

THENCE North 06 deg 36 min 01 sec East with the West right of way of F.M. Hwy #2514 a distance of 444.19 ft. to the beginning of a tangent curve to the left having a central angle of 06 deg 32 min 00 sec and a radius of 2814.79 ft.

THENCE in a Northwesterly direction with the arc of the said curve and the West right of way line of F.M. Hwy #2514 an arc distance of 320.97 ft. to a wood right of way marker at the end of the curve.

THENCE North 00 deg 04 min 42 sec West with the West right of way of F.M. Hwy #2514 a distance of 192.68 ft. to a wood right of way marker.

THENCE North 16 deg 26 min 23 sec West with the West line of F.M. Hwy #2514 a distance of 103.87 ft. to a wood right of way marker.

THENCE North 00 deg 37 min 54 sec West with the West right of way line of F.M. Hwy 2514 a distance of 100.12 ft to a right of way marker

THENCE North 16 deg 40 min 27 sec East with the west right of way line of F.M. Hwy. #2514 a distance of 104.28 ft. to a wood right of way marker.

THENCE North 00 deg 03 min 15 sec East with the West right of way line of F.M. Hwy #2514 a distance of 495.19 ft. to a wood right of way marker. Being the beginning of a curve to the left having a central angle of 90 deg 20 min 47 sec and a radius of 768.51 ft. and a bearing to radius point North 89 deg 57 min 44 sec West.

THENCE in a Northwesterly direction with an arc curve and the West right of way of F.M. Hwy #2514, an arc distance of 1211.82 ft. to a wood right of way marker and the end of the curve.

THENCE South 89 deg 38 min 54 sec West with the South right of way line of F.M. Hwy #2514, a distance of 1594.33 ft. to a wood right of way marker.

THENCE South 39 deg 47 min 20 sec West with the South right of way line of F.M. Hwy #2514, a distance of 39.39 ft. to a wood right of way marker.

THENCE South 89 deg 45 min 58 sec West with the South right of way of F.M. Hwy #2514 a distance of 44.05 ft. to a wood right of way marker.

THENCE North 49 deg 40 min 13 sec West with the South right of way of F.M. Hwy #2514 a distance of 45.22 ft. to a 1/2" iron rod.

THENCE South 89 deg 43 min 50 sec West with the South right of way line of F.M. Hwy #2514 a distance of 282.55 ft. to a 1/2" iron rod. Same being the Northeast corner of the said 28.185 acre tract.

THENCE South 13 deg 33 min 33 sec East with the East line of the said 28.185 acre tract a distance of 233.87 ft. to a 1/2" iron rod found.

THENCE South 09 deg 11 min 08 sec East with the East line of the said 28.185 acre tract a distance of 1351.42 ft. to a 3/8" iron rod found. Same being the Southeast corner of the said 28.185 acre tract.

THENCE South 87 deg 52 min 05 sec West with the South line of the said 28.185 acre tract a distance of 647.21 ft. to a 1/2" iron rod.

THENCE North 00 deg 41 min 26 sec West a distance of 451.76 ft. to a 1/2" iron rod for a corner.

THENCE South 87 deg 50 min 34 sec West a distance of 1086.77 ft. to a 1/2" iron rod for a corner.

THENCE South 89 deg 56 min 51 sec West with the Northern most South line of the said 39.532 acre tract a distance of 279.75 ft. to a 3/8" iron rod found. Same point being the most Northerly and Westerly southwest corner of the said 39.532 acres tract.
THENCE South 88 deg 16 min 06 sec West with the South line of the said 32.556 acre tract a distance of 1172.89 ft. to a 1/2" iron rod in the East right of way of F.M. Hwy 1378. Same point being the Southwest corner of the said 32.556 acre tract.
THENCE North 00 deg 45 min 04 sec West with the West line of the said 32.556 acre tract and the East right of way line of F.M. Hwy #1378 a distance of 1216.89 ft. to a 1/2" iron rod in the South right of way line of F.M. Hwy #2514.
THENCE North 00 deg 29 min 06 sec West with the East right of way of F.M. Hwy #1378 and the West right of way of F.M. #2514, a distance of 199.13 ft. to a wood right of way marker
THENCE North 00 deg 12 min 25 sec West with the East right of way of F.M. 1378 and West line of 2.3465 acre tract a distance of 218.88 ft. to a 1/2" iron rod found
THENCE South 89 deg 08 min 13 sec East with the North line of the said 2.3465 acre tract a distance of 382.30 ft. to a 1/2" iron rod.
THENCE South 00 deg 03 min 46 sec West with the East line of the said 2.3465 acre tract a distance of 270.46 ft. to a 1/2" iron rod found in the North right of way line of F.M. Hwy #2514. Same point being the South east corner of the said 2.3465 acre tract.
THENCE South 88 deg 44 min 34 sec East with the North right of way line of F.M. Hwy #2514 a distance of 857.39 ft. to a 3/4" iron rod found. Same point being the Southwest corner of the said 2.995 acre tract.
THENCE North 01 deg 16 min 13 sec East with the West line of the said 2.995 acre tract a distance of 750.62 ft. to a 5/8" iron rod found. Same point being the Northwest corner of the said 2.995 acre tract.
THENCE South 88 deg 47 min 46 sec East with the North line of the said 2.995 acre tract a distance of 173.64 ft. to a 3/4" iron rod found. Same point being the Northeast corner of the said 2.995 acre tract.
THENCE South 01 deg 12 min 32 sec West with the East line of the said 2.995 acre tract a distance of 750.44 ft. to a 1/2" iron rod found in the North right of way line of F.M. Highway #2514. Same point being the Southeast corner of the said 2.995 acre tract.
THENCE South 88 deg 43 min 30 sec East with the North right of way line of F.M. Hwy #2514 a distance of 879.12 ft. to a wood right of way marker.
THENCE North 89 deg 40 min 28 sec East with the North right of way of F.M. Hwy 2514, a distance of 1351.34 ft. to a wood right of way marker.
THENCE North 45 deg 42 min 44 sec East with the North right of way of F.M. Hwy #2514 a distance of 42.30 ft. to a 1/2" iron rod.
THENCE North 88 deg 13 min 52 sec East with the North right of way of F.M. Hwy #2514 a distance of 46.00 ft. to a wood right of way marker in the East line of the said 592.9988 acre tract.
THENCE North 00 deg 55 min 39 sec West with the Easterly most West line of the said 592.9988 acre tract and the East line of Aztec Lane a distance of 1822.68 ft. to a 5/8" iron rod found.
THENCE North 00 deg 22 min 51 sec East with the Easterly most West line of the said 592.9988 acre tract and the East line of Aztec Lane a distance of 787.20 ft. to a 1/2" iron rod.
THENCE North 89 deg 40 min 45 sec East a distance of 3361.12 ft. to a 1/2" iron rod
THENCE South 06 deg 53 min 50 sec West a distance of 438.49 ft. to a concrete Government marker #4424-8

THENCE South 74 deg 38 min 19 sec East a distance of 64.42 ft. to a concrete Government marker#W4424-7
THENCE North 65 deg 14 min 21 sec East a distance of 805.52 ft. to a concrete Government marker#4424-6
THENCE South 32deg 37 min 40 sec East a distance fo 296.97 ft. to a concrete Government marker #4424-5
THENCE North 84 deg 12 min 02 sec East a distance of 255.86 ft. to a concrete Government marker #4474-4
THENCE North 41 deg 47 min 45 sec East a distance of 367.19 ft. to a concrete Government marker #4424-3.
THENCE North 77 deg 18 min 35 sec East a distance of 1317.18 ft. to a concrete Government marker #4424-2.
THENCE South 10 deg 34 min 23 sec West a distance of 600.37 ft. to a concrete Government marker #4424-1
THENCE South 65 deg 36 lmin 47 sec West a distance of 1719.09 ft. to a concrete Government marker #4500-3
THENCE North 88 deg 47 min 13 sec West a distance of 649.66 ft. to a 3/4" iron rod found.
THENCE South 00 deg 15 min 06 sec West with the East line of the 592.9988 acre tract a distance of 1310.27 ft. to a steel corner post.
THENCE North 89 deg 09 min 12 sec West with the Northern most South line of the 592.9988 acre tract a distance of 283.13 ft. to a steel corner post.
THENCE South 00 deg 07 min 22 sec West with the Westerly most East line of the 592.9988 acre tract a distance of 283.62 ft. to the place of beginning containing 374.608 acres of land, SAVE AND EXCEPT all of a 0.9780 acre tract known as Lot 1, Lakeway Business Park, an addition to the City of St. Paul, Collin County, Texas, and recorded in Volume G page 11 of the Collin County Map and Plat Records and an 0.3673 acre tract known as Lot 3 of the Lakeway Business Park, an addition to the City of St. Paul, Collin County, Texas and recorded in Volume G Page 11 of the Collin County Map and Plat Records and 0.9640 acre tract known as Lot 1 of Lavon Recreation Center an addition to the City of St. Paul, Collin County, Texas, recorded in Volume F page 784 of the Collin County Map and Plat Recores, leaving a total of 372.2987 acres of land.

(d) Tract III is situated in Collin County, Texas in the Mercer Phelan Survey Abst. # 697 and being in the Orpha Shelby Survey Abst. #800 and being part of a 33.135 acre tract described in a Deed from Hutson-Scott Partnership to Stanley A. Moussa, recorded in Volume 2200 page 199 of the Collin County Land Records and being all of an 8.840 acre tract described in a Deed from Hutson-Scott Partnership to Stanley A. Moussa and recorded in Volume 2200 page 187 of the Collin County Land Records and being more fully described as follows:
BEGINNING at a concrete Government marker #4516-1 in the Southeast corner of the said 8.840 acre tract
THENCE North 88 deg 45 min 05 sec West with the South line of the said 8.840 acre tract a distance of 642.11 ft. to a broken concrete Government marker. Same being the Southwest corner of the said 8.840 acre tract.
THENCE North 01 deg 00 min 49 sec East with the West line of the said 8.840 acre tract a distance of 998.96 ft. to a 1/2" iron rod. Said iron rod also being the Northwest corner of the said 8.840 acre tract and being the most Southerly and Easterly Southwest corner of the 33.135 acre tract.
THENCE North 00 deg 11 min 58 sec East with the Easterly most West line of the said 33.135 acre tract a distance of 42.68 ft. to an old bois d'arc post.
THENCE South 89 deg 30 min 21 sec West with the Northern most Southerly line of the said 33.135 acre tract a distance of 78.83 ft. to a 1/2" iron rod. Same being the most Northerly and Westerly Southwest corner of the said 33.135 acre tract and

also being the Southeast corner of Lot 6, Block 2 of St. Paul Lakeshore Estates, Phase II and recorded in Volume C page 792 of the Collin County Map and Plat Records.

THENCE North 33 deg 46 min 19 sec West with the West line of the said 33.135 acre tract in the East line of Lots 6, 7 and 15, Block 2 of the St. Paul Lake Shore Estates, Phase II and recorded in Volume C page 792 of the Collin County Map and Plat Records, a distance of 1254.95 ft. to a railroad spike in the center line of the said St. Paul Road. Said point being in the Northwest corner of the 33.135 acre tract.

THENCE South 89 deg 04 min 50 sec East with the most Northerly North line of the said 33.135 acre tract and the center line of St. Paul Road a distance of 788.26 ft. to a railroad spike. Same being the most Northerly and Westerly Northeast corner of the said 33.135 acre tract.

THENCE South 00 deg 36 min 11 sec West with the most Westerly East line of the said 33.135 acre tract a distance of 407.01 ft. to a 3/8" iron rod found. Said rod being an inner corner of the 33.135 acre tract.

THENCE South 88 deg 26 min 55 sec East a distance of 863.46 ft. to a 3/8" iron rod found.

THENCE South 88 deg 07 min 38 sec East a distance of 202.79 ft. to a P. K. nail found in the top of a post.

THENCE South 01 deg 47 min 56 sec West a distance of 670.14 ft. to a 1" pipe found. Same being an inner corner of the said 33.135 acre tract.

THENCE South 87 deg 47 min 20 sec East with the Southerly most North line of the said 33.135 acre tract a distance of 213.41 ft. to a 1/2" iron rod found.

THENCE South 87 deg 54 min 10 sec East with the Southerly most North line of the said 33.135 acre tract a distance of 682.13 ft. to a 1/2" iron rod found.

THENCE South 02 deg 10 min 51 sec West a distance of 162.51 ft. to a concrete Government marker #4516-5.

THENCE South 63 deg 15 min 07 sec West a distance of 446.47 ft. to a concrete Government marker #4516-4.

THENCE North 62 deg 59 min 31 sec West a distance of 894.58 ft. to a concrete Government marker #4516-3.

THENCE North 88 deg 06 min 45 sec West a distance of 615.96 ft. to a concrete Government Marker #4517-2. Same being the Northeast corner of the said 8.840 acre tract.

THENCE South 26 deg 07 min 13 sec East with the East line of the said 8.840 acre tract a distance of 1123.24 ft. to the place of beginning containing 41.329 acres of land.

SECTION 4. LEGISLATIVE FINDINGS. (a) The legislature finds that the purposes of Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution will be accomplished by the creation of the district, that all land and other property included within the district's boundaries will be benefitted by the works and projects to be accomplished by the district, and that the district is created to serve a public use and benefit.

(b) The legislature further finds that the boundaries of the district form a closure. If any mistake is made in the recorded description of the boundary description, the mistake does not affect the organization, existence, and validity of the district in the exercise of any powers, functions, purposes, or authority provided by this Act.

SECTION 5. CONFIRMATION ELECTION. (a) The district shall hold a confirmation election to approve the creation of the district.

(b) The initial board of directors of the district must conduct the confirmation election.

(c) The initial board of directors may submit at the confirmation election a proposition for the issuance of bonds and a proposition for a maintenance tax.

(d) This election may be held on any date selected by the board, and Subsection (a), Section 41.001, Election Code, does not apply.

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) To serve as a director, a person must be at least 18 years old and must own taxable property in the district or be a resident of the district.

(c) At the time this Act takes effect, the following persons shall constitute the initial directors of the district:

(1) Gene Weimer;

(2) Jack Kaufman;

(3) Robert C. Cox;

(4) Mark D. Schooler; and

(5) Harry B. Lynch.

(d) A vacancy on the board shall be filled by appointment of the remaining members of the board until the next election of directors for the district. If that position is not scheduled to be filled at that election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

(e) Each director shall take the constitutional oath of office required of state officers and shall execute a $5,000 bond to secure the faithful performance of his duties as director.

(f) The board shall elect a president, vice-president, and a secretary-treasurer, each of whom shall exercise the powers specifically given to him by order of the board.

(g) The board may hold regular and special meetings as it considers necessary, and notice of the regular meetings shall be published in a newspaper with general circulation in the district.

SECTION 7. DIRECTORS' ELECTION. (a) The first regular directors' election shall be held on the first uniform election date as provided by Subsection (a), Section 41.001, Election Code, in the year following the creation of the district.

(b) The initial directors shall serve until the first elected directors of the district are elected and have qualified for office.

(c) The positions of the two directors who receive the fewest number of votes at the first regular directors' election shall be filled at the second regular directors' election. The positions of the three remaining directors shall be filled at the third regular directors' election.

(d) Except as provided by Subsection (a) of this section, a regular directors' election shall be held on the third Saturday in May in even-numbered years to elect the appropriate number of directors.

(e) Except for the initial directors and the directors elected at the first directors' election, directors shall serve for staggered four-year terms, with the terms of two or three directors expiring in alternating even-numbered years.

SECTION 8. BOARD PROCEDURES. (a) The board shall adopt bylaws for the district.

(b) A majority of the members of the board constitute a quorum for transaction of business of the district, and approval of at least three members of the board is necessary for approval of any matter before the board.

(c) The board shall provide the method of execution of all contracts, the signing of checks, and the handling of any other matters approved by the board, as shown in the official minutes of the district. After each election and at any other time the board considers appropriate, the board shall reorganize and elect new officers.

(d) The board may employ one assistant secretary and an assistant treasurer, who are not required to be members of the board. The secretary-treasurer of the board or the assistant secretary is responsible for keeping the minutes of the meetings of the board and all official records of the board and may certify the

accuracy or authenticity of any actions, proceedings, minutes, or records of the board or of the district.

(e) Each member of the board is entitled to receive compensation in an amount not to exceed $50 for each meeting of the board as determined by the board and not to exceed $250 a month. Directors may be reimbursed for actual expenses incurred on behalf of the district or in the discharge of their duties.

SECTION 9. MEETINGS OF BOARD. (a) The board shall hold regular, special, or emergency meetings at the times and on the dates the board determines.

(b) The bylaws adopted by the board must require that the board give notice of its meetings to the city as provided by Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 10. GENERAL POWERS AND DUTIES. (a) Subject to the specific provisions of this Act, the district has the rights, powers, privileges, authority, and functions granted or conferred, and described by Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution, together with the additional rights, powers, privileges, authority, and functions enumerated, described, expressed, or implied by this Act. Sections 54.201 through 54.215, 54.217, 54.232, 54.233, 54.728 through 54.733, and 54.771 through 54.775, Water Code, apply to the district. Section 54.2041, Water Code, does not apply to the district.

(b) General law does not apply to the district unless specifically provided by this Act, and if any general law is in conflict or inconsistent with this Act, this Act prevails.

SECTION 11. SPECIFIC POWERS AND DUTIES. (a) The district may exercise the additional rights, powers, privileges, authority, and functions provided by this section.

(b) The district may plan, lay out, purchase, construct, acquire, own, operate, maintain, repair, and improve, inside or outside its boundaries, any works, improvements, facilities, plants, equipment, and appliances, including any administrative properties and facilities, levees, drains, waterways, lakes, reservoirs, channels, conduits, sewers, dams, storm water detention facilities, or other similar facilities and may acquire any permits, franchises, licenses, or contracts or property rights and improvements, whether for municipal, industrial, agricultural, recreational, or flood control purposes, that are necessary, helpful, or incidental to the exercise of any right, power, privilege, authority, or function provided by this Act.

(c) The district may acquire, construct, maintain, and operate macadamized, graveled, or paved roads and engage in any other project in aid of these purposes including providing for needed drainage and bridge work for district projects.

(d) In exercising the power of eminent domain, if the district requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission and electric distribution, telegraph, or telephone lines, conduits, poles, or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities after deducting the net salvage value derived for the old facility.

(e) The district may establish a fire department to serve the district and its customers as provided by Section 50.055, Water Code.

(f) The district may:

(1) acquire facilities, and property for facilities, inside or outside the district and may construct or improve facilities inside or outside the district;

(2) provide financing for facilities and their construction, acquisition, and improvement from money available to the district under this Act;

(3) advise, consult, contract, cooperate with, and enter into agreements with the federal government and its agencies, the state and its agencies, local governments, persons, and private entities;

(4) apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source;

(5) assume the contracts and obligations of previous owners of facilities and property acquired by the district and perform the contracts and obligations to the same extent that any other purchaser or assignee would be bound, only if the contracts and obligations of previous owners were created under the competitive bidding requirements provided by Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes);

(6) contract with any person for construction, acquisition, and improvement of facilities; and

(7) exercise the authority, powers, rights, duties, and other functions that will permit accomplishment of the purposes for which the district was created.

SECTION 12. ANNEXATION. The district may annex additional land to the district as provided by Sections 54.711 through 54.726, Water Code.

SECTION 13. GENERAL FISCAL PROVISIONS. The board may spend money, borrow money, issue bond anticipation notes and tax anticipation notes, levy and collect maintenance taxes, and carry out all acts and exercise all powers provided by Subchapter E, Chapter 54, Water Code, and issue short-term obligations as provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), except the district may pledge ad valorem taxes in support of short-term obligations.

SECTION 14. DISTRICT CONTRACTS. (a) Contracts for the purchase or construction of materials, machinery, and all things to constitute the works, improvements, facilities, plants, equipment, and appliances of the district shall be advertised, let, and awarded as provided by Section 54.220 and Sections 54.224 through 54.228, Water Code.

(b) After a contract has been awarded and the district determines that additional work is necessary or that the character or type of the work or facilities should be changed, the board may authorize change orders to the contract on terms the board may approve, provided the change does not increase the total cost of the contract by more than 25 percent.

(c) If the estimated amount of a proposed construction contract is more than $5,000, but less than $25,000, or the duration of the contract is more than two years, informal competitive bids or proposals shall be asked from at least three bidders.

(d) Contracts shall be written and shall be awarded to the lowest and best bidder.

SECTION 15. BONDS. (a) The board may issue bonds to pay all expenses incurred in the creation of the district and the issuance of the district's bonds including engineering fees, attorney's fees, and other associated costs, and to accomplish the purposes set forth in Sections 10 and 11 of this Act and as provided by Subchapter F, Chapter 54, Water Code, and Section 54.601, Water Code, the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and the general law of this state relating to the issuance of bonds.

(b) The district is authorized to sell its bonds, notes, or other evidences of indebtedness at public or negotiated sale as may be determined by the board.

(c) Bonds to finance the projects under Subsection (c) of Section 11 of this Act may be issued by the district only on approval of a two-thirds majority of the voters of the district voting at an election called and held for that purpose. Bonds, notes, and other obligations of the district issued or incurred for projects under Subsection (c) of Section 11 of this Act may not exceed one-fourth of the assessed valuation of the real property of the district.

SECTION 16. ANNEXATION. (a) The owner or owners of land may file with the board a petition requesting that land be included in the district. The land shall be described in the petition by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

(b) If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxes which have been voted but are unissued, the board may require the petitioner or petitioners to assume their share of the outstanding bonds, notes, or other obligations and the voted but unissued tax bonds of the district and authorize the board to levy a tax on their property for each year that any of the bonds, notes, or other obligations payable in whole or in part from taxation are outstanding to pay their share of the indebtedness.

(c) The petition of the landowner or landowners to add land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

(d) The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district.

(e) If the district has bonds payable in whole or in part from taxation that are voted but unissued at the time of an annexation, and the petitioner or petitioners assume the bonds and authorize the district to levy a tax on their property to pay the bonds, then the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.

(f) A petition that is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county or counties in which the land is located.

SECTION 17. REFUNDING BONDS. Refunding bonds may be issued by the district as provided by general law, including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

SECTION 18. DISTRICT FUNDS. (a) The treasurer of the district may have funds of the district deposited, invested, and reinvested in the district's depository bank or other banks or savings associations selected by the authorized investment officers of the district.

(b) To the extent that deposited or invested funds of the district are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, the funds shall be secured in the manner provided by law for the security of funds of counties of this state.

(c) Funds of the district also may be invested and reinvested at the direction of the board or any other authorized representative or investment officer of the district in direct or indirect obligations of the United States, this state, or any county, city, school district, or other political subdivision of this state, or may be placed in certificates of deposit of state or national banks or state or federal savings and loan associations within this state, if those funds are secured in the manner provided for the security of funds of counties of this state or may be invested or reinvested in investment agreements with any financial institution the unsecured debt of which is rated in either of the two highest letter rating categories by a nationally recognized securities rating agency or in other obligations which are rated "A" or higher by a nationally recognized rating agency.

SECTION 19. AD VALOREM TAXES. The ad valorem plan of taxation shall be used by the district, and except as otherwise provided by this Act, Subchapter G, Chapter 54, Water Code, and the Tax Code apply to all matters relating to the levy, assessment, and collection of both current and delinquent taxes of the district.

SECTION 20. USE OF MAINTENANCE TAX. The board may use and pledge the proceeds received from all or any designated portion of the district's maintenance taxes for any lawful purpose, other than the payment of the principal of or interest on bonds. The bonds shall be paid from taxes levied separately to the extent that those bonds are required to be paid from taxes.

SECTION 21. TAX COLLECTOR. (a) The board shall appoint a person as tax collector for the district.

(b) Each person appointed must qualify by executing a bond in the amount of $10,000 payable to the district, approved by the board, and conditioned on the faithful performance of his duties.

(c) Compensation for the tax collector and his deputies shall be set by the board.

SECTION 22. DISTRICT ELECTIONS. (a) Elections required to be held by the district shall be called and the results canvassed by the board.

(b) Unless otherwise provided by this Act, elections shall be held in accordance with the Election Code.

(c) Except for the confirmation election, an election held by the district for any purpose may be held separately or may be held at the same time as elections for other purposes. An election held at the same time as elections for other purposes may be called by the board in a single election order and the results canvassed in a single order.

SECTION 23. DISTRICT OFFICE; MEETING PLACE. The board shall designate one or more offices of the district and one or more meeting places of the board either inside or outside the district.

SECTION 24. PERSONNEL. The district may employ personnel needed to accomplish the purposes of the district as set forth in this Act, including a general manager and a tax collector. Compensation for these employees shall be set by the board.

SECTION 25. NOTICE, ETC. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 26. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 408

Senator Uribe submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 408** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

URIBE	A. MORENO
WHITMIRE	MARTINEZ
PARMER	CONNELLY
BARRIENTOS	WALLACE
ZAFFIRINI	EDGE
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to plat requirements, regulations, and utility services applicable to certain subdivisions of land.

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

SECTION 1. Chapter 231, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 974a, Vernon's Texas Civil Statutes), is amended by amending Sections 1, 3A, and 8 and by adding Sections 1B, 4A, 9A, and 10 to read as follows:

Sec. 1. Except as otherwise provided by Section 1A or under Section 1B of this Act, [~~Hereafter~~] every owner of any tract of land situated within the corporate limits, or within five miles of the corporate limits of any city in the State of Texas, who may hereafter divide the same in two or more parts by using a metes and bounds description in a deed conveyance, by using a metes and bounds description in a contract for a deed, or by another manner, for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part, giving the dimensions thereof said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto; provided, however, that no plat of any subdivision of any tract of land or any addition to any town or city shall be recorded unless the same shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part giving the dimensions thereof said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

Sec. 1B. (a) To determine whether specific divisions of land are required to be planned, platted, or replatted, a city may define and classify the divisions. A city need not require planning, platting, or replatting for every division of land otherwise

within the scope of this Act. Any ordinances, rules, and regulations that define or classify the divisions of land within the scope of this Act and that were adopted before September 1, 1987, are validated as of the dates they took effect.

(b) In lieu of a plan, plat, or replat contemplated by this Act, a city may require the filing of a development plat pursuant to Article 974a-3, Revised Statutes, if that article applies to the city.

Sec. 3A. In a city that has a population of more than 1,500,000, according to the most recent federal census, and that has a city planning commission, no less than two persons nor more than 25 percent of the members of the commission must [~~may~~] be persons who reside within the area outside the city boundaries in which the city exercises authority to approve subdivision plats.

Sec. 4A. (a) For the purposes of this section, land is considered to be within the jurisdiction of a city if the land is located in the area to which Section 1 of this Act applies.

(b) On the approval of a plan, plat, or replat by the city planning commission or the governing body of the city, as the case may be, the commission or governing body shall issue to the person applying for the approval a certificate stating that the plan, plat, or replat has been reviewed and approved by the commission or governing body.

(c) On the written request of an owner of land, a public utility, or the governing body of the city, the city planning commission or the governing body of the city, whichever has authority to approve plans, plats, or replats, shall make the following determinations regarding the owner's land or the land in which the utility or governing body is interested that is located within the jurisdiction of the city:

(1) whether a plan, plat, or replat is required under Section 1 of this Act for the land; and

(2) if a plan, plat, or replat is required, whether it has been prepared and whether it has been reviewed and approved by the commission or governing body, as the case may be.

(d) The request made under Subsection (c) of this section must identify the land that is the subject of the request.

(e) If the commission or governing body determines that a plan, plat, or replat is not required, the commission or governing body shall issue to the requesting party a written certification of that determination. If the commission or governing body determines that a plan, plat, or replat is required and that such a document has been prepared and has been reviewed and approved by the commission or governing body, the commission or governing body shall issue to the requesting party a written certification of that determination.

(f) The commission or governing body shall make its determination within 20 days after the date it receives the request under Subsection (c) of this section and shall issue the certificate, if appropriate, within 10 days after the date the determination is made.

(g) If both the city planning commission and the governing body have authority to approve plans, plats, or replats, only one of those entities need make the determinations and issue the certificates required by this section.

(h) The commission or governing body may adopt rules it considers necessary to administer its functions under this section.

Sec. 8. (a) An entity described by Subsection (b) of this section may not [~~Unless and until any such plan, plat or replat shall have been first approved in the manner and by the authorities provided for in this Act, it shall be unlawful within the area covered by said plan, plat or replat for any city affected by this Act, or any officials of such city, to~~] serve or connect any [said] land[~~, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof,~~] with water, sewer, electricity, gas, or other utility service unless the entity has been presented

with or otherwise holds a certificate applicable to the land and issued under Section 4A of this Act [~~any public utilities such as water, sewers, light, gas, etc., which may be owned, controlled or distributed by such city~~].

(b) The prohibition established by Subsection (a) of this section applies only to:

(1) a city and officials of a city that provides water, sewer, electricity, gas, or other utility service;

(2) a city-owned or city-operated utility that provides any of those services; and

(3) a public utility that provides any of those services.

(c) This section does not apply to any area covered by a development plat duly approved pursuant to Article 974a-3, Revised Statutes, or pursuant to an ordinance, rule, or regulation relating to such a development plat.

(d) The prohibition established by Subsection (a) of this section applies only to land that an entity described by Subsection (b) of this section first serves or first connects with services on or after September 1, 1987. This section, as it existed before September 1, 1987, continues to apply to land that an entity first served or first connected with services before that date, and the former law is continued in effect for that purpose.

Sec. 9A. (a) At the request of the governing body of the city, the city attorney or any other attorney representing the city may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation by the owner of a tract of land of a requirement regarding the tract and established by, or adopted by the governing body under, this Act; or

(2) recover damages from the owner of a tract of land in an amount adequate for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the tract and established by, or adopted by the governing body under, this Act.

(b) A reference in this section to an "owner of a tract of land" does not include the owner of an individual lot in a subdivided tract of land.

Sec. 10. The governing body of any city, may, pursuant to the provisions of this section and Section 4, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), extend by ordinance to all of the area under its extraterritorial jurisdiction the application of such city's ordinance establishing rules and regulations governing plats and the subdivision of land. Provided, however, a city may not impose zoning requirements, including those which regulate the use of any building or property, in any area outside of its corporate limits.

SECTION 2. Subsection (d), Section 5, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Notwithstanding any other provision of this section, the City Planning Commission or other appropriate governing body of a city is authorized to approve and issue an amending plat which is signed by the applicants only, and which is for one or more of the purposes set forth in this subsection [~~the following Subdivisions (1) through (9), both inclusive~~], and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:

(1) to correct an error in any course or distance shown on the prior plat;

(2) to add any course or distance that was omitted on the prior plat;

(3) to correct an error in the description of the real property shown on the prior plat;

(4) to indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;

(5) to show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat;

(6) to correct any other type of scrivener or clerical error or omission as previously approved by the City Planning Commission or governing body of such city; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) to correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

(8) to relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; [~~or~~]

(9) to relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that such amendment does not:

(A) attempt to remove recorded covenants or restrictions; or

(B) increase the number of lots; or

(10) to make necessary changes to the prior plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the prior plat if:

(A) the changes do not affect applicable zoning and other regulations of the city;

(B) the changes do not attempt to amend or remove any covenants or restrictions; and

(C) the area covered by the changes is located in an area that the City Planning Commission or other appropriate governing body of the city has approved, after a public hearing, as a residential improvement area.

SECTION 3. Subsection (a), Section 58, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by this section or Section 58A of this Act, the [~~The~~] holder of any certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.

SECTION 4. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 58A to read as follows:

Sec. 58A. CONDITIONS REQUIRING REFUSAL OF SERVICE. The holder of a certificate of public convenience and necessity shall refuse to serve a customer within its certified area if the holder of the certificate is prohibited from providing the service under Section 8, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes).

SECTION 5. Subsection (a), Section 13.250, Water Code, is amended to read as follows:

(a) Except as provided by this section or Section 13.2501 of this code, the [~~The~~] holder of any certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.

SECTION 6. Chapter 13, Water Code, is amended by adding Section 13.2501 to read as follows:

Sec. 13.2501. CONDITIONS REQUIRING REFUSAL OF SERVICE. The holder of a certificate of public convenience and necessity shall refuse to serve a customer within its certified area if the holder of the certificate is prohibited from providing the service under Section 8, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes).

SECTION 7. The amendment by this Act of Section 1 of and the addition by this Act of Section 1B to Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), apply only to a subdivision of land for which a plan, plat, or replat is first required to be filed on or after September 1, 1987, except for the validations made by Section 1B.

(b) The addition by this Act of Sections 9A and 10 to Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), applies to a subdivision of land regardless of whether it was made before, on, or after September 1, 1987.

SECTION 8. In a city having a city planning commission and covered by Section 3A, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), the authority that appoints members to the commission shall make appointments, as commission members' terms expire or as membership positions are vacated, to achieve as soon as possible the membership scheme established by Section 3A, as amended by this Act.

SECTION 9. Title 28, Revised Statutes, is amended by adding Article 974a.41 to read as follows:

Art. 974a.4. SUBDIVISION REGULATION IN COUNTIES THAT BORDER THE RIO GRANDE RIVER.

Sec. 1. For a city that has a population of 5,000 or more, according to the most recent federal census, and that lies within a county that borders on the Rio Grande River, the provisions of Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), that relate to the area within five miles of the city do actualy apply to that area within five miles of the city. This is the case regardless of the fact that those provisions, as they apply to other cities, are superseded by other law and are construed as applying to the extraterritorial jurisdiction of the city, as determined under the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), rather than to the area within five miles of the city.

SECTION 10. This Act takes effect September 1, 1987.

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

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1829

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1829** have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass.

FARABEE	McDONALD
BROOKS	McKINNEY
URIBE	GLOSSBRENNER
WASHINGTON	J. HARRIS
BLAKE	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

(President Pro Tempore Parker in Chair)

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1405 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **S.B. 1405**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Brooks, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 2008 DISCHARGED

On motion of Senator Armbrister and by unanimous consent, the Senate conferees on **H.B. 2008** were discharged.

Senator Armbrister requested that a new Conference Committee on **H.B. 2008** be appointed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **H.B. 2008** before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chairman; Krier, Sims, Tejeda and Zaffirini.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1402 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 1402**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1183 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 1183**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1512 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on **H.B. 1512**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to **H.B. 2146** by a non-record vote.

The House refused to concur in Senate amendments to **H.B. 2098** and requested the appointment of a Conference Committee to consider the differences between the two Houses. The following are appointed on the part of the House: A. Luna, Rodriguez, Hackney, Martinez and Cavazos.

The House has adopted the Conference Committee Report on **H.B. 2597** by a record vote of 143 ayes, 1 no, 2 present-not voting.

The House has adopted the Conference Committee Report on **H.B. 356** by a record vote of 137 ayes, 0 noes, 1 present-not voting.

The House has adopted the Conference Committee Report on **H.B. 1652** by a record vote of 142 ayes, 1 no, 1 present-not voting.

The House has adopted the Conference Committee Reports on the following House Bills by a non-record vote:

H.B. 1226
H.B. 612
H.B. 102
H.B. 43

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT HOUSE BILL 790

Senator Parmer submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 790** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

PARMER	ECKELS
BARRIENTOS	C. EVANS
ZAFFIRINI	CRADDICK
	MILLSAP
	WRIGHT
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1429 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **S.B. 1429**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Lyon, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 573

Senator Tejeda submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 573** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

TEJEDA	D. HUDSON
ARMBRISTER	REPP
ZAFFIRINI	HOLLOWELL
KRIER	SHINE
GREEN	HIGHTOWER
On the part of the Senate	On the part of the House

The Conference Committee Report was again read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 408 ADOPTED

Senator Uribe called from the President's table the Conference Committee Report on **S.B. 408**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Uribe, the Conference Committee Report was adopted viva voce vote.

SENATE RESOLUTION 716
(Caucus Report)

Senator Brooks offered the following resolution:

Honorable William P. Hobby
President of the Senate
Austin, Texas

Sir:

At a caucus held on June 1, 1987 and attended by 23 Members of the Senate, the following recommendations were made, to wit:

BE IT RESOLVED by the Senate, That:

The Lieutenant Governor may employ such employees as are necessary for the operation of his office from the closing of this session and until the convening of the next session, and in addition thereto, he and the Secretary of the Senate shall be furnished postage, telegraph, telephone, express, and all other expenses incident to their respective offices.

The Secretary of the Senate shall be retained during the interval between adjournment of this session and the convening of the next session of the Legislature. The Secretary of the Senate may employ such employees as are necessary for the operation of her office and to perform duties as may be required in connection with the business of the state from the closing of this session and until the convening of the next session. All employees and elected officers of the Senate shall operate under the direct supervision of the Secretary of the Senate during the interim.

The Administration Chairman is authorized to retain a sufficient number of staff employees to conclude the work of the Enrolling Clerk, Calendar Clerk, Journal Clerk, and Sergeant-at-Arms. The Committee on Administration shall establish the salaries to be paid the Senate staff.

The Chairman of the Senate Committee on Administration is hereby authorized and directed to cause the Senate Chamber to be placed in order and to purchase such supplies and to make all such repairs and improvement as are necessary between the adjournment of this session and the convening of the next session of the Legislature and make an inventory of all furniture and fixtures in the Senate Chamber and in the private offices of the Members, as well as of the supplies and equipment on hand in the Purchasing and Supply Department and close his books for the Regular Session of the 70th Legislature. No equipment shall be acquired on a rental/purchase plan unless such equipment be placed on the Senate inventory at the termination of such plan. He shall also examine records and accounts payable out of the Contingent Expense Fund as shall be necessary properly to approve all claims and accounts against the Senate, and no claim or account shall be paid without his consent and approval, and he and any member of the Administration Committee shall be entitled to receive his actual and necessary expenses incurred during the interim; and, be it further

RESOLVED, That there shall be printed 325 volumes of the Senate Journal of the Regular Session of the 70th Legislature; when complete 250 copies shall be bound in buckram and delivered to the Secretary of the Senate; one volume thus

bound shall be forwarded by the Secretary of the Senate to each Member of the Senate, the Lieutenant Governor, and to each Member of the House of Representatives on request. The printing of such journals shall be done in accordance with the provisions of this Resolution under the supervision of the Chairman of the Committee on Administration; provided, further, that it shall be the duty of said chairman to refuse to receive or receipt for said Senate Journals until corrected and published in accordance with the preexisting law as finally approved by the Chairman of the Committee on Administration of the Senate. When the accounts have been certified by the Chairman of the Committee on Administration of the Senate, said accounts shall be paid out of the Contingent Expense Fund of the 70th Legislature; and, be it further

RESOLVED, That all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and Contingent Expense Fund of the 70th Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 20 of the Legislative Reorganization Act (Article 5429f, Vernon's Texas Civil Statutes), upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate; and, be it further

RESOLVED, That in furtherance of the legislative duties and responsibilities of the Senate, the Administration Committee is hereby authorized and directed to charge to the individual Member's office budget as hereinafter authorized: (1) reimbursement of all actual expenses incurred by the Members when traveling in performance of such duties and responsibilities or incident thereto, and (2) payment of all other reasonable and necessary expenses for the operation of the office of the individual Senator during any period the Legislature is not in session. Expenditures for these services by the Administration Committee as hereby authorized as an expense of the Senate shall not be restricted to Austin but may be incurred in individual senatorial districts. Such expenses shall be paid from funds appropriated for the use of the Senate on vouchers approved by the Chairman of the Administration Committee and the Secretary of the Senate in accordance with regulations governing such expenditures; and, be it further

RESOLVED, That for the time period from the end of the 70th Legislature until the convening of the next regular or special session, each Senator shall be permitted to employ secretarial and other office staff and for intrastate travel expenses for staff employees a maximum payroll of $13,500.00 per month under the classification schedule hereinafter provided. Other expenses, including travel expenses or other reasonable and necessary expenses incurred in the furtherance and performance of legislative duties or in operation of his office or incident thereto, shall be provided in addition to the maximum salary authorized.

In order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of Members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of Members and committees must use compensatory/overtime accrued in a given month by the end of the same month of the following year. Compensatory/overtime accrued prior to January 1, 1987, will not be carried forward after January 1, 1988. No compensatory/overtime will be paid at either the end of the fiscal year or at an employee's termination; and, be it further

RESOLVED, That the Lieutenant Governor shall have the authority to appoint any Member of the Senate, the Secretary of the Senate, or other Senate

employee to attend meetings of the National Conference of State Legislatures and other similar meetings. Necessary and actual expenses are hereby authorized upon the approval of the Chairman of the Administration Committee and the Secretary of the Senate; and, be it further

RESOLVED, That each of the standing committees and subcommittees of the Senate of the 70th Legislature be authorized to continue to meet at such times and places during the interim as determined by such committees and subcommittees and to hold hearings, recommend legislation, and perform research on matters directed either by Resolution, the Lieutenant Governor, or as determined by majority vote of each committee. Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable. Expenses for the operation of these committees and subcommittees are hereby authorized to be paid pursuant to a budget prepared by each committee and approved by the Administration Committee; and, be it further

RESOLVED, That the operating expenses of this committee shall be paid from the Contingent Expense Fund of the Senate, and the committee members shall be reimbursed for their actual expenses incurred in carrying out the duties of the committee.

Any Members not returning for the 71th Legislature will vacate their Senate offices by December 15, 1988; and, be it further

RESOLVED, That no employee of the Senate shall during the time he or she is employed furnish to any person, firm, or corporation any information other than general information furnished the public pertaining to the Senate, and they shall not without permission receive any compensation from any person, firm, or corporation during their employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged; and, be it further

RESOLVED, That the Secretary of the Senate is specifically directed not to permit the removal of any of the property of the Senate from the Senate Chamber or the rooms of the Senate except as authorized by the Chairman of the Administration Committee.

Respectfully submitted,

/s/Brooks
Chairman of the Caucus

/s/Harris
Secretary of the Caucus

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2024 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 2024**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 2592

Senator Montford called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2592** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2592** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chairman; Brown, Henderson, Leedom and Sims.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on the following House bills by a non-record vote:

H.B. 2556
H.B. 2611
H.B. 2243
H.B. 1947
H.B. 1848
H.B. 1459

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 2297

Senator Uribe called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2297** and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **H.B. 2297** before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Uribe, Chairman; Barrientos, Edwards, Farabee and Parmer.

MOTION TO PLACE HOUSE CONCURRENT RESOLUTION 36 ON SECOND READING

Senator Montford moved to suspend the regular order and all other necessary rules to take up for consideration at this time:

H.C.R. 36, Establishing a special committee to study the organization and structure of state agencies in the executive branch of state government.

On motion of Senator Montford and by unanimous consent, the motion to suspend all necessary rules was withdrawn.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 790 ADOPTED

Senator Parmer called from the President's table the Conference Committee Report on **H.B. 790**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Parmer, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 685

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 685** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

PARKER	T. SMITH
FARABEE	S. JOHNSON
McFARLAND	OVARD
WASHINGTON	WATERFIELD
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1300

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1300** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

CAPERTON	T. SMITH
WASHINGTON	BLACKWOOD

McFARLAND	MORALES
GLASGOW	WALDROP
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

HOUSE CONCURRENT RESOLUTION 36 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business and all other necessary rules were suspended to take up for consideration at this time on its second reading:

H.C.R. 36, Establishing a special committee to study the organization and structure of state agencies in the executive branch of state government.

The resolution was read second time and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2592

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2592** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONTFORD	WATKINS
LEEDOM	EDWARDS
SIMS	HURY
BROWN	WOLENS
	SEIDLITS
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1829 ADOPTED

Senator Farabee called from the President's table the Conference Committee Report on **H.B. 1829**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Farabee, the Conference Committee Report was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 130, Directing the State Board of Education in cooperation with the Texas Commission on Alcohol and Drug Abuse to study the problem of substance abuse by public school students.

S.C.R. 48, Establishing the Texas Adult Literacy Council. (Amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1299

Senator Washington called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1299** and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on **H.B. 1299** before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment of the following conferees on the part of the Senate on the bill: Senators Washington, Chairman; Farabee, Glasgow, Lyon and McFarland.

(President in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 685 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **H.B. 685**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT SENATE BILL 1279

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1279** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

EDWARDS	BERLANGA
PARMER	GUERRERO
WASHINGTON	DANBURG
SARPALIUS	GEISTWEIDT
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the ability of the state, any political subdivision, or governmental agency to take the safety record of the bidder into consideration when evaluating the acceptance of a bid and giving notice of such consideration to bidders.

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

SECTION 1. Subsection (b), Section 2, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The competitive sealed bidding procedure as provided herein shall be used for the award of all contracts subject to the provisions of this section, except that in the case of high technology procurements the city may follow the competitive sealed proposal procedure provided in Subsection (c) of this section.

Whenever the competitive sealed bidding procedure applies to a proposed contract, notice of the time and place when and where such a contract shall be let shall be published in such city once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership, or institution; provided, however, that the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder and has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of that bidder, and provided further, that such determinations are not arbitrary and capricious. The governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes, and the amendments thereto. However, the city in making any contract calling for or requiring the expenditure or payment of less than $100,000 may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the city hall for 14 days prior to the time of letting such contract. Trade secrets and confidential information contained in the competitive sealed bids shall not be open for public inspection.

SECTION 2. Section 5, Chapter 770, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 2368a.3, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. A governmental entity shall have the right to reject any and all bids. Contracts covered by this Act shall be awarded to the lowest, responsible bidder, but a contract may not be awarded to a bidder who is not the lowest bidder unless prior to the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership, or institution; provided, however, that the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder and has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of that bidder, and provided further, that such determinations are not arbitrary and capricious.

SECTION 3. Section 7, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. AWARDING OF CONTRACT. (a) The officer in charge of opening the bids shall present them to the commissioners court in session. The court shall award the contract to the responsible bidder who submits the lowest and best bid, or the court shall reject all bids and publish a new notice.

(b) In cases where two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the commissioners court and present evidence concerning the lower bidder's responsibility. In determining who is a responsible bidder, the commissioners court may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership, or institution; provided, however, that the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder and has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of that bidder, and provided further, that such determinations are not arbitrary and capricious.

SECTION 4. Subsection (e), Section 3.11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) AWARD OF CONTRACT. The commission shall award contracts to the bidder submitting the lowest and best bid conforming to the specifications required. Complying with the specified time limit for submission of written data, samples, or models on or before bid opening time is essential to the materiality of a bid, provided, however, that the commission shall have the authority to waive this provision if the failure to comply is beyond control of the bidder. In determining who is the lowest and best bidder, the commission may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution; provided, however, that the commission has adopted a written definition and criteria for accurately determining the safety record of a bidder and

has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the lowest and best bidder, and provided further, that such determinations are not arbitrary and capricious. In determining who is the lowest and best bidder, in addition to price, the commission shall consider:

(1) the quality, availability, and adaptability of the supplies, materials, equipment, or contractual services, to the particular use required;

(2) the number and scope of conditions attached to the bid;

(3) the ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(4) whether the bidder can perform the contract or provide the service promptly, or within the time required, without delay or interference;

(5) the character, responsibility, integrity, reputation, and experience of the bidder;

(6) the quality of performance of previous contracts or services;

(7) the previous and existing compliance by the bidder with laws relating to the contract or service;

(8) any previous or existing noncompliance by the bidder with specifications requirements relating to time of submission of specified data such as samples, models, drawings, certificates, or other information;

(9) the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; and

(10) the ability of the bidder to provide future maintenance, repair parts, and service for the use of the subject of the contract.

SECTION 5. Section 1, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) In this Act:

(1) The word "city" [~~as used in this Act~~] shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

(2) The term "governing body" [~~as used in this Act~~] shall include the governing body of every city, whether designated as "Board of Aldermen," "City Council," "City Commission," or otherwise.

(3) The [~~For the purposes of this Act the~~] term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

(4) The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

(5) The term "time warrant" [~~as used in this Act~~] shall include any warrant issued by a city not payable out of current funds.

(6) The term "exempted procurements" shall include any of the following:

(A) [~~(1)~~] procurements made in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens or to preserve the property of the city;

(B) [~~(2)~~] procurements necessary to preserve or protect the public health or safety of the citizens of the city;

(C) [~~(3)~~] procurements made necessary by unforeseen damage to public property, machinery, or equipment;

(D) [~~(4)~~] procurements for personal or professional services;

(E) [~~(5)~~] procurements for work done and paid for by the day, as such work progresses;

(F) [~~(6)~~] the purchase of land or right-of-way; and

(G) [~~(7)~~] procurements where the functional requirements of the city can be satisfied by only one source. By way of example without limitation, this provision shall apply to procurements where competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or books; purchases of electric power, gas, water, and other utility services; and the purchase of captive replacement parts or components for equipment.

(7) The term "high technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including but not limited to: information processing equipment, software and firmware used in conjunction with information processing equipment, telecommunications equipment, radio and microwave systems, electronic distributed control systems (including building energy management systems) as well as technical services related to such equipment and goods.

(8) The term "separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(9) The term "sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(10) The term "component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) The short title of this Act shall be "Bond and Warrant Law of 1931."

(c) Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session, provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

SECTION 6. Subsection (h), Section 2, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

(h) Criminal Penalty; Removal. (1) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section [~~Act~~] commits an offense. The offense is a Class B [~~C~~] misdemeanor.

(2) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the city with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that city. This subdivision does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(4) A city officer or employee who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 7. Section 2, The Certificate of Obligation Act of 1971, as amended (Article 2368a.1, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (i), (j), and (k) to read as follows:

(i) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(j) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(k) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 8. Section 6, The Certificate of Obligation Act of 1971, as amended (Article 2368a.1, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) Criminal Penalty; Removal. (1) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section commits an offense. The offense is a Class B misdemeanor.

(2) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the issuer with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that issuer. This subdivision does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(4) An officer or employee of an issuer who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 9. Section 2, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (6), (7), and (8) to read as follows:

(6) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 10. Section 14, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. CRIMINAL PENALTY; REMOVAL. (a) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] makes or authorizes separate, sequential, and/or component purchases in order to avoid the competitive bidding requirements of Section 3 of this Act commits an offense. The offense is a Class B misdemeanor [~~and shall, upon final conviction, result in the immediate removal of the county officer or employee from office~~].

(b) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] violates Section 3 of this Act, other than by conduct described by Subsection (a) of this section, commits an offense. The

offense is a [~~Class C misdemeanor, except that a violation of the competitive bidding requirements under Subsection (a) of this section is a~~] Class B misdemeanor.

(c) The final conviction of an officer or employee for an offense under Subsection (a) or (b) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the county with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that county. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(d) A county officer or employee who intentionally or knowingly violates this Act, other than by conduct described by Subsection (a) or (b) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 11. Subchapter Z, Chapter 21, Education Code, as amended, is amended by adding Section 21.9011 to read as follows:

Sec. 21.9011. ENFORCEMENT OF PURCHASE PROCEDURES: CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) or (b) of Section 21.901 of this code commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) or (b) of Section 21.901 of this code, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a school district for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the school district with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that school district. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a school district who intentionally or knowingly violates Section 21.901 of this code, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 12. Chapter 770, Acts of the 66th Legislature, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence violates the competitive bidding requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a governmental entity for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the governmental entity with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that governmental entity. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a governmental entity who intentionally or knowingly violates this Act, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 13. (a) The change in law made by this Act applies only to punishment and removal for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

Amend Article 5221b by adding subsection 22g as follows:

Article 5221b-22g

SECTION 14. DEFINITIONS. (a) For the purposes of this Act:

(1) "Employee" means a person who has been employed by any state agency, office, or division for at least three consecutive months and whose employment is other than on a temporary or intermittent basis.

(2) "Employing agency" means the department, commission, board, office, or other agency of the legislative, judicial, or executive branches of state government, including an institution of higher education as defined by Section 61.003, Education Code, by whom the employee is employed.

(3) "Child" means a biological or adopted child or a legal ward.

(4) "Employment benefits" means all benefits provided or made available to employees, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(5) "Catastrophically ill child" means a child under the age of 18 who suffers from a severe chronic, disabling, or life-threatening illness or an injury which requires continuing medical treatment or rehabilitation.

(b) It is the intention of this legislature to address the needs of children who suffer from severe chronic or possibly terminal illnesses, such as cancer; those who have experienced acute illnesses requiring extensive care and rehabilitation, such as cerebral meningitis; those who have sustained serious bodily injuries requiring

extended periods of healing or rehabilitation; and any others whose physical conditions require extensive care or treatment. It is not the intention of this legislature to address in this Act those less debilitating conditions, such as allergies, which may require ongoing treatment but which do not seriously impair the normal life and activities of the child.

SECTION 15. PARENTAL LEAVE FOR THE BIRTH, ADOPTION, OR CATASTROPHIC ILLNESS OF A CHILD. (a) An employee of the state shall be entitled to a period of up to 24 weeks of parental leave on request:

(1) on the birth of a child of the employee;

(2) on the placement for adoption or foster care of a child with the employee; or

(3) to attend to a child who is catastrophically ill.

(b) Leave under this section:

(1) shall be leave without pay; and

(2) shall be in addition to any annual leave, sick leave, temporary medical leave, or other leave or compensatory time otherwise available to the employee.

(c) If the leave is scheduled so as not to disrupt unduly the operations of the employing agency, an employee may elect to use leave under this section immediately before or after or otherwise in coordination with any period of annual leave or compensatory time otherwise available to the employee.

(d) An employing agency may require an employee who plans to take a leave pursuant to this Act to give reasonable notice of the approximate date such leave shall commence and estimated duration of the leave. If both spouses are employees, only one spouse at a time is entitled to parental leave and such combined leave time shall not exceed 12 months subject to any extensions authorized by Subsection (e) of this section.

(e) After an employee has notified the employing agency as to the period of leave desired, any extension of the leave shall be subject to approval by the employing agency.

(f) After giving reasonable notice of the intention to do so, an employee may shorten the duration of the leave.

(g) Nothing in this Act shall preclude any further or alternative agreement between an employee and an employing agency for reduced leave schedules, part-time employment, or deferred leave, upon the birth, adoption, or catastrophic illness of a child.

SECTION 16. EMPLOYMENT AND BENEFITS PROTECTION. (a) Any employee who exercises any right provided under this Act shall be entitled, on return from the leave:

(1) to be restored by the employer to the position held by the employee when the leave commenced; or

(2) if such restoration is not feasible, to be restored to a position with equivalent status, benefits, pay, and other terms and conditions of employment; or

(3) if the employing agency's circumstances make it impossible or unreasonable to restore the employee to the same or an equivalent position, to be given an opportunity for the next similar position available.

(b) The taking of leave under this Act shall not result in the loss of any benefit accrued before the date on which the leave commenced.

(c) Nothing in this section shall be considered to entitle any restored employee to the accrual of any benefits during the period of leave.

SECTION 17. PROHIBITION OF COERCION OR RETALIATION. (a) An employee may not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the exercise of the rights of the employee under this Act.

(b) For the purposes of this section, "intimidate, threaten, or coerce" includes promising to confer or conferring any benefit such as appointment, promotion, or

compensation or taking or threatening to take any reprisal such as deprivation of appointment, promotion, or compensation.

SECTION 18. MAINTENANCE OF INSURANCE BENEFITS. An employee enrolled in a health benefits plan who is placed on a leave status under this Act may elect to continue health benefits enrollment while on leave status and arrange to pay into the Employees Retirement System of Texas, through the employing agency of the employee, the appropriate employee and state contributions.

SECTION 19. ENFORCEMENT. The Commission on Human Rights shall have the authority to enforce the provisions of this Act under Articles 6 and 7 of the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes).

SECTION 20. Article 1941(a), Revised Statutes, is amended by adding Section 1A to read as follows:

Sec. 1A. OPTICAL DATA STORAGE PROCESS. For the purposes described by Section 1 of this Act, a county clerk, county recorder, or clerk of a county court may adopt and use an optical data storage process for the storage of records by optical disk. This Act applies, to the extent feasible, to the optical data storage process, the optical disk used in that process, and the records stored by that process in a manner equivalent to the manner in which this Act applies to a microfilm process, the film used in that process, and the records stored by that process.

SECTION 21. This Act takes effect September 1, 1987.

SECTION 22. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE ON HOUSE BILL 1219

Senator Lyon called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1219** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1219** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lyon, Chairman; Armbrister, Edwards, Tejeda and Zaffirini.

AT EASE

The President at 8:07 p.m. announced that the Senate would stand At Ease Subject to the Call of the Chair.

IN LEGISLATIVE SESSION

The President at 8:15 p.m. called the Senate to order as In Legislative Session.

SENATE RESOLUTION 718

Senator Barrientos offered the following resolution:

S.R. 718, Endorsing the passage of legislation in the 70th Legislature, First Called Session that tracks the content of **H.B. 1985**.

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1219

Senator Lyon submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1219** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

LYON	S. JOHNSON
EDWARDS	GEISTWEIDT
TEJEDA	OVARD
ZAFFIRINI	MORALES
ARMBRISTER	PARKER
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1219 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **H.B. 1219**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Lyon, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2297

Senator Uribe submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2297** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

URIBE	SEIDLITS

BARRIENTOS	CLEMONS
PARMER	BLAIR
EDWARDS	EDWARDS
	CARRIKER
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

(Senator Brooks in Chair)

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON HOUSE BILL 23

Senator Brown called from the President's table the Conference Committee Report on **H.B. 23.** (The Conference Committee Report having been filed with the Senate and read today.)

Senator Brown moved adoption of the Conference Committee Report.

On motion of Senator Brown and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2124

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2124** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	HARRIS
FARABEE	C. JOHNSON
BLAKE	YOST
SIMS	KUEMPEL
BROWN	SHELLEY
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2108

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2108** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	RILEY
BLAKE	AGNICH
HENDERSON	CARTER
McFARLAND	SCHOOLCRAFT
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1299

Senator Washington submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1299** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

WASHINGTON	T. SMITH
GLASGOW	BLACKWOOD
McFARLAND	OVARD
BLAKE	WALDROP
FARABEE	
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE ON HOUSE BILL 2098

Senator Green called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 2098** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 2098** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Green, Chairman; Barrientos, Armbrister, Anderson and Washington.

SENATE CONCURRENT RESOLUTION 48 WITH HOUSE AMENDMENT

By unanimous consent, Senator Krier called **S.C.R. 48** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

Committee Amendment - Colbert

Amend **S.C.R. 48** as follows:

1. At p. 3, strike lines 2 through 5 and replace with

"RESOLVED, that the Council shall consist of 17 members with nine members appointed by the governor, four members appointed by the lieutenant governor of whom two shall be state senators and two shall be public members, and four appointed by the speaker of the house of whom two shall be state representatives and two shall be public members; and be it further"

2. At p. 4, strike lines 4 through 8, and replace with

"RESOLVED, that the Council shall utilize staff of the Texas Department of Community Affairs to carry out the functions of the Council; and be it further"

The amendment was read.

Senator Krier moved to concur in the House amendment.

The motion prevailed viva voce vote.

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON HOUSE BILL 43

Senator Brown called from the President's table the Conference Committee Report on **H.B. 43**. (The Conference Committee Report having been filed with the Senate and read today.)

Senator Brown moved the adoption of the Conference Committee Report.

Question - Shall the Conference Committee Report be adopted?

(President in Chair)

CONFERENCE COMMITTEE REPORT HOUSE BILL 2008

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2008** have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	BERLANGA
TEJEDA	CAVAZOS
KRIER	ROBERTS
ZAFFIRINI	MADLA
SIMS	SCHOOLCRAFT
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House reconsidered the vote by which **S.J.R. 55** was adopted by a non-record vote. The vote was reconsidered on House amendment by a non-record vote. **S.J.R. 55** was then adopted by a record vote of 123 yeas, 22 nays, 1 present-not voting.

The House adopted Conference Committee Reports on the following bills by a non-record vote:

H.B. 784
H.B. 2085
H.B. 812
S.B. 229

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1279 WITHDRAWN

Senator Edwards called from the President's table the Conference Committee Report on **S.B. 1279**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was withdrawn and permission to file a substitute Conference Committee Report was granted.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 43

The Senate resumed consideration of the Conference Committee Report on **H.B. 43**.

Question - Shall the Conference Committee Report be adopted?

On motion of Senator Brown and by unanimous consent, the motion to adopt the Conference Committee Report was withdrawn.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2622

Senator Henderson submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2622** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HENDERSON	ECKELS
BROWN	HILBERT
HARRIS	CONNELLY
	POLUMBO
	GRUSENDORF
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1279

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1279** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

EDWARDS	BERLANGA
PARMER	GUERRERO
WASHINGTON	DANBURG
SARPALIUS	GEISTWEIDT
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the purchasing practices of the state and other political subdivisions and governmental agencies; providing penalties.

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

SECTION 1. Subsection (b), Section 2, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The competitive sealed bidding procedure as provided herein shall be used for the award of all contracts subject to the provisions of this section, except that in the case of high technology procurements the city may follow the competitive sealed proposal procedure provided in Subsection (c) of this section.

Whenever the competitive sealed bidding procedure applies to a proposed contract, notice of the time and place when and where such a contract shall be let shall be published in such city once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership, or institution; provided, however, that the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder and has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of that bidder, and provided further, that such determinations are not arbitrary and capricious. The governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes, and the amendments thereto. However, the city in making any contract calling for or requiring the expenditure or payment of less than $100,000 may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the city hall for 14 days prior to the time of letting such contract. Trade secrets and confidential information contained in the competitive sealed bids shall not be open for public inspection.

SECTION 2. Section 5, Chapter 770, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 2368a.3, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. A governmental entity shall have the right to reject any and all bids. Contracts covered by this Act shall be awarded to the lowest, responsible bidder, but a contract may not be awarded to a bidder who is not the lowest bidder unless prior to the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership, or institution; provided, however, that the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder and has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of that bidder, and provided further, that such determinations are not arbitrary and capricious.

SECTION 3. Section 7, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. AWARDING OF CONTRACT. (a) The officer in charge of opening the bids shall present them to the commissioners court in session. The court shall award the contract to the responsible bidder who submits the lowest and best bid, or the court shall reject all bids and publish a new notice.

(b) In cases where two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the commissioners court and present evidence concerning the lower bidder's responsibility. In determining who is a responsible bidder, the commissioners court may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership, or institution; provided, however, that the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder and has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of that bidder, and provided further, that such determinations are not arbitrary and capricious.

SECTION 4. Subsection (e), Section 3.11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) AWARD OF CONTRACT. The commission shall award contracts to the bidder submitting the lowest and best bid conforming to the specifications required. Complying with the specified time limit for submission of written data, samples, or models on or before bid opening time is essential to the materiality of a bid, provided, however, that the commission shall have the authority to waive this provision if the failure to comply is beyond control of the bidder. In determining who is the lowest and best bidder, the commission may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution; provided, however, that the commission has adopted a written definition and criteria for accurately determining the safety record of a bidder and has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the lowest and best bidder, and provided further, that such determinations are not arbitrary and capricious. In determining who is the lowest and best bidder, in addition to price, the commission shall consider:

(1) the quality, availability, and adaptability of the supplies, materials, equipment, or contractual services, to the particular use required;

(2) the number and scope of conditions attached to the bid;

(3) the ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(4) whether the bidder can perform the contract or provide the service promptly, or within the time required, without delay or interference;

(5) the character, responsibility, integrity, reputation, and experience of the bidder;

(6) the quality of performance of previous contracts or services;

(7) the previous and existing compliance by the bidder with laws relating to the contract or service;

(8) any previous or existing noncompliance by the bidder with specifications requirements relating to time of submission of specified data such as samples, models, drawings, certificates, or other information;

(9) the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; and

(10) the ability of the bidder to provide future maintenance, repair parts, and service for the use of the subject of the contract.

SECTION 5. Section 1, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) In this Act:

(1) The word "city" [~~as used in this Act~~] shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

(2) The term "governing body" [~~as used in this Act~~] shall include the governing body of every city, whether designated as "Board of Aldermen," "City Council," "City Commission," or otherwise.

(3) The [~~For the purposes of this Act the~~] term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

(4) The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

(5) The term "time warrant" [~~as used in this Act~~] shall include any warrant issued by a city not payable out of current funds.

(6) The term "exempted procurements" shall include any of the following:

(A) [~~(1)~~] procurements made in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens or to preserve the property of the city;

(B) [~~(2)~~] procurements necessary to preserve or protect the public health or safety of the citizens of the city;

(C) [~~(3)~~] procurements made necessary by unforeseen damage to public property, machinery, or equipment;

(D) [~~(4)~~] procurements for personal or professional services;

(E) [~~(5)~~] procurements for work done and paid for by the day, as such work progresses;

(F) [~~(6)~~] the purchase of land or right-of-way; and

(G) [~~(7)~~] procurements where the functional requirements of the city can be satisfied by only one source. By way of example without limitation, this provision shall apply to procurements where competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or books; purchases of electric power, gas, water, and other utility services; and the purchase of captive replacement parts or components for equipment.

(7) The term "high technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including but not limited to: information processing equipment, software and firmware used in conjunction with information processing equipment, telecommunications equipment, radio and microwave systems, electronic distributed control systems (including building energy management systems) as well as technical services related to such equipment and goods.

(8) The term "separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(9) The term "sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(10) The term "component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) The short title of this Act shall be "Bond and Warrant Law of 1931."

(c) Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session, provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

SECTION 6. Subsection (h), Section 2, Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

(h) Criminal Penalty; Removal. (1) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section [~~Act~~] commits an offense. The offense is a Class B [~~C~~] misdemeanor.

(2) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the city with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that city. This subdivision does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(4) A city officer or employee who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 7. Section 2, The Certificate of Obligation Act of 1971, as amended (Article 2368a.1, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (i), (j), and (k) to read as follows:

(i) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(j) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(k) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 8. Section 6, the Certificate of Obligation Act of 1971, as amended (Article 2368a.1, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) Criminal Penalty; Removal. (1) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section commits an offense. The offense is a Class B misdemeanor.

(2) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other

than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the issuer with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that issuer. This subdivision does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(4) An officer or employee of an issuer who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 9. Section 2, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (6), (7), and (8) to read as follows:

(6) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 10. Section 14, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. CRIMINAL PENALTY; REMOVAL. (a) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] ,makes or authorizes separate, sequential, and/or component purchases in order to avoid the competitive bidding requirements of Section 3 of this Act commits an offense. The offense is a Class B misdemeanor [~~and shall, upon final conviction, result in the immediate removal of the county officer or employee from office~~].

(b) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [~~or intentionally~~] violates Section 3 of this Act, other than by conduct described by Subsection (a) of this section, commits an offense. The offense is a [~~Class C misdemeanor, except that a violation of the competitive bidding requirements under Subsection (a) of this section is a~~] Class B misdemeanor.

(c) The final conviction of an officer or employee for an offense under Subsection (a) or (b) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the county with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that county. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(d) A county officer or employee who intentionally or knowingly violates this Act, other than by conduct described by Subsection (a) or (b) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 11. Subchapter Z, Chapter 21, Education Code, as amended, is amended by adding Section 21.9011 to read as follows:

Sec. 21.9011. ENFORCEMENT OF PURCHASE PROCEDURES: CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) or (b) of Section 21.901 of this code commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) or (b) of Section 21.901 of this code, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a school district for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the school district with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that school district. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a school district who intentionally or knowingly violates Section 21.901 of this code, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 12. Chapter 770, Acts of the 66th Legislature, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence violates the competitive bidding requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a governmental entity for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the governmental entity with which the person served when the offense

occurred, and is ineligible to receive any compensation through a contract with that governmental entity. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a governmental entity who intentionally or knowingly violates this Act, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 13. (a) The change in law made by this Act applies only to punishment and removal for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 14. Article 1941(a), Revised Statutes, is amended by adding Section 1A to read as follows:

Sec. 1A. OPTICAL DATA STORAGE PROCESS. For the purposes described by Section 1 of this Act, a county clerk, county recorder, or clerk of a county court may adopt and use an optical data storage process for the storage of records by optical disk. This Act applies, to the extent feasible, to the optical data storage process, the optical disk used in that process, and the records stored by that process in a manner equivalent to the manner in which this Act applies to a microfilm process, the film used in that process, and the records stored by that process.

SECTION 15. This Act takes effect September 1, 1987.

SECTION 16. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was again read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 380

Senator Jones submitted the following Conference Committee Report:

Austin, Texas
May 30, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 380** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JONES	EARLEY
McFARLAND	CRADDICK
HARRIS	McDONALD
BLAKE	
SIMS	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the time for filing an application for a residence homestead exemption from ad valorem taxation.

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

SECTION 1. Section 11.431, Tax Code, is amended to read as follows:

Sec. 11.431. LATE APPLICATION FOR HOMESTEAD EXEMPTION. (a) The chief appraiser shall accept and approve or deny an application for a residence homestead exemption after the deadline for filing it has passed if it is filed not later than July 1 of the tax year to which the exemption applies [~~one year after the date the taxes on the homestead were paid or became delinquent, whichever is earlier~~].

(b) If a late application is approved after approval of the appraisal records by the appraisal review board, the chief appraiser shall submit the exemption to the appraisal review board for review and appeal under Chapters 41 and 42 of this code [~~notify the collector for each unit in which the residence is located~~]. The appraisal review board shall direct the chief appraiser to change the appraisal records as necessary to reflect the exemption, if approved. If the bill for the tax on the residence homestead is mailed before the appraisal roll is corrected, the [~~The~~] collector shall deliver a corrected [~~deduct from the person's~~] tax bill [~~the amount of tax imposed on the exempted amount~~] if the tax has not been paid. If the tax has been paid, the collector shall refund the amount of tax imposed on the exempted amount.

SECTION 2. (a) The change in law made by this Act applies only to a residence homestead exemption application filed on or after the effective date of this Act.

(b) An application timely filed under Section 11.431, Tax Code, before the effective date of this Act is not invalidated after the effective date of this Act even if the application would not have been timely filed under Section 11.431, Tax Code, as amended by this Act, and the law in effect before the changes made by this Act applies to that application.

SECTION 3. This Act takes effect September 1, 1987.

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

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 373

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 373** have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass.

FARABEE	HACKNEY
ARMBRISTER	T. SMITH
CAPERTON	LUCIO
TEJEDA	MELTON
On the part of the Senate	On the part of the House

The Conference Committee Report was again read and filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2008 ADOPTED

Senator Armbrister called from the President's table the Conference Committee Report on **H.B. 2008**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2124 ADOPTED

Senator Armbrister called from the President's table the Conference Committee Report on **H.B. 2124**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Armbrister, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1300 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **H.B. 1300**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Caperton, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2297 ADOPTED

Senator Uribe called from the President's table the Conference Committee Report on **H.B. 2297**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Uribe, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1299 ADOPTED

Senator Washington called from the President's table the Conference Committee Report on **H.B. 1299**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Washington, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

(Senator Brooks in Chair)

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON HOUSE BILL 373

Senator Farabee called from the President's table the Conference Committee Report on **H.B. 373**. (The Conference Committee Report having been filed with the Senate and read today.)

Senator Farabee moved to adopt the Conference Committee Report on **H.B. 373**.

On motion of Senator Farabee, the motion was withdrawn.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2098

Senator Green submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2098** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BARRIENTOS	A. LUNA
ARMBRISTER	HACKNEY
WASHINGTON	CAVAZOS
GREEN	MARTINEZ
On the part of the Senate	On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2592 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **H.B. 2592**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2622 ADOPTED

Senator Henderson called from the President's table the Conference Committee Report on **H.B. 2622**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Henderson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT
SENATE BILL 287

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
June 1,1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 287** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD	TOOMEY
CAPERTON	GIBSON
HARRIS	P. HILL
HENDERSON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to revising the Civil Practice and Remedies Code to reform procedures and remedies in civil actions for personal injury, property damage, or death and civil actions based on tortious conduct, including revisions and additions to laws governing the determination of and limitations on liability and damages.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. FINDINGS AND PURPOSE. (a) The 70th Legislature, Regular Session, of the State of Texas makes the following findings:

(1) The House/Senate Joint Committee on Liability Insurance and Tort Law and Procedure, appointed in 1986, was charged with studying the availability and cost of commercial, professional, and governmental liability insurance and the impact of the tort recovery process on the insurance industry. The joint committee engaged in extensive fact-finding and reported its findings and conclusions to the legislature.

(2) A serious liability insurance crisis currently exists in the State of Texas and is having adverse effects on the availability and affordability of various types of liability insurance and the economic development and growth of this state and the well-being of its citizens.

(3) Included among the wide variety of persons and entities and activities that are being adversely affected by the liability insurance crisis are:

(A) cities and their governmental and proprietary functions;

(B) counties, school districts, and other governmental units, and the educational and human services they provide;

(C) professionals, including physicians and health care providers, and the quantity, affordability, and availability of the various services they provide;

(D) charities and other nonprofit organizations and their humanitarian and benevolent services;

(E) day care centers and the services they provide; and

(F) businesses and industries, including the goods and services they provide and the incentives that encourage growth and expansion of existing enterprises and that attract new ventures.

(4) A lack of predictability in this state's justice system constitutes a significant contributing cause of the current liability insurance crisis.

(5) These public policy problems compel a legislative response that includes meaningful tort reform measures that will restore and maintain reasonable predictability in the civil justice system of Texas.

(6) The provisions of this Act will accomplish needed civil justice reform, while preserving the basic rights of injured persons to obtain appropriate relief through civil actions under the laws of this state.

(b) The 70th Legislature, having determined that the measures embodied in this Act are necessary and appropriate in order to reform the civil justice system of this state, enacts this legislation for the purpose of reforming the civil justice system of Texas. To this end, this Act revises appropriate procedural and substantive provisions of the Civil Practice and Remedies Code applicable to actions for personal injury, property damage, or death and other civil actions based on tortious conduct.

ARTICLE 2. TRIAL; JUDGMENT

SECTION 2.01. Subtitle A, Title 2, Civil Practice and Remedies Code, is amended by adding Chapter 9 to read as follows:

CHAPTER 9. FRIVOLOUS PLEADINGS AND CLAIMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9.001. DEFINITIONS.

In this chapter:

(1) "Claimant" means a party, including a plaintiff, counterclaimant, cross-claimant, third-party plaintiff, or intervenor, seeking recovery of damages. In an action in which a party seeks recovery of damages for injury to another person, damage to the property of another person, death of another person, or other harm to another person, "claimant" includes both that other person and the party seeking recovery of damages.

(2) "Defendant" means a party, including a counterdefendant, cross-defendant, or third-party defendant, from whom a claimant seeks relief.

(3) "Groundless" means:

(A) no basis in fact; or

(B) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(4) "Pleading" includes a motion.

Sec. 9.002. APPLICABILITY. (a) This chapter applies to an action in which a claimant seeks:

(1) damages for personal injury, property damage, or death, regardless of the legal theories or statutes on the basis of which recovery is sought, including an action based on intentional conduct, negligence, strict tort liability, products liability (whether strict or otherwise), or breach of warranty; or

(2) damages other than for personal injury, property damage, or death resulting from any tortious conduct, regardless of the legal theories or statutes on the basis of which recovery is sought, including libel, slander, or tortious interference with a contract or other business relation.

(b) This chapter applies to any party who is a claimant or defendant, including but not limited to:

(1) a county;

(2) a municipality;

(3) a public school district;

(4) a public junior college district;

(5) a charitable organization;
(6) a nonprofit organization;
(7) a hospital district;
(8) a hospital authority;
(9) any other political subdivision of the state; and
(10) the State of Texas.

(c) In an action to which this chapter applies, the provisions of this chapter prevail over all other law to the extent of any conflict.

Sec. 9.003. TEXAS RULES OF CIVIL PROCEDURE. This chapter does not alter the Texas Rules of Civil Procedure or the Texas Rules of Appellate Procedure.

Sec. 9.004. APPLICABILITY. This chapter does not apply to the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code) or to Chapter 21, Insurance Code.

[Sections 9.005-9.010 reserved for expansion]

SUBCHAPTER B. SIGNING OF PLEADINGS

Sec. 9.011. SIGNING OF PLEADINGS. The signing of a pleading as required by the Texas Rules of Civil Procedure constitutes a certificate by the signatory that to the signatory's best knowledge, information, and belief, formed after reasonable inquiry, the pleading is not:

(1) groundless and brought in bad faith;
(2) groundless and brought for the purpose of harassment; or
(3) groundless and interposed for any improper purpose, such as to cause unnecessary delay or needless increase in the cost of litigation.

Sec. 9.012. VIOLATION; SANCTION. (a) At the trial of the action or at any hearing inquiring into the facts and law of the action, after reasonable notice to the parties, the court may on its own motion, or shall on the motion of any party to the action, determine if a pleading has been signed in violation of any one of the standards prescribed by Section 9.011.

(b) In making its determination of whether a pleading has been signed in violation of any one of the standards prescribed by Section 9.011, the court shall take into account:

(1) the multiplicity of parties;
(2) the complexity of the claims and defenses;
(3) the length of time available to the party to investigate and conduct discovery; and
(4) affidavits, depositions, and any other relevant matter.

(c) If the court determines that a pleading has been signed in violation of any one of the standards prescribed by Section 9.011, the court shall, not earlier than 90 days after the date of the determination, at the trial or hearing or at a separate hearing following reasonable notice to the offending party, impose an appropriate sanction on the signatory, a represented party, or both.

(d) The court may not order an offending party to pay the incurred expenses of a party who stands in opposition to the offending pleading if, before the 90th day after the court makes a determination under Subsection (a), the offending party withdraws the pleading or amends the pleading to the satisfaction of the court or moves for dismissal of the pleading or the offending portion of the pleading.

(e) The sanction may include one or more of the following:

(1) the striking of a pleading or the offending portion thereof;
(2) the dismissal of a party; or
(3) an order to pay to a party who stands in opposition to the offending pleading the amount of the reasonable expenses incurred because of the filing of the pleading, including costs, reasonable attorney's fees, witness fees, fees of experts, and deposition expenses.

(f) The court may not order an offending party to pay the incurred expenses of a party who stands in opposition to the offending pleading if the court has, with respect to the same subject matter, imposed sanctions on the party who stands in opposition to the offending pleading under the Texas Rules of Civil Procedure.

(g) All determinations and orders pursuant to this chapter are solely for purposes of this chapter and shall not be the basis of any liability, sanction, or grievance other than as expressly provided in this chapter.

Sec. 9.013. REPORT TO GRIEVANCE COMMITTEE. (a) If the court imposes a sanction against an offending party under Section 9.012, the offending party is represented by an attorney who signed the pleading in violation of any one of the standards under Section 9.011, and the court finds that the attorney has consistently engaged in activity that results in sanctions under Section 9.012, the court shall report its finding to an appropriate grievance committee as provided by the State Bar Act (Article 320a-1, Vernon's Texas Civil Statutes) or by a similar law in the jurisdiction in which the attorney resides.

(b) The report must contain:

(1) the name of the attorney who represented the offending party;

(2) the finding by the court that the pleading was signed in violation of any one of the standards under Section 9.011;

(3) a description of the sanctions imposed against the signatory and the offending party; and

(4) the finding that the attorney has consistently engaged in activity that results in sanctions under Section 9.012.

Sec. 9.014. PLEADINGS NOT FRIVOLOUS. (a) A general denial does not constitute a violation of any of the standards prescribed by Section 9.011.

(b) The amount requested for damages in a pleading does not constitute a violation of any of the standards prescribed by Section 9.011.

SECTION 2.02. The heading of Chapter 33, Civil Practice and Remedies Code, is amended to read as follows:

CHAPTER 33. COMPARATIVE RESPONSIBILITY [~~NEGLIGENCE~~]

SECTION 2.03. The heading of Subchapter A, Chapter 33, Civil Practice and Remedies Code, is amended to read as follows:

SUBCHAPTER A. COMPARATIVE RESPONSIBILITY [~~NEGLIGENCE~~]

SECTION 2.04. Section 33.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 33.001. COMPARATIVE RESPONSIBILITY [~~NEGLIGENCE~~]. (a) In an action to recover damages for negligence resulting in personal injury, property damage, or death or an action for products liability grounded in negligence, a claimant may recover damages only if his percentage of responsibility is less than or equal to 50 percent.

(b) In an action to recover damages for personal injury, property damage, or death in which at least one defendant is found liable on a basis of strict tort liability, strict products liability, or breach of warranty under Chapter 2, Business & Commerce Code, a claimant may recover damages only if his percentage of responsibility is less than 60 percent.

(c) In an action in which a claimant seeks damages for harm other than personal injury, property damage, or death arising out of any action grounded in negligence, including but not limited to negligence relating to any professional services rendered by an architect, attorney, certified public accountant, real estate broker or agent, or engineer licensed by this state, a claimant may recover damages only if his percentage of responsibility is less than or equal to 50 percent. [~~In an action to recover damages for negligence resulting in death or injury to a person or property, contributory negligence does not bar recovery if the contributory negligence is not greater than the negligence of the person or persons against whom recovery is sought.~~

[~~(b) Damages allowed are diminished in proportion to the amount of negligence attributed to the person recovering.~~]

SECTION 2.05. Chapter 33, Civil Practice and Remedies Code, is amended by adding Section 33.002 to read as follows:

Sec. 33.002. APPLICABILITY. (a) This chapter does not apply to a claim based on an intentional tort or a claim for exemplary damages included in an action to which this chapter otherwise applies.

(b) This chapter does not apply to:

(1) an action to collect workers' compensation benefits under the workers' compensation laws of this state (Article 8306 et seq., Vernon's Texas Civil Statutes) or actions against an employer for exemplary damages arising out of the death of an employee;

(2) an action brought under the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code); or

(3) an action brought under Chapter 21, Insurance Code.

SECTION 2.06. Chapter 33, Civil Practice and Remedies Code, is amended by adding Section 33.003 to read as follows:

Sec. 33.003. DETERMINATION OF COMPARATIVE RESPONSIBILITY. The trier of fact, as to each cause of action asserted, shall determine the percentage of responsibility with respect to:

(1) each claimant;

(2) each defendant; and

(3) each settling person.

SECTION 2.07. Section 33.011, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 33.011. DEFINITIONS. In this chapter [~~subchapter~~]:

(1) "Claimant" means a party seeking relief, including a plaintiff, counterclaimant, [or] cross-claimant, or third-party plaintiff seeking recovery of damages. In an action in which a party seeks recovery of damages for injury to another person, damage to the property of another person, death of another person, or other harm to another person, "claimant" includes both that other person and the party seeking recovery of damages pursuant to the provisions of Section 33.001.

(2) "Defendant" includes any party from whom a claimant seeks relief at the time of the submission of the case to the trier of fact.

(3) "Liable defendant" means a defendant against whom a judgment can be entered for at least a portion of the damages awarded to the claimant.

(4) "Percentage of responsibility" means that percentage attributed by the trier of fact to each claimant, each defendant, or each settling person with respect to causing or contributing to cause in any way, whether by negligent act or omission, by any defective or unreasonably dangerous product, by other conduct or activity violative of the applicable legal standard, or by any combination of the foregoing, the personal injury, property damage, death, or other harm for which recovery of damages is sought.

(5) "Settling person" means a person who at the time of submission has paid or promised to pay money or anything of monetary value to a claimant at any time in consideration of potential liability pursuant to the provisions of Section 33.001 with respect to the personal injury, property damage, death, or other harm for which recovery of damages is sought.

SECTION 2.08. Section 33.012, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 33.012. AMOUNT OF RECOVERY. (a) If the claimant is not barred from recovery under Section 33.001, the court shall reduce the amount of damages to be recovered by the claimant with respect to a cause of action by a percentage equal to the claimant's percentage of responsibility.

(b) If the claimant has settled with one or more persons, the court shall further reduce the amount of damages to be recovered by the claimant with respect to a cause of action by a credit equal to one of the following, as elected in accordance with Section 33.014:

(1) the sum of the dollar amounts of all settlements; or

(2) a dollar amount equal to the sum of the following percentages of damages found by the trier of fact:

(A) 5 percent of those damages up to $200,000;

(B) 10 percent of those damages from $200,001 to $400,000;

(C) 15 percent of those damages from $400,001 to $500,000; and

(D) 20 percent of those damages greater than $500,000.

(c) The amount of damages recoverable by the claimant may only be reduced once by the credit provided for in Subsection (b).

[~~Sec. 33.012. DAMAGES IN PROPORTION. If there is more than one defendant and the claimant's negligence does not exceed the total negligence of all defendants, contribution must be in proportion to the percentage of negligence attributable to each defendant.~~]

SECTION 2.09. Section 33.013, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 33.013. AMOUNT OF LIABILITY. (a) Except as provided in Subsections (b) and (c), a liable defendant is liable to a claimant only for the percentage of the damages found by the trier of fact equal to that defendant's percentage of responsibility with respect to the personal injury, property damage, death, or other harm for which the damages are allowed.

(b) Notwithstanding Subsection (a), each liable defendant is, in addition to his liability under Subsection (a), jointly and severally liable for the damages recoverable by the claimant under Section 33.012 with respect to a cause of action if:

(1) the percentage of responsibility attributed to the defendant is greater than 20 percent; and

(2) only for a negligence action pursuant to Section 33.001(a) or (c), the percentage of responsibility attributed to the defendant is greater than the percentage of responsibility attributed to the claimant.

(c) Notwithstanding Subsection (a), each liable defendant is, in addition to his liability under Subsection (a), jointly and severally liable for the damages recoverable by the claimant under Section 33.012 with respect to a cause of action if:

(1) no percentage of responsibility is attributed to the claimant and the percentage of responsibility attributed to the defendant is greater than 10 percent; or

(2) the claimant's personal injury, property damage, or death is caused by the depositing, discharge, or release into the environment of any hazardous or harmful substance as described in Subdivision (3); or

(3) the claimant's personal injury, property damage, or death resulted from a "toxic tort." "Toxic tort" means a cause of action in tort or for breach of implied warranty under Chapter 2, Business & Commerce Code, arising out of exposure to hazardous chemicals, hazardous wastes, hazardous hydrocarbons, similarly harmful organic or mineral substances, hazardous radiation sources, and other similarly harmful substances (which usually, but need not necessarily, arise in the work place), but not including any "drug" as defined in Section 81.001(3), Civil Practice and Remedies Code.

(d) This section does not create a cause of action.

[~~Sec. 33.013. DEFENDANT JOINTLY AND SEVERALLY LIABLE. Each defendant is jointly and severally liable for the entire amount of the judgment awarded the claimant, except that a defendant whose negligence is less than that of the claimant is liable to the claimant only for that portion of the judgment that represents the percentage of negligence attributable to him.~~]

SECTION 2.10. Section 33.014, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 33.014. ELECTION OF CREDIT FOR SETTLEMENTS. (a) If a claimant has settled with one or more persons, an election must be made as to which dollar credit is to be applied under Section 33.012(b). This election shall be made by any defendant filing a written election before the issues of the action are submitted to the trier of fact and, when made, shall be binding on all defendants. If no defendant makes this election or if conflicting elections are made, all defendants are considered to have elected Subdivision (2) of Section 33.012(b).

[~~Sec. 33.014. SETTLEMENT: TORT-FEASOR NOT PARTY DEFENDANT. If the existence and amount of an alleged joint tort-feasor's negligence are not submitted to the jury because the tort-feasor has paid an amount in settlement to a claimant and was not joined as a party defendant or having been joined, was dismissed or nonsuited after settling, each defendant is entitled to deduct from the amount for which he is liable to the claimant a percentage of the amount of the settlement based on the ratio of the defendant's negligence to the total negligence of all defendants.~~]

SECTION 2.11. Section 33.015, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 33.015. CONTRIBUTION. (a) If a defendant who is jointly and severally liable under Section 33.013 pays a percentage of the damages for which the defendant is jointly and severally liable greater than his percentage of responsibility, that defendant has a right of contribution for the overpayment against each other liable defendant to the extent that the other liable defendant has not paid the percentage of the damages found by the trier of fact equal to that other defendant's percentage of responsibility.

(b) As among themselves, each of the defendants who are jointly and severally liable under Section 33.013 is liable for the damages recoverable by the claimant under Section 33.012 in proportion to his respective percentage of responsibility. If a defendant who is jointly and severally liable pays a larger proportion of those damages than is required by his percentage of responsibility, that defendant has a right of contribution for the overpayment against each other defendant with whom he is jointly and severally liable under Section 33.013 to the extent that the other defendant has not paid the proportion of those damages required by that other defendant's percentage of responsibility.

(c) If for any reason a liable defendant does not pay or contribute the portion of the damages required by his percentage of responsibility, the amount of the damages not paid or contributed by that defendant shall be paid or contributed by the remaining defendants who are jointly and severally liable for those damages. The additional amount to be paid or contributed by each of the defendants who are jointly and severally liable for those damages shall be in proportion to their respective percentages of responsibility.

(d) No defendant has a right of contribution against any settling person.

[~~Sec. 33.015. SETTLEMENT: TORT-FEASOR PARTY DEFENDANT. If an alleged joint tort-feasor settles with a claimant but is joined as a party defendant when the case is submitted to the jury so that the existence and amount of his negligence are submitted to the jury and his percentage of negligence is found by the jury, the settlement is a complete release of the portion of the judgment attributable to him.~~]

SECTION 2.11A. Section 33.016, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 33.016. CLAIM AGAINST CONTRIBUTION DEFENDANT [~~CREDIT TOWARD LIABILITY~~]. (a) In this section, "contribution defendant" means any defendant, counterdefendant, or third-party defendant from whom any party seeks contribution with respect to any portion of damages for which that party may be liable, but from whom the claimant seeks no relief at the time of submission.

(b) Each liable defendant is entitled to contribution from each person who is not a settling person and who is liable to the claimant for a percentage of responsibility but from whom the claimant seeks no relief at the time of submission. A party may assert this contribution right against any such person as a contribution defendant in the claimant's action.

(c) The trier of fact shall determine as a separate issue or finding of fact the percentage of responsibility with respect to each contribution defendant solely for purposes of this section and Section 33.015 and not as a part of the percentages of responsibility determined under Section 33.003. Only the percentage of responsibility of each defendant and contribution defendant shall be included in this determination.

(d) As among liable defendants, including each defendant who is jointly and severally liable under Section 33.013, each contribution defendant's percentage of responsibility is to be included for all purposes of Section 33.015. The amount to be contributed by each contribution defendant pursuant to Section 33.015 shall be in proportion to his respective percentage of responsibility relative to the sum of percentages of responsibility of all liable defendants and liable contribution defendants. [~~If, because of the application of the rules of this subchapter, two claimants are liable to each other in damages, the claimant who is liable for the greater amount is entitled to a credit toward his liability in the amount of damages owed him by the other claimant.~~]

SECTION 2.11B. Section 33.017, Civil Practice and Remedies Code, is repealed.

SECTION 2.12. Subtitle C, Title 2, Civil Practice and Remedies Code, is amended by adding Chapter 41 to read as follows:

CHAPTER 41. EXEMPLARY DAMAGES

Sec. 41.001. DEFINITIONS. In this chapter:

(1) "Claimant" means a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, seeking recovery of exemplary damages. In a cause of action in which a party seeks recovery of exemplary damages related to injury to another person, damage to the property of another person, death of another person, or other harm to another person, "claimant" includes both that other person and the party seeking recovery of exemplary damages.

(2) "Defendant" means a party, including a counterdefendant, cross-defendant, or third-party defendant, from whom a claimant seeks relief with respect to exemplary damages.

(3) "Exemplary damages" means any damages awarded as an example to others, as a penalty, or by way of punishment. "Exemplary damages" includes punitive damages.

(4) "Fraud" means fraud other than constructive fraud.

(5) "Gross negligence" means more than momentary thoughtlessness, inadvertence, or error of judgment. It means such an entire want of care as to establish that the act or omission was the result of actual conscious indifference to the rights, safety, or welfare of the person affected.

(6) "Malice" means:

(A) conduct that is specifically intended by the defendant to cause substantial injury to the claimant; or

(B) an act that is carried out by the defendant with a flagrant disregard for the rights of others and with actual awareness on the part of the defendant that the act will, in reasonable probability, result in human death, great bodily harm, or property damage.

Sec. 41.002. APPLICABILITY. (a) This chapter applies to an action in which a claimant seeks exemplary damages relating to a cause of action as defined by Section 33.001.

(b) This chapter does not apply to:

(1) an action brought under the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code);

(2) an action brought under Chapter 21, Insurance Code;

(3) an action brought under the workers' compensation laws of this state (Article 8306 et seq., Revised Statutes);

(4) an action to recover exemplary damages against an employer by the employee's beneficiaries in a death action arising out of the course and scope of employment where the employer is a subscriber under the workers' compensation laws of this state (Article 8306 et seq., Revised Statutes);

(5) an action governed by Chapter 81, Civil Practice and Remedies Code;

(6) an action brought under Chapter 246, Acts of the 63rd Legislature, Regular Session, 1973, Home Solicitation Transactions (Article 5069-13.01 et seq., Vernon's Texas Civil Statutes);

(7) an action brought under Chapter 547, Acts of the 63rd Legislature, Regular Session, 1973, Debt Collection Practices (Article 5069-11.01 et seq., Vernon's Texas Civil Statutes);

(8) an action brought under Chapter 54, 91, or 92, Property Code;

(9) an action brought under the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes);

(10) an action brought under the Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes);

(11) an action brought under the Texas Proprietary School Act, Chapter 32, Education Code;

(12) an action brought under Section 9.507 or Section 27.01, Business & Commerce Code;

(13) an action brought under Chapter 36, Family Code;

(14) an action brought under the Health Spa Act (Article 5221l, Vernon's Texas Civil Statutes);

(15) an action brought under the Business Opportunity Act (Article 5069-16.01 et seq., Vernon's Texas Civil Statutes); or

(16) an action brought under the Texas Timeshare Act (Article 6573c, Vernon's Texas Civil Statutes).

(c) In an action to which this chapter applies, the provisions of this chapter prevail over all other law to the extent of any conflict.

Sec. 41.003. STANDARDS FOR RECOVERY OF EXEMPLARY DAMAGES. (a) Exemplary damages may be awarded only if the claimant proves that the personal injury, property damage, death, or other harm with respect to which the claimant seeks recovery of exemplary damages results from:

(1) fraud;

(2) malice; or

(3) gross negligence.

(b) The claimant must prove the elements of Subsection (a)(1), (a)(2), or (a)(3). This burden of proof may not be shifted to the defendant or satisfied by evidence of ordinary negligence.

Sec. 41.004. FACTORS PRECLUDING RECOVERY. (a) Exemplary damages may be awarded only if damages other than nominal damages are awarded.

(b) Exemplary damages may not be awarded to a claimant who elects to have his recovery multiplied under another statute.

Sec. 41.005. AWARD SPECIFIC TO DEFENDANT. In any action in which there are two or more defendants, an award of exemplary damages must be specific as to a defendant, and each defendant is liable only for the amount of the award made against that defendant.

Sec. 41.006. PREJUDGMENT INTEREST. Prejudgment interest may not be assessed or recovered on an award of exemplary damages.

Sec. 41.007. LIMITATION ON AMOUNT OF RECOVERY. Except as provided by Section 41.008, exemplary damages awarded against a defendant may not exceed four times the amount of actual damages or $200,000, whichever is greater.

Sec. 41.008. EXCEPTION. Section 41.007 does not apply to exemplary damages resulting from malice as defined by Section 41.001(6)(A) or to an intentional tort.

Sec. 41.009. PROVISIONS NOT TO BE MADE KNOWN TO JURY. The provisions of Section 41.007 may not be made known to the jury through any means, including voir dire, introduction into evidence, or instruction.

ARTICLE 3

SECTION 3.01. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 81 to read as follows:

CHAPTER 81. LIABILITY OF DRUG MANUFACTURERS AND SELLERS

Sec. 81.001. DEFINITIONS. In this chapter:

(1) "Claimant" means a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, seeking recovery of exemplary damages. In an action in which a party seeks recovery of exemplary damages related to injury to another person, damage to the property of another person, death of another person, or other harm to another person, "claimant" includes both that other person and the party seeking recovery of exemplary damages.

(2) "Defendant" means a party, including a counterdefendant, cross-defendant, or third-party defendant, from whom a claimant seeks relief with respect to exemplary damages.

(3)(A) "Drug" means:

(i) an article included in the definition of drug in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 321(g)(1)) which has been approved for marketing by the Food and Drug Administration pursuant to 21 U.S.C. Section 355 or 357, or Section 351 of the Public Health Service Act, 42 U.S.C. Section 262;

(ii) an article manufactured and labeled in accordance with the terms of an approval or license issued by the federal Food and Drug Administration;

(iii) an article recognized as safe and effective under regulations established by the federal Food and Drug Administration; or

(iv) childhood vaccines, including a vaccine that is intended to confer immunity against diphtheria, tetanus, pertussis, polio, measles, mumps, or rubella, or any combination of these diseases.

(B) The term "drug" as defined in Paragraph (A) of this subdivision does not include devices or their components, parts, or accessories as defined by 21 U.S.C. Section 321(h), or blood, blood components, or blood derivatives.

(4) "Drug-related injury" means any injury, disability, illness, or condition caused by a drug.

(5) "Exemplary damages" means any damages awarded as an example to others, as a penalty, or by way of punishment. "Exemplary damages" includes punitive damages.

(6) "Manufacturer" means a person, including an officer, director, employee, or agent acting within the scope of the officer's, director's, employee's, or agent's employment or agency, that produces a drug or that purchases and resells as the person's own product a drug produced by another person.

Sec. 81.002. APPLICABILITY. (a) This chapter applies to an action in which a claimant seeks damages from a manufacturer for a drug-related injury, including actions based on negligence, strict tort liability, products liability (strict or otherwise), or breach of warranty.

(b) This chapter does not apply to the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code).

Sec. 81.003. LIMITATION ON RECOVERY. (a) Except as provided by Subsection (b), in an action against a manufacturer for a drug-related injury, a claimant shall not recover exemplary damages if the drug was:

(1) manufactured and labeled in accordance with the terms of an approval or license issued by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act (Chapter 9, Title 21, U.S.C.) or the Public Health Service Act (Chapter 6A, Title 42, U.S.C.); or

(2) recognized as safe and effective pursuant to conditions established by the federal Food and Drug Administration and applicable regulations, including packaging and labeling regulations, and the drug was designed, tested, manufactured, and marketed in a reasonable manner.

(b) Subsection (a) does not apply to a claimant who establishes by a preponderance of the evidence that the defendant was grossly negligent or committed an intentional tort and:

(1) fraudulently or knowingly in violation of applicable regulations of the federal Food and Drug Administration withheld from or misrepresented to the agency information known to be material and relevant to the drug-related injury for which the claimant seeks recovery;

(2) knew or had access to information from which knowledge of the consequences could have been obtained at the time of distributing the drug that is alleged to have caused injury to the claimant that it posed a significant risk of serious harm or serious, adverse side effects to intended users and failed to report same in writing within a reasonable time to the Food and Drug Administration prior to the distribution of said drug; or

(3) knew or had access to information from which knowledge of the consequences could have been obtained at the time of distributing the drug that is alleged to have caused the claimant's injury that technology was available to alter the drug to eliminate or reduce a significant risk of serious harm or serious side effects to intended users and that the alteration would not have had the effect of making the drug less marketable due to the economic infeasibility of manufacturing the final altered drug product, and failed to report same in writing within a reasonable time to the Food and Drug Administration prior to the distribution of said drug.

SECTION 3.02. Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.0215 to read as follows:

Sec. 101.0215. LIABILITY OF A MUNICIPALITY. (a) A municipality is liable under this chapter for damages arising from its governmental functions, which are those functions that are enjoined on a municipality by law and are given it by the state as part of the state's sovereignty, to be exercised by the municipality in the interest of the general public, including but not limited to:

(1) police and fire protection and control;
(2) health and sanitation services;
(3) street construction and design;
(4) bridge construction and maintenance and street maintenance;
(5) cemeteries and cemetery care;
(6) garbage and solid waste removal, collection, and disposal;
(7) establishment and maintenance of jails;
(8) hospitals;
(9) sanitary and storm sewers;
(10) airports;
(11) waterworks;
(12) repair garages;
(13) parks and zoos;
(14) museums;
(15) libraries and library maintenance;
(16) civic, convention centers, or coliseums;
(17) community, neighborhood, or senior citizen centers;
(18) operation of emergency ambulance service;
(19) dams and reservoirs;
(20) warning signals;
(21) regulation of traffic;
(22) transportation systems;
(23) recreational facilities, including but not limited to swimming pools, beaches, and marinas;
(24) vehicle and motor driven equipment maintenance;
(25) parking facilities;
(26) tax collection;
(27) firework displays;
(28) building codes and inspection;
(29) zoning, planning, and plat approval;
(30) engineering functions;
(31) maintenance of traffic signals, signs, and hazards;
(32) water and sewer service; and
(33) animal control.

(b) This chapter does not apply to the liability of a municipality for damages arising from its proprietary functions, which are those functions that a municipality may, in its discretion, perform in the interest of the inhabitants of the municipality, including but not limited to:

(1) the operation and maintenance of a public utility;
(2) amusements owned and operated by the municipality; and
(3) any activity that is abnormally dangerous or ultrahazardous.

(c) The proprietary functions of a municipality do not include those governmental activities listed under Subsection (a).

SECTION 3.03. Section 101.023, Civil Practice and Remedies Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), liability [~~Liability~~] of a unit of local government under this chapter is limited to money damages in a maximum amount of $100,000 for each person and $300,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(c) Liability of a municipality under this chapter is limited to money damages in a maximum amount of $250,000 for each person and $500,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

SECTION 3.05. Subsection (a), Section 101.053, Civil Practice and Remedies Code, is amended to read as follows:

(a) This chapter does not apply to a claim based on an act or omission of a court of this state or any member of a court of this state acting in his official capacity or to a judicial function of a governmental unit. "Official capacity" means all duties of office and includes administrative decisions or actions.

SECTION 3.06. Section 101.055, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.055. CERTAIN GOVERNMENTAL FUNCTIONS. This chapter does not apply to a claim arising:

(1) in connection with the assessment or collection of taxes by a governmental unit;

(2) from the action of an employee while responding to an emergency call or reacting to an emergency situation if the action is in compliance with the laws and ordinances applicable to emergency action, or in the absence of such a law or ordinance, if the action is taken with conscious indifference or reckless disregard for the safety of others; or

(3) from the failure to provide or the method of providing police or fire protection.

SECTION 3.07. Subsection (a), Section 101.102, Civil Practice and Remedies Code, is amended to read as follows:

(a) A suit under this chapter shall be brought in state court in the county in which the cause of action or a part of the cause of action arises.

SECTION 3.08. Section 102.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 102.001. DEFINITIONS. In this chapter:

(1) "Employee" includes an officer, volunteer, or employee, a former officer, volunteer, or employee, and the estate of an officer, volunteer, or employee or former officer, volunteer, or employee of a local government.

(2) "Local government" means a county, city, town, special purpose district, and any other political subdivision of the state.

SECTION 3.09. Section 104.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.001. STATE LIABILITY; PERSONS COVERED. In a cause of action based on conduct described in Section 104.002, the state shall indemnify the following persons [~~is liable~~] for actual damages, court costs, and attorney's fees adjudged against:

(1) an employee, a member of the governing board, or any other officer of a state agency, institution, or department;

(2) a former employee, former member of the governing board, or any other former officer of a state agency, institution, or department who was an employee or officer when the act or omission on which the damages are based occurred;

(3) a physician or psychiatrist licensed in this state who was performing services under a contract with the Disability Determination Division of the Texas Rehabilitation Commission, [~~or the~~] Texas Department of Mental Health and Mental Retardation, Texas Youth Commission, Texas Department of Corrections, or Texas Department of Health when the act or omission on which the damages are based occurred;

(4) a person serving on the governing board of a foundation, corporation, or association at the request and on behalf of an institution of higher education, as that term is defined by Section 61.003(8), Education Code [~~The University of Texas System~~]; or

(5) the estate of a person listed in this section.

SECTION 3.10. Section 104.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.002. STATE LIABILITY; CONDUCT COVERED. The state is liable for indemnification under this chapter only if the damages are based on an act or omission by the person in the course and scope of the person's office, employment, or contractual performance for or service on behalf of the agency, institution, or department and if:

(1) the damages arise out of a cause of action for negligence, except a wilful or wrongful act or an act of gross negligence; or

(2) the damages arise out of a cause of action for deprivation of a right, privilege, or immunity secured by the constitution or laws of this state or the United States, except when the court in its judgment or the jury in its verdict finds that the person acted in bad faith, with conscious indifference or reckless disregard; or

(3) indemnification is in the interest of the state as determined by the attorney general or his designee.

SECTION 3.11. Subsection (a), Section 104.003, Civil Practice and Remedies Code, is amended to read as follows:

(a) State liability for indemnification under this chapter may not exceed:

(1) $100,000 to a single person and $300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege, or immunity; and

(2) $10,000 for a single occurrence of damage to property.

SECTION 3.11. Subsection (a), Section 104.004, Civil Practice and Remedies Code, is amended to read as follows:

(a) The attorney general shall defend a public servant [~~an individual~~] or estate listed in Section 104.001 in a cause of action covered by this chapter.

SECTION 3.13. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 107 to read as follows:

CHAPTER 107. LIMITATION OF LIABILITY FOR PUBLIC SERVANTS

Sec. 107.001. DEFINITION. In this chapter, "public servant" means a person covered by Section 104.001.

Sec. 107.002. LIMITATION OF LIABILITY. A public servant is not personally liable for damages that are the result of an act or omission by the public servant in the course and scope of the public servant's office, employment, or contractual performance for or service on behalf of a state agency, institution, or department and for which the state is liable for indemnification under Section 104.002.

Sec. 107.003. STATE LIABILITY NOT AFFECTED. This chapter does not affect the liability of the state under Chapter 104.

SECTION 3.14. Section 101.058, Civil Practice and Remedies Code, is repealed.

ARTICLE 4. MISCELLANEOUS PROVISIONS; TRANSITION

SECTION 4.01. DECLARATORY JUDGMENT. (a) The validity of this Act or any part of this Act may be determined in an action for declaratory judgment in a district court in Travis County pursuant to the Uniform Declaratory Judgments Act (Chapter 37, Civil Practice and Remedies Code) if it is alleged that this Act or a part of this Act affects the rights, status, or legal relation of a party in a civil action with respect to any other party in the civil action.

(b) Any appeal of a declaratory judgment of a district court, including an appeal of the judgment of an appellate court, holding this Act or any part of this Act valid or invalid under the state or federal constitution shall be an accelerated appeal.

SECTION 4.02. ACCELERATED APPEAL. An appeal of a judgment or order of a county or district court or a judgment of an appellate court holding this Act or a portion of this Act valid or invalid under the state or federal constitution shall be an accelerated appeal.

SECTION 4.03. ACCELERATED APPEALS; RULES. An accelerated appeal, including an appeal to the supreme court, under Subsection (b) of Section 4.01 or under Section 4.02 of this Act shall be governed by Rule 42, Texas Rules of Appellate Procedure.

SECTION 4.04. SEVERABILITY. (a) Except as provided by Subsection (b) of this section, if any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

(b) If a provision of Section 3.02 of this Act is held invalid or its application to any person or circumstance is held invalid, Sections 3.02, 3.03, and 3.13 of this Act are void and have no effect. If a provision of Section 3.03 of this Act is held invalid or its application to any person or circumstance is held invalid, Sections 3.02, 3.03, and 3.13 of this Act are void and have no effect. If a provision of Section 3.13 of this Act is held invalid, Sections 3.02, 3.03, and 3.13 of this Act are void and have no effect. All other sections of this Act are severable as provided in Subsection (a) of this section.

SECTION 4.05. EFFECTIVE DATE. (a) This Act takes effect August 31, 1987.

(b) If all or any part of a suit is filed before the effective date of this Act, the entire suit shall be governed with respect to the subject matter of Sections 2.01 through 2.12 and Article 3 of this Act by the applicable law in effect before that date, and that law is continued in effect only for this purpose, including any new trial or retrial of any such suit following appeal of the trial court's judgment.

(c) In actions in which a statute requires that a written notice be given to any person or entity prior to filing suit, the delivery of any such notice or the depositing of such a notice, postage prepaid, in the United States mail before the effective date of this Act shall constitute the filing of suit for the purposes of this section, provided that the suit is filed within 120 days after the notice is delivered or mailed, and such suits shall be governed with respect to the subject matter of Sections 2.01 through 2.12 and Article 3 of this Act by the applicable law in effect before that date, and that law is continued in effect only for this purpose, including any new trial or retrial of any such suit following appeal of the trial court's judgment.

SECTION 4.06. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 290

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 290** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD	TOOMEY
CAPERTON	GIBSON
HARRIS	P. HILL
HENDERSON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to prejudgment interest in civil cases.

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

SECTION 1. Article 1.05, Title 79, Revised Statutes, as amended (Article 5069-1.05, Vernon's Texas Civil Statutes), is amended by adding Section 6 to read as follows:

Sec. 6. (a) Judgments in wrongful death, personal injury, and property damage cases must include prejudgment interest. Except as provided by Subsections (b), (c), and (d) of this section, prejudgment interest accrues on the amount of the judgment during the period beginning on the 180th day after the day the defendant receives written notice of a claim or on the day the suit is filed, whichever occurs first, and ending on the day preceding the date judgment is rendered.

(b) If judgment for a claimant is less than the amount of a settlement offer by the defendant, prejudgment interest does not accrue on the amount of the judgment for the period during which the offer may be accepted.

(c) If judgment for a claimant is more than the amount of the settlement offer by the defendant, prejudgment interest does not include prejudgment interest on the amount of the settlement offer for the period during which the offer may be accepted.

(d) In addition to the exceptions provided under Subsections (b) and (c) of this section, the court in its discretion may order that prejudgment interest does or does not accrue during periods of delay in the trial, taking into consideration:

(1) periods of delay caused by a defendant; and

(2) periods of delay caused by a claimant.

(e) In order for a settlement offer to toll the running of prejudgment interest in accordance with the provisions of this section, the offer must be communicated to a party or his attorney or representative in writing.

(f) If a settlement offer is made for other than present cash payment at the time of settlement, prejudgment interest on the amount of the settlement offer is computed on the basis of cost or fair market value of the settlement offer at the time it is made.

(g) The rate of prejudgment interest shall be the same as the rate of postjudgment interest at the time of judgment and shall be computed as simple interest.

SECTION 2. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 3. (a) This Act takes effect August 31, 1987.

(b) This Act applies only to:

(1) an action commenced on or after the effective date of this Act; or

(2) a new trial or retrial following appeal of the trial court's judgment in an action commenced before the effective date of this Act.

(b) An action commenced before the effective date of this Act, other than an action included under Subsection (a) of this section, is governed with respect to the subject matter of this Act by the applicable law in effect before the effective date of this Act, and that law is continued in effect only for this purpose.

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

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT
SENATE BILL 329

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
June 1, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 329** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD	TOOMEY
CAPERTON	GIBSON
HARRIS	P. HILL
HENDERSON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the venue of certain civil actions.

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

SECTION 1. Sections 15.036 and 15.037, Civil Practice and Remedies Code, are amended to read as follows:

Sec. 15.036. CORPORATIONS AND ASSOCIATIONS. A suit against a private corporation, association, partnership, or joint-stock company may be brought in the county in which its principal office is situated, in the county in which all or a part of the cause of action arose, or in the county in which the plaintiff resided when all or a part of the cause of action arose, provided the corporation, association, partnership, or joint-stock company has an agency or representative in the county, or, if the corporation, association, partnership, or joint-stock company had no agency or representative in the county in which the plaintiff resided, when all or a part of the cause of action arose, then suit may be brought in the county nearest that in which plaintiff resided at that time in which the corporation, association, partnership, or joint-stock company then had an agency or representative. [~~A suit against a railroad corporation or against any assignee, trustee,~~

~~or receiver operating its railway may also be brought in any county through or into which the railroad of the corporation extends or is operated.~~] A suit against a receiver of a person or a corporation may also be brought as otherwise provided by law. For the purposes of this section, the mere ownership, leasing of tracks, roadbeds, or right-of-way or maintenance or repair of tracks is not considered agency or representative of a railroad corporation, and employees, excluding management, solely engaged in general maintenance, switching, loading or unloading, or operating trains in transit shall not be considered agents or representatives of a railroad corporation.

Sec. 15.037. FOREIGN CORPORATIONS. Foreign corporations, private or public, joint-stock companies or associations, not incorporated by the laws of this state, and doing business in this state, may be sued in any county in which all or a part of the cause of action accrued, or in any county in which the company may have an agency or representative, or in the county in which the principal office of the company may be situated, or, if the defendant corporation has no agent or representative in this state, then in the county in which the plaintiffs or either of them reside. For the purposes of this section, the mere ownership, leasing of tracks, roadbeds, or right-of-way or maintenance or repair of tracks is not considered agency or representative of a railroad corporation, and employees, excluding management, solely engaged in general maintenance, switching, loading or unloading, or operating trains in transit shall not be considered agents or representatives of a railroad corporation.

SECTION 2. Section 15.034, Civil Practice and Remedies Code, is repealed.

SECTION 3. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 4. (a) This Act takes effect on August 31, 1987.

(b) This Act applies to all actions commenced on or after the effective date of this Act. Actions commenced before the effective date of this Act are governed with respect to the subject matter of this Act by the applicable law in effect prior to that effective date, and that law is continued in effect only for this purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 380 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on **S.B. 380**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Jones, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2098 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **H.B. 2098**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1279 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **S.B. 1279**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Edwards, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 373 WITHDRAWN

Senator Farabee called from the President's table the Conference Committee Report on **H.B. 373**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Farabee and by unanimous consent, the Conference Committee Report was withdrawn.

(President in Chair)

ELECTION OF PRESIDENT PRO TEMPORE AD INTERIM SEVENTIETH LEGISLATURE

The President announced the election of the President Pro Tempore Ad Interim as the next order of business.

Senator Brown nominated Senator Roy Blake of Nacogdoches as President Pro Tempore Ad Interim of the Seventieth Legislature.

Senators Harris, Jones, Farabee, Leedom, Sims, Santiesteban, McFarland, Uribe, Brooks, Johnson, Parker, Parmer, Barrientos and Edwards seconded the nomination.

The President declared Senator Blake elected as President Pro Tempore Ad Interim of the Seventieth Legislature.

(Senator Brooks in Chair)

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House reconsidered the vote by which the House refused to concur in Senate amendments to **H.B. 23** by a non-record vote, and discharged the conferees. The House concurred in Senate amendments to **H.B. 23** by a non-record vote.

The House has adopted the Conference Committee Report on **H.J.R. 3** by a record vote of 100 ayes, 44 noes, 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MOTION TO ADOPT CONFERENCE COMMITTEE REPORT ON SENATE BILL 287

Senator Montford called from the President's table the Conference Committee Report on **S.B. 287**. (The Conference Committee Report having been filed with the Senate and read today.)

Senator Montford moved adoption of the Conference Committee Report.

Question - Shall the Conference Committee Report be adopted?

(President in Chair)

MESSAGE FROM THE HOUSE

House Chamber
June 1, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on **S.B. 1407** by a non-record vote.

The House has adopted the Conference Committee Report on **S.J.R. 9** by a record vote of 132 ayes, 15 nays, 1 present-not voting.

The House has adopted the Conference Committee Report of the following Senate Bills by a non-record vote:

S.B. 287
S.B. 290
S.B. 329

The House has adopted the Conference Committee Report on the following bills:

H.B. 33	**H.B. 2008**
H.B. 373	**H.B. 2108**
H.B. 790	**H.B. 2124**
H.B. 538	**H.B. 2235**
H.B. 1512	**H.B. 2592**
H.B. 1514	**H.B. 573**
H.B. 1889	**H.B. 2098**
H.B. 1402	**H.B. 2297**
H.B. 1373	**S.B. 408**
H.B. 2024	**S.B. 560**
H.B. 2119	**S.B. 1371**
H.B. 685	**S.B. 1405**
H.B. 1183	**S.B. 1429**
H.B. 1219	**S.B. 687**
H.B. 1299	**S.B. 1279**
H.B. 1300	

The House has adopted the Conference Committee Report on **H.B. 2622** by a non-record vote.

The House has adopted the Conference Committee Report on **H.B. 1829** by a record vote of 109 ayes, 37 nays, 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

OATH OF OFFICE ADMINISTERED TO PRESIDENT PRO TEMPORE AD INTERIM

The President announced that administering the Oath of Office to the President Pro Tempore was the next order of business.

The President appointed Senators Brown, Harris, Sims, Santiesteban and Brooks to escort Senator Blake to the President's Rostrum.

The Oath of Office was administered by the President to Senator Blake, who addressed the Senate, expressing his appreciation for the honor of serving the Senate as the President Pro Tempore Ad Interim for the Seventieth Legislature.

MOTION IN WRITING

Senator Brooks offered the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the Governor that the Senate has completed its labors and is ready to adjourn sine die.

BROOKS

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President appointed the following Committee to Notify the Governor: Senators Glasgow, Washington, Harris, Leedom and Krier.

MOTION IN WRITING

Senator Brooks offered the following Motion in Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) members to notify the House of Representatives that the Senate has completed its labors and is ready to adjourn sine die.

BROOKS

The Motion in Writing was read and was adopted viva voce vote.

Accordingly, the President appointed the following Committee to Notify the House: Senators Tejeda, Armbrister, Barrientos, Parker and Johnson.

BILLS AND RESOLUTIONS SIGNED

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

S.C.R. 48	**S.B. 236**	**S.B. 947**
S.C.R. 66	**S.B. 277**	**S.B. 1075**
S.C.R. 87	**S.B. 296**	**S.B. 1083**
S.C.R. 88	**S.B. 323**	**S.B. 1131**
S.C.R. 89	**S.B. 417**	**S.B. 1170**

S.C.R. 90	S.B. 515	S.B. 1189
S.C.R. 91	S.B. 522	S.B. 1191
S.C.R. 130	S.B. 530	S.B. 1315
S.C.R. 135	S.B. 696	S.B. 1357
S.C.R. 136	S.B. 744	S.B. 1382
S.C.R. 140	S.B. 753	S.B. 1421
S.J.R. 12	S.B. 865	S.B. 1424
S.B. 161	S.B. 868	S.B. 1436
S.B. 202	S.B. 893	S.B. 1514
S.B. 223	S.B. 933	S.B. 1517

MOTION TO ADJOURN SINE DIE

At 12:00 midnight Senator Brooks moved that the Senate of the Seventieth Legislature, Regular Session, adjourn sine die upon the completion of administrative duties.

The motion prevailed.

BILLS AND RESOLUTIONS SIGNED

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

S.C.R. 68	H.B. 367	H.B. 1300	H.B. 2056
S.J.R. 9	H.B. 440	H.B. 1387	H.B. 2085
S.J.R. 17	H.B. 538	H.B. 1402	H.B. 2098
S.J.R. 55	H.B. 612	H.B. 1453	H.B. 2119
S.B. 185	H.B. 650	H.B. 1459	H.B. 2124
S.B. 229	H.B. 685	H.B. 1512	H.B. 2146
S.B. 245	H.B. 707	H.B. 1514	H.B. 2181
S.B. 257	H.B. 766	H.B. 1606	H.B. 2193
S.B. 298	H.B. 784	H.B. 1652	H.B. 2194
S.B. 408	H.B. 790	H.B. 1675	H.B. 2235
S.B. 560	H.B. 791	H.B. 1718	H.B. 2243
S.B. 687	H.B. 812	H.B. 1785	H.B. 2291
S.B. 873	H.B. 858	H.B. 1814	H.B. 2297
S.B. 962	H.B. 888	H.B. 1829	H.B. 2328
S.B. 1081	H.B. 923	H.B. 1831	H.B. 2445
S.B. 1279	H.B. 947	H.B. 1848	H.B. 2456
S.B. 1355	H.B. 967	H.B. 1866	H.B. 2556
S.B. 1371	H.B. 994	H.B. 1869	H.B. 2560
S.B. 1405	H.B. 1078	H.B. 1889	H.B. 2571
S.B. 1407	H.B. 1169	H.B. 1912	H.B. 2592
S.B. 1429	H.B. 1183	H.B. 1931	H.B. 2594
S.B. 1439	H.B. 1196	H.B. 1933	H.B. 2597
S.B. 1497	H.B. 1219	H.B. 1939	H.B. 2601
H.B. 23	H.B. 1226	H.B. 1942	H.B. 2611
H.B. 102	H.B. 1261	H.B. 1947	H.B. 2622
H.B. 173	H.B. 1262	H.B. 2008	H.C.R. 36
H.B. 176	H.B. 1294	H.B. 2024	H.C.R. 213
H.B. 356	H.B. 1299	H.B. 2035	H.C.R. 236

MEMORIAL RESOLUTIONS

S.R. 699 - By Montford: Memorial resolution for John M. Anderson.

S.R. 703 - By Glasgow: Memorial resolution for Charlie Lee Johnson.

CONGRATULATORY RESOLUTIONS

H.C.R. 236 - (Blake) Extending congratulations to Faith Watson Crawford.

S.C.R. 148 - By Edwards: Commending the staff and students of the Corsicana State Home and the Ex-Students Association.

S.R. 697 - By Krier, Tejeda: Declaring July 25, 1987, as Elf Louise Day in recognition of Louise Locker-Elliott.

S.R. 701 - By Washington: Commending Lillie Fontenot.

S.R. 702 - By Anderson: Recognizing the gifted education classes of Paris High School.

S.R. 704 - By Glasgow: Extending congratulations to Linda Lee.

S.R. 705 - By Glasgow: Commending the 7th and 8th grade bands from Alvarado Middle School.

S.R. 706 - By Zaffirini: Commending Jerry Campos.

S.R. 714 - By Anderson: Recognizing the City of Sulphur Springs as the Home of the Texas Homemade Ice Cream Contest.

S.R. 715 - By Harris: Commending Gary E. Griffith.

S.R. 717 - By Edwards: Extending congratulations to Mrs. Pearl Gibbons on her retirement.

S.R. 719 - By Edwards: Commending the Ex-Students Association and the staff and students of the Corsicana State Home on 100 years of service to the State of Texas.

ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the Regular Session of the Seventieth Legislature had arrived.

Senator Harris, at 9:34 a.m., June 2, 1987, moved that the Senate stand adjourned sine die in accordance with a motion previously adopted.

The President declared the Regular Session of the Seventieth Legislature adjourned sine die.

APPENDIX

Signed by Governor
(May 30, 1987)

S.C.R. 50	**H.C.R. 183**
S.C.R. 58	**H.C.R. 182**
S.C.R. 81	**H.C.R. 176**
S.C.R. 123	**H.C.R. 96**
S.C.R. 117	**H.C.R. 80**
S.C.R. 105	**H.C.R. 66**
S.C.R. 96	**H.C.R. 230**
H.C.R. 149	**H.C.R. 148**
H.C.R. 231	**H.C.R. 168**
H.C.R. 235	**H.C.R. 93**

(June 1, 1987)

H.C.R. 165
H.C.R. 172
H.C.R. 177
H.C.R. 189
H.C.R. 202
H.C.R. 208
H.C.R. 217
H.C.R. 222
H.C.R. 227
H.C.R. 228
H.C.R. 237
S.C.R. 49
S.C.R. 55
S.C.R. 65
S.C.R. 79
S.C.R. 126
S.C.R. 128
S.C.R. 137
S.C.R. 146

Sent to Governor
(June 1, 1987)

S.B. 1
S.B. 120
S.B. 152
S.B. 233
S.B. 262
S.B. 269
S.B. 403
S.B. 437
S.B. 481
S.B. 497
S.B. 512
S.B. 543
S.B. 545
S.B. 551
S.B. 552
S.B. 581
S.B. 601
S.B. 610
S.B. 632
S.B. 33
S.B. 85
S.B. 177
S.B. 198
S.B. 249
S.B. 260
S.B. 342
S.B. 473
S.B. 498
S.B. 504
S.B. 583
S.B. 604
S.B. 605
S.C.R. 49
S.C.R. 65
S.C.R. 125
S.C.R. 137
S.B. 646
S.B. 691
S.B. 762
S.B. 784
S.B. 785
S.B. 792
S.B. 841
S.B. 954
S.B. 989
S.B. 994
S.B. 1036
S.B. 1049
S.B. 1054
S.B. 1058
S.B. 1068
S.B. 1069
S.B. 1108
S.B. 1132
S.B. 1154
S.B. 726
S.B. 779
S.B. 819
S.B. 919
S.B. 1027
S.B. 1043
S.B. 1055
S.B. 1066
S.B. 1077
S.B. 1100
S.B. 1115
S.B. 1123
S.B. 1125
S.C.R. 55
S.C.R. 79
S.C.R. 126
S.C.R. 146
S.B. 1239
S.B. 1265
S.B. 1273
S.B. 1309
S.B. 1331
S.B. 1332
S.B. 1409
S.B. 1420
S.B. 1425
S.B. 1426
S.B. 1435
S.B. 1444
S.B. 1453
S.B. 1478
S.B. 1479
S.B. 1486
S.B. 1487
S.B. 1521
S.B. 1525
S.B. 1532
S.B. 1163
S.B. 1266
S.B. 1300
S.B. 1327
S.B. 1341
S.B. 1392
S.B. 1446
S.B. 1448
S.B. 1449
S.B. 1452
S.B. 1454
S.B. 1473
S.B. 1501
S.C.R. 114
S.C.R. 128

Sent to Secretary of State
(June 1, 1987)

S.J.R. 35
S.J.R. 53
S.J.R. 54
S.J.R. 56

Sent to Governor
(June 2, 1987)

S.C.R. 48
S.C.R. 66
S.C.R. 68
S.C.R. 87
S.C.R. 88
S.B. 115
S.B. 161
S.B. 163
S.B. 168
S.B. 185
S.B. 202
S.B. 223
S.B. 229
S.B. 236
S.B. 245
S.B. 257
S.B. 277
S.B. 296
S.B. 323
S.B. 417
S.B. 515
S.B. 522
S.C.R. 89
S.C.R. 90
S.C.R. 91
S.C.R. 122
S.B. 530
S.B. 560
S.B. 651
S.B. 666
S.B. 696
S.B. 744
S.B. 753
S.B. 865
S.B. 868
S.B. 893
S.B. 933
S.B. 947
S.B. 977
S.B. 1038
S.B. 1075
S.B. 1083
S.B. 1131
S.C.R. 130
S.C.R. 135
S.C.R. 136
S.C.R. 140
S.B. 1170
S.B. 1189
S.B. 1191
S.B. 1315
S.B. 1355
S.B. 1357
S.B. 1371
S.B. 1373
S.B. 1382
S.B. 1421
S.B. 1424
S.B. 1436
S.B. 1439
S.B. 1441
S.B. 1502
S.B. 1514
S.B. 1517

Sent to Secretary of State
(June 2, 1987)

S.J.R. 9
S.J.R. 12
S.J.R. 17
S.J.R. 55

Sent to Governor
(June 3, 1987)

S.B. 298
S.B. 687
S.B. 962
S.B. 1081
S.B. 1279
S.B. 1405
S.B. 1407
S.B. 1429
S.B. 1497

(June 4, 1987)

S.B. 408
S.B. 873

Filed with Secretary of State
(June 3, 1987)

H.J.R. 60
H.J.R. 83
H.J.R. 104

Signed by Governor
(June 5, 1987)

S.B. 523 (Effective immediately)
S.B. 199 (Effective immediately)
S.C.R. 48
S.C.R. 66
S.C.R. 68
S.C.R. 87
S.C.R. 88
S.C.R. 89
S.C.R. 90
S.C.R. 91
S.C.R. 122
S.C.R. 130
S.C.R. 135
S.C.R. 136
S.C.R. 140
H.C.R. 36
H.C.R. 107
H.C.R. 152
H.C.R. 213
H.C.R. 236

(June 10, 1987)

H.B. 166 (Effective August 31, 1987)
H.B. 268 (Effective August 31, 1987)
H.B. 705 (Effective September 1, 1987)
H.B. 1190 (Effective September 1, 1987)
H.B. 1213 (Effective January 1, 1988)

(June 11, 1987)

S.B. 10 (Effective immediately)
S.B. 279 (Effective immediately)
S.B. 504 (Effective August 31, 1987)
S.B. 779 (Effective September 1, 1987)
S.B. 1357 (Effective September 1, 1987)
S.B. 1446 (Effective September 1, 1987)
H.B. 77 (Effective September 1, 1987)
H.B. 128 (Effective August 31, 1987)
H.B. 162 (Effective September 1, 1987)
H.B. 175 (Effective August 31, 1987)
H.B. 625 (Effective September 1, 1987)
H.B. 814 (Effective November 1, 1987)
H.B. 1368 (Effective September 1, 1987)
H.B. 1469 (Effective August 31, 1987)
H.B. 1621 (Effective September 1, 1987)
H.B. 1652 (Effective immediately)
H.B. 1839 (Effective August 31, 1987)
H.B. 2174 (Effective September 1, 1987)
H.B. 176 (Effective September 1, 1987)
H.B. 272 (Effective August 31, 1987)
H.B. 285 (Effective immediately)
H.B. 306 (Effective August 31, 1987)

H.B. 372 (Effective August 31, 1987)
H.B. 390 (Effective September 1, 1987)
H.B. 440 (Effective September 1, 1987)
H.B. 503 (Effective September 1, 1987)
H.B. 524 (Effective September 1, 1987)
H.B. 528 (Effective August 31, 1987)
H.B. 650 (Effective September 1, 1987)
H.B. 696 (Effective August 31, 1987)
H.B. 715 (Effective August 31, 1987)
H.B. 723 (Effective August 31, 1987)
S.B. 95 (Effective September 1, 1987)
S.B. 120 (Effective September 1, 1987)
S.B. 141 (Effective immediately)
S.B. 142 (Effective immediately)
S.B. 236 (Effective August 31, 1987)
S.B. 276 (Effective August 31, 1987)
S.B. 277 (Effective immediately)
S.B. 342 (Effective September 1, 1987)
S.B. 473 (Effective September 1, 1987)
S.B. 489 (Effective immediately)
S.B. 498 (Effective September 1, 1987)
S.B. 599 (Effective immediately)
S.B. 651 (Effective September 1, 1987)
S.B. 764 (Effective September 1, 1987)
S.B. 756 (Effective immediately)
S.B. 817 (Effective August 31, 1987)
S.B. 1130 (Effective September 1, 1987)
S.B. 1131 (Effective September 1, 1987)
S.B. 1170 (Effective August 31, 1987)
S.B. 1177 (Effective immediately)
S.B. 1360 (Effective immediately)
S.B. 1384 (Effective immediately)
S.B. 1385 (Effective immediately)
S.B. 1395 (Effective August 31, 1987)
S.B. 1409 (Effective immediately)
S.B. 1425 (Effective immediately)
S.B. 1452 (Effective August 31, 1987)
S.B. 1453 (Effective September 1, 1987)
S.B. 1478 (Effective immediately)
H.B. 42 (Effective August 31, 1987)
H.B. 58 (Effective August 31, 1987)
H.B. 97 (Effective August 31, 1987)
H.B. 253 (Effective August 31, 1987)
H.B. 278 (Effective September 1, 1987)
H.B. 309 (Effective September 1, 1987)
H.B. 474 (Effective August 31, 1987)
H.B. 514 (Effective immediately)
H.B. 550 (Effective September 1, 1987)
H.B. 556 (Effective September 1, 1987)
H.B. 558 (Effective January 1, 1988)
H.B. 629 (Effective August 31, 1987)
H.B. 631 (Effective September 1, 1987)
H.B. 717 (Effective September 1, 1987)
H.B. 768 (Effective September 1, 1987)

H.B. 791 (Effective August 31, 1987)
H.B. 858 (Effective August 31, 1987)
H.B. 874 (Effective immediately)
H.B. 994 (Effective August 31, 1987)
H.B. 1150 (Effective August 31, 1987)
H.B. 1180 (Effective immediately)
H.B. 1483 (Effective immediately)
H.B. 1531 (Effective immediately)
H.B. 1560 (Effective August 31, 1987)
H.B. 1653 (Effective August 31, 1987)
H.B. 1870 (Effective August 31, 1987)
H.B. 1938 (Effective August 31, 1987)
H.B. 1948 (Effective September 1, 1987)
H.B. 1987 (Effective August 31, 1987)
H.B. 2002 (Effective immediately)
H.B. 2109 (Effective September 1, 1987)
H.B. 2144 (Effective August 31, 1987)
H.B. 2164 (Effective August 31, 1987)
H.B. 2165 (Effective September 1, 1987)
H.B. 2262 (Effective August 31, 1987)

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S.B. 63 (Effective August 31, 1987)
S.B. 202 (Effective September 1, 1987)
S.B. 444 (Effective September 1, 1987)
S.B. 595 (Effective August 31, 1987)
H.B. 736 (Effective September 1, 1987)
H.B. 1606 (Effective October 1, 1987)
H.B. 1745 (Effective January 1, 1988)
H.B. 2404 (Effective August 31, 1987)
H.B. 3 (Effective August 31, 1987)
H.B. 4 (Effective September 1, 1987)
H.B. 5 (Effective August 31, 1987)
H.B. 908 (Effective January 1, 1988)
H.B. 943 (Effective September 1, 1987)

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S.B. 658 (Effective August 31, 1987)
S.B. 762 (Effective on adoption of **S.J.R. 34**)
S.B. 293 (Effective September 1, 1987)
S.B. 403 (Effective immediately)
S.B. 434 (Effective September 1, 1987)
S.B. 616 (Effective immediately)
S.B. 683 (Effective September 1, 1987)
S.B. 807 (Effective immediately)
S.B. 1387 (Effective August 31, 1987)
S.B. 1429 (Effective August 31, 1987)
S.B. 61 (Effective September 1, 1987)
S.B. 260 (Effective August 31, 1987)
S.B. 497 (Effective immediately)
S.B. 581 (Effective September 1, 1987)
S.B. 873 (Effective September 1, 1987;
Section 22, January 1, 1988;
Section 47, January 1, 1989)

S.B. 933 (Effective August 31, 1987
Sections 3-8, September 1, 1987)
S.B. 982 (Effective January 1, 1988)
S.B. 988 (Effective immediately)
S.B. 1066 (Effective January 1, 1988)
S.B. 1071 (Effective September 1, 1987)
S.B. 1081 (Effective January 1, 1988)
S.B. 1300 (Effective August 31, 1987)
S.B. 1346 (Effective immediately)
S.B. 1352 (Effective January 1, 1988)
S.B. 1441 (Effective September 1, 1987;
Sections 9-15, September 1, 1989)
S.B. 1479 (Effective immediately)
S.B. 1501 (Effective immediately)
S.B. 1525 (Effective immediately)
H.B. 327 (Effective August 31, 1987)
H.B. 678 (Effective September 1, 1987)
H.B. 938 (Effective September 1, 1987)
H.B. 1020 (Effective immediately)
H.B. 1148 (Effective immediately)
H.B. 1271 (Effective immediately)
H.B. 1326 (Effective September 1, 1987)
H.B. 1327 (Effective September 1, 1987)
H.B. 1328 (Effective September 1, 1987)
H.B. 1329 (Effective September 1, 1987)
H.B. 1347 (Effective September 1, 1987)
H.B. 1364 (Effective August 31, 1987)
H.B. 1561 (Effective September 1, 1987)
H.B. 1783 (Effective September 1, 1987)
H.B. 1788 (Effective September 1, 1987)
H.B. 1875 (Effective September 1, 1987;
Section 2, September 1, 1989)
H.B. 2012 (Effective September 1, 1987)
H.B. 2136 (Effective August 31, 1987)
H.B. 2183 (Effective immediately)
H.B. 2281 (Effective August 31, 1987)
H.B. 2329 (Effective October 1, 1987)
H.B. 2599 (Effective September 1, 1987)
H.B. 2623 (Effective August 31, 1987;
Sections 4 and 5, September 1, 1987)
H.B. 23 (Effective September 1, 1987)
H.B. 680 (Effective September 1, 1987)
H.B. 682 (Effective September 1, 1987)
H.B. 683 (Effective September 1, 1987)
H.B. 684 (Effective September 1, 1987)
H.B. 685 (Effective September 1, 1987)
H.B. 687 (Effective on adoption of **S.J.R. 34**)
H.B. 2224 (Effective September 1, 1987)
H.B. 119 (Effective September 1, 1987)
H.B. 50 (Effective September 1, 1987)
H.B. 56 (Effective September 1, 1987)
H.B. 81 (Effective immediately)
H.B. 95 (Effective August 31, 1987)
H.B. 113 (Effective September 1, 1987)

H.B. 133 (Effective September 1, 1987)
H.B. 142 (Effective August 31, 1987)
H.B. 147 (Effective September 1, 1987)
H.B. 150 (Effective August 31, 1987)
H.B. 160 (Effective September 1, 1987)
H.B. 190 (Effective August 31, 1987)
H.B. 201 (Effective September 1, 1987)
H.B. 203 (Effective September 1, 1987)
H.B. 235 (Effective August 31, 1987)
H.B. 249 (Effective August 31, 1987)
H.B. 328 (Effective August 31, 1987)
H.B. 344 (Effective September 1, 1987)
H.B. 359 (Effective September 1, 1987)
H.B. 360 (Effective September 1, 1987)
H.B. 361 (Effective September 1, 1987)
H.B. 362 (Effective September 1, 1987)
H.B. 363 (Effective September 1, 1987)
H.B. 364 (Effective September 1, 1987)
H.B. 365 (Effective September 1, 1987)
H.B. 366 (Effective August 31, 1987)
H.B. 367 (Effective September 1, 1987)
H.B. 368 (Effective September 1, 1987)
H.B. 391 (Effective August 31, 1987)
H.B. 410 (Effective September 1, 1987)
H.B. 471 (Effective August 31, 1987)
H.B. 571 (Effective September 1, 1987; Section 3, August 31, 1987)
H.B. 612 (Effective September 1, 1987, Sections 52-58, September 1, 1989)
H.B. 655 (Effective September 1, 1987)
H.B. 790 (Effective January 1, 1988)
H.B. 877 (Effective September 1, 1987)
H.B. 935 (Effective August 31, 1987)
H.B. 967 (Effective August 31, 1987)
H.B. 1043 (Effective September 1, 1987)
H.B. 1052 (Effective September 1, 1987)
H.B. 1069 (Effective immediately)
H.B. 1090 (Effective September 1, 1987)
H.B. 1123 (Effective September 1, 1987)
H.B. 1227 (Effective August 31, 1987)
H.B. 1412 (Effective September 1, 1987)
H.B. 1503 (Effective August 31, 1987)
H.B. 1523 (Effective August 31, 1987)
H.B. 1608 (Effective September 1, 1987)
H.B. 1716 (Effective September 1, 1988)
H.B. 1775 (Effective September 1, 1987)
H.B. 1853 (Effective September 1, 1987)
H.B. 1854 (Effective September 1, 1987)
H.B. 1855 (Effective September 1, 1987)
H.B. 1956 (Effective September 1, 1987)
H.B. 1977 (Effective August 31, 1987)
H.B. 1978 (Effective August 31, 1987)
H.B. 2276 (Effective September 1, 1987)
H.B. 2364 (Effective September 1, 1987)

H.B. 2369 (Effective September 1, 1987)
H.B. 2370 (Effective September 1, 1987)
H.B. 2371 (Effective September 1, 1987)
H.B. 2417 (Effective September 1, 1987)
H.B. 273 (Effective August 31, 1987; Section 1, September 1, 1987)
H.B. 279 (Effective August 31, 1987)
H.B. 280 (Effective September 1, 1987)
H.B. 287 (Effective August 31, 1987)
H.B. 312 (Effective August 31, 1987)
H.B. 313 (Effective September 1, 1987)
H.B. 377 (Effective September 1, 1987)
H.B. 449 (Effective August 31, 1987)
H.B. 457 (Effective August 31, 1987)
H.B. 502 (Effective September 1, 1987)
H.B. 527 (Effective September 1, 1987)
H.B. 554 (Effective August 31, 1987)
H.B. 592 (Effective September 1, 1987)
H.B. 593 (Effective August 31, 1987)
H.B. 636 (Effective August 31, 1987)
H.B. 637 (Effective August 31, 1987)
H.B. 657 (Effective August 31, 1987)
H.B. 679 (Effective September 1, 1987)
H.B. 697 (Effective immediately)
H.B. 745 (Effective September 1, 1987)
H.B. 771 (Effective immediately)
H.B. 788 (Effective immediately)
H.B. 815 (Effective August 31, 1987)
H.B. 817 (Effective August 31, 1987)
H.B. 843 (Effective September 1, 1987)
H.B. 906 (Effective immediately)
H.B. 907 (Effective September 1, 1987)
H.B. 1104 (Effective September 1, 1987)
H.B. 1133 (Effective immediately)
H.B. 1134 (Effective immediately)
H.B. 1175 (Effective August 31, 1987)
H.B. 1208 (Effective immediately)
H.B. 1219 (Effective September 1, 1987)
H.B. 1239 (Effective September 1, 1987)
H.B. 1251 (Effective September 1, 1987)
H.B. 1356 (Effective August 31, 1987)
H.B. 1453 (Effective August 31, 1987)
H.B. 1459 (Effective September 1, 1987)
H.B. 1504 (Effective January 1, 1988)
H.B. 1647 (Effective September 1, 1987)
H.B. 1811 (Effective August 31, 1987)
H.B. 1829 (Effective September 1, 1987)
H.B. 1912 (Effective August 31, 1987)
H.B. 1927 (Effective immediately)

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S.B. 1 (Effective September 1, 1987)
S.B. 21 (Effective January 1, 1988)
S.B. 152 (Effective August 31, 1987)

S.B. 168 (Effective August 31, 1987)
S.B. 223 (Effective immediately)
S.B. 249 (Effective September 1, 1987)
S.B. 262 (Effective immediately)
S.B. 281 (Effective August 31, 1987)
S.B. 298 (Effective September 1, 1987)
S.B. 522 (Effective September 1, 1987)
S.B. 656 (Effective September 1, 1987)
S.B. 660 (Effective September 1, 1987; Section 6, October 1, 1987)
S.B. 687 (Effective August 31, 1987, with Sections 3.04-3.07 Effective September 1, 1987)
S.B. 705 (Effective immediately)
S.B. 726 (Effective September 1, 1987)
S.B. 776 (Effective August 31, 1987)
S.B. 785 (Effective August 31, 1987)
S.B. 878 (Effective August 31, 1987)
S.B. 893 (Effective September 1, 1987; Section 2, November 3, 1987 on adoption of **S.J.R. 35**)
S.B. 938 (Effective January 1, 1988)
S.B. 954 (Effective September 1, 1987)
S.B. 976 (Effective September 1, 1987)
S.B. 989 (Effective August 31, 1987)
S.B. 994 (Effective September 1, 1987)
S.B. 1037 (Effective August 31, 1987)
S.B. 1049 (Effective August 31, 1987)
S.B. 1054 (Effective August 31, 1987)
S.B. 1055 (Effective September 1, 1987)
S.B. 1068 (Effective immediately)
S.B. 1083 (Effective immediately)
S.B. 1084 (Effective immediately)
S.B. 1100 (Effective September 1, 1987)
S.B. 1123 (Effective immediately)
S.B. 1132 (Effective September 1, 1987)
S.B. 1150 (Effective September 1, 1987)
S.B. 1151 (Effective immediately)
S.B. 1160 (Effective September 1, 1987)
S.B. 1184 (Effective August 31, 1987)
S.B. 1189 (Effective September 1, 1987)
S.B. 1392 (Effective September 1, 1987)
S.B. 1420 (Effective immediately)
S.B. 1454 (Effective September 1, 1987)
S.B. 1458 (Effective immediately)
S.B. 1335 (Effective August 31, 1987)
S.B. 1336 (Effective August 31, 1987)
S.B. 1426 (Effective immediately)
S.B. 1435 (Effective immediately)
S.B. 1521 (Effective immediately)
S.B. 481 (Effective August 31, 1987)
S.B. 515 (Effective September 1, 1987)
S.B. 632 (Effective immediately)
S.B. 637 (Effective immediately)

S.B. 1162 (Effective September 1, 1987)
S.B. 1326 (Effective immediately)
S.B. 1331 (Effective immediately)
S.B. 1334 (Effective immediately)
H.B. 161 (Effective September 1, 1987)
H.B. 168 (Effective September 1, 1987)
H.B. 423 (Effective August 31, 1987)
H.B. 538 (Effective September 1, 1987; Sections 1 and 2, August 31, 1987)
H.B. 924 (Effective August 31, 1987)
H.B. 1141 (Effective August 31, 1987)
H.B. 1160 (Effective August 31, 1987)
H.B. 1294 (Effective September 1, 1987)
H.B. 1587 (Effective September 1, 1987)
H.B. 1961 (Effective September 1, 1987)
H.B. 1963 (Effective August 31, 1987; Section 1, January 1, 1988; Section 3, September 1, 1987)
H.B. 2035 (Effective August 31, 1987)
H.B. 2140 (Effective August 31, 1987)
H.B. 2297 (Effective August 31, 1987)
H.B. 2299 (Effective immediately)
H.B. 2328 (Effective August 31, 1987)
H.B. 2337 (Effective September 1, 1987)
H.B. 2408 (Effective August 31, 1987)
H.B. 2445 (Effective August 31, 1987)
H.B. 2456 (Effective August 31, 1987)
H.B. 2526 (Effective August 31, 1987)
H.B. 2530 (Effective immediately)
H.B. 2542 (Effective immediately)
H.B. 2546 (Effective August 31, 1987)
H.B. 2560 (Effective September 1, 1987; Section 16, January 1, 1988)
H.B. 2564 (Effective immediately)
H.B. 2566 (Effective immediately)
H.B. 2567 (Effective immediately)
H.B. 2571 (Effective August 31, 1987)
H.B. 2591 (Effective September 1, 1987)
H.B. 2592 (Effective August 31, 1987)
H.B. 2594 (Effective immediately)
H.B. 2611 (Effective August 31, 1987)
H.B. 855 (Effective immediately)
H.B. 915 (Effective September 1, 1987)
H.B. 1879 (Effective August 31, 1987)
H.B. 1911 (Effective immediately)
H.B. 2087 (Effective August 31, 1987)
H.B. 2095 (Effective September 1, 1987)
H.B. 1018 (Effective September 1, 1987)
H.B. 1032 (Effective September 1, 1987)
H.B. 1038 (Effective September 1, 1987)
H.B. 1051 (Effective immediately)
H.B. 1217 (Effective immediately)
H.B. 1360 (Effective September 1, 1987)

H.B. 1363 (Effective September 1, 1987)
H.B. 1610 (Effective immediately)
H.B. 1619 (Effective September 1, 1987)
H.B. 1650 (Effective August 31, 1987)
H.B. 1709 (Effective immediately)
H.B. 1710 (Effective immediately)
H.B. 1942 (Effective immediately)
H.B. 2083 (Effective August 31, 1987)
H.B. 2106 (Effective September 1, 1987)
H.B. 2135 (Effective August 31, 1987)
H.B. 2213 (Effective August 31, 1987; Section 1, January 1, 1988
H.B. 2220 (Effective September 1, 1987)
H.B. 2392 (Effective August 31, 1987)
H.B. 2462 (Effective immediately)
H.B. 2507 (Effective immediately)
H.B. 2509 (Effective immediately)
H.B. 2528 (Effective immediately)
H.B. 829 (Effective immediately)
H.B. 2558 (Effective immediately)
H.B. 2563 (Effective immediately)
H.B. 2587 (Effective August 31, 1987)
H.B. 2601 (Effective immediately)
H.B. 2622 (Effective August 31, 1987)
H.B. 1614 (Effective immediately
H.B. 1617 (Effective August 31, 1987)
H.B. 1953 (Effective immediately)
H.B. 323 (Effective September 1, 1987)
H.B. 339 (Effective August 31, 1987)
H.B. 353 (Effective August 31, 1987)
H.B. 355 (Effective August 31, 1987)
H.B. 356 (Effective immediately)
H.B. 386 (Effective September 1, 1987)
H.B. 412 (Effective September 1, 1987)
H.B. 441 (Effective September 1, 1987)
H.B. 494 (Effective September 1, 1987)
H.B. 523 (Effective September 1, 1987)
H.B. 677 (Effective September 1, 1987)
H.B. 841 (Effective immediately)
H.B. 973 (Effective September 1, 1987)

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S.B. 115 (Effective September 1, 1987)
S.B. 163 (Effective September 1, 1987)
S.B. 212 (Effective August 31, 1987)
S.B. 233 (Effective August 31, 1987)
S.B. 245 (Effective September 1, 1987)
S.B. 269 (Effective August 31, 1987)
S.B. 292 (Effective immediately)
S.B. 296 (Effective August 31, 1987)
S.B. 646 (Effective immediately)
S.B. 1036 (Effective immediately)
S.B. 395 (Effective immediately)
S.B. 488 (Effective October 1, 1987)

S.B. 530 (Effective September 1, 1987)
S.B. 531 (Effective August 31, 1987)
S.B. 543 (Effective August 31, 1987)
S.B. 552 (Effective September 1, 1987)
S.B. 583 (Effective August 31, 1987)
S.B. 598 (Effective August 31, 1987)
S.B. 610 (Effective August 31, 1987)
S.B. 620 (Effective September 1, 1987)
S.B. 647 (Effective immediately)
S.B. 654 (Effective September 1, 1987)
S.B. 669 (Effective January 1, 1988 on adoption of **S.J.R. 27**)
S.B. 887 (Effective September 1, 1987)
S.B. 919 (Effective September 1, 1987)
S.B. 920 (Effective September 1, 1987)
S.B. 945 (Effective January 1, 1988)
S.B. 1002 (Effective September 1, 1987)
S.B. 1043 (Effective September 1, 1987)
S.B. 1077 (Effective September 1, 1987)
S.B. 1309 (Effective immediately)
S.B. 1332 (Effective immediately)
S.B. 1362 (Effective September 1, 1987)
S.B. 1388 (Effective August 31, 1987)
S.B. 1407 (Effective August 31, 1987; Section 4, November 3, 1987 on adoption of **S.J.R. 56**)
S.B. 1417 (Effective August 31, 1987)
S.B. 1418 (Effective September 1, 1987)
S.B. 1431 (Effective August 31, 1987)
S.B. 1437 (Effective immediately)
S.B. 1449 (Effective September 1, 1987)
S.B. 1460 (Effective immediately)
S.B. 1473 (Effective September 1, 1987)
S.B. 198 (Effective September 1, 1987)
S.B. 225 (Effective immediately)
S.B. 474 (Effective August 31, 1987)
S.B. 525 (Effective August 31, 1987)
S.B. 551 (Effective immediately)
S.B. 604 (Effective September 1, 1987; Sections 1 and 2, September 1, 1992)
S.B. 605 (Effective September 1, 1987)
S.B. 635 (Effective September 1, 1987)
S.B. 696 (Effective September 1, 1987)
S.B. 753 (Effective immediately)
S.B. 792 (Effective immediately)
S.B. 803 (Effective immediately)
S.B. 819 (Effective September 1, 1987)
S.B. 876 (Effective immediately)
S.B. 925 (Effective September 1, 1987)
S.B. 930 (Effective immediately)
S.B. 947 (Effective immediately)
S.B. 1001 (Effective September 1, 1987)
S.B. 1069 (Effective immediately)
S.B. 1108 (Effective September 1, 1987)

S.B. 1115 (Effective September 1, 1987)
S.B. 1125 (Effective August 31, 1987)
S.B. 1144 (Effective immediately)
S.B. 1191 (Effective August 31, 1987)
S.B. 1315 (Effective immediately)
S.B. 1373 (Effective immediately)
S.B. 1502 (Effective immediately
S.B. 1518 (Effective immediately)
S.B. 85 (Effective September 1, 1987)
S.B. 341 (Effective September 1, 1987)
S.B. 408 (Effective September 1, 1987)
S.B. 601 (Effective September 1, 1987)
S.B. 691 (Effective immediately)
S.B. 977 (Effective September 1, 1987)
S.B. 1035 (Effective September 1, 1987)
S.B. 1038 (Effective September 1, 1987)
S.B. 1058 (Effective immediately)
S.B. 1154 (Effective immediately)
S.B. 1163 (Effective September 1, 1987)
S.B. 1225 (Effective September 1, 1987)
S.B. 1255 (Effective immediately)
S.B. 1292 (Effective October 1, 1987;
Section 3, September 1, 1987)
S.B. 1355 (Effective September 1, 1987)
H.B. 999 (Effective September 1, 1987)
H.B. 1002 (Effective August 31, 1987)
H.B. 1410 (Effective September 1, 1987)
H.B. 2024 (Effective September 1, 1987)
H.B. 2079 (Effective August 31, 1987)
H.B. 2598 (Effective August 31, 1987)
H.B. 1838 (Effective September 1, 1987)
H.B. 1881 (Effective September 1, 1987)
H.B. 1947 (Effective September 1, 1987)
H.B. 1994 (Effective September 1, 1987)
H.B. 2011 (Effective August 31, 1987)
H.B. 2098 (Effective August 31, 1987)
H.B. 2125 (Effective September 1, 1987)
H.B. 2320 (Effective September 1, 1987)
H.B. 2449 (Effective September 1, 1987)
H.B. 2481 (Effective August 31, 1987)
H.B. 2539 (Effective immediately)
H.B. 2595 (Effective January 1, 1991)
H.B. 1021 (Effective September 1, 1987)
H.B. 1154 (Effective September 1, 1987)
H.B. 1226 (Effective on adoption of **S.J.R. 27**)
H.B. 1303 (Effective August 31, 1987)
H.B. 1349 (Effective immediately)
H.B. 1384 (Effective September 1, 1987)
H.B. 1431 (Effective September 1, 1987)
H.B. 1728 (Effective immediately)
H.B. 1739 (Effective September 1, 1987)
H.B. 1785 (Effective September 1, 1987)
H.B. 1805 (Effective September 1, 1987)
H.B. 65 (Effective August 31, 1987)

H.B. 102 (Effective August 31, 1987)
H.B. 173 (Effective August 31, 1987; Sections 1-5, January 1, 1988)
H.B. 258 (Effective August 31, 1987)
H.B. 400 (Effective on adoption of **H.J.R. 18**)
H.B. 517 (Effective immediately)
H.B. 557 (Effective September 1, 1987)
H.B. 559 (Effective September 1, 1987)
H.B. 576 (Effective August 31, 1987)
H.B. 577 (Effective August 31, 1987)
H.B. 737 (Effective August 31, 1987)
H.B. 742 (Effective September 1, 1987)
H.B. 752 (Effective August 31, 1987)
H.B. 947 (Effective August 31, 1987)
H.B. 1007 (Effective September 1, 1987)
H.B. 1068 (Effective August 31, 1987)
H.B. 1085 (Effective September 1, 1987)
H.B. 1401 (Effective August 31, 1987)
H.B. 1440 (Effective January 1, 1988)
H.B. 1642 (Effective August 31, 1987)
H.B. 1675 (Effective August 31, 1987)
H.B. 1718 (Effective May 1, 1988)
H.B. 1867 (Effective January 1, 1988)
H.B. 1904 (Effective August 31, 1987)
H.B. 1010 (Effective September 1, 1987)
H.B. 1169 (Effective immediately)
H.B. 1210 (Effective September 1, 1987)
H.B. 1231 (Effective September 1, 1987)
H.B. 1262 (Effective September 1, 1987)
H.B. 1263 (Effective September 1, 1987)
H.B. 1315 (Effective September 1, 1987)
H.B. 1421 (Effective August 31, 1987)
H.B. 1514 (Effective August 31, 1987)
H.B. 1543 (Effective August 31, 1987)
H.B. 1586 (Effective September 1, 1987)
H.B. 1613 (Effective September 1, 1987)
H.B. 1637 (Effective September 1, 1987)
H.B. 1742 (Effective August 31, 1987)
H.B. 1746 (Effective September 1, 1987)
H.B. 1758 (Effective September 1, 1987)
H.B. 1827 (Effective September 1, 1987)
H.B. 1835 (Effective September 1, 1987)
H.B. 1865 (Effective September 1, 1987)
H.B. 1874 (Effective September 1, 1987)
H.B. 1901 (Effective August 31, 1987)
H.B. 1919 (Effective September 1, 1987)
H.B. 2045 (Effective immediately)
H.B. 2050 (Effective immediately)
H.B. 2051 (Effective immediately)
H.B. 2092 (Effective immediately)
H.B. 2101 (Effective immediately)
H.B. 2122 (Effective August 31, 1987)
H.B. 2124 (Effective September 1, 1987)
H.B. 2252 (Effective immediately)

H.B. 2269 (Effective immediately)
H.B. 2273 (Effective immediately)
H.B. 2347 (Effective September 1, 1987)
H.B. 2537 (Effective immediately)
H.B. 2544 (Effective August 31, 1987)
H.B. 2551 (Effective August 31, 1987)
H.B. 41 (Effective August 31, 1987)
H.B. 49 (Effective August 31, 1987)
H.B. 59 (Effective August 31, 1987)
H.B. 78 (Effective September 1, 1987)
H.B. 152 (Effective September 1, 1987)
H.B. 217 (Effective September 1, 1987)
H.B. 354 (Effective August 31, 1987, Section 1; Section 2, September 1, 1987)
H.B. 497 (Effective September 1, 1987)
H.B. 699 (Effective August 31, 1987)
H.B. 750 (Effective September 1, 1987)
H.B. 766 (Effective September 1, 1987)
H.B. 792 (Effective August 31, 1987)
H.B. 798 (Effective August 31, 1987)
H.B. 812 (Effective September 1, 1987)
H.B. 824 (Effective August 31, 1987)
H.B. 826 (Effective September 1, 1987)
H.B. 863 (Effective September 1, 1987)
H.B. 879 (Effective August 31, 1987)
H.B. 888 (Effective September 1, 1987)
H.B. 921 (Effective September 1, 1987)
H.B. 925 (Effective September 1, 1987)
H.B. 991 (Effective January 1, 1988)
H.B. 1006 (Effective August 31, 1987)
H.B. 1103 (Effective immediately)
H.B. 1232 (Effective immediately)
H.B. 1270 (Effective August 31, 1987)
H.B. 1293 (Effective September 1, 1987)
H.B. 1311 (Effective August 31, 1987)
H.B. 1314 (Effective September 1, 1987)
H.B. 1325 (Effective September 1, 1987)
H.B. 1353 (Effective August 31, 1987)
H.B. 1354 (Effective August 31, 1987)
H.B. 1387 (Effective August 31, 1987)
H.B. 1424 (Effective immediately)
H.B. 1488 (Effective August 31, 1987)
H.B. 1511 (Effective September 1, 1988)
H.B. 1512 (Effective September 1, 1987)
H.B. 1568 (Effective January 1, 1989, Section 1; Section 2, September 1, 1987)
H.B. 1604 (Effective August 31, 1987)
H.B. 1630 (Effective immediately)
H.B. 1636 (Effective immediately)
H.B. 1646 (Effective August 31, 1987)
H.B. 1685 (Effective immediately)
H.B. 1714 (Effective January 1, 1988)
H.B. 1818 (Effective September 1, 1987)
H.B. 1823 (Effective September 1, 1987)

H.B. 1831 (Effective Fall Semester 1987)
H.B. 1894 (Effective September 1, 1987)
H.B. 1896 (Effective January 1, 1988; Section 125.006 (c), September 1, 1987)
H.B. 1939 (Effective September 1, 1987)
H.B. 1950 (Effective August 31, 1987)
H.B. 1957 (Effective August 31, 1987)
H.B. 1964 (Effective August 31, 1987)
H.B. 2014 (Effective August 31, 1987)
H.B. 2031 (Effective August 31, 1987)
H.B. 2060 (Effective August 31, 1987)
H.B. 2123 (Effective September 1, 1987)
H.B. 2143 (Effective August 31, 1987)
H.B. 15 (Effective immediately)
H.B. 530 (Effective September 1, 1987)
H.B. 575 (Effective August 31, 1987)
H.B. 802 (Effective September 1, 1987)
H.B. 876 (Effective August 31, 1987)
H.B. 923 (Effective August 31, 1987)
H.B. 954 (Effective January 1, 1988)
H.B. 1405 (Effective August 31, 1987)
H.B. 1432 (Effective immediately)
H.B. 1622 (Effective September 1, 1987)
H.B. 1632 (Effective September 1, 1987)
H.B. 1638 (Effective August 31, 1987)
H.B. 1678 (Effective August 31, 1987)
H.B. 1820 (Effective August 31, 1987)
H.B. 1837 (Effective September 1, 1987)
H.B. 1931 (Effective August 31, 1987)
H.B. 2008 (Effective August 31, 1987)
H.B. 2082 (Effective January 1, 1988 on adoption of **H.J.R. 96**)
H.B. 2091 (Effective immediately)
H.B. 2182 (Effective August 31, 1987)
H.B. 2351 (Effective immediately)
H.B. 2568 (Effective August 31, 1987)
H.B. 250 (Effective September 1, 1987)
H.B. 500 (Effective September 1, 1987)
H.B. 614 (Effective September 1, 1987)
H.B. 635 (Effective September 1, 1987)
H.B. 662 (Effective September 1, 1987)
H.B. 665 (Effective August 31, 1987)
H.B. 667 (Effective September 1, 1987)
H.B. 669 (Effective January 1, 1988)
H.B. 806 (Effective immediately)
H.B. 828 (Effective August 31, 1987)
H.B. 875 (Effective September 1, 1987)
H.B. 1906 (Effective September 1, 1987)
H.B. 1989 (Effective September 1, 1987)
H.B. 2030 (Effective immediately)
H.B. 2146 (Effective August 31, 1987)
H.B. 2151 (Effective August 31, 1987)
H.B. 2158 (Effective August 31, 1987)
H.B. 2171 (Effective August 31, 1987)

H.B. 2187 (Effective September 1, 1987)
H.B. 2190 (Effective immediately)
H.B. 2193 (Effective September 1, 1987)
H.B. 2194 (Effective August 31, 1987)
H.B. 2197 (Effective August 31, 1987)
H.B. 2241 (Effective immediately)
H.B. 2243 (Effective September 1, 1987)
H.B. 2274 (Effective immediately)
H.B. 2308 (Effective immediately)
H.B. 2363 (Effective August 31, 1987)
H.B. 2400 (Effective August 31, 1987)
H.B. 2409 (Effective immediately)
H.B. 2466 (Effective immediately)
H.B. 2506 (Effective immediately)
H.B. 2508 (Effective immediately)
H.B. 2510 (Effective immediately)
H.B. 2511 (Effective September 1, 1987)
H.B. 2515 (Effective immediately)
H.B. 2532 (Effective immediately)
H.B. 2535 (Effective immediately)
H.B. 2549 (Effective September 1, 1987)
H.B. 2554 (Effective September 1, 1987)
H.B. 2565 (Effective immediately)
H.B. 2574 (Effective August 31, 1987)
H.B. 2575 (Effective September 1, 1987)
H.B. 2576 (Effective September 1, 1987)
H.B. 2584 (Effective September 1, 1987)
H.B. 2585 (Effective August 31, 1987)
H.B. 2588 (Effective immediately)
H.B. 2602 (Effective August 31, 1987)
H.B. 2604 (Effective August 31, 1987)
H.B. 2608 (Effective September 1, 1987)
(June 20, 1987)

S.C.R. 125
S.B. 17 (Effective September 1, 1987)
S.B. 24 (Effective September 1, 1987)
S.B. 64 (Effective immediately)
S.B. 102 (Effective September 1, 1987)
S.B. 148 (Effective September 1, 1987; Section 2, January 1, 1989)
S.B. 161 (Effective August 31, 1987)
S.B. 185 (Effective immediately)
S.B. 200 (Effective September 1, 1987)
S.B. 229 (Effective September 1, 1987)
S.B. 321 (Effective immediately)
S.B. 382 (Effective September 1, 1987)
S.B. 390 (Effective August 31, 1987)
S.B. 462 (Effective August 31, 1987)
S.B. 482 (Effective August 31, 1987)
S.B. 564 (Effective August 31, 1987)
S.B. 611 (Effective August 31, 1987)
S.B. 619 (Effective September 1, 1987)
S.B. 643 (Effective September 1, 1987)
S.B. 666 (Effective September 1, 1987)
S.B. 719 (Effective August 31, 1987)

S.B. 763 (Effective August 31, 1987)
S.B. 765 (Effective immediately)
S.B. 784 (Effective May 15, 1988)
S.B. 825 (Effective August 31, 1987)
S.B. 865 (Effective August 31, 1987)
S.B. 874 (Effective immediately)
S.B. 899 (Effective immediately)
S.B. 952 (Effective September 1, 1987)
S.B. 962 (Effective September 1, 1987)
S.B. 1027 (Effective September 1, 1987)
S.B. 1075 (Effective September 1, 1987)
S.B. 1207 (Effective immediately)
S.B. 1248 (Effective September 1, 1987)
S.B. 1273 (Effective immediately)
S.B. 1277 (Effective September 1, 1987)
S.B. 1341 (Effective August 31, 1987)
S.B. 1348 (Effective August 31, 1987)
S.B. 1371 (Effective September 1, 1987)
S.B. 1382 (Effective immediately)
S.B. 1405 (Effective August 31, 1987)
S.B. 1419 (Effective immediately)
S.B. 1421 (Effective September 1, 1987)
S.B. 1439 (Effective September 1, 1987; Section 2.09, January 1, 1988; Sections 2.07 and 2.13, January 1, 1989)
S.B. 1486 (Effective immediately)
S.B. 1487 (Effective immediately)
S.B. 744 (Effective September 1, 1987)
S.B. 176 (Effective August 31, 1987)
S.B. 177 (Effective January 1, 1988)
S.B. 257 (Effective September 1, 1987)
S.B. 336 (Effective immediately)
S.B. 402 (Effective immediately)
S.B. 417 (Effective September 1, 1987)
S.B. 437 (Effective August 31, 1987)
S.B. 560 (Effective August 31, 1987)
S.B. 929 (Effective August 31, 1987)
S.B. 33 (Effective September 1, 1987)
S.B. 585 (Effective September 1, 1987)
S.B. 841 (Effective immediately)
S.B. 909 (Effective immediately)
S.B. 1327 (Effective September 1, 1987)
S.B. 1383 (Effective August 31, 1987)
S.B. 1424 (Effective August 31, 1987)
S.B. 1436 (Effective immediately)
S.B. 1497 (Effective September 1, 1987)
S.B. 1514 (Effective September 1, 1987)
S.B. 1517 (Effective immediately)
S.B. 1532 (Effective September 1, 1987)
H.B. 163 (Effective August 31, 1987)
H.B. 579 (Effective September 1, 1987)
H.B. 613 (Effective September 1, 1987)
H.B. 784 (Effective August 31, 1987)

H.B. 914 (Effective September 1, 1987)
H.B. 1077 (Effective August 31, 1987)
H.B. 1079 (Effective September 1, 1987)
H.B. 1138 (Effective immediately)
H.B. 1196 (Effective immediately)
H.B. 1299 (Effective August 31, 1987)
H.B. 1300 (Effective September 1, 1987)
H.B. 1552 (Effective September 1, 1987)
H.B. 1826 (Effective September 1, 1987)
H.B. 1960 (Effective September 1, 1987)
H.B. 1990 (Effective September 1, 1987)
H.B. 2250 (Effective August 31, 1987)
H.B. 2291 (Effective August 31, 1987)
H.B. 2316 (Effective immediately)
H.B. 2345 (Effective immediately)
H.B. 2486 (Effective August 31, 1987)
H.B. 2586 (Effective January 1, 1988)
H.B. 144 (Effective September 1, 1987)
H.B. 187 (Effective immediately)
H.B. 507 (Effective August 31, 1987)
H.B. 508 (Effective September 1, 1987)
H.B. 570 (Effective August 31, 1987)
H.B. 617 (Effective September 1, 1987)
H.B. 624 (Effective immediately)
H.B. 647 (Effective September 1, 1987)
H.B. 744 (Effective August 31, 1987)
H.B. 2278 (Effective August 31, 1987)
H.B. 2448 (Effective immediately)
H.B. 2504 (Effective September 1, 1987)
H.B. 83 (Effective September 1, 1987)
H.B. 425 (Effective August 31, 1987)
H.B. 604 (Effective September 1, 1987)
H.B. 646 (Effective August 31, 1987)
H.B. 975 (Effective August 31, 1987)
H.B. 1370 (Effective immediately)
H.B. 1699 (Effective September 1, 1987)
H.B. 1847 (Effective September 1, 1987)
H.B. 1866 (Effective January 1, 1988)
H.B. 2056 (Effective September 1, 1987)
H.B. 2085 (Effective August 31, 1987)
H.B. 2556 (Effective August 31, 1987)
H.B. 2597 (Effective immediately)
H.B. 349 (Effective September 1, 1987)
H.B. 957 (Effective August 31, 1987)
H.B. 2090 (Effective September 1, 1987)
H.B. 2107 (Effective September 1, 1987)
H.B. 2181 (Effective immediately)
H.B. 1030 (Effective immediately)
H.B. 1230 (Effective immediately;
Section 1, September 1, 1987)
H.B. 1261 (Effective September 1, 1987)
H.B. 1402 (Effective August 31, 1987)
H.B. 620 (Effective August 31, 1987)
H.B. 708 (Effective September 1, 1987)

H.B. 813 (Effective August 31, 1987)
H.B. 1330 (Effective August 31, 1987)
H.B. 1582 (Effective September 1, 1987)
H.B. 1596 (Effective August 31, 1987)
H.B. 1787 (Effective September 1, 1987)
H.B. 1869 (Effective August 31, 1987)
H.B. 1889 (Effective August 31, 1987)
H.B. 177 (Effective September 1, 1987 for new policies after January 1, 1988)
H.B. 578 (Effective August 31, 1987)
H.B. 710 (Effective August 31, 1987)
H.B. 734 (Effective immediately)
H.B. 2036 (Effective September 1, 1987)
H.B. 2517 (Effective August 31, 1987)
H.B. 2555 (Effective immediately)
H.B. 2579 (Effective August 31, 1987)
H.B. 2580 (Effective August 31, 1987)
H.B. 2581 (Effective August 31, 1987)
H.B. 2621 (Effective August 31, 1987)
H.C.R. 110

The following bills and resolutions were vetoed by the Governor:

H.B. 8
H.B. 141
H.B. 151
H.B. 384
H.B. 396
H.B. 484
H.B. 543
H.B. 651
H.B. 707
H.B. 746
H.B. 782
H.B. 942
H.B. 959
H.B. 982
H.B. 1041
H.B. 1078
S.B. 217
S.B. 323
S.B. 484
S.B. 512
S.B. 545
S.B. 698
S.B. 868
S.B. 884
S.B. 1011
S.B. 1080
H.B. 1084
H.B. 1178
H.B. 1183
H.B. 1191
H.B. 1237
H.B. 1318
H.B. 1616
H.B. 1694
H.B. 1814
H.B. 1848
H.B. 1849
H.B. 1933
H.B. 1984
H.B. 2119
H.B. 2216
H.B. 2235
H.B. 2514
S.B. 1210
S.B. 1239
S.B. 1265
S.B. 1266
S.B. 1279
S.B. 1345
S.B. 1444
S.B. 1448
S.C.R. 114

PROCLAMATIONS BY THE GOVERNOR

The following Proclamations by the Governor state reasons for vetoing bills:

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 8** because of the following objections:

House Bill 8 would allow employees of any state agency to transfer not less than one nor more than three days of their accrued sick leave time to a sick leave pool, to be administered by the agency. The bill would require expenditure of an additional $300,000 per year and require thirteen additional employees to administer its provisions. This is an inordinate expenditure considering the State's current financial situation.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 141** because of the following objections:

House Bill 141 would establish a procedure for judges to seek review of State Commission on Judicial Conduct actions not involving removal from office. This is a worthy concept. However, the bill as written would dilute the effectiveness of the Commission because the appeal would be in the nature of a new trial rather than a review limited to the question whether the Commission's action was supported by substantial evidence. This is a departure from the standard procedure for appeal of state agency actions. The proposed new trial provision is a substantial defect in a bill that is otherwise worthy of merit. This defect is of sufficient magnitude that I am reluctantly compelled to disapprove the bill.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 11th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 151** because of the following objections:

Presently all offenses under the Texas cruelty to animals statute are punishable by a maximum $2,000 fine, up to 1 year in jail, or both. This bill would make a third offense for certain activities prohibited by the cruelty to animals statute a third degree felony, punishable by up to ten years in the state penitentiary. At the same time, the bill would lower the penalty for starvation, neglect or abandonment of an animal to a $200 fine. I share the widely held concern for preventing cruelty to animals, but this bill is the wrong approach. This bill would make the policy

statement that certain types of cruelty are not as bad as other types of cruelty. If this bill were to become law, a person convicted for a third offense of cockfighting could be sentenced to prison for ten years while a person who starves a herd of horses would be subject only to a $200 fine. It would be a better approach to combine higher monetary fines with stricter enforcement of existing law effectively to address this issue in its entirety.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 11th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 384** because of the following objections:

The original intent of this bill dealing with licensing of crane operators in Texas was a good idea. However, as this bill passed it does not address the problem to the extent it should.

The bill is ambiguous in that it excludes many operators from being tested, gives licenses to some operators without being tested, and the costs which are to be defrayed could take as much as $900 per application.

This bill would not address accidents in the assembling and disassembling of cranes, like the one that happened in Dallas under the same circumstances, because they were not under contract.

A liberal interpretation of this legislation would allow a company who is a member of an association or union who has a qualified training program to not have to license any of their employees.

It is clear that the Senate legislative intent during the debate on the bill eliminates the need to read and write to take the examination. Yet, 1436-C VTCS contains provisions for signs and warning to be in writing.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 396** because of the following objections:

House Bill 396 would extend the time for preparation of criminal cases for defendants who are released on bond. By implication it may repeal preparation time for jailed defendants, thereby rendering it unconstitutional. Moreover, if this bill were to become law, already crowded and backlogged criminal court dockets would become worse.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 484** because of the following objections:

This new program would require an additional appropriation for the Texas Department of Corrections for which there are not sufficient funds at the present time.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 543** because of the following objections:

House Bill 543 would replace the current eligibility requirements for an election judge with a requirement that the judge must be a qualified voter of the precinct. It further requires an election clerk to be a resident of the precinct. I am persuaded that the current law is working well and there is no need for further restrictions on the appointment of election judges and clerks.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 651** because of the following objections:

This bill would establish state regulation of opticians. Since opticians only fill prescriptions written by opthalmologists or optometrists, I can see no need for licensing opticians. The marketplace has done a good job of determining which opticians are doing a good job.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 707** because of the following objections:

(1) House Bill 707 expressly exempts legislative agency procurement from <u>any</u> preference requirements, including current requirements. If preference requirements are such a good idea, why did the Legislature exempt itself?

(2) House Bill 707 would be almost impossible to administer because of the large number of possible preference combinations. Determination of the various preference levels and verification of the qualifications of products and

bidders will be an excessive administrative burden requiring an inordinate expenditure of Texas taxpayers' money.

(3) House Bill 707 could increase the cost of public contracts for products and services significantly at a time when the public interest is better served by reducing the cost of government.

(4) The definition of "Texas products" in **H.B. 707** includes products produced in other countries.

(5) The federal government does not approve of federal, state or local government preference provisions because of their negative effect on foreign trade. I am persuaded that **H.B. 707** would be counterproductive to Texas' effort to attract foreign business.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 746** because of the following objections:

This bill is apparently intended to address concerns about inhumane treatment of animals in riding stables in certain urban areas. However, it requires all riding stables throughout the state to be licensed by the Department of Health. I am not persuaded that this is a problem of sufficient statewide magnitude to warrant legislation of this breadth. Moreover, Texas criminal statutes are already available to punish and deter inhumane treatment of animals. See, e.g., Tex. Penal Code, Section 42.11. If properly enforced, these laws should be adequate to address most of the concerns that are at the heart of this bill.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 11th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 782** because of the following objections:

Section 2 of **H.B. 782** contains a drafting error which would expand the subject matter jurisdiction of the county civil courts of Harris County to include any case. Subject matter jurisdiction this broad is not appropriate for a statutory county court.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

June 2, 1987

TO THE SECRETARY OF STATE:

Pursuant to Article IV, Section 14 of the Texas Constitution, I hereby veto **H.B. 942** for the following reasons:

This bill was part of a two bill package of legislation to continue the present revenue stream to help finance state government. To have one without the other serves no useful purpose, particularly since the bill that did not pass (**H.B. 941**) would have been the most beneficial to general revenue.

It is my intention to have the legislature consider both bills in a special session that I will call this summer. The legislature must pass both bills to adequately insure a revenue stream that will insure the fiscal integrity of the state for the coming two years. To adopt half a package does nothing to insure the fiscal integrity of the state.

For the foregoing reasons I hereby veto **H.B. 942**, filing it with you and ask you, the Secretary of State, to take note of this and make public this proclamation.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 959** because of the following objections:

This bill would give a pay raise to all Texas appellate and district judges effective in 1989. While all state employees arguably deserve a pay raise, I am not persuaded that appellate and district judges should be singled out for special treatment. This bill would be effective after the next regular session of the Legislature, and I believe it would be a better policy to consider appropriate compensation for all state employees, including judges, at the same time.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 982** because of the following objections:

This bill deals with laws regarding public and common nuisances. It adds habitual delivery or use of a controlled substance as conduct that constitutes both a common and public nuisance.

This bill duplicates the provisions of **S.B. 417** that I have previously signed. Therefore, this bill is not needed.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1041** because of the following objections:

Current law requires school districts to allow teachers five days sick leave per year, with unlimited accumulation. House Bill 1041 would extend this requirement to all school district employees. School districts should be allowed to fund employee sick leave programs on a local option basis, as many currently do. The State should not mandate this additional requirement for local school districts.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1078** because of the following objections:

(1) House Bill 1078 would remove the current requirement that a sworn answer be filed by a party contesting forfeiture of property seized under the Texas Controlled Substances Act, and would remove the time limits for filing such an answer. If this requirement were removed, drug dealers could go to court at any time and lie with impunity to recover the proceeds of their illegal activity.

(2) The current statutory formula for allocating the proceeds of property forfeited under the Texas Controlled Substances Act gives law enforcement agencies incentive vigorously to pursue drug dealers while at the same time allowing up to 10% of these funds to be used for drug enforcement and treatment where there is a determination of need by the local authorities. House Bill 1078 would require that 25% of all forfeited funds be used for drug treatment programs, thereby removing local discretion as to the disposition of these funds. I believe the current formula strikes an appropriate balance between these two worthy objectives, and the change contemplated by **H.B. 1078** is unwarranted.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1084** because of the following objections:

House Bill 1084 provides that the Texas Commission on Alcohol and Drug Abuse shall receive, control and distribute all federal funds for alcohol and substance abuse and chemical dependency services in Texas. The effect of this bill would be to remove the Governor's Office from its current role of administering these federal funds.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1178** because of the following objections:

House Bill 1178 is identical to **S.B. 878** which I have already signed into law.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1183** because of the following objections:

Farmers and ranchers in Texas, as in the rest of the country, know that more debt is not the way to a solvent, productive agricultural enterprise. The answer is now, and always has been, adequate world markets in which American farmers can sell their products. The State of Texas, through its Agriculture Department, has embarked upon the mission of opening these foreign markets. I believe we can best aid Texas agriculture by concentrating our efforts in these areas.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1191** because of the following objections:

This bill amends the same statute as **H.B. 705**, also enacted by the 70th Legislature. On the recommendation of the Department of Public Safety, I have signed **H.B. 705**. I hereby veto this bill to avoid a conflict in the statute.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 11th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1237** because of the following objections:

This bill, which would eliminate the Highway Fund dedication of the motor fuels tax was contingent on the passage of **H.B. 942**.

Since I vetoed **H.B. 942**, this bill becomes inoperative.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1318** because of the following objections:

This bill would require cities to reimburse municipal sanitation employees for certain traffic fines. Cities should be permitted to decide for themselves whether reimbursement of this kind is in the best interest of their employees and their citizens.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1616** because of the following objections:

House Bill 1616 would require individual and group health insurance policies and health maintenance organizations provide dependent coverage for grandchildren living with a policyholder whose parent is a covered dependent minor also residing with the policyholder. This coverage can currently be purchased but is not required. The proposed requirement would be exceedingly difficult to administer and would be subject to great abuse. As an example of the increased cost of insurance coverage that would be caused by the bill, the state would be required to pay an additional $950,000 for coverage of state employees. Similar increases in the cost of insurance in the private sector are attributable to the bill. House Bill 1616 would have the ultimate effect of restricting the availability of private health insurance coverage by forcing premiums to an artifically high level to pay for social policies.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1694** because of the following objections:

Current law provides that "qualified open-space land" is land that is currently devoted principally to agricultural use and that has been for five of the preceding seven years.

This bill would add a new category called "Expanded Qualified Open-Space Land", and sets out various criteria for qualification. When the major Property Tax Code amendments were passed by the Legislature in 1979, access to the qualified open space land definition was very carefully restricted, after much study and deliberation.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2216** because of the following objections:

Federal funds destined for mass transportation providers in rural areas under two separate federal programs are appropriated as federal funds in the Appropriations Act and deposited in Fund 451. The Highway Commission currently has discretion directly to allocate these federal funds to rural recipients before dividing the smaller, state-funded portion of Fund 451 to transit systems under the current formula program.

House Bill 2216 would require the Commission to allocate all of the money appropriated from Fund 451 to designated recipients through a formula program. This means that the Commission would no longer be able to separate federal funds for rural areas from Fund 451 before allocating grants under the formula program, which would be split three ways among transit authorities, smaller cities and rural systems.

Although intended to make Fund 451 more available to rural areas, **H.B. 2216** would in fact penalize those same rural areas by diverting federal rural program funds to non-rural recipients. This would alter the current balance of fund distribution as between recipients of the fund to an unacceptable degree.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2235** because of the following objections:

The concept underlying this bill is a good one, but programs are already in place to address the problems to which this bill is directed. The Job Training Partnership Act and university small business centers throughout Texas are specifically designed to assist farmers and others who have been displaced from agricultural work because of adverse economic conditions.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2514** because of the following objections:

Certain bonds currently do not require approval by the Attorney General. House Bill 2514 would require certain bonds, long-term installment sales, or long-term lease-purchase obligations to be submitted to the Attorney General. It would apply to bonds issued by any department, board, district, public corporation, political subdivision, body politic, and any nonprofit corporation representing those entities.

This would bring a dramatic increase in the number of these instruments the Attorney General would review. It would force a number of issuers to hire attorneys to assist in the review and issuance process.

I am unaware of any problem that would necessitate such a review. Bondholders are satisfied with the current system, and I see no need to change it.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

May 26, 1987

TO THE SENATE OF THE SEVENTIETH TEXAS LEGISLATURE IN REGULAR SESSION:

Pursuant to Article IV, Section 14 of the Texas Constitution, I hereby return **S.B. 217** to the Senate and respectfully request that notice be taken of the following objections:

Under Texas law, deferred adjudication is available in the discretion of the court where a criminal defendant pleads guilty or nolo contendre. This procedure is a restricted form of probation that can later be expunged to avoid the legal disabilities attendant to a criminal conviction.

The limited availability of deferred adjudication under current Texas law reflects a policy of conserving scarce judicial and prosecutorial resources based on the practical understanding that this procedure will often be utilized by prosecutors as a means of securing a guilty plea in the plea bargaining process. Reed v. State, 659 S.W.2d 840 (Tex. Crim. App. 1983). Senate Bill 217 would make deferred adjudication available to criminal defendants who are convicted over a plea of not guilty. To expand availability of deferred adjudication across-the-board would defeat the policy underlying this procedure by encouraging more contested criminal trials. If allowed to become law, **S.B. 217** would take a valuable tool from the hands of Texas prosecutors at a time when public funds are scarce and increasing crime is a major concern to all Texans.

For the foregoing reasons, I hereby veto **S.B. 217**.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 323** because of the following objections:

An amendment was added to **S.B. 323** in the House of Representatives that would subject 17 wastewater discharge permits in the vicinity of Eagle Mountain Lake to unrealistic water quality standards. The Texas Water Commission is the proper authority to determine proper water quality standards for the wastewater discharge permits it issues. The amendment represents improper legislative preemption of the Commission's regulatory authority, and I am reluctantly compelled to disapprove this otherwise acceptable bill.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 484** because of the following objections:

Senate Bill 484 seeks to change the manner in which housing authority boards are appointed by city governing bodies. To replace the present system whereby the mayor appoints the housing authority board with a system of appointments by the entire governing body would politicize the board to an unwarranted extent.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 512** because of the following objections:

This bill would facilitate vote fraud by unreasonably loosening the eligibility requirements for absentee voting and lengthening the time period for absentee voting to an unwarranted extent.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 11th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 545** because of the following objections:

The availability of workers compensation to Texas farm workers makes this bill unnecessary. Agricultural employers now have adequate incentive to create safer working conditions for their employees. Otherwise, they will face higher workers compensation tax rates.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 11th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 698** because of the following objections:

Civil statutes regulate assignment pay to firemen and police in Texas cities which have voted to adopt the provisions.

This bill would mandate what has been a previously permissive law regarding the authorization of assignment pay for certain personnel. I feel the cities are perfectly capable of deciding these issues themselves under the permissive law, and that this is an unwarranted intrusion into city affairs.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 868** because of the following objections:

This bill would permit a member of the Texas Employment Commission to participate in an official meeting by telephone from another location. Members of the Commission are full-time state employees. I am not persuaded that they are distinguishable from other state employees such that they should be permitted to perform their official duties other than in person.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 884** because of the following objections:

Senate Bill 884 repeals the provisions of the Texas Election Code that prohibit a voter from having in his or her possession while marking a ballot written communications prepared and furnished by another person identifying how the voter has either agreed or been requested to vote. The purpose of the current law is to prevent undue influence on voters. This is a good law and should remain in effect. Its repeal would foster the kind of abuses the law is intended to address.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1011** because of the following objections:

Senate Bill 1011 would require political subdivisions to establish an excessively burdensome administrative procedure for enforcement of the prevailing wage law. The benefits of this procedure would be far outweighed by its costs.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1080** because of the following objections:

Senate Bill 1080 is identical to **H.B. 2002** which I have previously signed into law.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1210** because of the following objections:

Senate Bill 1210 amends the Election Code to change the date of the May uniform election day from the first to the third Saturday in May and to eliminate the January uniform election date. The provision eliminating the January date would create massive problems for school districts, junior college districts, cities, counties, and special districts that normally hold elections at that time. These problems would be made worse by the early "Super Tuesday" presidential primary date.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1239** because of the following objections:

Senate Bill 1239 would authorize Harris County to pay a supplemental salary to the district judges in that county in an amount up to $2,000 more than the salary paid a statutory county court judge.

At present, county court at law judges in Harris County are paid $80,577. Thus, this bill would allow district judges in Harris County to receive a salary of $82,577, or $3,782 more than that paid to judges in the highest state appellate courts. This is approximately $26,000 more than the state paid salary of $56,135 for district judges.

While I generally don't object to county supplements to district judges, particularly as compensation for work done for the counties, a pay raise of this magnitude would cause discontent, friction, and discord among state judges across the state performing the same functions but receiving differing amounts of compensation.

Such a large increase in one county would prove disruptive to the entire judiciary throughout the state.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1265** because of the following objections:

Changing the cancellation date for persons on the returned voter certificate list from August 16 to November 30 of even-numbered years would increase the chance of vote fraud and decrease the chance that it would be detected.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1266** because of the following objections:

Senate Bill 1266 amends the Election Code to allow volunteer deputy registrars to deliver completed voter registration applications by mail or in person through another designated volunteer deputy registrar. Delivery of applications by mail would open the registration process to the potential of massive abuse because there would be no way to verify compliance with applicable legal requirements.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1279** because of the following objections:

Senate Bill 1279, as originally passed by the Senate, amended the competitive bidding statutes governing state, county, and city purchasing to authorize taking into consideration the safety record of a bidder in determining the lowest responsible bid. These same provisions are contained in **H.B. 662**, which I have already signed into law.

During its passage, provisions were hastily added to **S.B. 1279** which would criminalize what the bill labels "separate," "sequential" and "component" purchases by cities, counties, and school districts. Also added to the bill was a provision to permit a county clerk or recorder to use an optical data storage process for the storage of records.

The original intent of this bill has been addressed and, in my opinion, the amendments cause the bill to violate the letter, spirit and intent of Article III, Section 35(a) of the Texas Constitution. Moreover, I am persuaded that the amendment relating to separate, sequential and component purchasing is not in the public interest.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1345** because of the following objections:

The new Texas Department of Commerce established by the Legislature in its regular session is a better entity to administer community development programs of the kind contemplated by **S.B. 1345**.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1444** because of the following objections:

The present fee structure for state-supported institutions of higher education recognizes the policy that these institutions are established primarily for the benefit of Texas citizens. I agree with this policy and am therefore opposed to changing the fee structure in the manner contemplated by **S.B. 1444**.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 20th day of June, 1987.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1448** because of the following objections:

Senate Bill 1448 is identical to **H.B. 1855** which I have previously signed into law.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 19th day of June, 1987.

Pursuant to Article IV, Sections 14 and 15 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.C.R. 114** because of the following objections:

This resolution requests the State Board of Education to change its rules to provide for a one year emergency extension of the deadline for taking the required examination for basic skills for teachers and administrators. The current

Board rule providing for a six month period is sufficient. I do not believe legislative intervention is needed.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 11th day of June, 1987.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

/s/Jack M. Rains Jack M. Rains Secretary of State

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STATE OF TEXAS

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of the
SEVENTIETH LEGISLATURE

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Adjourned June 1, 1987

VOLUME III

Mrs. Margrette Vollers, Journal Clerk
Mrs. Dianne Arrington, Assistant
Mrs. Frances Boyett, Assistant

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