SEVENTY-SEVENTH DAY
(Monday, May 29, 1989)

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: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Absent-excused: Parmer.

A quorum was announced present.

The Reverend Chris Steele, Chaplain, St. Luke's Hospital and Texas Heart Institute of Houston, offered the invocation as follows:

Grace to you and peace. Let us pray.
O God, the author of good, the lover of concord, let it happen. 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.

LEAVE OF ABSENCE

Senator Parmer was granted leave of absence for today on account of important business on motion of Senator Brooks.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 563

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 19, 1989

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. 563** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BARRIENTOS	T. SMITH
CARRIKER	McCULLOUGH
TEJEDA	RICHARDSON
WASHINGTON	WENTWORTH
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 558

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 558** 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
	GRANOFF
SIMS	TELFORD
LEEDOM	
BROWN	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the issuance of general obligation bonds for certain projects.

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

SECTION 1. Section 3, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 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, but in any event must be revised annually.

SECTION 2. Subsection (a), Section 4, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a)(1) 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.

(2) The authority may issue up to $400 million in general obligation bonds, in addition to the amount authorized by Subsection (a)(1) of this section, and distribute bond proceeds to appropriate agencies for the same uses as authorized by Subsection (a)(1) and to the Department of Public Safety for the purchase, repair, and renovation of the Austin Independent School District administration building adjacent to the Department of Public Safety state headquarters, for the purpose of expanding the department's state headquarters' central office building.

(3) The bond 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.

SECTION 3. Section 6, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 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 $900 [~~$500~~] million.

SECTION 4. (a) This section applies to bond proceeds distributed for use by the Texas Department of Mental Health and Mental Retardation, the Texas Department of Corrections, the Texas Youth Commission, or the Department of Public Safety.

(b) Proceeds of bonds authorized by this Act may not be used to finance a project unless the agency using the proceeds has submitted to the Legislative Budget Board specific plans for the project. If required by the General Appropriations Act, project plans must be approved by the Legislative Budget Board before the bond proceeds are expended.

SECTION 5. The Texas Public Finance Authority may not issue bonds under Section 4(a)(2), Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), as added by this Act, before September 1, 1991, unless the comptroller has determined that the total amount of debt service that the state will be required to pay during the biennium ending September 1, 1991, on those bonds and all other bonds previously issued under Section 4(a)(2), will not exceed $24 million. On request of the comptroller, the authority shall provide the comptroller with information the comptroller considers necessary to make that determination. The comptroller shall submit the determination in writing to the authority and the bond review board.

SECTION 6. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1989.

(b) Sections 2, 4, and 5 of this Act take effect on the date on which the constitutional amendment proposed by **S.J.R. 24**, 71st Legislature, Regular Session, 1989, takes effect. If that amendment is not approved by the voters, Sections 2 and 4 of this Act have no effect.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEES GRANTED PERMISSION TO MEET

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

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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. 161, Granting Glenn H. Johnson, John W. Neale, and Roberto M. Pensotti permission to sue the State.

H.C.R. 101, Requesting the Division of Emergency Management to evaluate emergency evacuation policies involving Interstate 45 from Galveston to Conroe.

H.C.R. 274, Directing the Texas Higher Education Coordinating Board to study the issue of State support of Bishop College.

The House has concurred in Senate amendments to the following House Bills by non-record votes:

H.B. 9
H.B. 2179
H.B. 2286
H.B. 2498
H.B. 2728
H.B. 2803
H.B. 2974

The House reconsidered vote, again concurred in Senate amendments to **H.B. 432** by a record vote of 141 Ayes, 0 Nays, 1 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 835 WITH HOUSE AMENDMENT

Senator Parker called **S.B. 835** 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 - D. Hudson

Amend **S.B. 835** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subsection (b), Section 54.529, Education Code, as amended, is amended to read as follows:

(b) Such fees shall be deposited to an account known as "The University of Texas at Arlington Student Union Fee Account" and shall be placed under the control of and subject to the order of the Student Union Advisory Committee. The committee shall annually submit to the president of The University of Texas at Arlington [~~board of regents~~] a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The president shall submit the budget to the board of regents as part of the institutional budget. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, and shall then levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budgetary needs of the student union building.

SECTION 2. Subsection (b), Section 54.531, Education Code, as amended, is amended to read as follows:

(b) Such fees shall be deposited to an account known as "The University of Texas at Dallas Student Union Fee Account" and shall be placed under the control of and subject to the order of the Student Union Advisory Committee. The

committee shall annually submit to the president of The University of Texas at Dallas [~~board of regents~~] a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The president shall submit the budget to the board of regents as part of the institutional budget. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, and shall then levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budgetary needs of the student union building.

SECTION 3. Subsection (b), Section 54.532, Education Code, as amended, is amended to read as follows:

(b) The fees collected under Subsection (a) of this section shall be deposited to an account known as The University of Texas at San Antonio University Center [~~Student Union~~] Fee Account and shall be placed under the control of and subject to the order of the university center [~~the student union~~] advisory committee. The committee shall annually submit to the president of The University of Texas at San Antonio [~~board of regents~~] a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident to those activities. The president shall submit the budget to the board of regents as part of the institutional budget. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, but only after a student referendum has been called on the issue of increase in the fee, and the issue has been approved by a majority of the students voting in the election. The board shall then levy the fees, within the limits fixed in this section, in such amounts as will be sufficient to meet the budgetary needs of the student union building.

SECTION 4. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.534 to read as follows:

Sec. 54.534. ARTS AND PERFORMANCE CENTER FEE; THE UNIVERSITY OF TEXAS AT TYLER.

(a) The board of regents of The University of Texas System may levy an Arts and Performance Center fee not to exceed twenty dollars per student for each regular semester and ten dollars per student for each term of the summer session, for the sole purpose of financing, constructing, operating, maintaining, and improving an Arts and Performance Center for The University of Texas at Tyler; provided, however, that the fee may not be increased above the amount of thirty dollars per student for each regular semester and fifteen dollars per student for each term of the summer session unless the increase is approved by a majority vote of those students participating in the general election. The fees herein authorized to be levied are in addition to any use or service fee now or hereafter authorized to be levied.

(b) Such fees shall be deposited to an account known as The University of Texas at Tyler Arts and Performance Center account and shall be placed under the control of and be subject to the order of the Arts and Performance Complex Advisory Committee. The committee shall annually submit to the president of The University of Texas at Tyler a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The president shall submit the budget to the board of regents as part of the institutional budget. The board of regents may subsequently make such changes in the budget as it deems necessary before approving the budget, and shall levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budgetary needs of the Arts and Performance Complex.

(c) The Arts and Performance Complex Advisory Committee is established to advise the administration of The University of Texas at Tyler on the level and

expenditure of fees collected under this section. The administration may also ask the Advisory Committee to advise the administration on the type, level, and expenditure of voluntary fees for student services collected under this subchapter. The committee is composed of nine members. Four members of the Advisory Committee must be student members not enrolled in less than 6 semester hours at the University. Student members shall be selected by the student government of the University and shall serve for a 1 year term. The remaining members of the Advisory Committee shall be appointed by the president of the University and shall be generally representative of the University community. Each non-student member serves for a term of 2 years. The University of Texas at Tyler may adopt such other rules as are necessary to effectuate the purposes of this section.

SECTION 5. Sec. 69.03, Education Code, is transferred to Subchapter (e), Chapter 54, Education Code, is renumbered and is amended to read as follows:

Sec. 54.535 [~~69.03~~]. STUDENT UNION FEE; THE UNIVERSITY OF TEXAS AT EL PASO. (a) The board of regents of The University of Texas System may levy a student union fee not to exceed $30 per student for each regular semester and not to exceed $15 per student for each term of the summer session, for the sole purpose of financing, constructing, operating, maintaining, and improving a student union building for The University of Texas at El Paso; provided, however, that the fee may not be increased above $15 per student for each regular semester and $7.50 per student for each term of the summer session unless the increase is approved by a majority vote of those students participating in a general election. The fees herein authorized to be levied are in addition to any use or service fee now or hereafter authorized to be levied.

(b) Such fees shall be deposited to an account known as The University of Texas at El Paso student union fee account and shall be placed under the control of and subject to the order of the Student Union Advisory Committee. The committee shall annually submit to the president of The University of Texas at El Paso [~~board of regents~~] a complete and itemized budget to be accompanied by a full and complete report of all activities conducted during the past year and all expenditures made incident thereto. The president shall submit the budget to the board of regents as part of the institutional budget. The board of regents shall make such changes in the budget as it deems necessary before approving the budget, and shall then levy the fees, within the limits herein fixed, in such amounts as will be sufficient to meet the budgetary needs of the student union building.

SECTION 6. Subsection (b), Section 54.502, Education Code, as amended, is amended to read as follows:

(b) The medical, dental, and allied health units of The University of Texas System, the Texas College of Osteopathic Medicine, the Texas Tech University Health Sciences Center, and The Texas A&M University College of Medicine may [~~shall~~] collect a breakage or loss deposit no greater than $30.

SECTION 7. Subsection (j), Section 54.513, Education Code, as amended, is amended to read as follows:

(j) The total of all compulsory fees charged under this section to students for any semester or summer session may not exceed $150 [~~$100~~].

SECTION 8. Subsection (a), Section 54.530, Education Code, as amended, is amended to read as follows:

(a) The board of regents of The University of Texas System may levy and collect from each student a compulsory fee for operating, maintaining, improving, equipping, and/or constructing additions to the existing Texas Union building near Guadalupe Street, [~~of~~] not to exceed $33 [~~$17~~] for each regular semester and $16.50 [~~$8.50~~] for each term of each summer session, with such fees to be deposited to an account known as the Texas Union Fee Account; this fee may be raised to an amount not to exceed $40 [~~$20~~] for each regular semester and $20 [~~$10~~] for each

term of each summer session if that increase in the fee is approved by a majority vote of those students participating in a general election called for that purpose. The activities of said Texas Union building financed in whole or in part by this fee shall be limited to those activities in which the entire student body is eligible to participate, and in no event shall any of the activities so financed be held outside of the territorial limits of the campus of The University of Texas at Austin.

SECTION 9. Subchapter (e), Chapter 54, Education Code, is amended by adding Section 54.5131 to read as follows:

Sec. 54.5131. INTERNATIONAL EDUCATION FEE: THE UNIVERSITY OF TEXAS AT AUSTIN. (a) The board of regents of The University of Texas System may charge and collect from students registered at The University of Texas at Austin a fee of $1 for any semester or summer session. The fee may be used only for funding an international education financial aid fund to be used to assist students participating in international student exchange or study programs.

(b) The fund shall be used in accordance with guidelines jointly developed by The University of Texas at Austin Student Association and the administration of The University of Texas at Austin.

(c) The international education financial aid fee imposed under this section shall not count in determining the maximum student services fee which may be charged to the students of The University of Texas at Austin under this chapter.

SECTION 10. Section 69.03, Education Code, is repealed.

SECTION 11. This Act takes effect beginning with the fall semester 1989 and applies to fees and deposits on or after that date. Fees and deposits charged before the fall semester 1989 are governed by the laws in effect at the time the fees or deposits are charged and those laws are continued effect for that purpose.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Parker moved to concur in the House amendment to **S.B. 835.**

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

Absent-excused: Parmer.

GUESTS PRESENTED

Senator Barrientos introduced Mr. and Mrs. E. L. Galyean to the Senate.

They celebrated their 55th wedding anniversary on March 2, 1989.

At the President's request, they were escorted to the President's Rostrum for a presentation of an enrolled copy of **S.R. 695**, adopted by the Senate on May 20, 1989.

(Senator Glasgow in Chair)

SENATE BILL 832 WITH HOUSE AMENDMENTS

Senator Montford called **S.B. 832** 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 - Counts

Amend **S.B. 832** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subchapter A, Chapter 21, Insurance Code, is amended by adding Article 21.07-6 to read as follows:

Art. 21.07-6. THIRD PARTY ADMINISTRATORS

Sec. 1. DEFINITIONS. In this article:

(1) "Administrator" means a person who collects premiums or contributions from or who adjusts or settles claims in connection with life, health, and accident benefits or annuities for residents of this state but does not include:

(A) an employer on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer;

(B) a union on behalf of its members;

(C) an insurance company or a group hospital service corporation subject to Chapter 20 of this code with respect to a policy lawfully issued and delivered by it in and under the law of a state in which the insurer was authorized to do an insurance business;

(D) a health maintenance organization that is authorized to operate in this state under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), with respect to any activity that is specifically regulated under that Act;

(E) an agent licensed under Article 21.07 or Chapter 213, Acts of the 54th Legislature, Regular Session, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), who is acting under appointment on behalf of an insurance company authorized to do business in this state and within the customary scope and duties of the insurance agent's authority as an agent and who receives commissions as an agent;

(F) a creditor who is acting on behalf of its debtors with respect to insurance that covers a debt between the creditor and its debtor so long as only the functions of a group policyholder or creditor are performed;

(G) a trust established in conformity with 29 U.S.C. Section 186 and the trustees and employees who are acting under the trust;

(H) a trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 and the trustees and employees acting under the trust, or a custodian and the custodian's agents and employees who are acting pursuant to a custodian account that complies with Section 401(f), Internal Revenue Code of 1986;

(I) a bank, credit union, savings and loan association, or other financial institution that is subject to supervision or examination under federal or state law by federal or state regulatory authorities so long as that institution is performing only those functions for which it holds a license under federal or state law;

(J) a company that advances and collects a premium or charge from its credit card holders on their authorization, if the company does not adjust or settle claims and acts only in the company's debtor-creditor relationship with its credit card holders;

(K) a person who adjusts or settles claims in the normal course of his practice or employment as a licensed attorney and who does not collect any premium or charge in connection with life, health, or accident benefits or annuities;

(L) an adjuster licensed by the commissioner, if the adjuster is engaged in the performance of his powers and duties as an adjuster within the scope of his license;

(M) a person who provides technical, advisory, utilization review, precertification, or consulting services to an insurer, plan, or plan sponsor and who does not make any management or discretionary decisions on behalf of an insurer, plan, or plan sponsor;

(N) an attorney in fact for a Lloyd's operating under Chapter 18 of this code or a reciprocal or interinsurance exchange operating under Chapter 19 of this code if acting in the capacity of attorney in fact under the applicable chapter;

(O) a municipality that is self-insured or a joint fund, risk management pool, or a self-insurance pool composed of political subdivisions of this state that participate in a fund or pool through interlocal agreements and any nonprofit administrative agency or governing body or any nonprofit entity that acts solely on behalf of a fund, pool, agency, or body or any other funds, pools, agencies, or bodies that are established pursuant to or for the purpose of implementing an interlocal governmental agreement;

(P) a self-insured political subdivision; or

(Q) a plan under which insurance benefits are provided exclusively by a carrier licensed to do business in this state and the administrator of the plan is either:

(i) a full-time employee of the plan's organizing or sponsoring association, trust, or other entity; or

(ii) the trustee or trustees of the organizing or sponsoring trust.

(2) "Administrative or service fees" means all consideration, fees, assessments, payments, reimbursements, dues, and other compensation, excluding sales commissions, received for services as an administrator during a calendar year.

(3) "Board" means the State Board of Insurance.

(4) "Commissioner" means the commissioner of insurance.

(5) "Insurer" or "insurance company" means a person who transacts a life, health, or accident insurance business under the law of this state.

(6) "Plan" means a plan, fund, or program established, adopted, or maintained by a plan sponsor or insurer to the extent that the plan, fund, or program is established, adopted, or is maintained to provide indemnification or expense reimbursement for any type of life, health, or accident benefit.

(7) "Person" means an individual, partnership, corporation, organization, government or governmental subdivision or agency, business trust, estate trust, association, or other legal entity.

(8) "Plan sponsor" means a person, other than an insurer, who establishes, adopts, or maintains a plan that covers residents of this state, including a plan established, adopted, or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, an association, a committee, a joint board of trustees, or any similar group of representatives who establish, adopt, or maintain a plan.

Sec. 2. RULES. The board may establish and promulgate rules, regulations, minimum standards, or limitations that are fair and reasonable as may be appropriate for the augmentation and implementation of this article.

Sec. 3. CERTIFICATE OF AUTHORITY REQUIRED. (a) An individual, corporation, organization, trust, partnership, or other legal entity may not act as or hold itself out as an administrator unless it is covered by and is doing business under a certificate of authority issued under this article.

(b) Each administrator is required to have only one certificate of authority issued under this article.

(c) The certificate of authority issued under this article shall continue in effect until suspended, canceled, or revoked in accordance with Section 7, Article 1.10, of this code.

Sec. 4. APPLICATION PROCEDURE. An application for a certificate of authority to operate as an administrator must be in a form prescribed by the commissioner and must include the following:

(1) copies of all basic organizational documents of the administrator, including the articles of incorporation, bylaws, articles of association, trade name certificate, and other similar documents and copies of all amendments to those documents;

(2) a description of the administrator and its services, facilities, and personnel;

(3) a power of attorney executed by the administrator, if not domiciled in this state, appointing the commissioner, the commissioner's successors in office, or the commissioner's duly appointed designee as the attorney of the administrator in this state, on whom process may be served in any legal action or proceeding based on a cause of action arising in this state against the administrator;

(4) an audited financial statement of the applicant covering the preceding three calendar years or for any lesser period that the applicant and any predecessors of the applicant have been in existence, but if an audited financial statement is not available, the applicant shall attach an unaudited financial statement as of a date not earlier than the 120th day before the date the application is filed, accompanied by an affidavit or certification of the applicant that:

(A) the unaudited financial statement is true and correct, as of its date; and

(B) no material change in financial condition has occurred from the date of the financial statement to the execution date of the affidavit or certification; and

(5) any other information the commissioner may reasonably require.

Sec. 5. APPLICATION APPROVAL AND DENIAL BY COMMISSIONER. (a) The commissioner shall approve an application for a certificate of authority to conduct a business in this state as an administrator if the commissioner is satisfied that the application meets the following criteria:

(1) the granting of the application would not violate a federal or state law;

(2) the competence, trustworthiness, experience, financial condition, or integrity of an administrator applicant or those persons who would operate or control an administrator applicant are such that the granting of a certificate of authority would not be adverse to the public interest;

(3) the applicant has not attempted through fraud or bad faith to obtain the certificate of authority;

(4) the applicant has complied with this article and rules adopted by the board under this article; and

(5) the name under which the applicant will conduct business in this state is not so similar to that of another administrator or insurer that it is likely to mislead the public.

(b) If the commissioner is unable to approve the application for a certificate of authority, he shall provide the applicant with written notice detailing all deficiencies in the application and offer the applicant the opportunity for a hearing to address the reasons and circumstances for possible denial. The opportunity for hearing must be provided before the commissioner finally denies an application. The applicant has the burden, at the hearing, to produce sufficient competent evidence on which the commissioner can make the findings provided by Subsection (a) of this section.

Sec. 6. FIDELITY BOND. (a) Each person whose application for a certificate of authority is approved by the commissioner under this article must obtain and maintain a fidelity bond and must submit to the commissioner proof that a fidelity bond that complies with this section has been obtained before the commissioner issues the certificate of authority.

(b) The amount of the bond may not be less than $10,000. The amount of the bond may not be more than 10 percent of the amount of total funds handled during the previous year or, if no funds were handled during the preceding year, 10 percent of the amount of funds reasonably estimated to be handled during the current calendar year by the administrator; however, in no case may the amount of the bond be more than $500,000.

(c) On written request of an administrator for reduction of the amount of the fidelity bond for a particular year, the commissioner may authorize the reduction of the amount of the bond if the administrator presents evidence that the amount of funds to be handled during that particular year will be less than the amount handled in the preceding year.

(d) For purposes of this section, the amount of total funds handled by a person in his capacity as administrator shall include either the total amount of premiums and contributions received by the administrator or the total amount of benefits paid by the administrator, whichever is greater, during the preceding calendar year in all jurisdictions in which he acts as an administrator.

(e) The fidelity bond shall protect against acts of fraud or dishonesty by the administrator in carrying out his powers and duties as administrator.

(f) An administrator is required to obtain and maintain only one fidelity bond for all insurers and plans for which the administrator acts as administrator in this state unless the administrator and the insurer or plan agree otherwise in writing.

Sec. 7. CRIMINAL PENALTY. (a) An administrator commits an offense if the administrator knowingly violates this article or a rule of the board adopted under this article.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $500 and not to exceed $5,000.

Sec. 8. EXAMINATION OF ADMINISTRATOR. (a) The commissioner may examine each administrator that has a certificate of authority with regard to its business conducted in this state.

(b) The commissioner may designate certain employees to perform the examinations.

(c) An examination shall include:

(1) review of all existing written agreements between the administrator and various insurers and plans; and

(2) review of the financial statements of the administrator.

(d) The commissioner also may have examiners make an on-site evaluation of the administrator's personnel and facilities and any books and records of the administrator relating to the transaction of business and the financial condition of the administrator. Before an examiner enters the property of an administrator, the commissioner shall give notice to the administrator of the intent to have an on-site evaluation by an examiner. The notice must be in the form required by board rule and shall include the date and estimated time that the examiner will enter the property of the administrator. An examiner shall comply with operational rules of the administrator while on the administrator's property.

(e) The commissioner may summon and examine under oath the administrator and the administrator's personnel, if necessary to make a complete evaluation of the activities and operations of an administrator.

(f) The cost of examinations under this section shall be paid from the fee collected under Section 20 of this Act and with revenues from the maintenance tax levied under Section 21 of this Act pursuant to legislative appropriation.

Sec. 9. ANNUAL REPORT. (a) Each administrator operating under a certificate of authority issued under this article shall file with the commissioner an annual report.

(b) The annual report shall cover the preceding calendar year and must be filed with the commissioner not later than March 1 of the year following the year covered by the report on a form prescribed by the board.

Sec. 10. ACTIVITIES OF CERTAIN PARTNERSHIPS AND CORPORATIONS. An administrator licensed in any state that accepts agent's commissions for coverage for risks located in this state and disburses those commissions to licensed agents in this state is not considered an insurance agent for purposes of this state's insurance agent licensing laws. The exemption provided by this section does not authorize an administrator to perform any other acts for which a license as an insurance agent is required by law.

Sec. 11. WRITTEN AGREEMENT. (a) An administrator may provide services only pursuant to a written agreement with an insurer or plan sponsor.

(b) The administrator and the insurer, plan, or plan sponsor shall retain a copy of the written agreement as part of their official records for the term of the agreement, and on written request of the commissioner, the administrator shall make the written agreement available for inspection by the commissioner or his designated representative.

(c) Information obtained by the commissioner or the commissioner's designated representative from the written agreement is confidential and may not be made available to the public. The information may be examined by employees of the board and the commissioner in carrying out functions under this article.

(d) The written agreement shall include the requirements provided by Sections 12 through 19 of this article except for requirements that do not apply to functions performed by the administrator.

(e) If a policy or plan document is issued to a trustee, a copy of the trust agreement and any amendment to that trust agreement becomes part of the written agreement required by this section.

(f) The written agreement required by this section may not contain a provision that unreasonably restricts the right of a plan participant to the availability of individual life, health, or accident policies or annuities through an agent selected by the plan participant.

Sec. 12. PAYMENT TO AN ADMINISTRATOR. (a) If an insurer, plan, or plan sponsor uses the services of an administrator under a written agreement as required by Section 11 of this article, the payment of premiums or contributions to the administrator by or on behalf of an insured or plan participant is considered to have been received by the insurer, plan, or plan sponsor, and payment of return premium, contributions, or claims by the insurer, plan, or plan sponsor to the administrator are not considered payment to the insured, plan participant, or claimant until the payments are received by the insured, plan participant, or claimant.

(b) This section does not limit a right of an insurer, plan, or plan sponsor against the administrator resulting from the administrator's failure to make payments to insureds, plan participants, or claimants.

Sec. 13. NOTICE OF ADMINISTRATOR'S CAPACITY; STATEMENT OF PREMIUM OR CONTRIBUTION. (a) If the services of an administrator are used, the administrator shall give written notice to insureds or plan participants of the identity of the administrator and the relationship among the administrator and the insurer, plan, or plan sponsor and the insured or plan participant. The notice must be approved by the insurer, plan, or plan sponsor before distribution.

(b) If an administrator collects funds, the administrator must identify and state separately in writing the amount of any premium or contribution specified by the insurer, plan, or plan sponsor for the coverage and must give this written information to any person who pays to the administrator a premium or contribution.

Sec. 14. MAINTENANCE OF INFORMATION. (a) Each administrator shall maintain at its principal administrative office adequate books and records of all transactions in which the administrator engages with insurers, plans, plan sponsors, insureds, and plan participants.

(b) The books and records must be maintained for the term of the written agreement to which they relate and for the five-year period following the end of the written agreement's term.

(c) The administrator shall maintain the books and records in accordance with prudent standards of insurance recordkeeping.

(d) The commissioner and his designated representative must be given access to those books and records for the purpose of examination, audit, and inspection.

(e) Trade secrets, including the identity and addresses of policyholders and certificate holders, are confidential, except the commissioner may use that information in proceedings instituted against the administrator.

(f) An insurer, plan, or plan sponsor is entitled to continuing access to these books and records sufficient to permit the insurer, plan, or plan sponsor to fulfill contractual obligations to insureds and plan participants. The right provided by this subsection is subject to any restrictions included in the written agreement between the administrator and the insurer, plan, or plan sponsor relating to proprietary rights of the parties to the books and records.

(g) An administrator may fulfill the legal requirements of this section on termination of the written agreement by delivering to the successor administrator or, if there is no successor administrator, to the insurer, plan, or plan sponsor the books and records and by giving written notice to the commissioner of the location of the books and records.

Sec. 14A. CONFIDENTIALITY OF PERSONAL INFORMATION. (a) Information that identifies an individual covered by a plan is confidential.

(b) During the time information described in Subsection (a) of this section is in an administrator's custody or control, the administrator shall take all reasonable precautions to prevent disclosure or use of the information for a purpose unrelated to administration of the plan.

(c) The administrator shall disclose information described in Subsection (a) of this section only:

(1) in response to a court order;

(2) for an examination conducted by the commissioner under this article;

(3) for an audit or investigation conducted under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001, et seq.);

(4) to or at the request of the insurer or plan sponsor; or

(5) with the written consent of the identified individual or his or her legal representative.

Sec. 15. APPROVAL OF ADVERTISING. An administrator may use only advertising relating to business underwritten by an insurer, plan, or plan sponsor that is approved by the insurer, plan, or plan sponsor in advance of its use.

Sec. 16. UNDERWRITING PROVISION. If the administrator has the authority to accept or reject risks, the written agreement required by this article shall address underwriting or other standards of the insurer or plan.

Sec. 17. PREMIUM AND CONTRIBUTION COLLECTION. (a) Premiums and contributions collected by an administrator on behalf of or for an insurer, plan, or plan sponsor and return premiums received from an insurer, plan, or plan sponsor are held by the administrator in a fiduciary capacity.

(b) On receipt of premiums, contributions, or return premiums, the administrator shall:

(1) timely remit the funds to the person entitled to them according to terms of the written agreement; or

(2) promptly deposit the funds in a fiduciary bank account established and maintained by the administrator.

(c) If premiums or contributions deposited in a fiduciary bank account were collected on behalf of or for more than one insurer, plan, or plan sponsor, the administrator shall keep records that clearly record separately the deposits and withdrawals from the account on behalf of or for each insurer, plan, or plan sponsor. The administrator shall obtain and maintain copies of these records, and on request of an insurer, plan, or plan sponsor, the administrator shall furnish to the insurer, plan, or plan sponsor copies of the records relating to deposits and withdrawals on behalf of or for that insurer or plan. The requirements of this subsection are in addition to requirements of any other federal or state law and do not authorize the commingling of funds if otherwise prohibited by law.

(d) An administrator may not pay any claims from the fiduciary bank account.

(e) Withdrawals from the fiduciary bank account must be made as provided in the written agreement between the administrator and the insurer, plan, or plan sponsor for any of the following purposes:

(1) remittance to an insurer, plan, or plan sponsor entitled to payment;

(2) deposit in an account controlled and maintained in the name of the insurer, plan, or plan sponsor;

(3) transfer to and deposit in a claims payment account for payment of claims as provided by Section 18 of this article;

(4) payment to a group policyholder for remittance to the insurer entitled to payment;

(5) payment to the administrator of its commission, fees, or charges;

(6) remittance of return premiums to any person entitled to payment; or

(7) payment of premiums for stop-loss or excess of loss insurance.

Sec. 18. ADJUDICATION OF CLAIMS. The administrator shall adjudicate the claims not later than the 60th day after the date on which valid proof of loss is received by the administrator. The administrator shall pay each claim on a draft authorized by the insurer, plan, or plan sponsor in the written agreement.

Sec. 19. COMPENSATION AND CLAIM SETTLEMENT. The compensation to the administrator may be based on a percentage of the premiums or charges collected, the amount of claims paid or processed, or on such other basis as specified in the written agreement.

Sec. 20. FEES. (a) The commissioner shall collect and the persons affected shall pay to the commissioner fees in an amount to be determined by the board not to exceed the following:

(1) filing fee for processing an original application for certificate of authority for an administrator, $1,000;

(2) fee for an examination under Section 8 of this article, $500; and

(3) filing fee for an annual report, $200.

(b) Fees collected under this section shall be deposited in the state treasury to the credit of the State Board of Insurance operating fund to be used by the board as provided by legislative appropriation.

Sec. 21. MAINTENANCE TAX. (a) The board annually shall determine the rate of assessment on an annual or semiannual basis and collect a maintenance tax in an amount not to exceed one percent of the correctly reported administrative or service fees of all administrators that are covered by certificates of authority.

(b) The tax required by this section is in addition to all other taxes now imposed or that may be subsequently imposed and that are not in conflict with this section.

(c) The board, after taking into account the unexpended funds produced by this tax, if any, shall adjust the rate of assessment each year to produce the amount of funds that it estimates will be necessary to pay all the expenses of regulating administrators.

(d) The taxes collected under this section shall be deposited in the state treasury to the credit of the State Board of Insurance operating fund and shall be spent as authorized by legislative appropriation only on warrants issued by the comptroller of public accounts pursuant to duly certified requisitions of the board.

Sec. 22. SANCTIONS UNDER CODE. A person or administrator who violates this article is subject to the sanctions provided by Section 7, Article 1.10, of this code.

Sec. 23. OTHER APPLICABLE PROVISIONS OF THE CODE. An administrator is subject to Articles 1.36, 21.21, and 21.21-2, of this code.

Sec. 24. APPLICATION TO CERTAIN INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS. An insurer or health maintenance organization that is not exempt under Section 1(1)(C) or (D) of this article is subject to all provisions of this article, except Sections 3, 4, 5, 10, and 20(a)(1).

SECTION 2. (a) This Act takes effect September 1, 1989.

(b) Except as provided by Subsections (c) and (d) of this section, an administrator that is operating before the effective date of this Act and that has not previously submitted an application for a certificate of authority must apply for a certificate of authority under Article 21.07-6, Insurance Code, as added by this Act, not later than the 60th day after the effective date of this Act.

(c) An administrator that submitted all or part of the documents and fees required for an application for a certificate of authority under Article 21.07-5, Insurance Code, before the effective date of this Act is not required to resubmit an application for a certificate of authority under Article 21.07-6, Insurance Code, as added by this Act, but may submit any additional documents necessary to make the pending application administratively complete and is not required to submit any further fees in an amount that exceeds the amount required to process an application under Section 20(a), Article 21.07-6, Insurance Code, as added by this Act.

(d) An administrator that was issued a certificate of authority under Article 21.07-5, Insurance Code, that was valid and in effect on the effective date of this Act is not required to apply for a new certificate of authority under this Act. The certificate of authority is in effect as if it were issued under Article 21.07-6, Insurance Code, as added by this Act, and the administrator is subject to the provisions of that article.

(e) An administrator that applies for a license under Subsection (b) of this section or that has a pending application under Subsection (c) of this section may continue to operate, if the administrator otherwise complies with applicable law, until such time as the commissioner of insurance acts on the application for a certificate of authority. If denied a certificate of authority, the administrator may not act as an administrator but may appeal the commissioner's decision to a court of competent jurisdiction after a hearing before the commissioner as provided by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 3. Article 21.07-5, Insurance Code, is repealed.

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.

Amendment - Gavin

Amend **C.S.S.B. 832** as follows:

(1) On page 18, between lines 25 and 26, insert a new Section 2 to read as follows:

SECTION 2. Chapter 3, Insurance Code, is amended by adding Article 3.77 to read as follows:

Art. 3.77. TEXAS HEALTH INSURANCE RISK POOL

Sec. 1. (a) The legislature finds that medically uninsurable Texans face critical problems with respect to health care coverage, access to care, job mobility, and family impoverishment arising from their health status.

(b) Competitive forces in the marketplaces for health care and health insurance will operate over time to increase the number of medically uninsurable persons.

(c) To provide for access to quality health care at minimum cost to the public, to relieve the insurable population of the disruptive cost of sharing coverage, and to maximize reliance on strategies of managed care proven by the private sector, the legislature hereby authorizes the Texas Health Insurance Risk Pool.

(d) The creation of the Texas Health Insurance Risk Pool is not intended to diminish the availability of traditional health care insurance to consumers who currently are eligible for these policies.

Sec. 2. DEFINITIONS. In this article:

(1) "Pool" means the Texas Health Insurance Risk Pool.

(2) "Board" means the board of directors of the pool.

(3) "Insurance board" means the State Board of Insurance.

(4) "Commissioner" means the commissioner of insurance.

(5) "Insured" means a person who is a resident of this state and who is eligible to receive benefits from an insurer or insurance arrangement.

(6) "Insurer" means an insurance company authorized to transact a health insurance business in this state, including a group hospital service corporation subject to Chapter 20 of this code and a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

(7) "Insurance arrangement" means a plan, program, contract, or other arrangement through which health care services are provided by an employer to its officers, employees, or other personnel, but does not include health care services covered through an insurer.

(8) "Health insurance" means individual or group health insurance coverage and includes a medical expense incurred or hospital insurance coverage, or coverage by a group hospital service plan or health maintenance organization. "Health insurance" does not include short-term insurance, accident-only insurance, coverage that is supplemental to liability insurance, or workers' compensation insurance.

(9) "Medicare" means coverage provided by Part A and Part B, Title XVII, Social Security Act (42 U.S.C. Section 1395 et seq.).

(10) "Physician" means a person licensed to practice medicine in this state under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(11) "Hospital" means a licensed public or private institution as defined by the Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes), and any hospital owned or operated by the federal or state government.

(12) "Health maintenance organization" means a health maintenance organization that has a certificate of authority to operate in this state under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

(13) "Plan of operation" means the plan of operation of the pool and includes the articles, bylaws, and operating rules of the pool that are adopted by the board under Section 5 of this article.

(14) "Benefits plan" means coverage to be offered by the pool to eligible persons under Section 11 of this article.

(15) "Net premiums" means premiums charged by the pool less administrative expense allowances.

Sec. 3. CREATION OF POOL. The Texas Health Insurance Risk Pool is created.

Sec. 4. BOARD OF DIRECTORS. (a) The pool is governed by a board of directors composed of 12 members.

(b) The insurance board shall appoint members of the board for staggered six-year terms as provided by this section.

(c) The board is composed of:

(1) three persons affiliated with insurance companies admitted and authorized to write health insurance in this state;

(2) one person affiliated with a group hospital service corporation operating under Chapter 20 of this code;

(3) one person affiliated with a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);

(4) one doctor of medicine;

(5) one doctor of osteopathy;

(6) one hospital administrator;

(7) one advanced nurse practitioner;

(8) one consumer who is insured by the pool; and

(9) two representatives of the general public who are not employed by or affiliated with an insurance company or plan, group hospital service corporation, or health maintenance organization or licensed as or employed by or affiliated with a doctor of medicine, doctor of osteopathy, hospital, or other health care provider.

(d) The limitation on who may be a representative of the general public does not include a person whose only affiliation with an insurance company or plan, group hospital service corporation, or health maintenance organization is as an insured or person who has coverage through a plan provided by the corporation or organization.

(e) If a vacancy occurs on the board, the insurance board shall fill the vacancy for the unexpired term with a person who has the appropriate qualifications to fill that position on the board.

(f) Each member of the board is entitled to be paid a per diem for each day on which the member performs his duties as a member of the board and to reimbursement of his expenses while engaged in performing his duties as a member of the board. The amount of per diem and the amount of reimbursement for expenses is the same as provided by the General Appropriations Act for state officials.

(g) The insurance board shall designate one of its appointees to the board to serve as chairman. The chairman serves in that capacity at the pleasure of the insurance board.

Sec. 5. PLAN OF OPERATION. (a) The pool's initial board shall submit to the insurance board a plan of operation for the pool that will assure the fair, reasonable, and equitable administration of the pool.

(b) In addition to the other requirements of this article, the plan of operation must include procedures for:

(1) handling and accounting for money and other assets of the pool; and

(2) developing and implementing a program to provide public information regarding the existence of the pool, the eligibility requirements for coverage under the pool, and enrollment procedures.

(c) After notice and hearing, the insurance board shall approve the plan of operation if it determines that the plan is suitable to assure the fair, reasonable, and equitable administration of the pool.

(d) The plan of operation takes effect on the date it is approved by insurance board order.

(e) If the initial board fails to submit a suitable plan of operation before the 180th day following the appointment of the initial board, the insurance board, after notice and hearing, may adopt all necessary and reasonable rules to provide a plan for the pool. The rules adopted under this subsection shall continue in effect until the initial board submits, and the insurance board approves, a plan of operation under this section.

(f) The board shall amend the plan of operation as necessary to carry out this article. Amendments to the plan of operation must be approved by the insurance board before they become part of the plan.

Sec. 6. AUTHORITY OF THE POOL. (a) The pool may exercise any of the authority that an insurance company authorized to write health insurance in this state may exercise under the law of this state, except the pool may not provide group insurance coverage.

(b) As part of its authority, the pool may:

(1) provide individual health benefits coverage to persons who are eligible for that coverage under this article;

(2) enter into contracts that are necessary to carry out this article including, with the approval of the commissioner, entering into contracts with similar pools in other states for the joint performance of common administrative functions or with other organizations for the performance of administrative functions;

(3) sue or be sued;

(4) institute any legal action necessary to avoid payment of improper claims against the pool or the coverage provided by or through the pool;

(5) establish appropriate rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, and claim reserve formulas and perform any actuarial functions appropriate to the operation of the pool;

(6) adopt policy forms, endorsements, and riders and applications for coverage;

(7) issue insurance policies subject to this article and the plan of operation;

(8) appoint appropriate legal, actuarial, and other committees that are necessary to provide technical assistance in operating the pool and performing any of the functions of the pool; and

(9) employ any persons necessary to assist the pool in carrying out its responsibilities and functions.

Sec. 7. ADMINISTERING INSURER. (a) After completing a competitive bidding process as provided by the plan of operation, the board shall select one or more insurers or a third party administrator certified by the State Board of Insurance to administer the pool.

(b) The board shall establish criteria for evaluating the bids submitted. The criteria must include:

(1) an insurer's or third party administrator's proven ability to handle individual accident and health insurance;

(2) the efficiency of an insurer's or third party administrator's claims paying procedures;

(3) an estimate of total charges for administering the pool; and

(4) an insurer's or third party administrator's ability to administer the pool in a cost-efficient manner.

(c) An insurer or third party administrator selected as an administering insurer or third party administrator to administer the pool under this section shall serve for a term of three years from the date on which the board issues its order formally making the selection.

(d) Not later than one year before the expiration of an administering insurer's or third party administrator's term, the board shall invite all insurers, including the administering insurer or third party administrator, to submit bids to serve for the succeeding three-year administration period. Selection of the succeeding administering insurer or third party administrator must be made not later than the sixth calendar month preceding the month in which the administering insurer's or third party administrator's term expires.

(e) The administering insurer or third party administrator shall:

(1) perform eligibility and administrative claims payment functions for the pool;

(2) establish a billing procedure for collection of premiums from persons insured by the pool;

(3) perform functions necessary to assure timely payment of benefits to persons covered under the pool, including:

(A) providing information relating to the proper manner of submitting a claim for benefits to the pool and distributing claim forms; and

(B) evaluating the eligibility of each claim for payment by the pool;

(4) submit regular reports to the board relating to the operation of the pool; and

(5) determine after the close of each calendar year the net written and earned premiums, expense of administration, and paid and incurred losses of the pool for that calendar year and report this information to the board and the insurance board on forms prescribed by the commissioner.

(f) The pool shall pay an administering insurer or third party administrator for its expenses incurred in performing its duties and functions as provided by the plan of operation. The total amount of administrative costs and fees paid in a calendar year to all administering insurers or a third party administrator may not exceed 12.5 percent of the gross premium receipts of the pool for the preceding calendar year.

(g) The board shall determine the form and content of the report required by Subsection (e)(4) of this section and the time at which reports must be made.

(h) The board shall determine the times at which billing for the pool will be done by the administering insurer or third party administrator.

Sec. 8. RULEMAKING AUTHORITY. The board may adopt rules it determines necessary to carry out this article and other laws of this state under which it is authorized to operate.

Sec. 9. RATES AND PREMIUMS. (a) Rates charged by the pool may not be unreasonable in relation to the coverage provided and the risk experience and expenses of providing the coverage.

(b) Rates and rate schedules may be adjusted for appropriate risk factors including age and variation in claim costs, and the board shall take into consideration appropriate risk factors in accordance with established actuarial and underwriting practices.

(c) Premiums charged for pool coverage may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of

providing the coverage. Separate schedules of premium rates based on age, sex, and geographic location may apply for individual risks.

(d) The pool shall determine the standard risk rate by calculating the average individual standard rate charged by the five largest insurers offering coverage in this state comparable to the pool coverage. If five insurers do not offer comparable coverage, the standard risk rate shall be established using reasonable current actuarial techniques and shall reflect anticipated experience and expenses for that type of coverage. Rates shall be established to provide fully for the expected costs of claims including recovery of prior losses, expenses of operation, investment income of claim reserves, and any other cost factors subject to the limitations described in this subsection. Pool rates may not be less than 150 percent, and may not exceed 200 percent, of rates applicable to individual standard risks.

(e) All rates and rate schedules shall be submitted to the insurance board for approval, and the insurance board must approve the rates and rate schedules of the pool before they are used by the pool. The insurance board in evaluating the rates and rate schedules of the pool shall consider the factors provided by this section. The insurance board by rule may adopt necessary procedures, criteria, and forms for the submission and approval of the pool's rates and rate schedules.

Sec. 10. ELIGIBILITY FOR COVERAGE. (a) Except as provided by Subsection (b) of this section, a person who is a resident of this state and who is diagnosed as having a condition designated as uninsurable by the board or who provides proof acceptable to the board from his insurer that he has been determined to be a substandard risk for whom the insurer's premium would exceed the premium charged by the pool is entitled to coverage from the pool.

(b) A person is not eligible for coverage from the pool if the person:

(1) has in effect on the date pool coverage takes effect health insurance coverage from an insurer or insurance arrangement;

(2) is eligible for other health care benefits at the time application is made to the pool;

(3) has terminated coverage in the pool within 12 months of the date that application is made to the pool, unless the person demonstrates a good faith reason for the termination;

(4) has had benefits paid by the pool on his behalf in the amount of $500,000;

(5) is confined in a county jail or imprisoned in a state prison; or

(6) is eligible for benefits under Medicare, Chapter 32, Human Resources Code, or the Chronically Ill and Disabled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes).

(c) A person who ceases to meet the eligibility requirements of this section may have his coverage terminated at the end of the policy period.

(d) A person whose health insurance coverage is involuntarily terminated for any reason other than nonpayment of premium and who is not eligible for conversion under the terminated coverage is eligible to apply for coverage under the plan. If application is made for the coverage not later than the 60th day after the involuntary termination and if premiums are paid for the entire coverage period, the effective date of coverage is the termination date of the previous coverage.

Sec. 11. MINIMUM POOL BENEFITS. (a) The pool shall offer pool coverage to each person who is eligible under Section 10 of this article. The pool coverage shall be for covered expenses as follows:

(1) hospital services;

(2) professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than mental or dental, which are rendered by a physician, or by other licensed professionals at his direction;

(3) drugs requiring a physician's prescription;

(4) services of a licensed skilled nursing facility for not more than 120 days during a policy year;

(5) services of a home health agency up to a maximum of 270 services per year;

(6) use of radium or other radioactive materials;

(7) oxygen;

(8) anesthetics;

(9) prostheses other than dental;

(10) rental of durable medical equipment, other than eyeglasses and hearing aids, for which there is no personal use in the absence of the conditions for which it is prescribed;

(11) diagnostic X rays and laboratory tests;

(12) oral surgery for excision of partially or completely unerupted, impacted teeth or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth;

(13) services of a licensed physical therapist;

(14) transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition; and

(15) services for diagnosis and treatment of mental and nervous disorders, provided that the insured is required to make a 50 percent copayment, and that the payment of the pool does not exceed $4,000 for outpatient psychiatric treatment.

(b) Covered expenses under Subsection (a) of this section do not include:

(1) any charge for treatment for cosmetic purposes other than surgery for the repair or treatment of an injury or a congenital bodily defect to restore normal bodily functions;

(2) care which is primarily for custodial or domiciliary purposes;

(3) any charge for confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician;

(4) that part of any charge for services rendered or articles prescribed by a physician, dentist, or other health care personnel that exceeds the prevailing charge in the locality or for any charge not medically necessary;

(5) any charge for services or articles that provision of which is not within the scope of authorized practice of the institution or individual providing the services or articles;

(6) any expense incurred prior to the effective date of coverage by the pool for the person on whose behalf the expense is incurred;

(7) dental care except as provided in Subsection (a)(12) of this section;

(8) eyeglasses and hearing aids;

(9) illness or injury due to acts of war;

(10) services of blood donors and any fee for failure to replace the first three pints of blood provided to an eligible person each policy year; and

(11) personal supplies or services provided by a hospital or nursing home, or any other nonmedical or nonprescribed supply or service.

(c) Under this section, "covered expenses" includes only those expenses for the prevailing charge in the locality for the items listed in Subsection (a) of this section if prescribed by a physician and determined by the pool to be medically necessary.

(d) In authorizing pool coverage, the board must consider levels of health insurance provided in the state and medical economic factors that are considered appropriate and, subject to the limitations provided by this section, shall adopt benefit levels, deductibles, coinsurance factors, exclusions, and limitations determined to be generally reflective of and commensurate with health insurance provided through a representative number of large employers in the state.

(e) Pool coverage under this section shall provide both a low deductible of not less than $250 per person and $500 per family a year and appropriate higher deductibles to be selected by the pool applicant. The board shall purchase stop-loss coverage for the pool in amounts determined by the board but not more than $2,000 per person or $4,000 per family covered by the pool. The board may adjust deductibles, the amounts of stop-loss coverage, and the time periods governing pre-existing conditions under Subsection (f) of this section to preserve the financial integrity of the pool. If the board makes such an adjustment it shall report in writing that adjustment together with its reasons for the adjustment to the insurance board and Legislative Budget Board. The report must be submitted not later than the 30th day after the date the adjustment is made.

(f) Pool coverage must exclude charges or expenses incurred during the first six months following the effective date of coverage with regard to any condition that during the six-month period preceding the effective date of coverage:

(1) had manifested itself in a manner that would cause an ordinarily prudent person to seek diagnosis, care, or treatment; or

(2) for which medical advice, care, or treatment was recommended or received.

(g) Pre-existing condition exclusions shall be waived to the extent to which similar exclusions, if any, have been satisfied under any previous health insurance coverage, health insurance pool, or self-insured health or welfare benefits plan that was involuntarily terminated, if application for pool coverage is made not later than the 31st day after involuntary termination. In that case, coverage in the pool is effective from the date on which the previous coverage was terminated.

(h) Benefits otherwise payable under pool coverage shall be reduced by amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers' compensation coverage, automobile insurance whether provided on the basis of fault or no-fault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

(i) The insurer or the pool has a cause of action against an eligible person for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the pool may be reduced or refused as an offset against any amount recoverable under this subsection.

Sec. 12. ASSESSMENTS. (a) If during any state fiscal year, the pool is unable to pay its claims and meet its other financial obligations due to a shortage of available funds, the board shall make an estimate of the amount that will be necessary to fund the shortage and shall notify the insurance board of this shortage and the estimated amount of money necessary to fund the shortage.

(b) On receiving notice under this section, the insurance board shall direct the commissioner of insurance to impose an assessment on each insurer authorized to write health insurance in this state.

(c) The total amount of assessments to be collected by the commissioner shall be in an amount that is sufficient to fund the pool's shortage.

(d) The assessment imposed against each insurer shall be in an amount that is equal to the ratio of the gross premiums collected by the insurer for health insurance in this state during the preceding calendar year to the gross premiums collected by all insurers for health insurance in this state during the preceding calendar year.

(e) The insurance board by rule shall provide the procedures, criteria, and forms necessary to implement, collect, and deposit assessments made and collected under this section.

(f) Each insurer that pays an assessment under this section is entitled to reimbursement by the state in an amount equal to the amount of the assessment paid under this section. The state shall reimburse an insurer not earlier than

September 1 but not later than September 15 of the first year of the first state biennium that begins after the date on which the assessment is paid. The comptroller of public accounts by rule shall establish a procedure under which claims for reimbursement under this section may be submitted and paid.

Sec. 13. MANAGED CARE, ETC. The board as part of the pool's program may adopt rules providing for quality of care, management of costs and benefits, and managed care.

(2) Renumber Sections 2 through 4 as Sections 3 through 5 respectively.

The amendments were read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendments to **S.B. 832** viva voce vote.

GUEST PRESENTED

Senator Glasgow was recognized and presented Dr. Jim Hunter of Bridgeport.

Dr. Hunter, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

GUEST PRESENTED

Senator Glasgow also introduced Tim Hunter, recently named as the Outstanding Fort Worth Police Officer of the Year.

The Senate extended congratulations to Officer Hunter.

(Senator Edwards in Chair)

SENATE BILL 931 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 931** 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.

Floor Amendment - Watkins

Amend **S.B. 931** in the following manner:

1. Change subdivision (5) on page 1, lines 6-10 to read as follows:

(5) "Charitable care or services" means the provision of any care or services to patients treated pursuant to the provisions of the Indigent Health Care and Treatment Act (Article 4438f, Vernon's Texas Civil Statutes), the Texas Primary Health Care Services Act (Article 4438d, Vernon's Texas Civil Statutes), the Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes) or to patients covered by Medicare or Medicaid.

2. On page 2, line 10 substitute "and the governor have" for "has";

3. On page 2, line 13 insert "and the governor" between "general" and "shall";

4. Add subsection (f) on page 2, line 18 to read as follows:

(f) The amounts paid by the state in indemnification under this Act shall not exceed $4,000,000.00 in any fiscal year. This section shall not affect the power of the state to pay indemnification under Chapter 104, Civil Practice and Remedies Code, or other applicable law, to a governing board, medical or dental units, or medical staff or students on medical malpractice claims that do not arise out of the provision of charitable care or services.

5. Insert the following as SECTION 7 and renumber present SECTIONS accordingly:

SECTION 7. Section 104.004(b), Civil Practice and Remedies Code, is amended to read as follows:

(b) The attorney general, subject to the approval of the governor, and may settle or compromise the portion of a lawsuit that may result in state liability under this chapter.

The amendment was read.

Senator Montford moved to concur in the House amendment to **S.B. 931**.

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

Absent-excused: Parmer.

SENATE BILL 61 WITH HOUSE AMENDMENTS

Senator Montford called **S.B. 61** 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.

Amendment - T. Smith

(1) Amend **S.B. 61** by inserting in Section 2, page 1, line 11 the following between "Subdivisions" and "(11)": "(7)".

(2) Amend **S.B. 61** by inserting the following on page 1 between lines 12 and 13:

"(7) 'Water supply project' means:

(A) Any engineering undertaking or work to conserve and develop surface or subsurface water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, which may include flood storage, including underground storage projects, filtration and water treatment plants, including any system necessary to transport water from storage to points of distribution or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers or to retail purchasers as authorized by Section 17.072 (c) of this Code, by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods; or

(B) any engineering 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."

(3) Amend **S.B. 61** by striking Section 4 and substituting the following:

SECTION 4. Subsections (b), (c) and (h), Section 17.072, Water Code, are amended to read as follows:

(b) Except as provided by Subsections (f) and (h) of this section, proceeds from the sale of water development bonds, together with all proceeds (excluding accrued interest which shall be deposited into the interest and sinking fund) from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes set out in Article III, Sections 49-c, 49-d, 49-d-2, [~~and~~] 49-d-6, and 49-d-7 of the Texas Constitution, shall be deposited in a special account in the development fund designated "water supply account," and other money for deposit therein as provided in this chapter shall be credited to the water supply account.

(c) The water supply account may be used for any water supply project and in any manner consistent with the provisions of the constitution, including retail distribution [~~but the development fund may not be used for retail distribution or for transportation of water solely to retail purchasers~~].

(h) All proceeds from the sale of the $300 [~~$250~~] million in water development bond authorized by Article III, Sections 49-d-2, [~~and~~] 49-d-6, and 49-d-7 of the Texas Constitution for the purposes of flood control, together with all proceeds, excluding accrued interest, from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes of the flood control program, shall be deposited in a special account designated as the flood control account created in the development fund. Other money designated for deposit in that account by this chapter shall be deposited in the flood control account. Accrued interest from the proceeds of the sale, refunding, or prepayment of political subdivision bonds shall be deposited in the interest and sinking fund.

Floor Amendment on Third Reading - T. Smith

Amend **S.B. 61** by inserting a new Section 6 after line 18 on page 5 and renumbering the subsequent sections accordingly:

SECTION 6. Section 17.121, Water Code, is amended to read as follows:

Section 17.121. FINANCIAL ASSISTANCE. The water supply account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply projects[~~:~~], including those projects initiated for the sole purpose of conservation as defined in Section 17.001(23)(B) of this code.

The amendments were read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendments to **S.B. 61** viva voce vote.

CONFERENCE COMMITTEE REPORT
SENATE BILL 531

Senator Henderson submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 531** 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.

HENDERSON	VOWELL
CAPERTON	ECKELS
HARRIS	GIBSON
McFARLAND	P. HILL
SIMS	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the continuation and operation of the State Property Tax Board.

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

SECTION 1. Section 5.01, Tax Code, is amended by amending Subsections (a) and (d) and adding Subsection (j) to read as follows:

(a) The State Property Tax Board is established. The board consists of six members appointed by the governor with the advice and consent of the senate. All members must be representatives of the general public. In making the appointments, the governor, to the extent practicable, shall select persons so that each geographical area of the state is represented. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(d) A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered with or certified by the Board of Tax Professional Examiners;

(2) is employed by or participates in the management of a school district, an appraisal district, the office of a tax assessor or tax collector, or a business entity or other organization that is substantially and directly affected by the activities of the board or that does substantial business with the board; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses [~~After March 1, 1983, at least two members must be certified by the Board of Tax Assessor Examiners~~].

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

SECTION 2. Chapter 5, Tax Code, is amended by adding Section 5.011 to read as follows:

Sec. 5.011. GROUNDS FOR REMOVAL OF BOARD MEMBERS. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the applicable qualifications required by Section 5.01 of this code;

(2) does not maintain during service on the board the applicable qualifications and other eligibility conditions required by Section 5.01 of this code;

(3) violates a prohibition established by Section 5.022 of this code;

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

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless 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 is taken when a ground for removal of a board member exists.

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

SECTION 3. Section 5.02, Tax Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) The director shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(d) The director shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

(e) The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(f) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

SECTION 4. Chapter 5, Tax Code, is amended by adding Section 5.021 to read as follows:

Sec. 5.021. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director of the board shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under 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 board work force that meets federal and state guidelines;

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

(4) reasonable methods to appropriately address those areas of significant underutilization.

(b) A policy statement prepared under Subsection (a) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 5. Chapter 5, Tax Code, is amended by adding Section 5.022 to read as follows:

Sec. 5.022. RESTRICTIONS ON BOARD MEMBERSHIP AND EMPLOYMENT. (a) An officer, employee, or paid consultant of a Texas trade association in the field of property taxation may not be a member of the board or an employee of the board who is exempt from the state's position classification plan or 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.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of property taxation may not be a board member and may not be a board employee who is exempt from the state's position classification plan or 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.

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

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 6. Subsection (c), Section 5.05, Tax Code, is amended to read as follows:

(c) The board shall provide without charge one copy of all materials to officials of local government who are responsible for administering the property tax system. If a local government official requests more than one copy, the board may charge a reasonable fee to offset the costs of printing and distributing the materials. The board [~~it~~] shall make the materials available to members of the public but may charge a reasonable fee to offset the costs of printing and distributing the materials.

SECTION 7. Section 5.06, Tax Code, is amended to read as follows:

Sec. 5.06. EXPLANATION OF TAXPAYER REMEDIES. (a) The board shall prepare and publish a pamphlet explaining the remedies available to dissatisfied taxpayers and the procedures to be followed in seeking remedial action. It shall include in the pamphlet advice on preparing and presenting a protest.

(b) The board shall provide without charge a reasonable number of copies of the pamphlet to any person on request. The board may charge a person who requests multiple copies of the pamphlet a reasonable fee to offset the costs of printing and distributing those copies. The board at its discretion shall determine the number of copies that a person may receive without charge.

SECTION 8. Section 5.09, Tax Code, is amended to read as follows:

Sec. 5.09. ANNUAL REPORTS [~~REPORT~~]. (a) The board shall publish an annual report of its operations under this code and of the operations of the appraisal districts. The report shall include for each appraisal district, each county, and each school district and may include for other taxing units the total appraised values, assessed values, and taxable values of taxable property by class of property, the assessment ratio, and the tax rate.

(b) The board shall deliver a copy of each annual report published under Subsection (a) of this section to the governor, the lieutenant governor, and each member of the legislature.

(c) The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year. The annual report required by this subsection must be in the form and reported in the time provided by the General Appropriations Act.

SECTION 9. Section 5.10, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In conducting a study under this section, the executive director or the director's authorized representative may enter the premises of a business, trade, or profession and inspect the property to determine the existence and market value of property used for the production of income. An inspection under this subsection must be made during normal business hours or at a time mutually agreeable to the executive director or the director's authorized representative and the person in control of the premises.

SECTION 10. Chapter 5, Tax Code, is amended by adding Section 5.101 to read as follows:

Sec. 5.101. TECHNICAL ADVISORY COMMITTEE. (a) The board shall appoint a technical advisory committee on the recommendation of the executive director for the purpose of providing professional and practical expertise to the board and to review and comment on the methodology used by the board to conduct the annual studies required by Section 5.10 of this code and by Section 11.86, Education Code. A member of the committee serves at the will of the board.

(b) The committee shall:

(1) review the methodology used by the board to conduct the studies described in Subsection (a) of this section;

(2) make an annual report to the board that includes the committee's findings and recommendations relating to the methodology used to conduct the studies; and

(3) meet as often as necessary to perform its duties, but not less often than semi-annually.

(c) The board shall appoint the committee to provide for a balanced representation of the general public and of professionals affiliated with the entities affected by the studies.

(d) Each member of the committee must have expertise sufficient to determine the accuracy of the annual studies and the appropriateness of the methods used to develop the findings of the studies.

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

(f) A member of the committee may receive compensatory per diem for serving on the committee and is entitled to reimbursement for transportation expenses and the per diem meals and lodging allowance as provided for board and commission members in the General Appropriations Act.

(g) The board shall make the committee's annual report available to the public on request.

SECTION 11. Section 5.11, Tax Code, is amended to read as follows:

Sec. 5.11. APPLICATION OF SUNSET ACT. The State Property Tax Board is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished September 1, 2001 [~~1989~~].

SECTION 12. Chapter 5, Tax Code, is amended by amending Section 5.12 and adding Section 5.13 to read as follows:

Sec. 5.12. PERFORMANCE AUDIT OF APPRAISAL DISTRICT. (a) The board shall audit the performance of an appraisal district if one or more of the following conditions exist according to each of two consecutive annual studies conducted by the board under Section 5.10 of this code, regardless of whether the prescribed condition or conditions that exist are the same for each of those studies:

(1) the overall median level of appraisal for all property in the district for which the board determines a median level of appraisal is less than 0.75;

(2) the coefficient of dispersion around the overall median level of appraisal of the properties used to determine the overall median level of appraisal for all property in the district for which the board determines a median level of appraisal exceeds 0.30; or

(3) the difference between the median levels of appraisal for any two classes of property in the district for which the board determines a median level of appraisal is more than 0.45.

(b) At the written request of the governing bodies of a majority of the taxing units participating in an appraisal district or of a majority of the taxing units entitled to vote on the appointment of appraisal district directors, the board [~~State Property Tax Board~~] shall audit the performance of the appraisal district. The governing bodies may request a general audit of the performance of the appraisal district, or may request an audit of only one or more particular duties, practices, functions, departments, or other appraisal district matters.

(c) [~~(b)~~] At the written request of the owners of not less than 10 percent of the number of accounts or parcels of property in an appraisal district belonging to a single class of property [~~established by the State Property Tax Board for purposes of the study conducted under Section 11.86, Education Code~~], if the class constitutes at least five percent of the appraised value of taxable property within the district in the preceding year, or at the written request of the owners of property representing not less than 10 percent of the appraised value of all property in the district belonging to a single class of property [~~established for purposes of the study conducted by the board under Section 11.86, Education Code~~], if the class

constitutes at least five percent of the appraised value of taxable property in the district in the preceding year, the board shall audit the performance of the appraisal district. The property owners may request a general audit of the performance of the appraisal district, or may request an audit of only one or more particular duties, practices, functions, departments, or other appraisal district matters. A property owner may authorize an agent to sign a request for an audit under this subsection on the property owner's behalf. The board may require a person signing a request for an audit to provide proof that the person is entitled to sign the request as a property owner or as the agent of a property owner.

(d) A request for a performance audit of an appraisal district may not be made under Subsection (b) or (c) of this section if according to each of the two most recently published annual studies conducted by the board under Section 5.10 of this code:

(1) the overall median level of appraisal for all property in the district for which the board determines a median level of appraisal is more than 0.90 and less than 1.10;

(2) the coefficient of dispersion around the overall median level of appraisal of the properties used to determine the overall median level of appraisal for all property in the district for which the board determines a median level of appraisal is less than 0.15; and

(3) the difference between the highest and lowest median levels of appraisal in the district for the classes of property for which the board determines a median level of appraisal is less than 0.20.

(e) A request for a performance audit of an appraisal district may not be made under Subsection (b) or (c) of this section:

(1) during the two years immediately following the publication of the second of two consecutive annual studies according to which the board is required to conduct an audit of the district under Subsection (a) of this section; or

(2) during the year immediately following the date the results of an audit of the district conducted by the board under Subsection (a) of this section are reported to the chief appraiser of the district.

(f) For purposes of this section, "class of property" means a major kind of property for which the board determines a median level of appraisal under Section 5.10 of this code.

(g) The results of an annual study conducted by the board for a tax year before 1989 may not be considered for purposes of determining whether an audit is required under Subsection (a) of this section.

Sec. 5.13. ADMINISTRATION OF PERFORMANCE AUDITS. (a) The board shall complete an audit required by Section 5.12(a) of this code within two years after the date of the publication of the second of the two annual studies the results of which required the audit to be conducted. [~~(c)~~] The board shall complete [~~perform~~] an audit requested under Section 5.12(b) or (c) of this code [~~this section~~] as soon as practicable after the request is made.

(b) The board may not [~~be required to~~] audit the financial condition of an appraisal district or [~~to audit~~] a district's tax collections. If the request is for an audit limited to one or more particular matters, the board's audit must be limited to those matters.

(c) The board must approve the specific plan for the performance audit of an appraisal district. Before approving an audit plan, the board must provide any interested person an opportunity to appear before the board and to comment on the proposed plan. Not later than the 20th day before the date the board considers the plan for an appraisal district performance audit, the board must notify the presiding officer of the appraisal district board of directors that the board intends to consider the plan. The notice must include the time, date, and place of the

meeting to consider the plan. Immediately after receiving the notice, the presiding officer shall deliver a copy of the notice to the other members of the appraisal district board of directors.

(d) In conducting a general audit, the board shall consider and report on:

(1) the extent to which the district complies with applicable law or generally accepted standards of appraisal or other relevant practice;

(2) the uniformity and level of appraisal of major kinds of property and the cause of any significant deviations from ideal uniformity and equality of appraisal of major kinds of property;

(3) duplication of effort and efficiency of operation;

(4) the general efficiency, quality of service, and qualification of appraisal district personnel; and

(5) except as otherwise provided by Subsection (b) [~~(c)~~] of this section, any other matter included in the request for the audit.

(e) In conducting the audit, the board is entitled to have access at all times to the books, appraisal and other records, reports, vouchers, and other information, whether confidential or not, of the appraisal district. The board may require the assistance of appraisal district officers or employees that does not interfere significantly with the ordinary functions of the appraisal district. The board may rely on any analysis it has made previously relating to the appraisal district if the previous analysis is useful or relevant to the audit.

(f) The board shall report the results of its audit in writing to the governing body of each taxing unit that participates in the appraisal district, to the chief appraiser, and to the presiding officer of the appraisal district board of directors. If the audit was requested under Section 5.12(c) of this code [~~Subsection (b) of this section~~], the board shall also provide a report to a representative of the property owners who requested the audit.

(g) If the audit is required or requested under Section 5.12(a) or (b) of this code [~~Subsection (a) of this section~~], the appraisal district shall reimburse the board for the costs incurred in conducting the audit and making its report of the audit. The costs shall be allocated among the taxing units participating in the district in the same manner as an operating expense of the district. If the audit is requested under Section 5.12(c) of this code [~~Subsection (b) of this section~~], the property owners who requested the audit shall reimburse the board for the costs incurred in conducting the audit and making its report of the audit and shall allocate the costs among those property owners in proportion to the appraised value of each property owner's property in the district or on such other basis as the property owners may agree. If the audit confirms that the median level of appraisal for a class of property exceeds 1.10 [~~110 percent~~] or that the median level of appraisal for a class of property varies at least 10 percent from the overall median level of appraisal for [~~of~~] all property in the district for which the board determines a median level of appraisal, within 90 days after the date a request is made by the property owners for reimbursement the appraisal district shall reimburse the property owners who requested the audit for the amount paid to the board for the costs incurred in conducting the audit and making the report. Before conducting an audit under Section 5.12(c) [~~this section~~], the board may require the requesting taxing units or property owners to provide the board with a bond, deposit, or other financial security sufficient to cover the expected costs of conducting the audit and making the report. For purposes of this subsection [~~section~~], "costs" include expenses related to salaries, professional fees, travel, reproduction or other printing services, and consumable supplies that are directly attributable to conducting the audit.

(h) At any time after the request for an audit is made, the board may discontinue the audit in whole or part if requested to do so by:

(1) the governing bodies of a majority of the taxing units participating in the district, if the audit was requested by a majority of those units;

(2) the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district directors, if the audit was requested by a majority of those units; or

(3) if the audit was requested under Section 5.12(c) of this code [~~Subsection (b) of this section~~], by the taxpayers who requested the audit.

(i) The board by rule may adopt procedures, audit standards, and forms for the administration of the performance audits [~~this section~~].

SECTION 13. Chapter 5, Tax Code, is amended by adding Sections 5.14 and 5.15 to read as follows:

Sec. 5.14. PUBLIC ACCESS, INFORMATION, AND COMPLAINTS. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the board's programs.

(c) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.

(d) If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

(e) The board shall keep an information file about each complaint filed with the board that the board has authority to resolve.

Sec. 5.15. EXAMINATIONS. (a) If the board administers an examination for itself or for another state agency that a person must pass as part of a certification, licensing, or permit process, the board shall notify each person taking the examination of the result of the examination not later than the 30th day after the date the examination is administered. However, if an examination administered by the board is graded by a national testing service, the board shall notify a person taking the examination of the result of the examination not later than the 14th day after the date the board receives the results from the testing service. If the notice of the results of an examination graded or reviewed by a national testing service is delayed for more than 90 days after the examination date, the board shall notify the person who took the examination of the reason for the delay before the 90th day.

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

SECTION 14. Section 17.091, Civil Practice and Remedies Code, is amended by adding Subsection (e) to read as follows:

(e) Service of process on the executive director under this section must be accompanied by a $25 fee for the maintenance by the board of a record of the service of process. The fee for the executive director's certification of the service of process on the defendant or of any other matter related to the service of process is $10.

SECTION 15. Section 6.05, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) The board of directors of an appraisal district by resolution may prescribe that specified actions of the chief appraiser relating to the finances or administration of the appraisal district are subject to the approval of the board.

SECTION 16. (a) This Act takes effect September 1, 1989.

(b) The change in law made by this Act in the qualifications and eligibility for membership on the State Property Tax Board does not affect the eligibility of a person serving on the board when this Act takes effect to serve for the remainder of the term the person is serving when this Act takes effect.

(c) The first equal employment opportunity policy statement required to be filed under Section 5.021, Tax Code, as added by this Act, must be filed before November 1, 1989.

(d) The change in law made by this Act to the procedures for conducting a performance audit of an appraisal district applies to an audit requested under Section 5.12, Tax Code, before the effective date of this Act. However, the change in law made by this Act does not invalidate a valid request for a performance audit made before the effective date even if the request would not be valid under the law as amended by this Act.

SECTION 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 40 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **S.B. 40**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Green, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

CONFERENCE COMMITTEE ON HOUSE BILL 863

Senator Parker 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. 863** 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. 863** 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 Parker, Chairman; McFarland, Brooks, Leedom and Green.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 95 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **S.B. 95**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Parker, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Henderson and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 531**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 531 ADOPTED

Senator Henderson called from the President's table the Conference Committee Report on **S.B. 531**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Henderson, the Conference Committee Report was adopted viva voce vote.

(Senator Caperton in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 911

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. 911** 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. 911** 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; Barrientos, Armbrister, Whitmire and Tejeda.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 479 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **S.B. 479**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted viva voce vote.

LEGISLATIVE INTENT STATEMENT

It would be the legislative intent that this statement should be read literally: it is a situation where there is a direct threat to the health or safety. It would have to be based on scientific and medical definitions of transmission of HIV, not mere prejudice or apprehension of the disease by coworkers or employers.

A case would have to meet the test of possible transmission in the workplace based on the guidelines of possible transmission as set forth by the Centers for Disease Control of the U.S. Public Health Service and to meet the definition of a bona fide occupational qualification as set out in the Communicable Disease Act, which says that a bona fide occupational qualification means a qualification: (A) that is reasonably related to the satisfactory performance of the duties of a job; and (B) for which there is a reasonable cause for believing that a person of the excluded group would be unable to perform satisfactorily the duties of the job with safety.

AIDS and HIV are not casually transmitted and this language of "direct threat to the health and safety of other persons" is to be interpreted where there is a direct

opportunity for transmission of the virus through blood or body fluid contact that could reasonably be able to cause a subsequent infection.

BARRIENTOS

CONFERENCE COMMITTEE REPORT
SENATE BILL 417

Senator Green submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 417** 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	HAMMOND
BARRIENTOS	GIBSON
HALEY	GRUSENDORF
PARKER	GRANOFF
WHITMIRE	GUERRERO
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the continuation, operation, and administration of the Central Education Agency, the participation of the Central Education Agency and certain other state agencies in a competitive cost review program, the Teachers' Professional Practices Commission, proprietary schools, certain educational programs designed to meet special needs, and adopting, collecting, and paying certain taxes by school districts; providing a penalty.

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

ARTICLE I. AGENCY ADMINISTRATION

SECTION 1.01. Section 11.011, Education Code, is amended to read as follows:

Sec. 11.011. APPLICATION OF SUNSET ACT. The Central Education Agency is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the agency is abolished September 1, 2001 [~~1989~~].

SECTION 1.02. Chapter 11, Education Code, is amended by adding Section 11.021 to read as follows:

Sec. 11.021. COOPERATION BETWEEN STATE AGENCIES OF EDUCATION. (a) It is the policy of the State of Texas that the entire system of education supported with public funds be coordinated to provide the citizens with efficient, effective, and high quality educational services and activities. The State Board of Education and the Texas Higher Education Coordinating Board, in conjunction with such other agencies as may be appropriate, shall ensure that long-range plans and educational programs established by the boards complement the functioning of the entire system of public education, extending from early

childhood education through postgraduate study. In assuring that plans and programs are coordinated, the boards shall utilize the joint advisory committee established under Section 61.077 of this code.

(b) The joint advisory committee shall coordinate plans and programs of the two boards, including curricula, instructional programs, research, and other functions as appropriate. This coordination shall include but is not limited to the following areas:

(1) equal educational opportunity for all Texans;

(2) college recruitment, with special emphasis on the recruitment of minority students;

(3) preparation of high school students for further study at colleges and universities;

(4) reduction of the dropout rate and dropout prevention;

(5) teacher education; and

(6) testing and assessment.

SECTION 1.03. Chapter 11, Education Code, is amended by adding Section 11.191 to read as follows:

Sec. 11.191. ACADEMIC PROGRAMS FOR CERTAIN CHILDREN BELOW GRADE LEVEL. The Central Education Agency shall:

(1) finance pilot projects for a variety of intensive academic programs for students in the first through third grades who are performing below grade level in mathematics or English language arts;

(2) evaluate existing school district programs for those students; and

(3) provide information to school districts on the programs that are successful.

SECTION 1.04. Chapter 11, Education Code, is amended by adding Section 11.2051 to read as follows:

Sec. 11.2051. FAMILY LIFE OR SELF-RESPONSIBILITY EDUCATION DATA. The Central Education Agency shall collect and maintain data relating to family life education and self-responsibility education in public schools in this state.

SECTION 1.05. Subsection (c), Section 11.26, Education Code, is amended to read as follows:

(c) With the advice and assistance of the state commissioner of education, the State Board of Education shall:

(1) formulate and present to the governor and Legislative Budget Board the proposed budget or budgets for operating the Foundation School Program, the Central Education Agency, and the other programs for which it has responsibility;

(2) adopt operating budgets on the basis of appropriation by the legislature;

(3) establish procedures for budgetary control, expending, auditing, and reporting on expenditures within the budgets adopted;

(4) make to the legislature biennial reports covering all the activities and expenditures of the Central Education Agency;

(5) adopt rules for the accreditation of schools;

(6) execute contracts for the purchase of instructional aids, including textbooks, within the limits of authority granted by the legislature;

(7) execute contracts for the investment of the permanent school fund, within the limits of authority granted by Chapter 15 of this code;

(8) adopt rules consistent with Chapter 13 of this code for certification of teachers, administrators, and other professional personnel customarily employed in public schools;

(9) adopt rules requiring school districts to notify parents of students of a teacher teaching a subject for which the teacher is not certified, unless the

teacher is serving an internship under Section 13.035 of this code, or the teacher has at least 24 semester credit hours in the subject, or the teacher is teaching under an emergency permit and is making satisfactory progress toward completion of a deficiency plan;

(10) consider the athletic necessities and activities of the public schools of Texas and in advance of each regular session of the legislature specifically report to the governor of Texas the proper and lawful division of time and money to be devoted to athletics, holidays, legal and otherwise, and to educational purposes; and

(11) [~~(10)~~] on or before May 15 of each year, formulate and transmit to the Advisory Council on Technical-Vocational Education a list of evaluation topics that address developing and future concerns of the board in the field of technical-vocational education.

SECTION 1.06. Section 11.32, Education Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g) Each Regional Education Service Center, within each six-year [~~five-year~~] period, shall:

(1) perform a self-study of the effectiveness of its services to school districts;

(2) invite a panel of distinguished personnel from other service centers, public school administrators, and other persons deemed appropriate by the service center board to evaluate the practices and services provided by the service center; and

(3) be subject to a management and service audit conducted by the Central Education Agency.

(h) The Central Education Agency shall conduct an annual evaluation of the basic educational services provided by the regional centers. The State Board of Education shall review the results of the evaluations at least every six years to determine the need for the continuance, consolidation, or reorganization of the regional centers.

SECTION 1.07. Chapter 11, Education Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. AGENCY ADMINISTRATION PROVISIONS

Sec. 11.901. DEFINITIONS. In this subchapter:

(1) "Agency" means the Central Education Agency.

(2) "Board" means the State Board of Education.

(3) "Commissioner" means the commissioner of education.

Sec. 11.902. EMPLOYMENT POLICY STATEMENT. (a) 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 under 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 agency work force that meets federal and state guidelines;

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

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under Subsection (a) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 11.903. CAREER LADDER PROGRAM. The commissioner or the commissioner's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

Sec. 11.904. JOB PERFORMANCE EVALUATIONS. The commissioner or the commissioner's designee shall develop a system of annual performance evaluations. All merit pay for agency employees must be based on the system established under this section.

Sec. 11.905. PROFESSIONAL INFORMATION FOR MEMBERS AND EMPLOYEES. The board shall provide to its members and to agency employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 11.906. DIVISION OF RESPONSIBILITY. The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the agency.

Sec. 11.907. PUBLIC INTEREST INFORMATION; COMPLAINTS. (a) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.

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

(1) on each registration form, application, or written contract for services of an individual or entity regulated under this title; and

(2) on a sign prominently displayed in the place of business of each individual or entity regulated under this title, including in each public school.

(c) If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(d) The board shall keep an information file about each written complaint filed with the board that the board has authority to resolve.

Sec. 11.908. PUBLIC TESTIMONY. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 11.909. PROGRAM ACCESS. The board shall prepare and maintain a written plan for the provision of access to the board's programs to a person who does not speak English or who has a physical, mental, or developmental disability.

Sec. 11.910. INTERNAL AUDIT. (a) The commissioner shall appoint an agency auditor. The appointment is subject to the approval of the board.

(b) The board by rule shall require the auditor to report to the board under circumstances specified in the rule. Except as provided by that rule, the auditor shall report to the commissioner.

(c) The board shall appoint an appropriate committee of the board to meet at least quarterly with the auditor.

(d) The auditor shall coordinate the agency's efforts to evaluate and improve its internal management information. The state auditor shall review the quality and effectiveness of the agency's process for developing internal management information.

Sec. 11.911. REPORT TO GOVERNOR, LEGISLATURE. The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

Sec. 11.912. MINORITY AND FEMALE-OWNED BUSINESS CONTRACTS. (a) The agency shall establish policies to encourage minority and female-owned small businesses to bid for agency contract and open market purchases and to assist those businesses in that bidding. The agency shall review the policies periodically to correct any deficiencies in the policies.

(b) The agency annually shall determine the number, types, and value of contracts awarded to minority and female-owned small businesses in the year preceding the determination and the ratio of the number and the value of those contracts to the number and the value of all contracts awarded by the agency in that year.

(c) The agency shall file the policies established under this section with the Texas Department of Commerce and the State Purchasing and General Services Commission. The commission shall conduct an analysis of the agency's policies and the policies' effectiveness and shall report the analysis to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(d) In this section, "minority or female-owned small business" means a business enterprise:

(1) that is an independently owned and operated business enterprise, formed for the purpose of making a profit, that has fewer than 100 employees or less than $1 million in annual gross receipts; and

(2) at least 51 percent of which is owned or controlled by one or more socially and economically disadvantaged persons who are socially disadvantaged because of their identification as members of certain groups, including women, black Americans, Mexican-Americans and other Americans of Hispanic origin, Asian-Americans, and American Indians.

Sec. 11.913. PERFORMANCE AUDITS. (a) The legislative audit committee shall select a management firm to conduct a performance audit of the Central Education Agency during:

(1) the fiscal biennium ending August 31, 1991;

(2) the fiscal biennium ending August 31, 1995; and

(3) the fiscal biennium ending August 31, 1999.

(b) An advisory committee composed of the chairman of the State Board of Education, the state auditor, and a member of the Legislative Education Board, appointed to the committee by that board, shall review bids submitted by management firms for the audits and recommend a firm to the legislative audit committee for approval. The management firm selected shall submit periodic progress reports to the advisory committee, which the advisory committee shall review.

(c) The state auditor shall propose the audit scope for each performance audit for approval by the legislative audit committee and the Legislative Budget Board. The state auditor shall consult the State Board of Education concerning the proposed audit scope.

(d) The state auditor shall provide contract management for the audit.

(e) The management firm shall make recommendations to the legislative audit committee, the Legislative Education Board, and the State Board of Education, including proposed drafts of legislation necessary to implement the recommendations.

(f) The costs of the audit shall be paid by the state auditor from funds available for that purpose.

(g) This section expires September 1, 1999.

SECTION 1.08. Section 13.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) The agency shall report the status of its activities under this article to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each year. The agency shall report that information to the legislature not later than December 31 of each even-numbered year and shall include in the report the schedule adopted under this section for the following year.

SECTION 1.09. Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

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; and

(4) the Central Education Agency.

SECTION 1.10. (a) The first policy statement required to be filed under Section 11.902, Education Code, as added by this Act, must be filed before November 1, 1989.

(b) The Central Education Agency shall file the initial policies established under Section 11.912, Education Code, as added by this Act, with the Texas Department of Commerce and the State Purchasing and General Services Commission not later than September 1, 1990.

(c) In 1989 and 1990 the Central Education Agency is required to identify only one commercial activity for competitive cost review under Section 13.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

SECTION 1.11. (a) The Central Education Agency shall continue the joint task force on emotional disturbance composed of members of the Central Education Agency and the Texas Department of Mental Health and Mental Retardation to conduct a study to evaluate and make recommendations concerning:

(1) the appropriateness and cost-effectiveness of residential placements of students with emotional disturbance;

(2) the creation of appropriate community-based networks of outpatient services for students who are emotionally disturbed who would otherwise be placed in a residential placement;

(3) the creation of a family-centered response and intervention system for students with emotional disabilities and their families; and

(4) early intervention and prevention strategies including early identification of students with emotional disabilities.

(b) The joint task force shall report the results of the study to the legislature not later than January 31, 1991.

ARTICLE II. REGULATION OF PUBLIC SCHOOLS AND TEACHERS

SECTION 2.01. Chapter 11, Education Code, is amended by adding Section 11.2052 to read as follows:

Sec. 11.2052. PILOT PROGRAM FOR ELEMENTARY STUDENTS. (a) The Central Education Agency shall establish a pilot program in the 1989-1990 and 1990-1991 school years to identify a wide variety of intervention strategies for use with elementary school students who are at risk of dropping out of school.

(b) The program shall designate teams of school guidance counselors and school social workers to identify and coordinate support services for students identified under Section 11.205(c) of this code as students at high risk of dropping

out of school. The agency may allow for variations in the composition of the team in consideration of the size of the district and other appropriate factors.

(c) To participate in the pilot program, a school district must apply to the agency. The agency shall give preference to the districts that have a high dropout rate.

(d) Each district selected by the agency to participate in the pilot program shall:

(1) coordinate the use of all funds available for the program;

(2) direct a certified school guidance counselor in a variety of intervention strategies, including:

(A) providing for individual and group counseling to at-risk students for the purpose of resolving problems affecting the students' educational experience;

(B) consulting with parents and teachers regarding the enhancement of the students' educational experience;

(C) developing a program for the improvement of the students' self-esteem, interpersonal skills, decision-making skills, career awareness, and responsible citizenship; and

(D) working with other school staff members to develop a testing and assessment program to identify students' abilities, aptitudes, achievements, and interests to teach the students more effectively;

(3) direct a school social worker who is certified by the state and has a master's degree in social work in a variety of intervention strategies, including:

(A) serving as a case manager by coordinating family, school, and community resources the benefit of which an at-risk student receives from the student's educational program; and

(B) providing counseling or casework for an at-risk student and the student's family to enhance the student's educational experience; and

(4) assist the agency in evaluating the program's effectiveness.

(e) The agency shall conduct a study to evaluate the effectiveness of the pilot program in improving attendance, behavior, and academic achievement at the elementary level and shall report the results of the study to the 72nd Legislature not later than February 1, 1991. The report shall include recommendations for cost-effective implementation of intervention programs for elementary students throughout the state who are at risk of dropping out of school.

(f) This section expires August 31, 1991.

SECTION 2.02. Section 11.207, Education Code, as added by Chapter 848, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

Sec. 11.207. INSERVICE TRAINING AND PREPARATION. As a part of the teacher inservice training and preparation required under Section 16.052 of this code, for each school year the State Board of Education by rule shall require instruction in subject areas that the board considers appropriate. The subject areas may include but are not limited to:

(1) special education;

(2) recognition of and response to signs of abuse or neglect in students;

(3) recognition of dyslexia and related disorders in students and teaching strategies for those students;

(4) discipline management training; [~~and~~]

(5) teacher appraisal; and

(6) recognition of and response to signs of emotional disturbance in students and to teaching and intervention strategies for those students and their families.

SECTION 2.03. Chapter 11, Education Code, is amended by adding Section 11.27 to read as follows:

Sec. 11.27. INNOVATIVE EDUCATIONAL PROGRAMS. (a) The State Board of Education shall establish a process and standards by which a limited number of programs developed by school districts rated as exemplary under Section 21.753 of this code may be approved by the board to implement innovative educational practices at a school or schools in the district.

(b) For a program to be approved under this section:

(1) the approval must be supported by the school board, the superintendent, the school's principal, and at least a majority of the teachers of the school; and

(2) the program must provide specific procedures for the evaluation of the program.

(c) A program approved under this section may not result in an increase in the amount of state funds allocated to the district or a decrease in the amount allocated to any other district.

(d) If an innovative educational program proposes a deviation from a requirement or prohibition imposed by state law or rule, final approval of the program by the State Board of Education constitutes a waiver of the requirement or prohibition for the duration of the program. A prohibition on conduct that constitutes a criminal offense may not be waived.

(e) The State Board of Education shall report to the Legislative Education Board the innovative educational programs requested and approved.

SECTION 2.04. Subsection (a), Section 13.035, Education Code, is amended to read as follows:

(a) To provide a continuing additional source of qualified teachers and administrators, the [~~The~~] State Board of Education by rule shall provide for teacher and administrator certification programs as an alternative to [~~the certification of persons who are not graduates of~~] teacher education programs. The rules may not provide that a person may be certified under this section only if there is a demonstrated shortage of teachers in a school district or subject area.

SECTION 2.05. Section 13.036, Education Code, as added by Chapter 836, Acts of the 70th Legislature, Regular Session, 1987, is amended by adding Subsection (d) to read as follows:

(d) A teacher teaching under an emergency permit who does not perform satisfactorily on an examination or portion of an examination prescribed by the State Board of Education under Section 13.032(e) of this code designed to test knowledge of pedagogical methods, history of education, or child psychology the first time the teacher takes the examination may continue to teach under an emergency permit for a period not to exceed one year from the date the teacher first took the examination.

SECTION 2.06. Section 13.302, Education Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) The State Board of Education by rule shall require the renewal of an appraiser's certification at regular intervals of not more than three years and shall require certification renewal within that period if substantial changes are made to the appraisal process.

(h) The State Board of Education shall evaluate the effectiveness of the appraisal process. The Central Education Agency shall monitor the implementation of the appraisal process and biennially recommend modifications to the process to the board.

SECTION 2.07. Chapter 13, Education Code, is amended by adding Section 13.3531 to read as follows:

Sec. 13.3531. PRINCIPAL DEVELOPMENT GRANTS AND SCHOLARSHIPS. (a) The Central Education Agency may establish a program to provide:

(1) grants to institutions and organizations that provide exemplary administrative training and education for principals; and

(2) scholarships to principals to attend training programs approved by the agency.

(b) To be approved by the agency for a grant under this section or for the purpose of attendance of principals under a scholarship awarded under this section, a training program must:

(1) be designed as a short-term, intensive program to develop instructional leadership skills and the ability of a principal to implement those skills at the principal's school;

(2) receive funding from the business community; and

(3) systematically evaluate the effectiveness of its training.

(c) The value of a scholarship awarded under this section may not exceed $600 for one year and may be awarded only to a principal in a district with limited resources, as defined by the agency.

(d) Grants and scholarships may be awarded under this section from funds appropriated for that purpose and from grants for the promotion of administrative training for school administrators.

SECTION 2.08. Subsection (b), Section 13.352, Education Code, is amended to read as follows:

(b) The qualification for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements. Supervised and approved on-the-job experience in addition to required internship shall be accepted in lieu of classroom hours. The qualifications for certification as a principal shall emphasize:

(1) instructional leadership;

(2) administration, supervision, and communication skills;

(3) curriculum and instruction management;

(4) performance evaluation;

(5) organization; and

(6) fiscal management.

SECTION 2.09. Subsection (d), Section 16.056, Education Code, is amended to read as follows:

(d) The following positions are entitled to the minimum monthly salary set by Subsection (c) of this section for the number of annual contract months specified:

No. Months Paid	Class Title
10	Nurse, R.N. and/or Bachelor's Degree
10	Special Education Related Service Personnel (other than Occupational or Physical Therapist), Bachelor's Degree
10	Teacher, Bachelor's Degree
10	Vocational Teacher,
11	Bachelor's Degree and/or
12	Certified in Field
10	Librarian I, Bachelor's Degree

10	Visiting Teacher I, Psychological Associate, Bachelor's Degree
10	Special Education Related Service Personnel (other than Occupational or Physical Therapist), Master's Degree
10	Teacher, Master's Degree
10	Vocational Teacher,
11	Master's Degree
12	
10	Librarian II, Master's Degree
10	Physician, M.D.
10	Teacher, Bachelor of Laws or Doctor of Jurisprudence Degree
10	Teacher, Doctor's Degree
10	Special Duty Teacher, Master's Degree
10	Occupational Therapist
10	Physical Therapist
10	Educational Diagnostician
10	Visiting Teacher II, Master's Degree
10	Counselor I, Psychologist
10	School Social Worker
10	Supervisor I
10	Part-time Principal—11 or fewer teachers on campus
10	Instructional/Administrative Officer I
10	Assistant Principal—20 or more teachers on campus
10	Instructional/Administrative Officer II
11	Principal—19 or fewer teachers on campus
10	Instructional/Administrative Officer III
11	Principal—20-49 teachers on campus
11	Instructional/Administrative Officer IV
11	Principal—50-99 teachers on campus
12	Principal—100 or more teachers on campus
12	Instructional/Administrative Officer V
12	Instructional/Administrative Officer VI

12	Superintendent—District with 3,000 or less ADA
12	Instructional/Administrative Officer VII
12	Superintendent—District with 3,001-12,500 ADA
12	Instructional/Administrative Officer VIII
12	Superintendent—District with 12,501-50,000 ADA
12	Superintendent—District with 50,000 or more ADA

SECTION 2.10. Chapter 21, Education Code, is amended by adding Section 21.009 to read as follows:

Sec. 21.009. YEAR-ROUND SYSTEM. (a) The State Board of Education may adopt rules under which a school district may operate its schools year-round.

(b) The rules may modify the contract days of employees and the days of operation otherwise required by law.

(c) The operation of schools year-round by a district does not affect the amount of state funds to which the district is entitled under Chapter 16 of this code.

SECTION 2.11. Subsections (b) and (c), Section 21.031, Education Code, are amended to read as follows:

(b) Every child in this state who is a citizen of the United States or a legally admitted alien and who is over the age of five years and not over the age of 21 years on the first day of September of the year in which admission is sought shall be permitted to attend the public free schools of the district in which the child or [~~he resides or in which~~] his parent resides at the time he applies for admission; the child and his[;] guardian[;] or other [~~the~~] person having lawful control of him under an order of a court reside [~~resides~~] at the time he applies for admission; or the child has established a separate residence under Subsection (d) of this section. A district may require evidence that a child is eligible to attend the public free schools of the district at the time the district considers an application for admission of the child.

(c) The board of trustees of any public free school district of this state shall admit into the public free schools of the district free of tuition all persons who are either citizens of the United States or legally admitted aliens and who are over five and not over 21 years of age at the beginning of the scholastic year if such person or his parent resides within the school district; such person and his[;] guardian or other person having lawful control of him under an order of a court reside [~~resides~~] within the school district; or such person has established a separate residence under Subsection (d) of this section.

SECTION 2.12. Section 21.041, Education Code, is amended to read as follows:

Sec. 21.041. ABSENCES. (a) Except as provided by this section, a [~~A~~] student may not be given credit for a class unless the student is in attendance for at least 80 days [~~if the student has more than five days of unexcused absence~~] during a semester.

(b) The board of trustees of each school district shall appoint one or more attendance committees to hear petitions for class credit by students who are in attendance fewer than 80 days during a semester. Each board may determine the number of committees needed in the district and the composition of each committee. The committees may give class credit to a student who is in attendance fewer than 80 days during a semester because of extenuating circumstances. Each

local school board shall establish guidelines to determine what constitutes extenuating circumstances, subject to rules adopted by the State Board of Education, and shall adopt policies establishing alternative ways for students to make up work or regain credit lost because of absences. The State Board of Education shall submit its rules adopted under this section to the Legislative Education Board for review to ensure compliance with legislative intent. A certified public school employee may not be assigned additional instructional duties as a result of this section outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

(c) A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee.

(d) If a student is denied credit for a class by an attendance committee, the student may appeal the decision to the board. The decision of the board may be appealed by trial de novo to the district court of the county in which the school district's central administrative office is located.

(e) This section does not affect the provision of Section 21.035(f) of this code regarding a student's excused absence from school to observe religious holy days [~~In this section, "unexcused absence" means an absence not excused under Section 21.035 of this code~~].

SECTION 2.13. (a) Section 21.136, Education Code, is amended by amending Subsections (b), (e), and (f) and adding Subsection (g) to read as follows:

(b) Unless a child is enrolled under Subsection (g) of this section, to [~~To~~] be eligible for enrollment in a prekindergarten class a child must be at least four years of age and must be:

(1) unable to speak and comprehend the English language; or

(2) from a family whose income, according to standards set by the State Board of Education, is at or below subsistence level.

(e) The cost of the program is shared by the state and district in the same percentages used to determine the state/local shares under Chapter 16 of this code. The state's share is paid from the foundation school fund [~~and may not exceed $50 million a year. If that amount will not fully fund the program, the commissioner shall proportionately reduce each district's allocations~~].

(f) A district's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills [~~This section becomes effective with the 1985-1986 school year~~].

(g) If the legislature specifically appropriates money for the purpose, a district to which the money is allocated may offer and operate a prekindergarten class that includes children who are three years of age and who are:

(1) unable to speak and comprehend the English language; or

(2) from a family whose income, according to standards set by the State Board of Education, is at or below subsistence level.

(b) This section of this Act takes effect June 1, 1993, and applies beginning with the 1993-1994 school year.

SECTION 2.14. (a) The Central Education Agency may develop a pilot prekindergarten program for the 1989-1990 through 1992-1993 school years for three-year-old children who are:

(1) unable to speak and comprehend the English language; or

(2) from a family whose income, according to standards set by the State Board of Education, is at or below subsistence level.

(b) The agency may establish minimum criteria for the program. The minimum program may be financed in a district by state funds appropriated for that purpose. The agency shall encourage districts to use other available funds to supplement the minimum program.

(c) To participate in the pilot program, a school district must apply to the agency. The agency shall give a preference to the districts that apply that have the highest concentrations of students who are eligible for the program.

(d) Each district selected by the agency to participate in the pilot program shall:

(1) coordinate the program with other local preschool programs, including Head Start programs;

(2) encourage parents to participate in the program;

(3) assist the agency in evaluating the program's effectiveness in preparing the children in the program to succeed in the regular public school curriculum; and

(4) coordinate the use of all funds available for the program.

(e) The agency shall conduct a study to evaluate the effectiveness of the pilot program in preparing the children in the program to succeed in the regular public school curriculum. The agency shall report its findings to the 73rd Legislature not later than February 1, 1993.

(f) This section expires September 1, 1993.

SECTION 2.15. Chapter 21, Education Code, is amended by adding Section 21.114 to read as follows:

Sec. 21.114. PARENTING PROGRAM. (a) A school district may provide an integrated program of educational and support services for students who are pregnant or who are parents if at least 30 percent of the district's students are of low socioeconomic status, as determined under rules adopted by the State Board of Education.

(b) The program shall include:

(1) individual counseling, peer counseling, and self-help programs;

(2) career counseling and job readiness training;

(3) day care for the students' children on the campus or at a day care facility in close proximity to the campus;

(4) transportation for children of students to and from the campus or day care facility;

(5) transportation for students, as appropriate, to and from the campus or day care facility;

(6) instruction in essential elements designated by the State Board of Education for this program, which must include essential elements related to knowledge and skills in child development, parenting, and home and family living; and

(7) assistance to students in the program in obtaining available services from government agencies or community service organizations, including prenatal and postnatal health and nutrition programs.

(c) The district shall solicit recommendations for obtaining community support for the students and their children from organizations for parents of students in the district and from other community organizations.

(d) The Central Education Agency shall adopt rules under which school districts may operate cooperative programs under this section.

SECTION 2.16. The Central Education Agency shall report the education and support services provided under Section 21.114, Education Code, as added by this Act, and the effect of those services to the 72nd Legislature not later than February 1, 1991.

SECTION 2.17. Section 21.552, Education Code, is amended to read as follows:

Sec. 21.552. SATISFACTORY PERFORMANCE. (a) The State Board of Education shall determine the level of performance considered to be satisfactory on the assessment instruments.

(b) Each school district shall offer an intensive program of remedial instruction for students at the fourth grade level who did not perform satisfactorily on one or more parts of the assessment instrument administered at the third grade level. The intensive programs shall be designed to enable the students to be performing at grade level at the conclusion of that regular school term.

(c) The Central Education Agency shall develop and distribute study guides to assist parents in providing remedial assistance during the period that school is recessed for summer to students who do not perform satisfactorily on one or more parts of the assessment instrument administered at the third, fifth, or seventh grade level. The commissioner of education shall retain a portion of the total amount allotted under Section 16.152(a) of this code that the commissioner considers appropriate to finance the development and distribution of the study guides and shall reduce each district's allotment proportionately.

SECTION 2.18. Section 21.555, Education Code, is amended to read as follows:

Sec. 21.555. EXEMPTION. (a) Any student who has a physical or mental impairment or a learning disability that prevents the student from mastering the competencies which the basic skills assessment instruments are designed to measure may be exempted from the requirements of this subchapter.

(b) The State Board of Education shall adopt rules under which a district may determine if a student is eligible for an exemption under this section. The Central Education Agency shall closely monitor compliance with those rules.

SECTION 2.19. Section 21.556, Education Code, is amended by adding Subsection (c) to read as follows:

(c) In compiling performance data under Subsection (b) of this section, a district or the commissioner may aggregate separately from the performance data of other students the performance data of students enrolled in:

(1) a bilingual education or special language program under Subchapter L of this chapter; or

(2) a special education program under Subchapter N of this chapter.

SECTION 2.20. Section 21.753, Education Code, is amended to read as follows:

Sec. 21.753. ACCREDITATION STANDARDS. (a) The State Board of Education shall adopt rules for the accreditation of school districts. The rules shall include criteria to evaluate the performance of school districts and to rate each district for accreditation purposes as:

(1) exemplary;

(2) recognized;

(3) accredited;

(4) accredited advised;

(5) warned; or

(6) unaccredited [~~establish standards which a school district must satisfy to be accredited and shall adopt an accreditation process in accordance with this section~~].

(b) The board may not rate a number of school districts as exemplary that exceeds 40 percent of the number of districts rated as recognized.

(c) The criteria in the accreditation rules [~~standards~~] must include consideration of:

(1) goals and objectives of the district;

(2) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under statutory authority;

(3) the quality of learning on each of the district's campuses based on indicators such as scores on achievement tests;

(4) the quality of the district's appraisal of teacher performance and of administrator performance;

(5) the effectiveness of district principals as instructional leaders;

(6) the fulfillment of curriculum requirements;

(7) the effectiveness of the district's programs in special education and for special populations;

(8) the correlation between student grades and performance on standardized tests;

(9) the quality of teacher in-service training;

(10) paperwork reduction efforts;

(11) training received by board members;

(12) the effectiveness of the district's efforts to improve attendance; [~~and~~]

(13) the effectiveness of the district's remedial and support programs under Section 21.557 of this code for students at risk of dropping out of school;

(14) the effectiveness of the district's dropout prevention and recovery programs;

(15) the effectiveness of the district's drug abuse prevention programs;

(16) parental and community involvement in the district;

(17) efficient allocation of available resources; and

(18) adequate performance under the indicators adopted under Section 21.7531 of this code.

SECTION 2.21. Chapter 21, Education Code, is amended by adding Section 21.7531 to read as follows:

Sec. 21.7531. PERFORMANCE INDICATORS. (a) The State Board of Education shall adopt a set of indicators of the quality of learning on a campus. The board biennially shall review the indicators for the consideration of appropriate revisions.

(b) The indicators must include:

(1) a comparison of the district's performance to a projection of the district's expected performance; and

(2) the results of the Central Education Agency's most recent compliance review of the district's special education program.

(c) The State Board of Education shall report the status of education in the state as reflected by the indicators to the legislature not later than February 1 of each odd-numbered year.

SECTION 2.22. Section 21.754, Education Code, is amended to read as follows:

Sec. 21.754. INVESTIGATIONS. (a) The Central Education Agency shall annually determine whether each school district satisfies the accreditation criteria from reports furnished by the school district or from an on-site evaluation.

(b) The State Board of Education by rule shall establish a schedule for on-site evaluations by the Central Education Agency. The rules must require that:

(1) each district is visited and all accreditation criteria investigated not less than once every six years, except that the board may extend that period for districts rated:

(A) as exemplary for an additional period not to exceed two years; and

(B) as recognized for an additional period not to exceed one year;

(2) each district rated as accredited advised is visited and assisted not less than once every two years;

(3) each district rated as warned is visited and assisted not less than once each year; and

(4) each district that has a poor performance under the indicators adopted under Section 21.7531 of this code is investigated more frequently than otherwise required under this section.

(c) Each annual review shall include an analysis of:

(1) student performance;

(2) attendance, promotion, and dropout rates;

(3) program costs;

(4) results of teacher and parent surveys; and

(5) other information required by the board.

(d) In compliance with Section 21.925 of this code, the board shall make optimum use of the agency's public education information management system to minimize the written reporting requirements of school districts.

(e) To determine if a district qualifies for a higher rating or on identification of potential problems, the commissioner may direct the agency to conduct on-site investigations at any time and may raise or lower the accreditation rating as as result of the investigation.

(f) [~~Not less than once every three years, the agency shall investigate whether a school district satisfies the accreditation standards. The agency shall investigate more frequently a district that is determined to be below any accreditation standard.~~

[~~(b)~~] The agency shall direct investigators to be alert to any fundamental deficiencies in a district's educational system, such as failure of the district to satisfy curriculum requirements, and to report deficiencies to agency staff responsible for research and planning.

(g)[~~(c)~~] In making an accreditation investigation, the investigators shall obtain information from campus administrators, teachers, and parents of students enrolled in the district. The investigation may not be closed until information is obtained from each of those sources. The board shall adopt rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents the district from screening the information.

(h)[~~(d)~~] The agency shall give written notice to the superintendent and the board of trustees of any impending investigation of the district's accreditation.

SECTION 2.23. Section 16.152, Education Code, is amended by amending Subsection (a) and adding Subsections (e), (f), (g), (h), (i), and (j) to read as follows:

(a) For each student who is educationally disadvantaged, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.2, subject to Subsection (e) of this section.

(e) The commissioner of education may:

(1) retain a portion of the total amount allotted under Subsection (a) of this section that the commissioner considers appropriate to finance pilot programs under Section 11.191 of this code and to finance intensive remedial instruction programs and study guides provided under Sections 21.552(b) and (c) of this code; and

(2) reduce each district's allotment proportionately.

(f) From the total amount of funds appropriated for allotments under this section, the commissioner of education shall, each fiscal year, withhold the amount of $10,000,000 and distribute that amount for programs under Section 21.114 of this code. The program established under that section is required only in school districts in which the program is financed by funds distributed under this section and any other funds available for the program.

(g) The commissioner of education shall coordinate the funds withheld under Subsection (f) of this section and any other funds available for the program and shall distribute those funds. To receive funds for the program, a school district must apply to the commissioner. The commissioner shall give a preference to the districts that apply that have the highest concentration of students who are pregnant or who are parents.

(h) After deducting the amount withheld under Subsection (f) of this section from the total amount appropriated for the allotment under Subsection (a) of this section, the commissioner of education shall reduce each district's allotment under Subsection (a) proportionately and shall allocate funds to each district accordingly.

(i) Notwithstanding any provision to the contrary in Section 16.151 of this code, a school district is not entitled to an allotment under that section for the self-contained, pregnant instructional arrangement for students on those campuses for which the district receives funds under Subsection (g) of this section.

(j) From the total amount of funds appropriated for allotments under this section, the commissioner of education shall withhold the amount of $500,000 for the 1989-1990 fiscal year and $500,000 for the 1990-1991 fiscal year for the pilot program under Section 11.2052 of this code. The agency may allocate part of that amount for the costs of the study of the effectiveness of the program. After deducting the amount withheld from the total amount appropriated for the allotment under Subsection (a) of this section, the commissioner of education shall reduce each district's allotment under Subsection (a) proportionately and shall allocate funds to each district accordingly. This subsection expires August 31, 1991.

SECTION 2.24. Section 21.757, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) If a district does not satisfy the accreditation criteria [~~standards~~], the commissioner shall take the following actions[~~, in sequence,~~] to the extent the commissioner determines necessary:

(1) confidential notice of the deficiency to any accreditation committee of the board of trustees and to the district superintendent;

(2) public notice of the deficiency to the board of trustees;

(3) appointment of an agency monitor to participate in and report to the agency on the activities of the board of trustees; and

(4) appointment of a master to oversee the operations of the district.

(b) If a district fails to satisfy [~~meet or maintain~~] accreditation criteria [~~standards~~] despite the actions of the commissioner under this section, the State Board of Education shall revoke the district's accreditation and shall [~~may~~] withhold state funds from the district.

(d) A district that does not have a rating above accredited advised for a period of three years is unaccredited at the conclusion of that period unless the district qualifies for a rating above accredited advised at that time.

SECTION 2.25. Chapter 31, Human Resources Code, is amended by adding Section 31.011 to read as follows:

Sec. 31.011. EARLY INTERVENTION PROGRAM. (a) The Texas Department of Human Services shall establish a pilot program to provide early intervention educational services for families receiving aid under this chapter.

(b) The department may administer the program or may contract with a private, nonprofit organization for the administration of the program.

(c) At the time the department meets with a parent or guardian seeking or receiving aid, the department shall review the report cards, student test results, or day-care center reports of each child in the family. The review may occur only with the prior written consent of the child's parent or guardian. If the department determines on review of the child's records that there is a probability that the child is at risk of dropping out of school, the department shall refer the child and the child's family to the early intervention program.

(d) The program shall provide counseling and training for the child's parent or guardian relating to the importance of the child's education, parenting skills, meeting the child's needs, and interacting with school officials. The program shall encourage the parent or guardian to attend teacher-parent meetings and to participate in school activities.

(e) The department shall coordinate services available for the benefit of the child and the child's family, including services provided by the Central Education Agency, literacy programs, programs funded under the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes), the family members' employers, day-care centers, health organizations, and community organizations.

SECTION 2.26. The Educational Excellence Program for Texas is created by this Act. The purposes of the program are to recognize and reward gains in the achievement of schools and school districts, to improve the system of accreditation for school districts, to provide awards and incentives for certain students, to provide school principal development grants and scholarships, to authorize waivers for innovative education programs in exemplary school districts, to provide early intervention for students at risk of dropping out, and to encourage school districts to reduce their dropout rates.

SECTION 2.27. Section 11.204, Subsection (d) of Section 13.031, and Section 13.2031, Education Code, are repealed.

SECTION 2.28. (a) The Central Education Agency shall conduct a study to determine the amount of funding that would be necessary for the state to pay the expense of summer school for students who are at risk of dropping out of school under Subsection (f) of Section 21.557 or Subsection (c) of Section 11.205 of the Education Code to retake courses in which they were enrolled in the preceding regular school term but for which they did not earn credit because of grade averages below 70. The agency shall report its findings to the 72nd Legislature not later than February 1, 1991.

(b) For the school years that are concurrent with the fiscal years in the biennium ending August 31, 1991, the Central Education Agency may establish and administer a tuition assistance program for the students described under Subsection (a) of this section using funds appropriated for that purpose.

SECTION 2.29. Notwithstanding any provision to the contrary in Chapter 34, Education Code, as added by this Act, schools and school districts shall be selected for scholastic gains awards under Section 34.004 of that chapter in fall, 1989, for improvements during the preceding three school years.

SECTION 2.30. (a) The State Board of Education shall appoint an advisory committee, composed of persons from the fields of education and business, to:

(1) make recommendations to the board for the initial set of performance indicators adopted under Section 21.7531, Education Code, as added by this Act; and

(2) develop the criteria for evaluating the performance of school districts and rating the districts for accreditation purposes under Section 21.753, Education Code, as amended by this Act.

(b) The advisory committee shall submit the recommended set of indicators and the criteria developed to the Legislative Education Board for review and comment before submitting the indicators and criteria to the State Board of Education for consideration for adoption. The State Board of Education shall adopt performance indicators under Section 21.7531, Education Code, as added by this Act, not later than January 1, 1991, and shall report the indicators adopted to the 72nd Legislature with a statement of the reason for the inclusion of each indicator.

(c) A person appointed to the committee must be knowledgeable in statistical analysis, evaluation methods, curriculum and instruction, educational management, or the education of special populations.

(d) The board shall appoint the committee not later than December 31, 1989.

(e) After the committee develops the performance indicators and criteria and the board adopts rules that include the indicators and criteria, the commissioner of education shall notify the governor of the adoption. If the governor finds that the

board has adopted rules as required by this section and by Section 21.753, Education Code, as amended by this Act, the governor shall notify the board that the committee is abolished.

SECTION 2.31. The State Board of Education shall appoint a committee composed of legislators, educators, and private citizens to study the advisability and feasibility of open enrollment within school districts. The board shall report the results of the study to the 72nd Legislature with any recommendations for legislation.

ARTICLE III. SPECIAL EDUCATION

SECTION 3.01. Chapter 21, Education Code, is amended by adding Section 21.5041 to read as follows:

Sec. 21.5041. INDIVIDUALIZED EDUCATION PROGRAM. (a) Before a child is enrolled in a special education program of a district, the district shall establish a committee composed of the persons required under 20 U.S.C. Section 1401(19) to participate in the development of the child's individualized education program.

(b) The committee shall develop the individualized education program by mutual agreement of the committee members or, if those persons cannot agree, by an alternate method provided by rule of the State Board of Education. Majority vote shall not be used to determine the individualized education program.

(c) If the individualized education program is not developed by mutual agreement, the basis for the disagreement shall be included in the written statement of the program required under 20 U.S.C. Section 1401(19).

SECTION 3.02. Chapter 21, Education Code, is amended by adding Section 21.5042 to read as follows:

Sec. 21.5042. CONTINUING ADVISORY COMMITTEE. (a) The governor shall appoint a continuing advisory committee under 20 U.S.C. Section 1413(a)(12). The appointments are not subject to confirmation by the senate. Members of the committee are appointed for terms of two years expiring on February 1 of each odd-numbered year.

(b) The committee shall advise the State Board of Education and the commissioner of education. The board shall specify the advisory committee's purpose and duties and shall require the committee to report to the board in a manner specified by the board concerning the committee's activities and accomplishments.

(c) The committee's duties must include those duties required by federal law and advisory duties in relation to the statewide plan under Section 21.501 of this code. The committee shall consult with local special education advisory committees in relation to advising the board about unmet needs in special education.

(d) The board shall adopt rules to implement this section. The rules must allow the committee to comment on rules relating to special education before the rules are finally adopted, except in an emergency. The board shall submit emergency rules to the committee for review at the first committee meeting that occurs after the rules are adopted.

(e) A member of the committee may not receive compensation but is entitled to reimbursement for transportation expenses and the per diem allowance for state employees in accordance with the General Appropriations Act.

SECTION 3.03. Chapter 21, Education Code, is amended by adding Section 21.508 to read as follows:

Sec. 21.508. INTERMEDIATE CARE FACILITIES. (a) The Central Education Agency and the Texas Department of Human Services by a cooperative effort shall develop and each by rule shall adopt a memorandum of understanding that establishes the respective responsibility of school districts and of intermediate

care facilities for mentally retarded persons for the provision of classrooms and educationally related therapy for students who reside in those facilities.

(b) The division of responsibilities under the memorandum of understanding must be consistent with federal law relating to the state medical assistance program.

SECTION 3.04. Chapter 21, Education Code, is amended by adding Section 21.509 to read as follows:

Sec. 21.509. COMPLIANCE. (a) The Central Education Agency shall monitor school district compliance with federal and state laws relating to special education by inspecting each school district at the district's facilities at least every five years. The agency may determine the appropriate extent of the inspection.

(b) To complete the inspection, the agency must obtain information from parents of students in special education programs in the district. The State Board of Education shall adopt rules that provide a process for obtaining that information.

(c)(1) The State Board of Education shall develop and implement a system of sanctions for school districts whose most recent monitoring visit shows a failure to comply with major areas of concern in the Education of the Handicapped Act, Public Law 94-142 (20 U.S.C. Section 1400), federal regulations, state statutes, and State Board of Education rules.

(2) For school districts that remain in noncompliance for more than one year, the first stage of sanctions should begin with annual or more frequent monitoring visits. Subsequent sanctions may range in severity up to the withholding of funds. Where funds are withheld, the agency may utilize such funds to provide, through alternative arrangements, services to students and staff members in the district from which the funds are withheld.

SECTION 3.05. (a) The Central Education Agency shall conduct a study to evaluate:

(1) the effectiveness of special education programs in the state in developing in students the life skills needed after the students leave the public school system;

(2) methods of monitoring the effectiveness of special education programs; and

(3) the appropriateness of essential elements for a required special education curriculum and of basic skills assessment designed for special education programs.

(b) The agency shall report the results of the study to the legislature not later than February 1, 1991.

SECTION 3.06. The Central Education Agency and the Texas Department of Human Services by rule shall adopt the memorandum of understanding required by Section 21.508, Education Code, as added by this Act, not later than September 1, 1990.

ARTICLE IV. PROPRIETARY SCHOOLS

SECTION 4.01. Subdivision (9), Section 32.11, Education Code, is amended to read as follows:

(9) "Unearned tuition" means total tuition and fees subject to refund [~~refunds due former students~~] under Section 32.39, total tuition and fees collected from students currently enrolled, and total tuition and fees collected from prospective students.

SECTION 4.02. Section 32.12, Education Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The following schools or educational institutions are specifically exempt from the provisions of this chapter and are not within the definition of "proprietary school[:]":

(1) a school or educational institution supported by taxation from either a local or State source;

(2) nonprofit schools owned, controlled, operated, and conducted by bona fide religious, denominational, eleemosynary, or similar public institutions exempt from property taxation under the laws of this State, but such schools may choose to apply for a certificate of approval hereunder, and upon approval and issuance, shall be subject to the provisions of this chapter as determined by the administrator;

(3) a school or training program which offers instruction of purely avocational or recreational subjects as determined by the administrator;

(4) a course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student;

(5) a course or courses of study or instruction sponsored by a recognized trade, business, or professional organization for the instruction of the members of the organization with a closed membership;

(6) private colleges or universities which award a recognized baccalaureate, or higher degree, and which maintain and operate educational programs for which a majority of the credits given are transferable to a college, junior college, or university supported entirely or partly by taxation from either a local or State source;

(7) a school which is otherwise regulated and approved under and pursuant to any other law of the State, except as provided by Subsection (c) of this section;

(8) aviation schools or instructors approved by and under the supervision of the Federal Aviation Administration;

(9) a school which offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations, or medical college admissions tests.

(c) If a State agency that issues a license or other authorization for the practice of an occupation elects not to regulate or approve course hours that exceed the minimum education requirements for the issuance of the license or other authorization, the licensing agency shall enter into a memorandum of understanding with the Central Education Agency for the regulation of those excess course hours under this chapter. Any course taught under a letter of approval or other written authorization issued by the licensing agency before the effective date of the memorandum is authorized under State law until the course is reviewed by the Central Education Agency. The licensing agency may terminate the memorandum of understanding on notice to the Central Education Agency.

SECTION 4.03. Section 32.21, Education Code, is amended to read as follows:

Sec. 32.21. CENTRAL EDUCATION AGENCY. (a) The Central Education Agency shall exercise jurisdiction and control of the system of schools, and it shall be the duty of the Commissioner of Education to carry out supervision of the provisions of this chapter, and to enforce minimum standards for approval of schools under the operating regulations and policies hereinafter set forth and as may from time to time be adopted pursuant to the provisions of this chapter.

(b) The Central Education Agency shall prepare a comparison of the cost to a student of courses of instruction or training programs at proprietary schools to the cost to a student of similar courses or programs at schools that are exempt from this chapter under Section 32.12 of this code.

(c) The agency may consult a recognized expert in a field of study for assistance in determining minimum program standards under this chapter for that field.

(d) The Central Education Agency and the Texas Higher Education Coordinating Board shall adopt a memorandum of understanding which develops guidelines for coordinating the regulation of proprietary schools and courses that

are subject to Sections 61.301 through 61.317 and Chapter 32 of this code. The memorandum shall include provisions which:

(1) clearly identify the responsibilities of each agency in regulating proprietary schools;

(2) ensure that the rules adopted by both agencies pursuant to the memorandum of understanding are not duplicative or in conflict; and

(3) establish procedures for ensuring that information affecting the proprietary school regulatory activities of both agencies is shared between the agencies.

SECTION 4.04. Subsection (a), Section 32.23, Education Code, is amended to read as follows:

(a) The Proprietary School Advisory Commission is created. The Commission shall be composed of nine members appointed by the State Board of Education for staggered terms of six (6) years expiring on January 31 of each odd-numbered year. [~~In making the initial appointments, the Board shall designate three (3) members for terms expiring in 1973, three for terms expiring in 1975, and three for terms expiring in 1977.~~] If one of the commission members resigns or is otherwise unable to serve, a new member shall be appointed by the State Board of Education to fill the unexpired terms. Four members of the Commission shall be "owners" or shall be "employees" employed in a managerial or executive capacity by the schools as defined in Section 32.11 of this Code and shall include at least one member from each of the following school areas: (1) trade and technical schools, (2) business schools and (3) correspondence schools; of these four members, one shall be a person who owns or operates not more than two (2) proprietary schools in Texas; one member [~~three members~~] shall be a public school official [~~officials~~]; and four [~~two~~] members shall be distinguished citizens of Texas who do not have a direct connection to [~~with an interest in providing~~] vocational-technical training [~~in Texas~~]. All members appointed by the State Board of Education shall have been recommended by the Administrator to the State Board of Education. In making his recommendations, the Administrator shall consider any recommendations made to him by parties interested in the composition of the Advisory Commission. The attorney general and the director of the Texas Guaranteed Student Loan Corporation are ex officio members of the Advisory Commission.

SECTION 4.05. Chapter 32, Education Code, is amended by adding Section 32.25 to read as follows:

Sec. 32.25. MEMORANDUM OF UNDERSTANDING FOR REGULATION OF PROPRIETARY SCHOOLS. (a) The Central Education Agency shall develop, in consultation with the Texas Guaranteed Student Loan Corporation and each state agency that regulates proprietary schools in this state, a comprehensive strategy to reduce default rates at the regulated proprietary schools and to improve the overall quality of the programs operated by these schools.

(b) The Central Education Agency shall execute a memorandum of understanding outlining the strategy with the corporation and each state agency regulating proprietary schools and shall adopt rules to carry out its duties under this section. The Texas Guaranteed Student Loan Corporation shall adopt the memorandum of understanding as procedures of the corporation, and each agency by rule shall adopt the memorandum of understanding.

(c) The memorandum of understanding shall:

(1) require the development and monitoring of indicators that identify schools that have excessive loan default rates, poor program performance, or both;

(2) require the sharing of specific information relating to the indicators between the Central Education Agency and the Texas Guaranteed Student Loan Corporation or other agency; and

(3) require the application of specific sanctions by the Central Education Agency or by the Texas Guaranteed Student Loan Corporation or other

agency, as appropriate, to lower the default rates, improve program performance, or both.

(d) If the Central Education Agency enters a memorandum of understanding with the Texas Guaranteed Student Loan Corporation related to the regulation of proprietary schools, the agency may require each proprietary school governed by this chapter to provide information to the agency that is necessary for the purposes of the memorandum of understanding.

SECTION 4.06. Subsection (a), Section 32.31, Education Code, is amended to read as follows:

(a) A [~~No~~] school may not [~~shall~~] maintain, advertise, solicit for, or conduct any course of instruction in Texas before the later of:

(1) the 30th day after the date the school applies for a certificate of approval under this chapter; or

(2) the date the school receives [~~without first obtaining~~] a certificate of approval from the administrator.

SECTION 4.07. Section 32.33, Education Code, is amended to read as follows:

Sec. 32.33. CRITERIA. The administrator may approve the application of such proprietary school when the school is found, upon investigation at the premises of the school, to have met the following criteria:

(a) The courses, curriculum, and instruction are of such quality, content, and length as may reasonably and adequately achieve the stated objective for which the courses, curriculum or instruction are offered.

(b) There is in the school adequate space, equipment, instructional material and instructor personnel to provide training of good quality.

(c) Educational and experience qualifications of directors, administrators and instructors are adequate.

(d) The school maintains a written record of the previous education and training of the applicant student and clearly indicates that appropriate credit has been given by the school for previous education and training, with the new training period shortened where warranted through use of appropriate skills or achievement tests and the student so notified.

(e) A copy of the course outline; schedule of tuition, fees, refund policy, and other charges; regulations pertaining to absence, grading policy, and rules of operation and conduct; regulations pertaining to incomplete grades; the name, mailing address, and telephone number of the Central Education Agency for the purpose of directing complaints to the agency; the current rates of job placement and employment of students issued a certificate of completion; and notification of the availability of the cost comparison information prepared under Section 32.21(b) of this code through the Central Education Agency will be furnished the student prior to enrollment.

(f) Except as provided by Section 32.40 of this code, on completion of training, the student is given a certificate by the school indicating the course and that training was satisfactorily completed.

(g) Adequate records as prescribed by the administrator are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress and conduct are enforced.

(h) The school complies with all local, city, county, municipal, state and federal regulations, such as fire, building and sanitation codes. The administrator may require such evidence of compliance as is deemed necessary.

(i) The school is financially sound and capable of fulfilling its commitments for training.

(j) The school's administrators, directors, owners, and instructors are of good reputation and character.

(k) The school has, maintains and publishes in its catalogue and enrollment contract, the proper policy for the refund of the unused portion of tuition, fees and other charges in the event the student enrolled by the school fails to take the course or withdraws or is discontinued therefrom at any time prior to completion.

(l) The school does not utilize erroneous or misleading advertising, either by actual statement, omission, or intimation as determined by the State Board of Education.

(m) Such additional criteria as may be required by the State Board of Education.

(n) The school does not use a name like or similar to an existing tax supported school in the same area.

(o) The school furnishes to the Central Education Agency the current rates of students who receive a certificate of completion and of job placement and employment of students issued a certificate of completion.

(p) The school furnishes to the Central Education Agency for approval or disapproval student admission requirements for each course or program offered by the school.

(q) The school furnishes to the Central Education Agency for approval or disapproval the course hour lengths and curriculum content for each course offered by the school.

(r) The school does not owe a civil penalty under Section 32.611 of this code.

SECTION 4.08. Section 32.34, Education Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(d) At least thirty (30) days prior to expiration of a certificate of approval, the school [~~schools~~] shall forward to the administrator an application for renewal. The administrator shall reexamine the school at the premises of the school and either renew or cancel the school's certificate of approval. If a school fails to file a complete application for renewal at least thirty (30) days before the expiration date of the certificate of approval, the school, as a condition of renewal, must pay, in addition to the annual renewal fee, a late renewal fee in an amount established by State Board of Education rule of at least $100.

(f) The administrator shall visit a school to reexamine the school for compliance with the criteria provided by Section 32.33 of this code not later than three months after the date a school begins operation or after a change in ownership of a school.

SECTION 4.09. Subsection (a), Section 32.36, Education Code, is amended to read as follows:

(a) The Administrator may revoke an issued certificate of approval or place reasonable conditions upon the continued approval represented by the certificate. Prior to revocation or imposition of conditions upon a certificate of approval, the Administrator shall notify the holder of the certificate, in writing, of the impending action and set forth the grounds for the action. The Administrator may reexamine a school two or more times during each year in which a notice relating to the school has been issued or conditions have been imposed on the school under this subsection.

SECTION 4.10. Section 32.37, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The administrator shall deny registration of a representative who owes a civil penalty under Section 32.611 of this code.

SECTION 4.11. Subsections (a), (c), (d), and (e), Section 32.38, Education Code, are amended to read as follows:

(a) Before a certificate of approval is issued under this chapter, a bond shall be provided by the school for the period during which the certificate of approval is issued, and the obligation of the bond shall be that neither a provision of this chapter

nor any rule or regulation adopted pursuant thereto shall be violated by the school or any of its officers, agents, or employees. The bond shall be in the penal sum of $5,000 or a multiple of $5,000 that is not greater than $25,000. The administrator shall determine the amount based on the evidence [~~$25,000 except a bond in the penal sum of $5,000 may be provided if~~] the school submits of its projected maximum [~~evidence acceptable to the administrator that the~~] total unearned tuition [~~of the school will not exceed $5,000 at any given time~~] during the period of the certificate of approval. The bond shall be a corporate surety bond issued by a company authorized to do business in the State, conditioned that the parties thereto shall pay all damages or expenses which the State or any governmental subdivision thereof, or any student or potential student may sustain resulting from a violation. The bond shall be to the State to be used only for payment of a tuition refund due to a [~~for the use and benefit of any~~] student or potential student [~~or governmental subdivision of the State which may suffer expenses or damage by breach thereof~~]. The bond shall be filed with the administrator and shall be in such form as shall be approved by the administrator.

(c) In lieu of the corporate surety bond required in Subsection [~~subsections~~] (a) [~~and (b)~~] of this Section, the school may, in the alternative, provide any other similar certificate or evidence of indebtedness as may be acceptable to the Administrator, provided that the Certificate or evidence of indebtedness meets all the requirements applicable to the corporate surety bond.

(d) Schools domiciled, or having their principal place of business, outside of the State of Texas, that engage representatives to canvass, solicit, or contract with any person within the State of Texas, shall be subject to the bond requirements of Subsection (a) of this Section [~~for both the school and its representatives~~].

(e) The administrator, for good cause shown, as recommended by the commission and approved by the State Board of Education, may waive and suspend the requirements set forth in Subsections (a) [~~, (b),~~] and (c) of this Section with respect to schools operating wholly or in part under a federal grant where no tuition fee is charged to the student.

SECTION 4.12. Section 32.39, Education Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) If a refund is not made within the period required by this section, the school shall pay interest on the refund for the interval beginning with the first day following the expiration of the refund period and ending with the day immediately preceding the date the refund is made. If the refund is made to a lending institution, the interest shall also be paid to that institution and applied against the student's loan. The commissioner of education annually shall establish the level of interest at a level sufficient to provide a deterrent to the retention of student funds. The Central Education Agency may exempt a school from the payment of the interest if the school makes a good faith effort to refund the tuition but is unable to locate the student. The school shall provide to the agency on request documentation of the effort to locate the student.

(f) A proprietary school shall record a grade of "incomplete" for a student who withdraws but is not entitled to a refund under Subsection (b)(4)(F) of this section if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status. A student who receives a grade of incomplete may reenroll in the program during the 12-month period following the date the student withdraws and complete those incomplete subjects without payment of additional tuition.

SECTION 4.13. Section 32.40, Education Code, is amended to read as follows:

Sec. 32.40. WITHHOLDING RECORDS [~~CERTIFICATE OF COMPLETION~~]. A proprietary school may withhold a student's transcript or

certificate of completion of training until the student has fulfilled his financial obligation to the school.

SECTION 4.14. Chapter 32, Education Code, is amended by adding Section 32.401 to read as follows:

Sec. 32.401. APPROVED DEGREES. (a) A proprietary school may offer an associate of applied arts or an associate of applied science degree approved by the Texas Higher Education Coordinating Board.

(b) A proprietary school may offer an applied technology degree, an occupational studies degree, or other degree approved by the Central Education Agency. The Central Education Agency shall have no authority to approve a degree title that uses "associate," "bachelor's," "master's," or "doctor's" in the title and shall consult with the Texas Higher Education Coordinating Board to ensure that the titles of degrees approved by the agency are distinctly different from the titles of degrees approved by the board.

SECTION 4.15. Section 32.61, Education Code, is amended to read as follows:

Sec. 32.61. PROHIBITIONS. [~~(a)~~] No person shall:

(1) operate a school without a certificate of approval issued by the Administrator;

(2) solicit prospective students without being bonded as required by this Chapter;

(3) accept contracts or enrollment applications from a representative who is not bonded as required by this Chapter;

(4) utilize advertising designed to mislead or deceive prospective students;

(5) fail to notify the Administrator of the discontinuance of the operation of any school within 72 hours of cessation of classes and make available accurate records as required by this Chapter;

(6) fail to secure and file within 30 days an increased bond as required by this Chapter;

(7) negotiate any promissory instrument received as payment of tuition or other charge prior to completion of 75 percent of the course, provided that prior to such time, the instrument may be transferred by assignment to a purchaser who shall be subject to all the defenses available against the school named as payee;

(8) violate any provision of this Chapter.

[~~(b) A person who violates Subsection (a) of this Section is guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed Five Hundred Dollars ($500.00) and each day that any prohibited act continues shall constitute a separate offense.~~]

SECTION 4.16. Chapter 32, Education Code, is amended by adding Section 32.611 to read as follows:

Sec. 32.611. CIVIL PENALTY. (a) If a person violates Section 32.61 of this code, the administrator may assess a civil penalty against that person as provided by this section.

(b) The administrator may assess the civil penalty in an amount not to exceed $1,000. In determining the amount of the penalty, the administrator shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the facts relating to that possible violation, the administrator concludes that a violation has occurred, the administrator shall issue a preliminary report that states the facts on which the conclusion is based, the fact that a civil penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the administrator issues the preliminary report, the administrator shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(d) Not later than the 20th day after the date on which the report is sent, the person charged must either make a written request for a hearing or remit the amount of the civil penalty to the administrator. Failure either to request a hearing or to remit the amount of the civil penalty within the time provided by this subsection results in a waiver of a right to a hearing under this section. If the person charged requests a hearing, the hearing shall be conducted in the same manner as a hearing on the denial of certificate of approval under Section 32.41 of this code. If it is determined after a hearing that the person has committed the alleged violation, the administrator shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty.

(e) Not later than the 30th day after the date on which the notice is received, the person charged must pay the civil penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, remit the assessed amount to the administrator for deposit in an escrow account. If, after judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the administrator shall remit the appropriate amount to the person charged with the violation not later than the 30th day after the date on which the judicial determination becomes final.

(f) Failure to remit the amount of the civil penalty to the board within the time provided by Subsection (e) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(g) A civil penalty owed under this section plus reasonable attorney fees and court costs may be recovered in a civil action brought by the attorney general at the request of the administrator. Civil penalties recovered shall be deposited in the General Revenue Fund. Attorney fees and court costs shall be appropriated to the attorney general.

SECTION 4.17. Chapter 32, Education Code, is amended by adding Section 32.612 to read as follows:

Sec. 32.612. COMPETITIVE BIDDING; ADVERTISING. The State Board of Education may not adopt rules to restrict competitive bidding or advertising by a proprietary school except to prohibit false, misleading, or deceptive competitive bidding or advertising practices. Those rules may not restrict:

(1) the use of an advertising medium;

(2) the size or duration of an advertisement; or

(3) advertisement under a trade name.

SECTION 4.18. Section 32.62, Education Code, is amended to read as follows:

Sec. 32.62. INJUNCTIONS. (a) Whenever the Administrator has probable cause to believe that any school has committed any acts that would be in violation of this Chapter, the Administrator shall have the duty to make application to a court of competent jurisdiction for an injunction restraining the commission of such acts.

(b) An action for an injunction under this section shall be brought in Travis County.

SECTION 4.19. Chapter 32, Education Code, is amended by adding Section 32.63 to read as follows:

Sec. 32.63. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted under this chapter is liable for a civil penalty in addition to any injunctive relief or other remedy provided by law. The civil penalty may not exceed $1,000 a day for each violation.

(b) The attorney general, at the request of the Central Education Agency, may bring a civil action to collect a civil penalty under this section.

(c) Civil penalties recovered in a suit brought under this section shall be deposited in the state treasury to the credit of the General Revenue Fund.

SECTION 4.20. Chapter 32, Education Code, is amended by adding Section 32.64 to read as follows:

Sec. 32.64. SANCTIONS. (a) If the Central Education Agency has reasonable cause to believe that a proprietary school has violated this chapter or a rule adopted under this chapter, the agency may:

(1) order a peer review of the school; or

(2) suspend the admission of students to the school.

(b) A peer review ordered under this section shall be conducted by a peer review team composed of knowledgeable persons selected by the agency. The agency shall attempt to provide a balance on each team between members assigned to the team who are from this state and those who are from other states. The team shall provide the agency with an objective assessment of the content of the school's curriculum and its application. The costs of providing a peer review team shall be paid by the school.

SECTION 4.21. Section 32.71, Education Code, is amended by amending Subsection (a) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a) Certificate and registration fees, except those charged pursuant to Subsection (d) of this section, shall be collected by the Administrator and deposited with the State Treasurer. Each fee shall be in an amount set by the Administrator and approved by the State Board of Education in an amount not to exceed 150 percent of each fee in [~~accordance with~~] the following schedule:

(1) the initial fee for a school is $1,700 [~~$1,000~~];

(2) the first annual renewal fee for a school is $1,400, and each subsequent annual renewal fee [~~for a school~~] is based on the gross amount of annual student tuition and fees as follows:

Gross Amount, Student Tuition and Fees			Fee	
	not more than $	50,000	$ 550	[~~500~~]
more than $ 50,000	but not more than	100,000	650	[~~600~~]
more than 100,000	but not more than	250,000	750	[~~700~~]
more than 250,000	but not more than	500,000	850	[~~800~~]
more than 500,000	but not more than	750,000	950	[~~900~~]
more than 750,000	but not more than	1,000,000	1,050	[~~1,000~~]
more than 1,000,000			1,150	[~~1,100~~];

(3) the initial registration fee for a representative is $60;

(4) the annual renewal fee for a representative is $30;

(5) the fee for a change of a name of a school or owner is $100;

(6) the fee for a change of an address of a school is $180;

(7) the fee for a change in the name or address of a representative or a change in the name or address of a school that causes the reissuance of a representative permit is $10;

(8) the application fee for an additional course is $150, except for seminar and workshop courses, for which the fee is $25;

(9) the application fee for a director, administrative staff member, or instructor is $15;

(10) the application fee for the authority to grant [~~associate of applied arts and associate of applied science~~] degrees is $2,000 [~~$500~~]; [~~and~~]

(11) the application fee for an additional degree course is $250; and

(12) the fee for an inspection required by rule of the State Board of Education of classroom facilities that are separate from the main campus is $250.

(d) In connection with the regulation of any school or course through a memorandum of understanding pursuant to Section 32.12(c) of this code, the Administrator shall set an application and annual renewal fee, not to exceed $2,000. The fee shall be approved by the State Board of Education to be an amount reasonably calculated to cover the administrative costs associated with assuming the additional regulation.

(e) The fee for an investigation at a school to resolve a complaint filed against the school is $400. The fee may be charged only if:

(1) the complaint could not have been resolved by telephone or written correspondence only;

(2) a representative of the Central Education Agency visits the school as a part of the complaint resolution process; and

(3) the school is found to be at fault.

(f) The Administrator, with the approval of the State Board of Education, may increase any fee authorized under this section at a rate not to exceed the increase in the National Consumer Price Index For All Urban Consumers. The calculation of the index in effect on September 1, 1989, shall be the base for calculating the rate at which fees may increase. Fee increases under this subsection do not have to be made annually.

(g) All fees collected under this section shall be used only for the administration of the Texas Proprietary School Act.

SECTION 4.22. Chapter 32, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. PROTECTION OF TUITION

Sec. 32.91. TUITION PROTECTION FUND. (a) At the time that each school pays its annual renewal fee, in the years provided by Subsection (c) of this section, the State Board of Education shall also collect a fee from the school for deposit to the credit of a special fund in the state treasury to be called the proprietary school tuition protection fund.

(b) The amount of the fee is determined by applying a percentage to each school's annual renewal fee. The percentage is the rate as determined by the board that, when applied to the total of all renewal fees, will result in the collection of $250,000 for deposit in the fund in the first two years that the fee is collected.

(c) Beginning on January 1, 1990, the board shall collect the fee for two years. If on January 1, 1993, or any subsequent year the amount in the fund is less than $200,000, the board shall collect a fee during that year by applying a percentage to each school's annual renewal fee at a rate that will bring the balance of the fund to $250,000.

(d) The state treasurer shall invest the fund in the same manner as other state funds. Sufficient funds from the tuition protection fund shall be appropriated to Central Education Agency administration for the purpose outlined in this section.

Sec. 32.92. CLOSED SCHOOL. (a) If a proprietary school closes, the Central Education Agency shall attempt to arrange for students of the closed school to attend another proprietary school.

(b) The expense incurred by a school in providing a teachout that is directly related to educating a student placed in the school under this section, including the applicable tuition for the period of time for which the student has paid tuition, shall be paid from the proprietary school tuition protection fund.

(c) If the student cannot be placed in another school, the student's tuition and fees shall be refunded under Section 32.39(d) of this code.

(d) If a student does not accept a place that is available and reasonable in another school, the student's tuition and fees shall be refunded under the refund policy maintained by the closing school under Section 32.39(b) of this code.

(e) If the amount of the closed school's bond under Section 32.38 of this code is less than the amount required for student refunds under Subsections (c) and (d) of this section, the refunds shall be paid from the proprietary school tuition protection fund in an amount not to exceed $25,000.

(f) If another school assumes responsibility for the closed school's students with no significant changes in the quality of training, the student is not entitled to a refund under Subsection (c) or (d) of this section.

(g) Attorney's fees, court costs, or damages may not be paid from the proprietary school tuition protection fund.

(h) This section takes effect January 1, 1992.

SECTION 4.23. Sections 2, 8, 9, and 14, Chapter 332, Acts of the 60th Legislature, Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2. CERTIFICATE [~~A LICENSE~~] REQUIRED FOR COMMERCIAL DRIVER-TRAINING SCHOOL. No person, firm, association, partnership, or corporation shall operate a commercial driver-training school [~~after January 1, 1968,~~] unless a certificate of approval for the [~~license as a~~] commercial driver-training school has been secured under the Texas Proprietary School Act (Chapter 32, Education Code) [~~from the Texas Department of Public Safety~~], provided that training or classes conducted by colleges, universities, high schools, and junior high schools for students as a part of the normal program for such institutions shall be exempt.

Sec. 8. LICENSE FEES. (a) [~~Each application for an original commercial driver-training school or branch office license shall be accompanied by a $150 investigation fee and upon approval shall pay an annual license fee of $200. The investigation fee shall be payable only once, at the time of the original application. The license of each commercial driver-training school or branch office may be renewed subject to the same requirements as the original license, and upon payment of the annual renewal license fee of $200.~~] Each application for an original supervisory instructor's or instructor's license shall be accompanied by an investigation and examination fee of $50 and upon approval such applicant shall pay an annual license fee of $25. The investigation and examination fee shall only be payable with the original application. No license fee shall be refunded in the event that the license is suspended or revoked.

(b) The fee for a duplicate license shall be $2. A duplicate license may be issued to replace an original license if the original is lost or destroyed and an affidavit of such fact is made and filed with the Department.

(c) All licenses issued to [~~commercial driver-training schools, branch offices,~~] supervisory instructors[~~;~~] and driver-training instructors shall expire automatically on December 31 of the calendar year for which the license was issued, unless sooner suspended or revoked as provided by this Act.

(d) All fees collected under this Act shall be deposited in the State Treasury and used for the costs of administering this Act [~~in the Operator's and Chauffeur's License Fund~~].

(e) [~~A commercial driver-training school or branch office license must be prominently displayed at the place of business of the commercial driver-training school or branch office.~~] The supervisory driver-training instructor and driver-training instructor license must be carried by the instructor at all times while instructing. Each license shall be signed by the Director of the Department of Public Safety and shall be issued under the seal of the Department.

Sec. 9. REFUSAL, SUSPENSION, REVOCATION GROUNDS. The Department may suspend, revoke, or refuse a license to any [~~commercial driver-training school or branch school,~~] supervisory instructor or driver-training instructor on any one or more of the following grounds:

(a) When the Department is satisfied that the applicant or licensee fails to meet the requirements to receive or hold a license under this Act;

(b) When the applicant or licensee permits fraud or engages in fraudulent practices either with reference to the application to the Department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee and the public;

(c) When the applicant or licensee fails to comply with the rules and regulations of the Department of Public Safety regarding the instruction of drivers in this state or fails to comply with any section of this Act.

Sec. 14. LOCATIONS AUTHORIZED FOR INSTRUCTION. No motor vehicle driver-training instruction shall be conducted for hire or tuition [~~unless in a licensed commercial driver-training school or one of its branch offices~~] except as set out in Section 2 and in counties with a population of less than 50,000 where driver-training instruction may be given by a supervisory instructor or instructor not connected with or in a commercial driver-training school. Defensive driving courses approved [~~by the Department~~] in accordance with the provisions of Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), may be taught in locations other than in commercial driver-training schools or branch offices if such location is approved by the Central Education Agency [~~Department~~].

SECTION 4.24. Subsection (a), Section 10, Chapter 332, Acts of the 60th Legislature, Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) When there is cause to refuse an application or to suspend or revoke the license of any [~~commercial driver-training school, branch office,~~] supervisory driver-training instructor[;] or driver-training instructor, the Department, not less than 30 days before refusal, suspension, or revocation action is taken, shall notify such person in writing, in person, or by certified mail at the last address supplied to the Department by such person, of such impending refusal, suspension, or revocation, the reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Department. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the Department for this administrative hearing, the Department is authorized to suspend or revoke the [~~commercial driver-training school's, branch office's,~~] supervisory driver-training instructor's[;] or driver-training instructor's license without a hearing. Upon receipt by the Department of such written request of such person within the 20-day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practical. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or licensee. Administrative hearing in such cases shall be before a qualified Hearing Officer of the Department.

SECTION 4.25. Chapter 332, Acts of the 60th Legislature, Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), is amended by adding Section 16 to read as follows:

Sec. 16. DUTIES TRANSFERRED TO CENTRAL EDUCATION AGENCY. The duties under this Act are transferred from the Department to the Central Education Agency. A reference in this Act to the Department is a reference to the agency.

SECTION 4.26. Subsection (a), Section 7, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Department may license a person as a Class C driver who is under the age of eighteen (18) years, provided the person is sixteen (16) years of age or older and the person has completed and passed a driver training course approved by the Central Education Agency [~~Department~~], and has passed the examination required by Section 10 of this Act. The Department shall carry out the duties required of it

by the provisions of this Act in any manner that will provide the greatest convenience to the public.

SECTION 4.27. Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (f) and (g) to read as follows:

(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 defendant shall be advised of his right to successfully complete a driving safety course and the court:

(1) in its discretion may defer proceedings and allow the person 90 days to present a uniform certificate of course completion as evidence that, subsequent to the alleged act, the person has successfully completed a driving safety course approved under the Texas Proprietary School Act (Chapter 32, Education Code) [~~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 a uniform [~~department-approved~~] certificate of course completion as written evidence that, subsequent to the alleged act, the person has successfully completed a driving safety course approved under the Texas Proprietary School Act (Chapter 32, Education Code) [~~by the Texas Department of Public Safety~~] or another driving safety course approved by the court, if:

(A) on or 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 request or a written request, in person or by mail, to take a course;

(B) the person has a valid Texas driver's license or permit;

(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 a uniform certificate of course completion [~~approved by the department~~] 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.

(d) The State Board of Education shall enter into a memorandum of understanding with the State Board of Insurance for the interagency development of a curriculum for driving safety courses. The Central Education Agency [~~department~~] shall administer comprehensive rules [~~and regulations~~] governing driving safety courses adopted by the State Board of Education and the board shall place on file such rules with the secretary of state.

(e) No person shall distribute any written information for the purpose of advertising a provider of a driving safety course within 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 a course approved under the Texas Proprietary School Act (Chapter 32, Education Code) [~~or licensed by the Texas Department of Public Safety~~] or other driving safety course approved by the court.

(f) The uniform certificate of course completion shall be printed on copy-resistant paper in not fewer than two self-copying parts to provide a control copy of the certificate that shall be retained by the course provider under rules adopted by the State Board of Education. Each certificate may not be more than 8-1/2 inches by 3-1/2 inches in size and shall include an identifying number by which the Central Education Agency, the court, or the department may verify its authenticity with the course provider. The certificate shall be in a form promulgated by the Central Education Agency.

(g) The Central Education Agency shall print and supply the serially numbered uniform certificates to owners or primary consignees of courses approved under the Texas Proprietary School Act (Chapter 32, Education Code) or by a court. The Central Education Agency may charge a fee of $1 for each certificate. An owner or consignee may not charge an operator a fee in excess of the fee paid to the agency for a certificate. The agency shall deposit the fees with the state treasurer to be used only for the expense of supplying the certificates and administering the Texas Proprietary School Act (Chapter 32, Education Code).

SECTION 4.28. Sections 3 and 4, Chapter 332, Acts of the 60th Legislature, Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), are repealed.

SECTION 4.29. A uniform certificate of course completion is required as evidence of successful completion of a driving safety course to dismiss a charge under Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), only for courses completed on or after January 1, 1990.

SECTION 4.30. The provider of a driver safety course approved by the Department of Public Safety may not continue the course after October 1, 1989, unless the provider files on or before that date an application for a certificate of approval under Chapter 32, Education Code. If the provider files an application on or before that date, the provider may continue the course during the period that the application is pending.

SECTION 4.31. Subsection (a), Section 32.23, Education Code, as amended by this Act, does not affect the entitlement of the members serving on the Proprietary School Advisory Commission on the effective date of this Act to continue to serve for the terms to which they were appointed unless otherwise removed. Their successors shall be appointed to achieve as soon as possible the membership scheme prescribed by Subsection (a), Section 32.23, Education Code, as amended by this Act.

SECTION 4.32. The Central Education Agency, the Texas Guaranteed Student Loan Corporation, and each agency regulating proprietary schools shall adopt the memorandum of understanding required under Section 32.25, Education Code, as added by this Act, not later than August 31, 1990.

SECTION 4.33. (a) An interim committee is created to consider and evaluate the system the state uses to approve and regulate courses of study offered by proprietary schools. The committee shall report its findings to the 72nd Legislature, including any drafts of any proposed legislation necessary to implement its recommendations.

(b) The committee shall consider the policies and procedures of the Texas Higher Education Coordinating Board, the Central Education Agency, and other agencies regarding proprietary school programs, including:

(1) on-site evaluation of facilities;

(2) qualifications and continuity of teaching staff;

(3) student admission and recruitment procedures;

(4) placement of proprietary school graduates;

(5) counseling and support services for students;

(6) student loan default rates;

(7) student dropout rates;

(8) the reasonableness of requiring proprietary schools to distribute cost comparison information as prepared by the agency under Subsection (b) of Section 32.21 of this code to prospective students;

(9) the consistency of course hour lengths and curriculum content between similar programs being offered in proprietary schools, junior colleges, and other public institutions; and

(10) the use of degrees by proprietary schools.

(c) The committee shall consist of 13 members as follows: the chair of the Higher Education Committee of the house of representatives; the chair of the Public Education Committee of the house of representatives; the chair of the Education Committee of the senate; the chairman of the Texas Higher Education Coordinating Board or his designee; the commissioner of the Central Education Agency or his designee; one senator, one proprietary school owner, and two public members appointed by the lieutenant governor; and one representative, one proprietary school owner, and two public members appointed by the speaker of the house of representatives. The public members shall be persons who have had experience in hiring graduates of programs offered by proprietary schools and programs offered by the technical vocational components of public community colleges.

(d) The Texas Higher Education Coordinating Board, the Central Education Agency, the Legislative Budget Board, the Sunset Advisory Commission, and the Texas Legislative Council shall provide staff support as required.

SECTION 4.34. Notwithstanding Section 32.401, Education Code, as added by this Act, for a period that expires on the fourth anniversary of the effective date of that section a proprietary school may continue to admit students to an associate of applied arts or an associate of applied science degree program that was operating on January 1, 1989, under the approval of the Central Education Agency. A student enrolled in the program on the expiration of that period may complete the program under the requirements of the Central Education Agency in effect immediately preceding the expiration of that period.

SECTION 4.35. Subsection (b), Section 32.38, Education Code, is repealed.

SECTION 4.36. Section 4.23 of this Act applies to an application filed or an inspection made on or after the effective date of this Act.

ARTICLE V. INTERSCHOLASTIC LEAGUES

SECTION 5.01. Section 21.921, Education Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The University Interscholastic League [~~, which~~] is a part of The University of Texas at Austin and[;] must submit its rules and procedures to the State Board of Education for approval, disapproval, or modification. The funds belonging to the University Interscholastic League shall be deposited with The University of Texas at Austin for the benefit of the League and shall be subject to audits by The University of Texas at Austin, The University of Texas System, and the State Auditor, and copies of annual audits shall be furnished, upon request, to members of the legislature. [~~The board may approve, disapprove, or modify any of the rules.~~]

(d) The University Interscholastic League 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 University Interscholastic League during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act.

SECTION 5.02. Chapter 21, Education Code, is amended by adding Section 21.9211 to read as follows:

Sec. 21.9211. INTERSCHOLASTIC LEAGUE ADVISORY COUNCIL. (a) The interscholastic league advisory council is created. The council is composed of:

(1) two members of the State Board of Education appointed by the chairman of the board;

(2) a member of the house of representatives appointed by the speaker of the house;

(3) a member of the senate appointed by the lieutenant governor;

(4) two members of the Legislative Council of the University Interscholastic League appointed by the chairman of the council;

(5) two public school board members appointed by the commissioner of education; and

(6) three members of the general public appointed by the commissioner of education.

(b) A member of the advisory council serves at the will of the member's appointing authority.

(c) In appointing members of the general public to the advisory council, the commissioner of education shall give special consideration to students, parents of students, and teachers.

(d) The advisory council shall select a chairman from among its members and shall meet at the call of the chair.

(e) The advisory council shall review the rules of the University Interscholastic League and shall make recommendations relating to the rules to the Legislative Council of the University Interscholastic League and to the State Board of Education. The advisory council shall submit its initial report not later than September 1, 1990.

(f) A member of the advisory council may not receive compensation but is entitled to reimbursement from the University Interscholastic League for transportation expenses and the per diem allowance for state employees in accordance with the General Appropriations Act.

SECTION 5.03. The State Board of Education shall conduct a comprehensive study of the rules, bylaws, and procedures of the University Interscholastic League. The study must include a review of the structure of the league's governing bodies and of minority representation on those governing bodies. The board shall report the results of the study to the legislature not later than September 1, 1990.

SECTION 5.04. The University Interscholastic League shall report on the minority and female composition of the Legislative Council of the league. The report shall include actual data reflecting the minority and female composition of the Legislative Council for the present year and the previous four years, a description of efforts to encourage minority and female representation on the

council, and further actions needed to ensure a balanced representation of these groups on the council. The University Interscholastic League shall submit the report to the governor, the legislature, the interscholastic league advisory council, and the State Board of Education not later than December 1 of each even-numbered year.

ARTICLE VI. MISCELLANEOUS PROVISIONS

SECTION 6.01. Section 11.35, Education Code, is amended to read as follows:

Sec. 11.35. HIGH SCHOOL EQUIVALENCY EXAMINATIONS. The State Board of Education shall provide for the administration of high school equivalency examinations. Any person [~~over the age of 17~~] who does not have a high school diploma and is at least 17 years of age, or is at least 16 years of age if a public agency providing supervision of the person or having custody of the person under a court order recommends that the person take the examination, may take the examination in accordance with the rules and regulations promulgated by the board. The board by rule shall fix and require payment of a fee as a condition to the issuance of a high school equivalency certificate and a copy of the scores of the examinations. The fee must be reasonable and designed to cover the administrative costs of issuing the certificate and a copy of the scores. The board may not require a waiting period between the date a person withdraws from school and the date the person takes the examination unless the period relates to the time between administrations of the examination.

SECTION 6.02. Chapter 11, Education Code, is amended by adding Section 11.351 to read as follows:

Sec. 11.351. EQUIVALENCY EXAMINATION PILOT PROGRAM. (a) The Central Education Agency shall develop a pilot program to prepare certain students who are at risk of dropping out of school to take a high school equivalency examination.

(b) A school district shall participate in the program if requested to do so by the Central Education Agency. The Central Education Agency shall request at least those districts with dropout rates in the top 25 percent of all districts to participate in the program. The commissioner, on request of a district, may waive the requirement for a district's participation for one year if the district would be unable to effectively participate in the program. Other school districts may participate in the pilot program on the approval of the Central Education Agency. Each district in the program shall offer preparatory classes for the high school equivalency examination to students who are eligible for the program. The classes shall not be isolated from other academic and vocational programs of the school district. The district shall inform those students of the locations and times at which the students may take a high school equivalency examination.

(c) A student may participate in the program if:

(1) the student is 16 years of age or older at the beginning of the school year or semester;

(2) the student and the student's parents or guardians agree to the student's participation;

(3) there is not a reasonable expectation that the student will graduate on schedule;

(4) there is a reasonable expectation that on completion of the program the student will be able to pass the high school equivalency examination; and

(5) any other conditions specified by the State Board of Education are satisfied.

(d) The State Board of Education shall adopt rules to ensure that students are not encouraged to participate in this program solely as a means of diverting students with discipline problems or poor academic performance into the program as an alternative to regular school graduation.

(e) The Central Education Agency shall request permission from the General Educational Development Testing Service to administer the service's high school equivalency examination to enrolled high school students who participate in the pilot program.

(f) The Central Education Agency shall report the results of the pilot program and make recommendations for proposed legislation to the 73rd Legislature not later than January 31, 1993. The report and recommendations shall address the issues of:

(1) implementing the program in all school districts;

(2) implementing the program for all students who are not expected to graduate on schedule;

(3) the effect of the program on the dropout rate; and

(4) measures necessary to prevent the program from operating as an alternative to graduation from high school.

(g) This section expires September 1, 1993.

SECTION 6.03. Subsections (c) and (e), Section 13.032, Education Code, are amended to read as follows:

(c) In developing standards for programs in teacher education, the board shall provide each approved institution with a statement of the general qualifications required for each area of specialization for which a teaching certificate is authorized. The board may not require an institution to teach a particular doctrine or to conduct instruction on the basis of, or in accordance with, any particular pedagogical method. The board shall adopt as an accreditation standard for teacher education programs a standard for the cumulative performance of a program's students on the certification examination required under Subsection (e) of this section. A program that fails to meet the cumulative performance standard is subject to sanctions under Section 13.033 of this code.

(e) The State Board of Education by rule shall require satisfactory performance on a competency examination of basic skills prescribed by the board as a condition to admission into an approved teacher education program. In addition, the board by rule shall require satisfactory performance after graduation from an in-state or out-of-state teacher education program on a comprehensive examination prescribed by the board as a condition to full certification as a teacher and shall require satisfactory performance on a separate examination prescribed by the board as a condition to certification as a superintendent or other administrator. The board shall prescribe an examination designed to test knowledge appropriate for certification to teach primary grades and an examination designed to test knowledge appropriate for certification to teach secondary grades. The secondary teacher examinations must test knowledge of each examinee in the subject areas listed in Section 21.101 of this code in which the examinee will be certified to teach. The administrator examinations must test administrative skills and knowledge in subject areas and other matters as the board considers appropriate. The board, in conjunction with school districts, shall provide candidates for teacher or administrator certification with an opportunity for board-developed preparation for the certification examination. The board may limit the number of times a candidate for certification who fails to perform satisfactorily on the certification examination may retake it, but each candidate must be given more than one opportunity to perform satisfactorily. However, except for a candidate certified in another state or a candidate employed under an emergency permit who is making satisfactory progress toward completion of a deficiency plan, a candidate may not teach in a subject area until the candidate has performed satisfactorily on the certification examination in that subject area. The commissioner of education may waive the requirement for satisfactory performance on the subject area certification examination for not more than one year in a case of extreme personal hardship to

the candidate. The board shall prescribe the method of determining the satisfactory level of performance on a test under this subsection.

SECTION 6.04. Subsection (c), Section 13.302, Education Code, is amended to read as follows:

(c) In developing the appraisal process, the board shall provide for using not fewer than two appraisers for each appraisal. One appraiser must be the teacher's supervisor and one must be a person as approved by the board of trustees. An appraiser who is a classroom teacher may not appraise the performance of another classroom teacher who teaches at the same school campus at which the appraiser teaches, unless it is impractical because of the number of campuses or unless the appraiser is the chairman of a department or grade level whose job description includes classroom observation responsibilities. In a district that uses not more than two appraisers per appraisal, the board shall provide for an appraisal by a third appraiser from another campus if the difference between the appraisals is such that the teacher's performance can not be accurately evaluated. The board also shall provide for a uniform training program and uniform certification standards for appraisers to be used throughout the state. The board shall include teacher self-appraisal in the process.

SECTION 6.05. Subsection (a), Section 21.032, Education Code, is amended to read as follows:

(a) Unless specifically exempted by Section 21.033 of this code or under other laws or unless a child is at least 17 years of age and has been issued a high school equivalency certificate, every child in the state who is as much as six [~~seven~~] years of age, or who is less than seven years of age and has previously been enrolled in first grade, and who has not completed the academic year in which his 17th [~~16th~~] birthday occurred shall be required to attend the public schools in the district of his residence or in some other district to which he may be transferred as provided or authorized by law a minimum of 170 days of the regular school term of the district in which the child resides or to which he has been transferred.

SECTION 6.06. Chapter 21, Education Code, is amended by adding Section 21.115 to read as follows:

Sec. 21.115. VOCATIONAL EDUCATION INTEGRATED DELIVERY SYSTEM. (a) The master plan for vocational education under Section 21.113 of this code shall provide for an integrated delivery system that is designed to:

(1) meet local, regional, and statewide needs for vocational education programs;

(2) provide vocational education services in a systematic, nonduplicative manner;

(3) determine priorities for vocational education program offerings in each service delivery region established under this section; and

(4) maintain a central data base on all institutions, both public and private, that provide vocational education.

(b) The State Board of Education shall provide in the master plan for the establishment of vocational education service delivery regions throughout the state. The regions shall have the same boundaries as the state planning regions delineated by the governor.

(c) The State Board of Education shall establish in the master plan:

(1) priorities for local, regional, and statewide service plans; and

(2) the composition of regional planning committees that shall coordinate service delivery in each region.

SECTION 6.07. Chapter 21, Education Code, is amended by adding Section 21.510 to read as follows:

Sec. 21.510. TRANSITION PLANNING. (a) The Central Education Agency, the Texas Department of Mental Health and Mental Retardation, and the Texas

Rehabilitation Commission shall develop, mutually agree to, and by rule adopt a memorandum of understanding that establishes the respective responsibility of each agency for the provision of the services necessary to prepare students enrolled in special education programs for a successful transition to life outside the public school system.

(b) The Central Education Agency, the Texas Department of Mental Health and Mental Retardation, and the Texas Rehabilitation Commission may request other appropriate agencies to participate in the development of the memorandum of understanding, and each agency requested shall so participate and adopt the memorandum. The memorandum must be mutually agreed to by all participating agencies.

(c) The memorandum may require an agency or a school district to provide a service only if the agency or school district is providing that service at the time the memorandum is adopted. The memorandum shall require each participating agency to participate in the development of a transition plan required by Subsection (e) of this section on the request of a school district.

(d) The Central Education Agency shall coordinate the development of the memorandum of understanding.

(e) Each school district shall develop and annually review an individual transition plan (ITP) for each student enrolled in a special education program who is at least 16 years of age. The ITP shall be developed in a separate document from the individualized education program (IEP) and shall not be considered a part of the IEP. The school district shall coordinate development of the ITP with any participating agency as provided in the memorandum of understanding in order to provide continuity and coordination of services among the various agencies and between the ITP and IEP. The district shall request the participation in the development of the ITP of any participating agency recommended by school personnel or requested by the student or the student's parent. The district shall invite the student and the student's parents or guardians to participate in the development of the ITP. Only those components of the ITP which are the responsibility of the district shall be incorporated into the student's IEP. Only the failure to implement those components of a student's ITP which are included in the IEP and are the responsibility of the school district shall be subject to the due process procedures of the Education of the Handicapped Act, Public Law 94-142 (20 U.S.C. Section 1400 et seq.) or to Central Education Agency complaint procedures. The failure of the district to develop and annually review an ITP for a student shall be subject only to the Central Education Agency complaint procedures and not to the due process procedures of the Education of the Handicapped Act, Public Law 94-142 (20 U.S.C. Section 1400 et seq.). A monitoring visit under Section 21.509 of this code shall include a review of the transition planning requirements under this section. A school district is not liable for the failure of another agency to implement those components of the ITP that are designated as the responsibility of that agency under the memorandum of understanding.

SECTION 6.08. Title 2, Education Code, is amended by adding Chapter 34 to read as follows:

CHAPTER 34. PUBLIC EDUCATION PROGRAMS IN OFFICE OF GOVERNOR

SUBCHAPTER A. TEXAS EDUCATION EXCELLENCE AWARD SYSTEM

Sec. 34.001. CREATION OF SYSTEM. The Texas Education Excellence Award System (TEXAS) is created in the office of the governor to recognize and reward gains in achievement of schools and school districts.

Sec. 34.002. TYPES OF AWARDS. (a) The governor may present a financial award to the schools or districts that the educational excellence committee determines have the most improved performances. For each student in average

daily attendance, each of those schools or districts is entitled to an amount set for the award for which the school or district is selected by the committee, subject to any limitation set by the committee on the total amount that may be awarded to a school or district.

(b) The governor may present proclamations or certificates to additional schools and districts that the committee determines have exemplary performances.

Sec. 34.003. EDUCATIONAL EXCELLENCE COMMITTEE. (a) The educational excellence committee is created to advise the State Board of Education on the criteria for and to select the recipients of scholastic gains awards and student intervention program awards. The committee is composed of 15 members appointed by the governor with the advice and consent of the senate. Members serve staggered six-year terms, with five members' terms expiring February 1 of each odd-numbered year.

(b) The committee must include parents, members of the general public, and persons from the fields of public education, higher education, and business.

(c) Each person appointed to the committee must be interested in public education. The committee shall include persons with knowledge and experience in drug and alcohol abuse prevention and dropout prevention. The representatives of public or higher education appointed to the committee must have knowledge and experience in one or more of the following areas:

(1) curriculum and instruction;

(2) statistical analysis;

(3) school leadership; or

(4) educational management and governance.

Sec. 34.004. SCHOLASTIC GAINS AWARDS. (a) Not later than November 30 of each year, the educational excellence committee shall select schools and districts qualified to receive scholastic gains awards for improvements in performance during the preceding school year and report its selections to the governor and the State Board of Education.

(b) The State Board of Education with the advice and approval of the educational excellence committee shall establish the criteria and standards for the awards. The board shall incorporate criteria for the performance of students in special education programs. The criteria for schools and school districts must be measurable criteria and may include criteria related to:

(1) student achievement;

(2) operational efficiency;

(3) central administrative support;

(4) student and teacher attendance;

(5) graduates who enter college, receive advanced training, or are employed;

(6) principals participating in instructional leadership training; and

(7) other matters selected by the committee that are related to scholastic gains.

(c) The Central Education Agency shall notify each school district of the manner in which the district or a school in the district may qualify for a scholastic gains award.

(d) The selection date under Subsection (a) of this section may be extended from November 30, 1989, to a date that is not later than May 1, 1990. This subsection expires May 2, 1990.

Sec. 34.005. STUDENT INTERVENTION PROGRAM AWARDS. (a) Not later than April 30 of each year, the educational excellence committee shall select schools or districts qualified to receive awards for providing exemplary student intervention programs during the preceding two school years and report its selections to the governor and the State Board of Education.

(b) The programs must be designed to serve students at risk of dropping out of school and may include programs for dropout prevention and recovery, drug and alcohol prevention, parental and community involvement, or other programs that assist those students.

(c) The State Board of Education with the advice of the educational excellence committee shall establish criteria and standards for the awards that are related to:

(1) the planning, cost, and transferability of a program;

(2) the relevance of a program to social problems in the school;

(3) parental and community participation;

(4) the effect of the program on dropout, promotion, and attendance rates; and

(5) other matters selected by the committee that are related to a program's effectiveness in assisting students at risk of dropping out of school.

(d) The Central Education Agency shall notify each school district of the manner in which the district or a school in the district may qualify for a student intervention program award.

Sec. 34.006. USE OF AWARDS. (a) In determining the use of a monetary award received under this subchapter, a school or district shall give a priority to academic enhancement purposes. The award may not be used for salary supplements or any purpose related to athletics.

(b) The principal of each school that receives a financial award under this subchapter shall appoint a committee to determine the use of the funds awarded. The superintendent of each school district that receives a financial award under this subchapter shall appoint a committee to determine the use of the funds awarded. The board of trustees of the district may determine the composition of the committees, which may include teachers, administrators, other school employees, and parents, but the majority of the committee members must be teachers at the school or in the district, as applicable.

Sec. 34.007. FUNDING. The award system may be funded by donations, grants, or legislative appropriations. The office of the governor may solicit and receive grants and donations for the purpose of making awards under this subchapter. The donations, grants, or legislative appropriations shall be accounted for and distributed by the Central Education Agency. The awards are subject to audit requirements established by the State Board of Education.

Sec. 34.008. ADMINISTRATIVE AND RESEARCH ASSISTANCE. The Central Education Agency shall provide the committee appointed by the governor under this subchapter with staff support and research and technical assistance, including access to information regarding performance that is maintained by the agency.

Sec. 34.009. CONFIDENTIALITY. All information and reports received by the educational excellence committee under this subchapter from school districts subject to confidentiality under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), are confidential and may not be disclosed in any public or private proceeding.

[Sections 34.010-34.030 reserved for expansion]

SUBCHAPTER B. STUDENT AWARDS AND INCENTIVES

Sec. 34.031. MATH AND SCIENCE INCENTIVES. (a) The office of the governor may issue to a student in a public high school who receives credit for a course in advanced physics or calculus or another advanced science and mathematics course as defined by the educational excellence committee an award in the form of:

(1) a $75 tuition credit, evidenced by a certificate issued by the governor, which may be applied to tuition and fees at a public institution of higher education in this state; or

(2) a $50 financial award from private funds donated for the purpose of awards under this section.

(b) A student who receives a certificate for tuition credit under this section may submit the certificate to a qualifying institution in which the student enrolls to be applied to the student's tuition and fees. The institution shall reduce the student's tuition and fees by the amount of the tuition credit.

(c) The office of the governor may accept donations for the purpose of awarding tuition credits and financial awards under this section.

Sec. 34.032. SECOND CHANCE AWARDS. (a) The office of the governor may issue to a student dropout, who dropped out of school before January 1, 1989, is under the age of 19 on September 1, 1989, and returns to school and graduates from high school an award in the form of:

(1) a $500 tuition credit, evidenced by a certificate issued by the governor, which may be applied to tuition and fees at a public institution of higher education in this state; or

(2) a financial award, in an amount determined by the office of the governor, from private funds donated for the purpose of awards under this section; or

(3) an opportunity for public or private employment.

(b) The office of the governor shall coordinate employment opportunities offered by public or private employers for students eligible for awards under this section.

(c) A student who receives a certificate for tuition credit under this section may submit the certificate to a qualifying institution in which the student enrolls to be applied to the student's tuition and fees. The institution shall reduce the student's tuition and fees by the amount of the tuition credit.

(d) The office of the governor may accept donations for the purpose of awarding tuition credits and financial awards under this section.

(e) This section expires September 1, 1993.

[Sections 34.033-34.050 reserved for expansion]

SUBCHAPTER C. EDUCATIONAL ECONOMIC POLICY CENTER

Sec. 34.051. CREATION AND OPERATION. (a) The Educational Economic Policy Center is created as a consortium of universities. Each public senior college or university in the state shall participate in the Educational Economic Policy Center at the request of the governor. The center shall represent business, finance, public policy, education, and other appropriate disciplines.

(b) The center shall examine the efficiency of the public school system and the effectiveness of instructional methods and curricular programs. The center shall promote the use of successful methods and programs.

(c) The center may be funded by donations, grants, and legislative appropriations. The office of the governor may receive grants and donations for the purposes of this subchapter.

(d) The center may assist the legislature with education policy studies related to the purposes of the center on approval of the governor, lieutenant governor, and speaker. The center may participate in collaborative studies with foundations or organizations within or outside the state.

Sec. 34.052. EDUCATIONAL ECONOMIC POLICY COMMITTEE. (a) The Educational Economic Policy Committee is created as the primary policy-making body of the Educational Economic Policy Center. The committee shall study the elements of a quality educational system to:

(1) improve the management and productivity of the public education system to meet the demands of the twenty-first century;

(2) provide greater accountability to the taxpayers of the state; and

(3) improve the state's ability to compete in education and to compete economically with other states and nations.

(b) The committee is composed of nine members. The governor, lieutenant governor, and speaker of the house of representatives shall each appoint two members, only one of whom may be a board member or employee of a public school district, college, or university. Those appointees shall include persons in the private sector who have an interest in improving public education. In addition, the governor shall appoint three members who serve on the boards of regents representing the universities or systems participating in the center.

(c) Members of the committee serve two-year staggered terms.

(c-1) One-half of the initial members serve two-year terms beginning June 1, 1989. One-half of the initial members serve a one-year term beginning June 1, 1989. The initial members shall draw lots to determine which serve one-year terms. This subsection expires June 1, 1991.

(d) The governor shall appoint one member of the committee as the chairman.

(e) Members shall not receive salaries but shall be reimbursed for expenses incurred in attending meetings of the committee.

(f) State agencies shall cooperate with and assist the center at the committee's request.

(g) The committee shall report to the Legislative Education Board at least once a year. The committee shall also report to the governor, the State Board of Education, the Texas Higher Education Coordinating Board, and the legislature before the convening of each regular session.

SECTION 6.09. Chapter 73, Human Resources Code, is amended by adding Section 73.022 to read as follows:

Sec. 73.022. FEDERALLY FUNDED PROGRAMS. (a) The Central Education Agency may not impose requirements on an early childhood intervention program that receives funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 2701 et seq.) that are not requirements under federal law or under this chapter.

(b) The Central Education Agency shall coordinate monitoring required by federal law for early childhood intervention programs with the program monitoring required by this chapter to the extent possible.

SECTION 6.10. Section 52.002, Human Resources Code, is amended to read as follows:

Sec. 52.002. SCHOOL AGE PREGNANCY INTERAGENCY COORDINATING COUNCIL [~~ADVISORY COMMITTEE~~]. (a) The interagency coordinating council, to be administered by the department, is created to establish a resource network for teenage pregnancy education by coordinating policies and services and to advise the State Board of Education, the Texas Board of Human Services, and the Texas Board of Health on school age pregnancy issues.

(b) The council shall submit a report of the council's recommendations concerning teenage pregnancy prevention to relevant state agencies and to each regular session of the legislature not later than October 1 of each even-numbered year. The recommendations shall address effective coordination and elimination of duplication of services among education, health, and human services in the prevention of teenage pregnancy.

(c) The council consists of one representative of the attorney general's child support enforcement division, appointed by the attorney general, seven private sector representatives recommended by appropriate private sector agencies, and one representative from each of the following agencies, appointed by the executive director or commissioner of each agency:

(1) the Central Education Agency;

(2) the Texas Department of Human Services;

(3) the Texas Department of Health;

(4) the Texas Department of Community Affairs;

(5) the Texas Employment Commission;

(6) the Texas Health and Human Services Coordinating Council;

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

(8) the Texas Department of Commerce.

(d) The position of presiding officer shall rotate annually among the department, the Central Education Agency, and the Texas Department of Health, and the council shall meet at least quarterly [~~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 6.11. Chapter 26, Tax Code, is amended by adding Section 26.135 to read as follows:

Sec. 26.135. TAX DATES FOR CERTAIN SCHOOL DISTRICTS. (a) A school district that before January 1, 1989, has for at least 10 years followed a practice of adopting its tax rate at a different date than as provided by this chapter and of billing for and collecting its taxes at different dates than as provided by Chapters 31 and 33 may continue to follow that practice.

(b) This section does not affect the dates provided by this title for other purposes, including those relating to the appraisal and taxability of property, the attachment of tax liens and personal liability for taxes, and administrative and judicial review under Chapters 41 and 42.

SECTION 6.12. Section 153.104, Tax Code, is amended to read as follows:

Sec. 153.104. EXCEPTIONS. The tax imposed by this subchapter does not apply to gasoline:

(1) brought into this state in the fuel tank of a vehicle with a capacity of less than 60 gallons when the tank is connected to the carburetor or fuel injection system of the power plant providing the propulsion of the vehicle;

(2) delivered by a permitted distributor to a common or contract carrier, oceangoing vessel (including ship, tanker, or boat), or a barge for export from this state if the gasoline is moved forthwith outside the state;

(3) sold by a permitted distributor to another permitted distributor;

(4) sold to the federal government for its exclusive use;

(5) delivered by a permitted distributor into a storage facility of a permitted aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment; [~~or~~]

(6) sold by one aviation fuel dealer to another aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment; or

(7) sold to a public school district in this state for its exclusive use.

SECTION 6.13. Subsection (a), Section 153.119, Tax Code, is amended to read as follows:

(a) A person who exports, sells to the federal government or a public school district in this state without having added the amount of the tax imposed by this chapter to his selling price, loses by fire or other accident, or uses gasoline for the

purpose of operating or propelling a motorboat, tractor used for agricultural purposes, or stationary engine, or for another purpose except in a vehicle operated or intended to be operated on the public highways of this state, and who has paid the tax imposed on gasoline by this chapter either directly or indirectly is, when the person has complied with the invoice and filing provisions of this section and the rules of the comptroller, entitled to reimbursement of the tax paid by him, less a filing fee and any amount allowed distributors, wholesalers or jobbers, dealers, or others under Section 153.105(c) of this code. A public school district that has paid the tax imposed under this chapter on gasoline used by the district is entitled to reimbursement of the amount of the tax paid in the same manner and subject to the same procedures as other exempted users.

SECTION 6.14. Section 153.203, Tax Code, is amended to read as follows:

Sec. 153.203. EXCEPTIONS. The tax imposed by this subchapter does not apply to:

(1) diesel fuel delivered by a permitted supplier to a common or contract carrier, oceangoing vessel (including ship, tanker, or boat), or barge for export from this state, if the diesel fuel is moved forthwith outside this state;

(2) diesel fuel sold by a permitted supplier to the federal government for its exclusive use;

(3) diesel fuel sold or delivered by a permitted supplier to another permitted supplier or bonded user, to the bulk storage facility of a diesel tax prepaid user, or to a purchaser who provides a signed statement as provided by Section 153.205 of this code, but not including a delivery of tax-free diesel fuel into the fuel supply tanks of a motor vehicle, except for a motor vehicle owned by the federal government;

(4) diesel fuel sold or delivered by a permitted supplier into the storage facility of a permitted aviation fuel dealer, from which diesel fuel will be sold or delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment;

(5) diesel fuel sold or delivered by a permitted supplier into fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(6) kerosene when delivered by a permitted supplier into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; [or]

(7) diesel fuel sold or delivered by one aviation fuel dealer to another aviation fuel dealer who will deliver the diesel fuel exclusively into the supply tanks of aircraft or aircraft servicing equipment; or

(8) diesel fuel sold by a permitted supplier to a public school district in this state for its exclusive use.

SECTION 6.15. Subsection (a), Section 153.222, Tax Code, is amended to read as follows:

(a) A dealer who has paid tax on diesel fuel that has been used or sold for use by the dealer for any purpose other than propelling a motor vehicle on the public highways of this state or that has been sold to the United States or a public school district in this state for the [its] exclusive use of the purchaser without adding the amount of the tax to his selling price, and a user who has paid tax on any diesel fuel that has been used by him for a purpose other than propelling a motor vehicle on the public highways or who is a public school district and has paid the tax on diesel fuel purchased for its exclusive use may file a claim for a refund of taxes paid, less the deduction allowed vendors and a filing fee.

SECTION 6.16. Chapter 153, Tax Code, is amended by adding Section 153.3021 to read as follows:

Sec. 153.3021. SCHOOL DISTRICT EXEMPTION. (a) The tax imposed by this subchapter does not apply to the sale of liquefied petroleum gas to a public

school district in this state or to the use of liquefied petroleum gas by a public school district in this state.

(b) A motor vehicle that uses liquefied petroleum gas and that is operated by a public school district in this state is not required to have a liquefied gas tax decal or a special use liquefied gas tax decal.

SECTION 6.17. Subsection (b), Section 21.181, Education Code, is amended to read as follows:

(b) A contract is economically advantageous if the cost of the service contracted for is equal to or less than the total cost to the school district for providing its own complete bus service. The total cost to the school district is the state transportation cost allotment plus the supplementary funds necessarily provided by the local school district to provide complete transportation services. In determining if a contract is economically advantageous, taxes paid by the commercial transportation company or system on gasoline, diesel fuel, or liquefied petroleum gas may not be considered.

SECTION 6.18. Sections 6.12 through 6.17 of this Act apply only to sales of gasoline, diesel fuel, and liquefied petroleum gas made on or after September 1, 1991; except that if a school district has purchased gasoline, diesel fuel, or liquefied petroleum gas in bulk quantities before that date, paid the amount of the tax imposed by Chapter 153, Tax Code, and used the gasoline, diesel fuel, or liquefied petroleum gas after September 1, 1991, the school district may apply for a refund for the amount of the taxes paid only on the fuel so used after September 1, 1991, subject to the same allowances, deductions, and filing fees applicable to refunds made for sales made after September 1, 1991. A refund of the amount of tax paid on liquefied petroleum gas through the purchase of a liquefied gas tax decal shall be calculated according to the method determined by the comptroller of public accounts that fairly and equitably allocates fuel use during the period of validity of the decal between use before September 1, 1991, and after September 1, 1991.

SECTION 6.19. The agencies required to develop a memorandum of understanding under Section 21.510, Education Code, as added by this Act, shall adopt the memorandum not later than September 1, 1990. A district is not required to develop transition plans under that section before the memorandum is adopted.

SECTION 6.20. Notwithstanding the provisions of Subsection (e), Section 13.032, Education Code, as amended by this Act, a person who is teaching on the effective date of this Act under a temporary certificate issued by the State Board of Education in a subject area in which the person failed to perform satisfactorily on the certification examination required under Subsection (e), Section 13.032, Education Code, may continue to teach in that subject area until the expiration of the temporary certificate.

SECTION 6.21. The 71st Legislature of the State of Texas hereby urges the Central Education Agency to conduct a study relating to the number of students in Texas schools who are receiving stimulant therapy or other medication for the control of hyperactivity or other forms of behavior and, at a minimum, set forth in the study the number of students per school district who are receiving stimulant therapy or other medication for the control of hyperactivity or other forms of behavior and the number of students who are receiving the treatment per category of therapy or medication.

The school districts of the state are urged to cooperate with the agency and its agents in providing information requested by the agency.

The Texas Department of Health is urged to assist the agency in conducting the study and in making suggestions to the agency regarding the conduct of the study.

Information relevant to this study regarding a student may be obtained only with the consent of the parent or guardian of the student, with the identities of

students involved in the study held in confidence and not subject to disclosure except at the express written request of the student or the student's parent or guardian.

If a study is conducted, the Central Education Agency shall report the results of this study to the presiding officer of each house of the legislature not later than February 1, 1991.

ARTICLE VII. EFFECTIVE DATE; EMERGENCY

SECTION 7.01. This Act, except as otherwise specifically provided, takes effect September 1, 1989. Sections 4.14 and 4.34; Chapter 34, Education Code, as added by Section 6.08 of this Act; and this article take effect immediately. Sections 6.12 through 6.17 take effect September 1, 1991.

SECTION 7.02. 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 SENATE BILL 538 ADOPTED

Senator Leedom called from the President's table the Conference Committee Report on **S.B. 538**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 25, 1989.)

On motion of Senator Leedom, the Conference Committee Report was adopted viva voce vote.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1516 ADOPTED

Senator Carriker called from the President's table the Conference Committee Report on **S.B. 1516**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Carriker, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 526 ADOPTED

Senator Carriker called from the President's table the Conference Committee Report on **H.B. 526**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Carriker, the Conference Committee Report was adopted viva voce vote.

(President in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1023 ADOPTED

Senator Leedom called from the President's table the Conference Committee Report on **H.B. 1023**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Leedom, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1405 ADOPTED

Senator Caperton 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 on Friday, May 26, 1989.)

On motion of Senator Caperton, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2721 ADOPTED

Senator Sims called from the President's table the Conference Committee Report on **H.B. 2721**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 27, 1989.)

On motion of Senator Sims, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3183 ADOPTED

Senator Ratliff called from the President's table the Conference Committee Report on **H.B. 3183**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Ratliff, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 224 ADOPTED

Senator Krier called from the President's table the Conference Committee Report on **S.B. 224**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Krier, the Conference Committee Report was adopted viva voce vote.

SENATE BILL 171 WITH HOUSE AMENDMENTS

Senator Krier called **S.B. 171** 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 - Hinojosa

Amend **S.B. 171** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 71.01(b)(2), Family Code, is amended to read as follows:

(2) "Family violence" means:

(A) the intentional use or threat of physical force by a member of a family or household against another member of the family or household, excluding [~~but does not include~~] the reasonable discipline of a child by a person having that duty; or

(B) abuse, as that term is defined by Sections 34.012(1)(C), (E), and (G) of this code, by a member of a family or household toward a child of the family or household.

SECTION 2. Section 71.04, Family Code, is amended to read as follows:

Sec. 71.04. APPLICATION FOR PROTECTIVE ORDER. (a) An application under this chapter is entitled "An application for a protective order."

(b) An application may be filed by:

(1) an adult member of a family or household for the protection of the applicant or for any other member of the family or household;

(2) any adult for the protection of a child member of a family or household; or

(3) any prosecuting attorney [~~who serves the county in which the application is to be filed and~~] who represents the state in a district or statutory county court in the county in which venue of the application is proper for the protection of any person alleged to be a victim of family violence.

(c) The county attorney or the criminal district attorney is the prosecuting attorney responsible for filing applications under this chapter. The district attorney may assume the responsibility by giving notice of that assumption to the county attorney. The application is to be filed as provided by Article 5.06, Code of Criminal Procedure.

(d) [~~(c)~~] A person who was a member of a household is not barred from filing an application or from protection under this chapter even if the person no longer resides in the same household with the person who is alleged to have committed the family violence.

(e) [~~(d)~~] The fee for filing an application is $16 and is to be paid to the clerk of the court in which the application is filed. Except as provided in Section 71.07 of this code, the applicant may not be assessed any other fees, costs, charges, or expenses by the clerk of the court or any other public official in connection with the application. If the applicant files a sworn statement that the applicant is unable to pay the filing fee and other costs as provided in Section 71.07 of this code, the court, on a finding that the statement is true, shall waive the fee and costs that may be due or become due from the applicant. A hearing on the issue of the waiver of the fee and cost, if requested by a party or if required by the court, must be held at the same time as the hearing on the application.

(f) The [~~(e) If the application is filed by a prosecuting attorney under Subdivision (3) of Subsection (b) of this section, the~~] court may assess a reasonable attorney's fee as compensation for the services of a private or prosecuting attorney representing an applicant [~~the prosecuting attorney. The attorney's fee may be assessed against the party represented by the attorney or~~] against any [~~other~~] party who is found to have committed family violence. In setting the amount of the fee, the court shall consider the income and ability to pay of the person against whom the fee is assessed. The amount of fees collected under this section as compensation for the services of a prosecuting attorney shall be paid to the credit of the county fund from which the salaries of employees of the prosecuting attorney are paid or supplemented.

SECTION 3. Section 71.06, Family Code, is amended to read as follows:

Sec. 71.06. DISMISSAL OF APPLICATION. If a suit for the dissolution of marriage has been filed before the date on which an application for a protective order is filed and that suit is pending on the date that the application is filed, no

application or portion of an application involving the relationship between the spouses or their respective rights, duties, or powers may be considered, and the application or portion of the application relating to those parties shall be dismissed. An application dismissed under this section may be filed as a motion for a protective order under Section 3.581 of this code.

SECTION 4. Section 71.07, Family Code, is amended to read as follows:

Sec. 71.07. SERVICE OF NOTICE OF APPLICATION FOR PROTECTIVE ORDER [~~CITATION~~]. (a) Each individual[~~, other than an applicant,~~] who is alleged to have committed family violence is entitled to service of notice of an application for a protective order as provided by this section [~~citation~~] on the filing of an application.

(b) On the filing of the application, the clerk shall issue a notice of an application for a protective order and deliver the notice as directed by the applicant.

(c) On request of the applicant, the clerk shall issue a separate or additional notice of an application for a protective order.

(d) A notice of an application for a protective order shall:

(1) be styled "The State of Texas";

(2) be signed by the clerk under seal of court;

(3) contain the name and location of the court;

(4) show the date of filing of the application;

(5) show the date of issuance of the notice of the application for a protective order;

(6) show the date, time, and place of the hearing;

(7) show the file number;

(8) show the names of the applicant and each person alleged to have committed family violence;

(9) be directed to each person alleged to have committed family violence;

(10) show the name and address of the attorney for the applicant or the address of the applicant; and

(11) contain the address of the clerk.

(e) The notice of an application for a protective order shall state: "An application for a protective order has been filed in the court stated in this notice alleging that you have committed family violence. You may employ an attorney to defend yourself against this allegation. You or your attorney may, but are not required to, file a written answer to the application. Any answer must be filed before the hearing on the application. If you receive this notice within 48 hours before the time set for the hearing, you may request the court to reschedule the hearing not later than 14 days after the date set for the hearing. If you do not attend the hearing, a default judgment may be taken and a protective order may be issued against you."

(f) A party filing an application for a protective order shall furnish the clerk with a sufficient number of copies of the application for service of those individuals alleged in the application to have committed family violence.

(g) A notice of an application for a protective order shall be served in the same manner as a citation under the Texas Rules of Civil Procedure, except that service by publication is not authorized.

(h) Service of notice of an application for a protective order [~~citation~~] is not required before the issuance of a temporary ex parte order under Section 71.15 of this code.

(i) [~~(c)~~] The fee for service of notice of an application for a protective order [~~citation~~] charged to the applicant under this section may not be more than:

(1) $20 if the notice [~~citation~~] is delivered in person; or

(2) the cost of postage if the service is by registered or certified mail.

SECTION 5. Section 71.08, Family Code, is amended to read as follows:

Sec. 71.08. ANSWER. An individual served with notice of an application for a protective order [~~citation~~] may but is not required to file a written answer to the application. The answer may be filed at any time before the hearing.

SECTION 6. Section 71.09, Family Code, is amended to read as follows:

Sec. 71.09. HEARING. (a) Unless a later date is requested by the applicant, the court, on the filing of an application, shall set a date and time for the hearing on the application. Except as provided by Subsection (d) of this section, the [~~The~~] date must be not later than 14 [~~20~~] days after the date the application is filed.

(b) If a person entitled to service of a notice of application for a protective order receives the service within [~~citation is not served at least~~] 48 hours before the time set for the hearing, the court, on a request from the person, shall reschedule the hearing for a date not later than 14 days after the date set for the hearing. The person is not entitled to additional service for the rescheduled hearing [~~must be rescheduled unless the person entitled to service is present at the hearing and waives notice of the hearing~~].

(c) If a hearing set under Subsection (a) of this section is not held because of the failure of a party to receive service of a notice of application for a protective order [~~citation~~], the applicant may request the court to reschedule the hearing. Except as provided by Subsection (d) of this section, the [~~The~~] date for a rescheduled hearing under this subsection must be not later than 14 [~~20~~] days after the date on which the request is made.

(d) A prosecuting attorney in a county with a population of more than 1,000,000 may request that a hearing under Subsection (a) of this section take place not later than 20 days after the date the application is filed or that a hearing rescheduled under Subsection (c) of this section take place not later than 20 days after the date on which the request is made. The prosecuting attorney may make a request under this subsection on a case-by-case basis or to all the courts in the county for all cases under this chapter. A court shall grant the request of a prosecuting attorney under this subsection [~~Except as provided by Subsections (a), (b), and (c) of this section, the court may schedule hearings under this chapter as in other civil cases generally~~].

SECTION 7. Section 71.10(c), Family Code, is amended to read as follows:

(c) A protective order may apply only to [~~an individual, including an applicant, who is~~] a party to the proceeding [~~and~~] who:

(1) the court finds has [~~is found to have~~] committed family violence and is likely to commit family violence in the foreseeable future; [~~or~~]

(2) has agreed to the order under Section 71.12(a) [~~Sections 71.12(a) and (b)~~] of this code; or

(3) is a respondent and has agreed to the order under Section 71.12(b) of this code [~~subject to the requirements of Section 71.12(c) of this code, if applicable~~].

SECTION 8. Sections 71.11(a), (b), and (c), Family Code, are amended to read as follows:

(a) In a protective order the court may:

(1) prohibit a party from:

(A) removing a child member of the family or household from the possession of a person named in the court order or from the jurisdiction of the court; or

(B) transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business;

(2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more other parties to vacate the residence if:

(A) the residence is jointly owned or leased by the party receiving exclusive possession and by some other party denied possession;

(B) the residence is owned or leased by the party retaining possession; or

(C) the residence is owned or leased by the party denied possession but only if that party has an obligation to support the party granted possession of the residence or a child of the party granted possession;

(3) provide for possession of and access to a child of a party if the person receiving possession of or access to the child is a parent, as that term is defined by Section 11.01 of this code, of the child;

(4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child;

(5) require a party found to have committed family violence [~~one or more parties~~] to counsel with a social worker, family service agency, physician, psychologist, or licensed professional counselor, or to complete a batterer's treatment program [~~any other person qualified to provide psychological or social guidance~~];

(6) award to a party use and possession of specified property that is community property or jointly owned or leased; or

(7) prohibit a party found to have committed family violence from doing specified acts or require a party to do specified acts necessary or appropriate to prevent or reduce the likelihood of family violence.

(b) In a protective order the court may prohibit a party from:

(1) committing family violence;

(2) [~~directly~~] communicating:

(A) directly with a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a member of the family or household; and

(C) on a finding of good cause, in any manner with a member of the family or household except through the party's attorney or a person appointed by the court [~~with a member of the family or household in a threatening or harassing manner~~];

(3) going to or near the residence or place of employment or business of a member of the family or household; and

(4) going to or near the residence, child care facility, or school where a child protected under the order normally resides or attends.

(c) In an order under Subsections (b)(3) and (b)(4) of this section, the court shall specifically describe the prohibited locations and the minimum distances therefrom, if any, that the party must maintain unless Section 71.111 of this code applies, in which case, the court order need not disclose the locations [~~place of the protected party's residence~~].

SECTION 9. Section 71.11(e), Family Code, as added by Section 3, Chapter 1090, Acts of the 70th Legislature, Regular Session, 1987, and Sections 71.11(f) and (g), Family Code, are amended to read as follows:

(f) Except on a showing of indigency by a person against whom a protective order is directed, the [~~(e) A protective~~] order shall require that the person [~~against whom the order is directed~~]:

(1) pay the cost of service of the order, the actual costs of court, the costs incurred by the clerk not paid by the applicant pursuant to Section 71.07, Family Code, and any other fees, charges, or expenses incurred in connection with the protective order; and

(2) reimburse the applicant for any fees paid by the applicant under this chapter by paying that amount to the clerk of the court.

(g) [~~(f)~~] The clerk of a court who receives money according to a protective order from a person against whom the order is directed shall reimburse the applicant for any fees paid by the applicant under this chapter.

(h) [~~(g)~~] A person who is ordered to pay costs or reimburse an applicant under Subsection (f) [~~(e)~~] of this section who does not pay the costs or reimburse the applicant before the 60th day after the date the order was rendered may be punished for contempt of court by a fine in an amount not to exceed $500, or by confinement in jail for a term not to exceed six months, or both.

SECTION 10. Section 71.11, Family Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) A party for whom counseling or a batterer's treatment program is ordered under Subsection (a)(5) of this section and who does not provide to the court before the 60th day after the date the order was rendered an affidavit that the party has started the counseling or the program or that the counseling or the program is not available within a reasonable distance of the party's residence may be punished for contempt of court by a fine in an amount not to exceed $500, or by confinement in jail for a term not to exceed six months, or both. The order shall specifically advise the party of this requirement and the possible punishment for failure to comply.

(j) Any interested person may contest an affidavit of indigency filed under Subsection (f) of this section.

SECTION 11. Section 71.111, Family Code, is amended to read as follows:

Sec. 71.111. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) On the request of a member of a family or household, the court may exclude from any protective[~~, agreed, or temporary~~] order under this chapter the address and telephone number of:

(1) a person protected by the order, specifying only the county of residence;

(2) the place of employment or business of a person protected by the order; or

(3) the child care facility or school where a child protected by the order normally resides or attends.

(b) The court may [~~, and~~] order the clerk to strike the [~~that~~] information described by Subsection (a) of this section from the public records of the court, and, if necessary, make a confidential record of that information for use only by the court.

SECTION 12. Section 71.12, Family Code, is amended to read as follows:

Sec. 71.12. AGREED ORDERS. (a) To facilitate the settlement of a proceeding under this chapter, two or more parties to the proceeding may agree in writing, subject to the approval of the court, to do or refrain from doing any act that the court could order under Section 71.11(a) [~~71.11~~] of this code.

(b) To facilitate the settlement of a proceeding under this chapter, the respondent to a protective order may agree in writing, subject to the approval of the court, to do or refrain from doing any act that the court could order under Section 71.11(b) of this code.

(c) If all or part of an agreement is approved by the court, the part of the agreement approved shall be attached to the protective order and become a part of the order of the court.

(d) [~~(b)~~] An agreement that is made a part of the court's order is enforceable as a court order and is not enforceable as a contract. The agreement expires when the court order expires.

[~~(c) The court may not enter an order under this section that requires the applicant to do or refrain from doing an act listed under Section 71.11(b) of this code unless:~~

[~~(1) the applicant, at least 48 hours before the time the court enters the order, receives notice by service of citation that the court intends to enter the order, and~~

[~~(2) the court finds that the applicant has committed family violence.~~]

SECTION 13. Chapter 71, Family Code, is amended by adding Section 71.121 to read as follows:

Sec. 71.121. REQUEST BY RESPONDENT FOR PROTECTIVE ORDER. A court may enter a protective order that applies to both the respondent and the applicant and that requires the applicant to do or refrain from doing an act listed under Section 71.11(b) of this code only if:

(1) the court holds a hearing;

(2) the applicant is served notice of an application for a protective order at least 48 hours before the time of the hearing or the applicant waives this notice; and

(3) the court finds that the applicant has committed family violence and is likely to commit family violence in the foreseeable future.

SECTION 14. Section 71.13, Family Code, is amended to read as follows:

Sec. 71.13. DURATION OF PROTECTIVE ORDERS. (a) An order made under Section 71.11 of this code is effective for the period specified in the order, not to exceed one year. If the order does not specify a period in which the order is effective, the order expires one year after the date the order is issued.

(b) Except as provided by Subsection (c) of this section, an [~~An~~] order of a court having jurisdiction of a suit for divorce or annulment prevails, to the extent of conflict only, over a conflicting portion of an order made under this title and relating to the parties to the suit for divorce or annulment.

(c) An order of a court having jurisdiction of a suit for divorce or annulment does not prevail over that portion of an order made under this title that is in effect and that relates to the parties to the suit for divorce or annulment and prohibits one or both of the parties from:

(1) committing family violence;

(2) directly communicating with a member of the family or household in a threatening or harassing manner, communicating a threat through any person to a member of the family or household, and, if the order prohibits any communication with a member of the family or household, communicating in any manner with the member of the family or household except through the person's attorney or person appointed by the court and except as necessary for counseling that the court may require under Section 3.54 of this code;

(3) going to or near the place of employment or business of a member of the family or household; or

(4) going to or near the residence of a member of the family or household unless the order of the court having jurisdiction of the suit for divorce or annulment awards the property of the parties in a manner that results in a change of residence of a party whom an order made under this title is intended to protect.

SECTION 15. Section 71.15, Family Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) Subject to the limitations under Section 71.11(a)(2) of this code, a person may only be excluded from the occupancy of the person's residence by ex parte order under this section if the applicant:

(1) files a sworn affidavit with the court that provides a detailed description of the facts and circumstances requiring the exclusion of the person from the residence; and

(2) appears in person to give testimony at an ex parte hearing to justify the granting of the order without notice.

(h) In order for an ex parte order excluding a person from the person's residence to be granted, the court must find from the required affidavit and testimony that:

(1) the applicant requesting the exclusion order either resides on the premises or has resided there within 30 days before the filing of the application;

(2) the person to be excluded has within the six-month period preceding the filing of the application committed family violence against a member of the household; and

(3) there is a clear and present danger that the person to be excluded is likely to commit family violence against a member of the household.

(i) On the request of a person obtaining an order that excludes another person from the other person's residence, the court that granted the order may order the sheriff or chief of police to provide a law enforcement officer from the department of the sheriff or the chief of police:

(1) to accompany the person obtaining the order to the residence covered by the order;

(2) to protect the person obtaining the order while the person takes possession of the residence; and

(3) if the person obtaining the order is unable to take possession of the residence because the person being excluded occupies the residence, to inform the person being excluded that the court has ordered the person excluded from the residence.

SECTION 16. Section 71.16, Family Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Each protective order issued under this chapter, except a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE A MISDEMEANOR PUNISHABLE BY A FINE OF AS MUCH AS $2,000 [~~$1,000~~] OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR [~~SIX MONTHS~~], OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY [~~A FINE OF MORE THAN $1,000 OR BY~~] CONFINEMENT IN [~~JAIL OR~~] PRISON FOR AT LEAST TWO YEARS [~~MORE THAN SIX MONTHS, OR BOTH~~]."

(c) Each protective order issued under this chapter, including a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

SECTION 17. Section 71.17, Family Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The clerk of the court issuing an original or modified [a] protective order under this chapter shall send a copy of the order to the chief of police of the city where the member of the family or household protected by the order resides, if the person resides in a city, or to the sheriff of the county where the person resides, if the person does not reside in a city.

(d) The clerk of a court vacating an original or modified protective order under this chapter shall notify the chief of police or sheriff who received a copy of the original or modified order that the order is vacated.

SECTION 18. Section 71.18, Family Code, is amended to read as follows:

Sec. 71.18. DUTIES OF LAW ENFORCEMENT AGENCIES. (a) In order to insure that officers responding to calls are aware of the existence and terms of

protective orders issued under this chapter, each municipal police department and sheriff shall establish procedures within the department or office to provide adequate information or access to information for law enforcement officers of the names of persons protected by order issued under this chapter and of persons to whom protective orders are directed.

(b) The municipal police department or sheriff may enter the protective order in the department's or sheriff's computer record of outstanding warrants as notice that the order has been issued and is currently in effect.

SECTION 19. Section 3.58, Family Code, is amended by amending Subsections (b) and (d) and by adding Subsections (j), (k), (l), and (m) to read as follows:

(b) A temporary restraining order under this subchapter may not:

(1) include a provision the subject of which is any requirement, appointment, award, or other order that is listed in Subsection (c) of this section; or

(2) include a provision that:

(A) excludes a spouse from occupancy of the residence where that spouse [~~the party~~] is living except as provided by Subsections (j) and (k) of this section;

(B) prohibits a party from the spending of funds for reasonable and necessary living expenses; or

(C) prohibits a party from engaging in acts reasonable and necessary to the conduct of that party's usual business and occupation.

(d) Except as provided by Subsection (j) of this section, a [~~A~~] temporary restraining order or a temporary injunction issued under this section may be granted without the necessity of an affidavit or a verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. The court may dispense with the issuance of a bond in connection with temporary orders for the protection of the parties and their property. Except as provided by Subsection (k) of this section, a [~~A~~] temporary restraining order or temporary injunction granted under this section need not:

(1) define the injury or state why it is irreparable;

(2) state why the order was granted without notice; or

(3) include an order setting the cause for trial on the merits with respect to the ultimate relief sought.

(j) A spouse may be excluded from the occupancy of the spouse's residence by ex parte order if the other spouse:

(1) files a sworn affidavit with the court that provides a detailed description of the facts and circumstances requiring the exclusion of the spouse from the residence; and

(2) appears in person to give testimony at an ex parte hearing to justify the granting of the order without notice.

(k) In order for an ex parte order excluding one spouse from the spouse's residence to be granted, the court must find from the required affidavit and testimony that:

(1) the spouse requesting the exclusion order either resides on the premises or has resided there within 30 days before the filing of the application;

(2) the spouse to be excluded has within the six-month period preceding the filing of the application committed family violence against the other spouse or any person residing in the household; and

(3) there is a clear and present danger that the spouse to be excluded is likely to commit family violence against a member of the household.

(l) On request of a spouse obtaining an order that excludes the other spouse from the other spouse's residence, the court that granted the order may order the

sheriff or chief of police to provide a law enforcement officer from the department of the sheriff or the chief of police:

(1) to accompany the spouse obtaining the order to the residence covered by the order;

(2) to protect the spouse obtaining the order while the spouse takes possession of the residence; and

(3) if the spouse obtaining the order is unable to take possession of the residence because the spouse being excluded occupies the residence, inform the spouse being excluded that the court has ordered the spouse excluded from the residence.

(m) Notwithstanding the limitations on the exclusion of a spouse from a residence under Subsections (j), (k), and (l) of this section, a temporary restraining order or temporary injunction issued under this section may include a provision that excludes a spouse from the occupancy of a residence previously occupied by the spouse but in which the spouse is not currently residing.

SECTION 20. Section 3.581, Family Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) On the motion of any party to a suit for divorce or annulment or to declare a marriage void, [~~and on a showing that a party to the suit has committed family violence as defined by Section 71.01 of this code;~~] the court may issue a protective order as provided by Sections 71.10(a), 71.10(b), 71.10(c)(1) and (3), 71.11(b) and (c), 71.111, 71.14, and 71.16 of this code.

(c) An order made under this section is valid for one year or the earliest of:

(1) the end of a period of less than one year specified in the order by the court;

(2) the date [~~until~~] the order is vacated by the court; or

(3) the date[;] the suit is dismissed[~~, or the decree in the suit becomes final, whichever event occurs the earliest~~].

(d) The date of expiration of an order made under this section must appear on the order.

(e) An order made under this section must be a separate document entitled "PROTECTIVE ORDER."

SECTION 21. Section 3.582, Family Code, is amended to read as follows:

Sec. 3.582. COPIES OF ORDERS. (a) A protective order made under Section 3.581 of this code shall be delivered to the person to whom the order applies in open court at the close of the hearing or served in the same manner as a writ of injunction. The order shall require that if the order is served in the same manner as a writ of injunction, the person to whom the order applies shall pay the cost of the service.

(b) The clerk of the court issuing an original or modified [a] protective order under Section 3.581 of this code shall send a copy of the order to the chief of police of the city where the member of the family or household protected by the order resides, if the person resides in a city, or to the sheriff of the county where the person resides, if the person does not reside in a city.

(c) If a protective order under Section 3.581 of this code prohibits a person from going to or near a child care facility or school, the party requesting the order shall send a copy of the order to the child care facility or school.

(d) The clerk of a court vacating or dismissing an original or modified protective order under Section 3.581 of this code shall notify the chief of police or sheriff who received a copy of the original or modified order that the order is vacated.

SECTION 22. Section 23.101(a), Government Code, is amended to read as follows:

(a) The trial courts of this state shall regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with criminal actions against defendants who are detained in jail pending trial given preference over other criminal actions;

(3) election contests and suits under the [~~Texas~~] Election Code; [~~and~~]

(4) orders for the protection of the family under Section 3.581, 71.11, or 71.12, Family Code; and

(5) appeals of final rulings and decisions of the Industrial Accident Board and claims under the Federal Employers' Liability Act and the Jones Act.

SECTION 23. The title of Section 25.08, Penal Code, is amended to read as follows:

Sec. 25.08. VIOLATION OF A PROTECTIVE [~~COURT~~] ORDER.

SECTION 24. Section 25.08(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, in violation of an order issued under Section 3.581, Section 71.11, or Section 71.12, Family Code, the person [~~he~~] knowingly or intentionally:

(1) commits family violence;

(2) directly communicates with a member of the family or household in a threatening or harassing manner, communicates a threat through any person to a member of the family or household, and, if the order prohibits any communication with a member of the family or household, communicates in any manner with the member of the family or household except through the person's attorney or a person appointed by the court; or

(3) goes to or near any of the following places as specifically described in the protective order:

(A) the residence or place of employment or business of a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the protective order normally resides or attends.

SECTION 25. Section 25.08(e), Penal Code, is amended to read as follows:

(e) A peace officer investigating conduct that may constitute an offense under this section for a violation of a protective order may not arrest a person protected by that order for a violation of that order [~~It is an exception to the application of this section that the person was the applicant for the order or is a person whom the order is intended to protect~~].

SECTION 26. Section 25.08(f), Penal Code, as amended by Section 1, Chapter 170, Acts of the 70th Legislature, Regular Session, 1987, is relettered and amended to read as follows:

(g) [~~(f)~~] An offense under this section is a Class A [~~B~~] misdemeanor.

SECTION 27. Article 5.05(d), Code of Criminal Procedure, is amended to read as follows:

(d) Each law enforcement officer shall accept a certified copy of an original or modified [a] protective order as proof of the validity of the order and it is presumed the order remains valid unless:

(1) the order contains a termination date that has passed;

(2) it is more than one year after the date the order was issued; or

(3) the law enforcement officer has been notified by the clerk of the court vacating the order that the order has been vacated [~~or is more than one year old from its execution date~~].

SECTION 28. Article 5.06, Code of Criminal Procedure, is amended to read as follows:

Art. 5.06. DUTIES OF PROSECUTING ATTORNEYS AND COURTS [~~HAVING JURISDICTION OF CRIMES~~]. (a) Neither a prosecuting attorney nor a court may:

(1) dismiss or delay any criminal proceeding that involves a prosecution for an offense that constitutes family violence because a civil proceeding is pending or not pending; or

(2) require proof that a complaining witness, victim, or defendant is a party to a suit for the dissolution of a marriage or a suit affecting the parent-child relationship before presenting a criminal allegation to a grand jury, filing an information, or otherwise proceeding with the prosecution of a criminal case.

(b) A prosecuting attorney's decision to file an application for a protective order under Chapter 71, Family Code, should be made without regard to whether a criminal complaint has been filed by the applicant. A prosecuting attorney may require the applicant to provide information for an offense report, relating to the facts alleged in the application, with a local law enforcement agency.

SECTION 29. Chapter 5, Code of Criminal Procedure, is amended by adding Article 5.07 to read as follows:

Art. 5.07. VENUE FOR PROTECTIVE ORDER OFFENSES. The venue for an offense under Section 25.08, Penal Code, is in the county in which the order was issued or, without regard to the identity or location of the court that issued the protective order, in the county in which the offense was committed.

SECTION 30. This Act applies only to a court order made on or after the effective date of this Act. An order made before the effective date of this Act is governed by the law in effect at the time the order was made, and that law is continued in effect for this purpose.

SECTION 31. (a) The change in law made by Sections 24 and 25 of this Act applies only to the prosecution of 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 that law is continued in effect for this purpose.

SECTION 32. This Act takes effect September 1, 1989.

SECTION 33. 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.

Amendment - Eckels

Amend **C.S.S.B. 171** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 71.01(b)(2), Family Code, is amended to read as follows:

(2) "Family violence" means:

(A) an act [~~the intentional use or threat of physical force~~] by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, or assault, or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, or assault, excluding [~~but does not include~~] the reasonable discipline of a child by a person having that duty; or

(B) abuse, as that term is defined by Sections 34.012(1)(C), (E), and (G) of this code, by a member of a family or household toward a child of the family or household.

SECTION 2. Section 71.04, Family Code, is amended to read as follows:

Sec. 71.04. APPLICATION FOR PROTECTIVE ORDER. (a) An application under this chapter is entitled "An application for a protective order."

(b) An application may be filed by:

(1) an adult member of a family or household for the protection of the applicant or for any other member of the family or household;

(2) any adult for the protection of a child member of a family or household; or

(3) any prosecuting attorney [~~who serves the county in which the application is to be filed and~~] who represents the state in a district or statutory county court in the county in which venue of the application is proper for the protection of any person alleged to be a victim of family violence.

(c) The county attorney or the criminal district attorney is the prosecuting attorney responsible for filing applications under this chapter. The district attorney may assume the responsibility by giving notice of that assumption to the county attorney. The application is to be filed as provided by Article 5.06, Code of Criminal Procedure.

(d) [~~(c)~~] A person who was a member of a household is not barred from filing an application or from protection under this chapter even if the person no longer resides in the same household with the person who is alleged to have committed the family violence.

(e) [~~(d)~~] The fee for filing an application is $16 and is to be paid to the clerk of the court in which the application is filed. Except as provided in Section 71.07 of this code, the applicant may not be assessed any other fees, costs, charges, or expenses by the clerk of the court or any other public official in connection with the application. If the applicant files a sworn statement that the applicant is unable to pay the filing fee and other costs as provided in Section 71.07 of this code, the court, on a finding that the statement is true, shall waive the fee and costs that may be due or become due from the applicant. A hearing on the issue of the waiver of the fee and cost, if requested by a party or if required by the court, must be held at the same time as the hearing on the application.

(f) The [~~(e) If the application is filed by a prosecuting attorney under Subdivision (3) of Subsection (b) of this section, the~~] court may assess a reasonable attorney's fee as compensation for the services of a private or prosecuting attorney representing an applicant [~~the prosecuting attorney. The attorney's fee may be assessed against the party represented by the attorney or~~] against any [~~other~~] party who is found to have committed family violence. In setting the amount of the fee, the court shall consider the income and ability to pay of the person against whom the fee is assessed. The amount of fees collected under this section as compensation for the services of a prosecuting attorney shall be paid to the credit of the county fund from which the salaries of employees of the prosecuting attorney are paid or supplemented.

SECTION 3. Section 71.06, Family Code, is amended to read as follows:

Sec. 71.06. DISMISSAL OF APPLICATION. If a suit for the dissolution of marriage has been filed before the date on which an application for a protective order is filed and that suit is pending on the date that the application is filed, no application or portion of an application involving the relationship between the spouses or their respective rights, duties, or powers may be considered, and the application or portion of the application relating to those parties shall be dismissed. An application dismissed under this section may be filed as a motion for a protective order under Section 3.581 of this code.

SECTION 4. Section 71.07, Family Code, is amended to read as follows:

Sec. 71.07. SERVICE OF NOTICE OF APPLICATION FOR PROTECTIVE ORDER [~~CITATION~~]. (a) Each individual[~~, other than an applicant,~~] who is alleged to have committed family violence is entitled to service of notice of an application for a protective order as provided by this section [~~citation~~] on the filing of an application.

(b) On the filing of the application, the clerk shall issue a notice of an application for a protective order and deliver the notice as directed by the applicant.

(c) On request of the applicant, the clerk shall issue a separate or additional notice of an application for a protective order.

(d) A notice of an application for a protective order shall:

(1) be styled "The State of Texas";

(2) be signed by the clerk under seal of court;

(3) contain the name and location of the court;

(4) show the date of filing of the application;

(5) show the date of issuance of the notice of the application for a protective order;

(6) show the date, time, and place of the hearing;

(7) show the file number;

(8) show the names of the applicant and each person alleged to have committed family violence;

(9) be directed to each person alleged to have committed family violence;

(10) show the name and address of the attorney for the applicant or the address of the applicant; and

(11) contain the address of the clerk.

(e) The notice of an application for a protective order shall state: "An application for a protective order has been filed in the court stated in this notice alleging that you have committed family violence. You may employ an attorney to defend yourself against this allegation. You or your attorney may, but are not required to, file a written answer to the application. Any answer must be filed before the hearing on the application. If you receive this notice within 48 hours before the time set for the hearing, you may request the court to reschedule the hearing not later than 14 days after the date set for the hearing. If you do not attend the hearing, a default judgment may be taken and a protective order may be issued against you."

(f) A party filing an application for a protective order shall furnish the clerk with a sufficient number of copies of the application for service of those individuals alleged in the application to have committed family violence.

(g) A notice of an application for a protective order shall be served in the same manner as a citation under the Texas Rules of Civil Procedure, except that service by publication is not authorized.

(h) Service of notice of an application for a protective order [~~citation~~] is not required before the issuance of a temporary ex parte order under Section 71.15 of this code.

(i) [~~(c)~~] The fee for service of notice of an application for a protective order [~~citation~~] charged to the applicant under this section may not be more than:

(1) $20 if the notice [~~citation~~] is delivered in person; or

(2) the cost of postage if the service is by registered or certified mail.

SECTION 5. Section 71.08, Family Code, is amended to read as follows:

Sec. 71.08. ANSWER. An individual served with notice of an application for a protective order [~~citation~~] may but is not required to file a written answer to the application. The answer may be filed at any time before the hearing.

SECTION 6. Section 71.09, Family Code, is amended to read as follows:

Sec. 71.09. HEARING. (a) Unless a later date is requested by the applicant, the court, on the filing of an application, shall set a date and time for the hearing on the application. Except as provided by Subsection (d) of this section, the [~~The~~] date must be not later than 14 [~~20~~] days after the date the application is filed.

(b) If a person entitled to service of a notice of application for a protective order receives the service within [~~citation is not served at least~~] 48 hours before the time set for the hearing, the court, on a request from the person, shall reschedule the

hearing for a date not later than 14 days after the date set for the hearing. The person is not entitled to additional service for the rescheduled hearing [~~must be rescheduled unless the person entitled to service is present at the hearing and waives notice of the hearing~~].

(c) If a hearing set under Subsection (a) of this section is not held because of the failure of a party to receive service of a notice of application for a protective order [~~citation~~], the applicant may request the court to reschedule the hearing. Except as provided by Subsection (d) of this section, the [~~The~~] date for a rescheduled hearing under this subsection must be not later than 14 [~~20~~] days after the date on which the request is made.

(d) A prosecuting attorney in a county with a population of more than 1,000,000 may request that a hearing under Subsection (a) of this section take place not later than 20 days after the date the application is filed or that a hearing rescheduled under Subsection (c) of this section take place not later than 20 days after the date on which the request is made. The prosecuting attorney may make a request under this subsection on a case-by-case basis or to all the courts in the county for all cases under this chapter. A court shall grant the request of a prosecuting attorney under this subsection [~~Except as provided by Subsections (a), (b), and (c) of this section, the court may schedule hearings under this chapter as in other civil cases generally~~].

SECTION 7. Section 71.10(c), Family Code, is amended to read as follows:

(c) A protective order may apply only to [~~an individual, including an applicant, who is~~] a party to the proceeding [~~and~~] who:

(1) the court finds has [~~is found to have~~] committed family violence and is likely to commit family violence in the foreseeable future; [~~or~~]

(2) has agreed to the order under Section 71.12(a) [~~Sections 71.12(a) and (b)~~] of this code; or

(3) is a respondent and has agreed to the order under Section 71.12(b) of this code [~~subject to the requirements of Section 71.12(c) of this code, if applicable~~].

SECTION 8. Sections 71.11(a), (b), and (c), Family Code, are amended to read as follows:

(a) In a protective order the court may:

(1) prohibit a party from:

(A) removing a child member of the family or household from the possession of a person named in the court order or from the jurisdiction of the court; or

(B) transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business;

(2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more other parties to vacate the residence if:

(A) the residence is jointly owned or leased by the party receiving exclusive possession and by some other party denied possession;

(B) the residence is owned or leased by the party retaining possession; or

(C) the residence is owned or leased by the party denied possession but only if that party has an obligation to support the party granted possession of the residence or a child of the party granted possession;

(3) provide for possession of and access to a child of a party if the person receiving possession of or access to the child is a parent, as that term is defined by Section 11.01 of this code, of the child;

(4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child;

(5) require one or more parties to counsel with a social worker, family service agency, physician, psychologist, or licensed professional counselor, or to complete a batterer's treatment program [~~any other person qualified to provide psychological or social guidance~~];

(6) award to a party use and possession of specified property that is community property or jointly owned or leased; or

(7) prohibit a party from doing specified acts or require a party to do specified acts necessary or appropriate to prevent or reduce the likelihood of family violence.

(b) In a protective order the court may prohibit a party from:

(1) committing family violence;

(2) [~~directly~~] communicating:

(A) directly with a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a member of the family or household; and

(C) on a finding of good cause, in any manner with a member of the family or household except through the party's attorney or a person appointed by the court [~~with a member of the family or household in a threatening or harassing manner~~];

(3) going to or near the residence or place of employment or business of a member of the family or household; and

(4) going to or near the residence, child care facility, or school where a child protected under the order normally resides or attends.

(c) In an order under Subsections (b)(3) and (b)(4) of this section, the court shall specifically describe the prohibited locations and the minimum distances therefrom, if any, that the party must maintain unless Section 71.111 of this code applies, in which case, the court order need not disclose the locations [~~place of the protected party's residence~~].

SECTION 9. Section 71.11(e), Family Code, as added by Section 3, Chapter 1090, Acts of the 70th Legislature, Regular Session, 1987, and Sections 71.11(f) and (g), Family Code, are amended to read as follows:

(f) Except on a showing of indigency by a person against whom a protective order is directed, the [~~(e) A protective~~] order shall require that the person [~~against whom the order is directed~~]:

(1) pay the cost of service of the order, the actual costs of court, the costs incurred by the clerk not paid by the applicant pursuant to Section 71.07, Family Code, and any other fees, charges, or expenses incurred in connection with the protective order; and

(2) reimburse the applicant for any fees paid by the applicant under this chapter by paying that amount to the clerk of the court.

(g) [~~(f)~~] The clerk of a court who receives money according to a protective order from a person against whom the order is directed shall reimburse the applicant for any fees paid by the applicant under this chapter.

(h) [~~(g)~~] A person who is ordered to pay costs or reimburse an applicant under Subsection (f) [~~(e)~~] of this section who does not pay the costs or reimburse the applicant before the 60th day after the date the order was rendered may be punished for contempt of court by a fine in an amount not to exceed $500, or by confinement in jail for a term not to exceed six months, or both.

SECTION 10. Section 71.11, Family Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) A party for whom counseling or a batterer's treatment program is ordered under Subsection (a)(5) of this section and who does not provide to the court before the 60th day after the date the order was rendered an affidavit that the party has

started the counseling or the program or that the counseling or the program is not available within a reasonable distance of the party's residence may be punished for contempt of court by a fine in an amount not to exceed $500, or by confinement in jail for a term not to exceed six months, or both. The order shall specifically advise the party of this requirement and the possible punishment for failure to comply.

(j) Any interested person may contest an affidavit of indigency filed under Subsection (f) of this section.

SECTION 11. Section 71.111, Family Code, is amended to read as follows:

Sec. 71.111. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) On the request of a member of a family or household, the court may exclude from any protective[~~, agreed, or temporary~~] order under this chapter the address and telephone number of:

(1) a person protected by the order, specifying only the county of residence;

(2) the place of employment or business of a person protected by the order; or

(3) the child care facility or school where a child protected by the order normally resides or attends.

(b) The court may [~~, and~~] order the clerk to strike the [~~that~~] information described by Subsection (a) of this section from the public records of the court, and, if necessary, make a confidential record of that information for use only by the court.

SECTION 12. Section 71.12, Family Code, is amended to read as follows:

Sec. 71.12. AGREED ORDERS. (a) To facilitate the settlement of a proceeding under this chapter, two or more parties to the proceeding may agree in writing, subject to the approval of the court, to do or refrain from doing any act that the court could order under Section 71.11(a) [~~71.11~~] of this code.

(b) To facilitate the settlement of a proceeding under this chapter, the respondent to a protective order may agree in writing, subject to the approval of the court, to do or refrain from doing any act that the court could order under Section 71.11(b) of this code.

(c) If all or part of an agreement is approved by the court, the part of the agreement approved shall be attached to the protective order and become a part of the order of the court.

(d) [~~(b)~~] An agreement that is made a part of the court's order is enforceable as a court order and is not enforceable as a contract. The agreement expires when the court order expires.

[~~(c) The court may not enter an order under this section that requires the applicant to do or refrain from doing an act listed under Section 71.11(b) of this code unless:~~

[~~(1) the applicant, at least 48 hours before the time the court enters the order, receives notice by service of citation that the court intends to enter the order; and~~

[~~(2) the court finds that the applicant has committed family violence.~~]

SECTION 13. Chapter 71, Family Code, is amended by adding Section 71.121 to read as follows:

Sec. 71.121. REQUEST BY RESPONDENT FOR PROTECTIVE ORDER. A court may enter a protective order that applies to both the respondent and the applicant and that requires the applicant to do or refrain from doing an act listed under Section 71.11(b) of this code only if:

(1) the court holds a hearing;

(2) the applicant is served notice of an application for a protective order at least 48 hours before the time of the hearing or the applicant waives this notice; and

(3) the court finds that the applicant has committed family violence and is likely to commit family violence in the foreseeable future.

SECTION 14. Section 71.13, Family Code, is amended to read as follows:

Sec. 71.13. DURATION OF PROTECTIVE ORDERS. (a) An order made under Section 71.11 of this code is effective for the period specified in the order, not to exceed one year. If the order does not specify a period in which the order is effective, the order expires one year after the date the order is issued.

(b) Except as provided by Subsection (c) of this section, an [~~An~~] order of a court having jurisdiction of a suit for divorce or annulment prevails, to the extent of conflict only, over a conflicting portion of an order made under this title and relating to the parties to the suit for divorce or annulment.

(c) An order of a court having jurisdiction of a suit for divorce or annulment does not prevail over that portion of an order made under this title that is in effect and that relates to the parties to the suit for divorce or annulment and prohibits one or both of the parties from:

(1) committing family violence;

(2) directly communicating with a member of the family or household in a threatening or harassing manner, communicating a threat through any person to a member of the family or household, and, if the order prohibits any communication with a member of the family or household, communicating in any manner with the member of the family or household except through the person's attorney or person appointed by the court and except as necessary for counseling that the court may require under Section 3.54 of this code;

(3) going to or near the place of employment or business of a member of the family or household; or

(4) going to or near the residence of a member of the family or household unless the order of the court having jurisdiction of the suit for divorce or annulment awards the property of the parties in a manner that results in a change of residence of a party whom an order made under this title is intended to protect.

SECTION 15. Section 71.15, Family Code, is amended by adding Subsections (g), (h), (i), and (j) to read as follows:

(g) Subject to the limitations under Section 71.11(a)(2) of this code, a person may only be excluded from the occupancy of the person's residence by ex parte order under this section if the applicant:

(1) files a sworn affidavit with the court that provides a detailed description of the facts and circumstances requiring the exclusion of the person from the residence; and

(2) appears in person to give testimony at an ex parte hearing to justify the granting of the order without notice.

(h) In order for an ex parte order excluding a person from the person's residence to be granted, the court must find from the required affidavit and testimony that:

(1) the applicant requesting the exclusion order either resides on the premises or has resided there within 30 days before the filing of the application;

(2) the person to be excluded has within the 30-day period preceding the filing of the application committed family violence against a member of the household; and

(3) there is a clear and present danger that the person to be excluded is likely to commit family violence against a member of the household in the foreseeable future.

(i) On the request of a person obtaining an order that excludes another person from the other person's residence, the court that granted the order may order the sheriff or chief of police to provide a law enforcement officer from the department of the sheriff or the chief of police:

(1) to accompany the person obtaining the order to the residence covered by the order;

(2) to protect the person obtaining the order while the person takes possession of the residence; and

(3) if the person obtaining the order is unable to take possession of the residence because the person being excluded occupies the residence, to inform the person being excluded that the court has ordered the person excluded from the residence.

(j) The court may stop the hearing to contact the respondent by telephone and provide the respondent an opportunity to be present when the court resumes the hearing. Without regard to whether the respondent is able to be present at the hearing, the court shall resume the hearing before the end of the working day.

SECTION 16. Section 71.16, Family Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Each protective order issued under this chapter, except a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE A MISDEMEANOR PUNISHABLE BY A FINE OF AS MUCH AS $2,000 [~~$1,000~~] OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR [~~SIX MONTHS~~], OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY [~~A FINE OF MORE THAN $1,000 OR BY~~] CONFINEMENT IN [~~JAIL OR~~] PRISON FOR AT LEAST TWO YEARS [~~MORE THAN SIX MONTHS, OR BOTH~~]."

(c) Each protective order issued under this chapter, including a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

SECTION 17. Section 71.17, Family Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The clerk of the court issuing an original or modified [a] protective order under this chapter shall send a copy of the order to the chief of police of the city where the member of the family or household protected by the order resides, if the person resides in a city, or to the sheriff of the county where the person resides, if the person does not reside in a city.

(d) The clerk of a court vacating an original or modified protective order under this chapter shall notify the chief of police or sheriff who received a copy of the original or modified order that the order is vacated.

SECTION 18. Section 71.18, Family Code, is amended to read as follows:

Sec. 71.18. DUTIES OF LAW ENFORCEMENT AGENCIES. (a) In order to insure that officers responding to calls are aware of the existence and terms of protective orders issued under this chapter, each municipal police department and sheriff shall establish procedures within the department or office to provide adequate information or access to information for law enforcement officers of the names of persons protected by order issued under this chapter and of persons to whom protective orders are directed.

(b) The municipal police department or sheriff may enter the protective order in the department's or sheriff's computer record of outstanding warrants as notice

that the order has been issued and is currently in effect. On notification by a clerk of a court that the court has vacated or dismissed the order, the municipal police department or sheriff shall remove the order from the department's or sheriff's computer record of outstanding warrants.

SECTION 19. Section 3.58, Family Code, is amended by amending Subsections (b) and (d) to read as follows:

(b) A temporary restraining order under this subchapter may not:

(1) include a provision the subject of which is any requirement, appointment, award, or other order that is listed in Subsection (c) of this section; or

(2) include a provision that:

(A) excludes a spouse from occupancy of the residence where that spouse [~~the party~~] is living except as provided by Section 3.581 of this code;

(B) prohibits a party from the spending of funds for reasonable and necessary living expenses; or

(C) prohibits a party from engaging in acts reasonable and necessary to the conduct of that party's usual business and occupation.

(d) Except as provided by Section 3.581 of this code, a [~~A~~] temporary restraining order or a temporary injunction issued under this section may be granted without the necessity of an affidavit or a verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. The court may dispense with the issuance of a bond in connection with temporary orders for the protection of the parties and their property. Except as provided by Section 3.581 of this code, a [~~A~~] temporary restraining order or temporary injunction granted under this section need not:

(1) define the injury or state why it is irreparable;

(2) state why the order was granted without notice; or

(3) include an order setting the cause for trial on the merits with respect to the ultimate relief sought.

SECTION 20. Section 3.581, Family Code, is amended by amending Subsections (a) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(a) On the motion of any party to a suit for divorce or annulment or to declare a marriage void, [~~and on a showing that a party to the suit has committed family violence as defined by Section 71.01 of this code,~~] the court may issue a protective order as provided by Sections 71.10(a), 71.10(b), 71.10(c)(1) and (3), 71.11(b) and (c), 71.111, 71.14, and 71.16 of this code.

(c) An order made under this section is valid for one year or the earliest of:

(1) the end of a period of less than one year specified in the order by the court;

(2) the date [~~until~~] the order is vacated by the court; or

(3) the date[~~,~~] the suit is dismissed[~~, or the decree in the suit becomes final, whichever event occurs the earliest~~].

(d) A spouse who has applied for a protective order under this section is entitled to a temporary ex parte order directed against the other spouse for the relief provided by and under the conditions established in Section 71.15 of this code.

(e) The date of expiration of an order made under this section must appear on the order.

(f) An order made under this section must be a separate document entitled "PROTECTIVE ORDER."

SECTION 21. Section 3.582, Family Code, is amended to read as follows:

Sec. 3.582. COPIES OF ORDERS. (a) A protective order made under Section 3.581 of this code shall be delivered to the person to whom the order applies

in open court at the close of the hearing or served in the same manner as a writ of injunction. The order shall require that if the order is served in the same manner as a writ of injunction, the person to whom the order applies shall pay the cost of the service.

(b) The clerk of the court issuing an original or modified [a] protective order under Section 3.581 of this code shall send a copy of the order to the chief of police of the city where the member of the family or household protected by the order resides, if the person resides in a city, or to the sheriff of the county where the person resides, if the person does not reside in a city.

(c) If a protective order under Section 3.581 of this code prohibits a person from going to or near a child care facility or school, the party requesting the order shall send a copy of the order to the child care facility or school.

(d) The clerk of a court vacating or dismissing an original or modified protective order under Section 3.581 of this code shall notify the chief of police or sheriff who received a copy of the original or modified order that the order is vacated.

SECTION 22. Section 23.101(a), Government Code, is amended to read as follows:

(a) The trial courts of this state shall regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with criminal actions against defendants who are detained in jail pending trial given preference over other criminal actions;

(3) election contests and suits under the [~~Texas~~] Election Code; [~~and~~]

(4) orders for the protection of the family under Section 3.581, 71.11, or 71.12, Family Code; and

(5) appeals of final rulings and decisions of the Industrial Accident Board and claims under the Federal Employers' Liability Act and the Jones Act.

SECTION 23. The title of Section 25.08, Penal Code, is amended to read as follows:

Sec. 25.08. VIOLATION OF A PROTECTIVE [~~COURT~~] ORDER.

SECTION 24. Section 25.08(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, in violation of an order issued under Section 3.581, Section 71.11, or Section 71.12, Family Code, the person [~~he~~] knowingly or intentionally:

(1) commits family violence;

(2) directly communicates with a member of the family or household in a threatening or harassing manner, communicates a threat through any person to a member of the family or household, and, if the order prohibits any communication with a member of the family or household, communicates in any manner with the member of the family or household except through the person's attorney or a person appointed by the court; or

(3) goes to or near any of the following places as specifically described in the protective order:

(A) the residence or place of employment or business of a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the protective order normally resides or attends.

SECTION 25. Section 25.08(e), Penal Code, is amended to read as follows:

(e) A peace officer investigating conduct that may constitute an offense under this section for a violation of a protective order may not arrest a person protected by that order for a violation of that order [~~It is an exception to the application of this section that the person was the applicant for the order or is a person whom the order is intended to protect~~].

SECTION 26. Section 25.08(f), Penal Code, as amended by Section 1, Chapter 170, Acts of the 70th Legislature, Regular Session, 1987, is relettered and amended to read as follows:

(g) [(f)] An offense under this section is a Class A [B] misdemeanor.

SECTION 27. Article 5.05(d), Code of Criminal Procedure, is amended to read as follows:

(d) Each law enforcement officer shall accept a certified copy of an original or modified [a] protective order as proof of the validity of the order and it is presumed the order remains valid unless:

(1) the order contains a termination date that has passed;

(2) it is more than one year after the date the order was issued; or

(3) the law enforcement officer has been notified by the clerk of the court vacating the order that the order has been vacated [~~or is more than one year old from its execution date~~].

SECTION 28. Article 5.06, Code of Criminal Procedure, is amended to read as follows:

Art. 5.06. DUTIES OF PROSECUTING ATTORNEYS AND COURTS [~~HAVING JURISDICTION OF CRIMES~~]. (a) Neither a prosecuting attorney nor a court may:

(1) dismiss or delay any criminal proceeding that involves a prosecution for an offense that constitutes family violence because a civil proceeding is pending or not pending; or

(2) require proof that a complaining witness, victim, or defendant is a party to a suit for the dissolution of a marriage or a suit affecting the parent-child relationship before presenting a criminal allegation to a grand jury, filing an information, or otherwise proceeding with the prosecution of a criminal case.

(b) A prosecuting attorney's decision to file an application for a protective order under Chapter 71, Family Code, should be made without regard to whether a criminal complaint has been filed by the applicant. A prosecuting attorney may require the applicant to provide information for an offense report, relating to the facts alleged in the application, with a local law enforcement agency.

SECTION 29. Chapter 5, Code of Criminal Procedure, is amended by adding Article 5.07 to read as follows:

Art. 5.07. VENUE FOR PROTECTIVE ORDER OFFENSES. The venue for an offense under Section 25.08, Penal Code, is in the county in which the order was issued or, without regard to the identity or location of the court that issued the protective order, in the county in which the offense was committed.

SECTION 30. This Act applies only to a court order made on or after the effective date of this Act. An order made before the effective date of this Act is governed by the law in effect at the time the order was made, and that law is continued in effect for this purpose.

SECTION 31. (a) The change in law made by Sections 24 and 25 of this Act applies only to the prosecution of 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 that law is continued in effect for this purpose.

SECTION 32. This Act takes effect September 1, 1989.

SECTION 33. 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 amendments were read.

On motion of Senator Krier and by unanimous consent, the Senate concurred in the House amendments to **S.B. 171** viva voce vote.

SENATE BILL 401 WITH HOUSE AMENDMENTS

Senator Krier called **S.B. 401** 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 - P. Hill

Amend **S.B. 401** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subdivisions (3), (4), (8), (9), (10), and (11), Section 11.01, Family Code, are amended to read as follows:

(3) "Parent" means the mother, a man presumed to be the biological father [~~as to whom the child is legitimate~~] or a man who has been adjudicated to be the biological father by a court of competent jurisdiction, or an adoptive mother or father, but does not include a parent as to whom the parent-child relationship has been terminated.

(4) "Parent-child relationship" means the legal relationship between a child and the child's biological or adoptive parents incident to which the rights, privileges, duties, and powers [~~existing between a parent and child~~] as provided by Section 12.04 of this code are conferred or imposed. It includes the mother and child relationship and the father and child relationship.

(8) [~~"Illegitimate child" means a child:~~

[~~(i) who is not and has never been the legitimate child of a man;~~

[~~(ii) who is the biological child of a man whose paternity has not been adjudicated by a court of competent jurisdiction; and~~

[~~(iii) whose parent-child relationship with its biological mother and biological father has not been terminated by a court decree.~~

[~~(9)~~] "Governmental entity" means the state, a political subdivision of the state, or an agency of the state.

(9) [~~(10)~~] "Obligor" means any person required to make payments under the terms of a support order for a child.

(10) [~~(11)~~] "Obligee" means any person or entity entitled to receive payments under an order of child support and shall include an agency of this state or of another jurisdiction to which a person has assigned his or her right to support.

SECTION 2. Subsection (a), Section 11.03, Family Code, is amended to read as follows:

(a) An original suit affecting the parent-child relationship may be brought at any time by:

(1) a parent of the child;

(2) the child (through a representative authorized by the court);

(3) a custodian or person having rights of visitation with or access to the child appointed by an order of a court of another state or country or by a court of this state before January 1, 1974;

(4) a guardian of the person or of the estate of the child;

(5) a governmental entity;

(6) any authorized agency;

(7) a man alleging himself to be the biological father of a child who has no presumed father [~~the alleged or probable father of an illegitimate child~~] filing in accordance with Chapter 13 of this code, but not otherwise;

(8) a person who has had actual possession and control of the child for at least six months immediately preceding the filing of the petition; or

(9) a person designated as the managing conservator in a revoked or unrevoked affidavit of relinquishment under Section 15.03 of this code or to whom consent to adoption has been given in writing under Section 16.05 of this code.

SECTION 3. Subdivision (1), Subsection (d), Section 11.05, Family Code, is amended to read as follows:

(1) In a suit in which a determination of paternity is sought, except as provided in paragraph (2), the jurisdiction of the court terminates when an order dismissing with prejudice a suit under Chapter 13 becomes final, or when an order under Subsection (b), Section 13.08, declaring that the alleged father is not the father of the child becomes final, or when an order denying voluntary paternity [~~legitimation~~] under Section 13.21 becomes final.

SECTION 4. Subsection (b), Section 11.09, Family Code, is amended to read as follows:

(b) Service of citation may be given to any other person who has or who may assert an interest in the child and may be given to the unknown father of a [~~an illegitimate~~] child who has no presumed father.

SECTION 5. Section 12.01, Family Code, is amended to read as follows:

Sec. 12.01. RELATION OF CHILD TO MOTHER AND FATHER. (a) The parent-child relationship may be established between a child and:

(1) the biological mother by proof of her having given birth to the child;

(2) the biological father as provided by this code; and

(3) an adoptive parent by proof of adoption.

(b) The parent-child relationship extends equally to every child and parent regardless of the marital status of the parents. [~~A child is the legitimate child of his mother.~~]

SECTION 6. Section 12.02, Family Code, is amended to read as follows:

Sec. 12.02. PRESUMPTION OF PATERNITY. (a) A man is presumed to be the biological father of a child if:

(1) he and the child's biological mother are or have been married to each other and the child is born during the marriage or not more than 300 days after the date the marriage terminated by death, annulment, divorce, or by having been declared void;

(2) before the child's birth, he and the child's biological mother attempted to marry each other by a marriage in apparent compliance with law, although the attempted marriage is or could be declared void, and the child is born during the attempted marriage or not more than 300 days after the date the attempted marriage terminated by death, annulment, divorce, or by having been declared void;

(3) after the child's birth, he and the child's biological mother have married or attempted to marry each other by a marriage in apparent compliance with law, although the attempted marriage is or could be declared void or voided by annulment, and:

(A) he has filed a written acknowledgment of his paternity of the child under Chapter 13 of this code;

(B) he consents in writing to be named and is named as the child's father on the child's birth certificate; or

(C) he is obligated to support the child under a written voluntary promise or by court order;

(4) without attempting to marry the mother, he consents in writing to be named as the child's father on the child's birth certificate; or

(5) before the child reaches the age of majority, he receives the child into his home and openly holds out the child as his biological child.

(b) A presumption under this section may be rebutted only by clear and convincing evidence. If two or more presumptions arise that conflict, the presumption that is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man. [~~RELATION OF CHILD TO FATHER. (a) A child is the legitimate child of his biological father if the child is born or conceived before the marriage of his biological father and mother. A child is rebuttably presumed to be the legitimate child of a man if the child is born during the marriage of or within the period of gestation following the dissolution of the marriage of the man and the mother of the child.~~

[~~(b) A child is the legitimate child of his biological father if at any time his mother and biological father have attempted to marry in apparent compliance with the laws of this state or another state or nation, although the attempted marriage is or might be declared void, and the child is born or conceived before or during the attempted marriage.~~

[~~(c) A child is the legitimate child of a man if the man's paternity is established under the provisions of Chapter 13 of this code.~~]

SECTION 7. Subsection (a), Section 12.03, Family Code, is amended to read as follows:

(a) If a husband consents to the artificial insemination of his wife, any resulting child is the [~~legitimate~~] child of both of them. The consent must be in writing and must be acknowledged.

SECTION 8. Subsection (c), Section 12.06, Family Code, is amended to read as follows:

(c) In any suit in which a question of paternity is raised under this section, the husband or wife who is denying the husband's paternity of the child has the burden of rebutting the presumption of paternity as provided in this code [~~legitimacy~~]. An order for temporary child support, conservatorship, or other relief entered under Section 11.11 of this code is valid and enforceable unless superseded by a final decree finding nonpaternity of the husband.

SECTION 9. Section 13.01, Family Code, is amended to read as follows:

Sec. 13.01. PARTIES: TIME LIMITATION OF SUIT. A suit to establish the parent-child relationship between a child who has no presumed father [~~who is not the legitimate child of a man~~] and the child's biological father [~~by proof of paternity~~] may be brought by the mother, by a man claiming to be or possibly to be the father, or by any other person or governmental entity having standing to sue under Section 11.03 of this code. A suit to establish paternity may be brought before the birth of the child, but must be brought on or before the second anniversary of the day the child becomes an adult, or the suit is barred.

SECTION 10. The heading of Subchapter B, Chapter 13, Family Code, is amended to read as follows:

SUBCHAPTER B. VOLUNTARY PATERNITY [~~LEGITIMATION~~]

SECTION 11. Section 13.21, Family Code, is amended to read as follows:

Sec. 13.21. VOLUNTARY PATERNITY [~~LEGITIMATION~~]. (a) If a statement of paternity has been executed by a man claiming to be the biological father of a child who has no presumed father [~~an illegitimate child~~], he, [~~or~~] the mother of the child, or the child through a representative authorized by the court or a governmental entity [~~or the Texas Department of Human Services~~] may file a petition for a decree adjudicating him as a parent of the child. The statement of paternity must be attached to the petition.

(b) The court shall enter a decree adjudicating the child to be the biological [~~legitimate~~] child of its father and the father to be a parent of the child if the court

finds that the statement of paternity was executed as provided in this chapter, and the facts stated therein are true.

(c) If the paternity of the child is uncertain or is disputed by any party in a suit filed under this subchapter, the provisions of Sections 13.02 through 13.07 of this code shall apply.

(d) A suit for voluntary paternity [~~legitimation~~] may be joined with a suit for termination under Chapter 15 of this code.

(e) A suit under this section may be instituted at any time.

SECTION 12. Section 13.22, Family Code, is amended to read as follows:

Sec. 13.22. STATEMENT OF PATERNITY. The statement of paternity authorized to be used in Section 13.21 of this code must be executed by the father of the child as an affidavit and witnessed by two credible adults. The affidavit must clearly state that the father acknowledges the child as his child, that he and the mother, who is named in the affidavit, were not married to each other at the time of conception of the child or at any subsequent time, and that the child is not the biological [~~legitimate~~] child of another man. The statement must be executed before a person authorized to administer oaths under the laws of this state.

SECTION 13. Section 13.43, Family Code, is amended to read as follows:

Sec. 13.43. BIRTH CERTIFICATE. On a determination of paternity, the clerk of the court, unless directed otherwise by the court, shall transmit a copy of the decree to the State Registrar of Vital Statistics. The decree shall state the name of the child. The registrar shall substitute for the original a new birth certificate based on the decree in accordance with the provisions of the laws which permit the correction or substitution of birth certificates for adopted children or children presumed to be the biological children [~~legitimated~~] by the subsequent marriage of their parents and in accordance with the rules and regulations promulgated by the State Department of Health. The new certificate may not show that the father and child relationship was established after the child's birth but may show the actual place and date of birth.

SECTION 14. Subsection (a), Section 15.021, Family Code, is amended to read as follows:

(a) A petition in a suit affecting the parent-child relationship which requests the termination of the parent-child relationship with respect to either or both parents or which requests involuntary termination of the rights of an alleged or probable father of a [~~an illegitimate~~] child may be filed before the birth of the child.

SECTION 15. Section 15.023, Family Code, is amended to read as follows:

Sec. 15.023. INVOLUNTARY TERMINATION OF THE RIGHTS OF AN ALLEGED OR PROBABLE FATHER. The procedural and substantive standards for termination of parental rights under Title 2 of this code shall apply to the termination of the rights of an alleged or probable father with respect to a [~~an illegitimate~~] child who has no presumed father. In addition, the rights of an alleged or probable father with respect to a [~~an illegitimate~~] child who has no presumed father may also be terminated if, after being served with citation in a suit affecting the parent-child relationship, the alleged or probable father does not respond by timely filing an admission of paternity or by filing a counterclaim for paternity or for voluntary paternity [~~legitimation~~] to be adjudicated under Chapter 13 of this code prior to the final hearing in the suit.

SECTION 16. Subsection (b), Section 15.03, Family Code, is amended to read as follows:

(b) The affidavit must contain:

(1) the name, address, and age of the parent whose parental rights are being relinquished;

(2) the name, age, and birthdate of the child;

(3) the names and addresses of the guardians of the person and estate of the child, if any;

(4) a statement that the affiant is or is not presently obligated by court order to make payments for the support of the child;

(5) a full description and statement of value of all property owned or possessed by the child;

(6) allegations that termination of the parent-child relationship is in the best interest of the child;

(7) one of the following, as applicable:

(A) the name and address of the other parent;

(B) a statement that the parental rights of the other parent have been terminated by death or court order; or

(C) a statement that the child has no presumed father [~~is not the legitimate child of the father~~] and that an affidavit of status of child has been executed as provided by Section 15.04 of this code;

(8) a statement that the parent has been informed of his parental rights, powers, duties, and privileges; and

(9) a statement that the relinquishment is revocable, or that the relinquishment is irrevocable, or that the relinquishment is irrevocable for a stated period of time.

SECTION 17. Subsection (a), Section 15.04, Family Code, is amended to read as follows:

(a) If the child has no presumed father [~~is not the legitimate child of the father~~], an affidavit shall be executed by the mother, whether or not a minor, witnessed by two credible persons, and verified before any person authorized to take oaths.

SECTION 18. Subsection (e), Section 15.041, Family Code, is amended to read as follows:

(e) In a suit to adopt a child or in a suit brought by the Texas Department of Human Services or an authorized agency for the purpose of terminating all legal relationships and rights which exist or may exist between the child's parents and the child, the court may render a decree terminating all legal relationships and rights which exist or may exist between a child and a man who has executed an affidavit of waiver of interest in the child, including the right to seek voluntary paternity [~~legitimation~~] of the child, if the court finds that rendition of the decree is in the best interest of the child.

SECTION 19. Subdivision (3), Subsection (b), Section 71.01, Family Code, is amended to read as follows:

(3) "Family" includes individuals related by consanguinity or affinity, individuals who are former spouses of each other, individuals who are the biological parents of the same child, without regard to marriage [~~or legitimacy~~], and a foster child and foster parent, whether or not those individuals reside together.

SECTION 20. Subsection (a), Section 41.001, Human Resources Code, is amended to read as follows:

(a) The department shall promote the enforcement of all laws for the protection of [~~illegitimate,~~] dependent, neglected, and delinquent children and children who have no presumed father[;] and shall take the initiative in all matters involving the interests of these children where adequate provision for them has not already been made.

SECTION 21. Subsection (b), Section 46.002, Human Resources Code, is amended to read as follows:

(b) The department may assist in the judicial determination of the paternity of a [~~an illegitimate~~] child who has no presumed father whose support rights have been assigned to the department.

SECTION 22. Section 46.006, Human Resources Code, is amended to read as follows:

Sec. 46.006. CONFIDENTIALITY OF RECORDS. All files and records on recipients of benefits provided under this chapter and on an alleged father of a [~~an illegitimate~~] child who has no presumed father are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent locator, or aid to families with dependent children programs. The department by rule may provide for the release of information to public officials.

SECTION 23. Subsection (a), Section 49.015, Human Resources Code, is amended to read as follows:

(a) If the administrator determines that an adoptee and either of the adoptee's birth parents have registered, disclosures may be made without the registration of the other birth parent only if:

(1) the birth parent who did not register, after having been served with citation in person, by publication, or by other substituted service, defaulted in the suit in which the parent-child relationship between the birth parent and the adoptee was terminated or declared not to exist;

(2) the adoptee and birth mother of the adoptee have registered, and each putative father of the adoptee has either died without establishing his paternity [~~legitimating the adoptee~~] or failed to establish his paternity [~~legitimate the adoptee~~] after being served with citation in person, by publication, or by substituted service in any suit affecting the parent-child relationship with respect to the adoptee;

(3) the adoptee and the birth mother of the adoptee have registered, and there is no man who is a birth parent of the adoptee;

(4) the birth mother submits, or the administrator obtains from a court of competent jurisdiction in the state where the adoptee's original birth certificate is filed, a copy of a judgment declaring that the identity of the adoptee's biological father is unknown; or

(5) the administrator verifies that no living man was identified and given notice in preadoption legal proceedings of his status as the adoptee's biological father and that before January 1, 1974, either the parent-child relationship between the adoptee and the adoptee's birth mother was terminated or the adoptee was adopted.

SECTION 24. Subsection (b), Section 76.002, Human Resources Code, is amended to read as follows:

(b) The attorney general may assist in the judicial determination of the paternity of a [~~an illegitimate~~] child who has no presumed father whose support rights have been assigned to the attorney general's office.

SECTION 25. Section 76.006, Human Resources Code, is amended to read as follows:

Sec. 76.006. CONFIDENTIALITY OF RECORDS. All files and records on recipients of benefits provided under this chapter and on an alleged father of a [~~an illegitimate~~] child who has no presumed father are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent locator, or aid to families with dependent children programs. The attorney general by rule may provide for the release of information to public officials.

SECTION 26. Subsection (b), Section 3, Texas Probate Code, is amended to read as follows:

(b) "Child" includes an adopted child, whether adopted by any existing or former statutory procedure or by acts of estoppel, but, unless expressly so stated herein, does not include a [~~an unrecognized, illegitimate~~] child who has no presumed [~~of the~~] father.

SECTION 27. Section 40, Texas Probate Code, is amended to read as follows:

Sec. 40. INHERITANCE BY AND FROM AN ADOPTED CHILD. For purposes of inheritance under the laws of descent and distribution, an adopted child shall be regarded as the child of the parent or parents by adoption, such adopted child and its descendants inheriting from and through the parent or parents by adoption and their kin the same as if such child were the natural [~~legitimate~~] child of such parent or parents by adoption, and such parent or parents by adoption and their kin inheriting from and through such adopted child the same as if such child were the natural [~~legitimate~~] child of such parent or parents by adoption. The natural parent or parents of such child and their kin shall not inherit from or through said child, but said child shall inherit from and through its natural parent or parents. Nothing herein shall prevent any parent by adoption from disposing of his property by will according to law. The presence of this Section specifically relating to the rights of adopted children shall in no way diminish the rights of such children, under the laws of descent and distribution or otherwise, which they acquire by virtue of their inclusion in the definition of "child" which is contained in this Code.

SECTION 28. Section 42, Texas Probate Code, is amended to read as follows:

Sec. 42. INHERITANCE RIGHTS OF [~~LEGITIMATED~~] CHILDREN. (a) Maternal Inheritance. For the purpose of inheritance, a child is the [~~legitimate~~] child of his biological or adopted mother, so that he and his issue shall inherit from his mother and from his maternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue.

(b) Paternal Inheritance. For the purpose of inheritance, a child is the [~~legitimate~~] child of his biological father if the child is born under circumstances described by Section 12.02, Family Code, is adjudicated to be the child of the father by court decree as provided by Chapter 13, Family Code, was adopted by his father [~~or conceived before or during the marriage of his father and mother or is legitimated by a court decree as provided by Chapter 13 of the Family Code~~], or if the father executed a statement of paternity as provided by Section 13.22, [~~of the~~] Family Code, or a like statement properly executed in another jurisdiction, so that he and his issue shall inherit from his father and from his paternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue. A person claiming to be a biological [~~an illegitimate~~] child of the decedent, who is not otherwise presumed to be a child of the decedent, or claiming inheritance through a biological [~~an illegitimate~~] child of the decedent, who is not otherwise presumed to be a child of the decedent, may petition the probate court for a determination of right of inheritance. If the court finds by clear and convincing evidence that the purported father was the biological father of the child, the child is treated as any other child of the decedent [~~legitimate~~] for the purpose of inheritance and he and his issue may inherit from his paternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue. This section does not permit inheritance by a purported father of a [~~an illegitimate~~] child, whether recognized or not, if the purported father's parental rights have been terminated.

(c) Homestead Rights, Exempt Property, and Family Allowances. A [~~legitimate~~] child as provided by Subsections (a) and (b) of this section is a [~~legitimate~~] child of his mother, and a [~~legitimate~~] child of his father, for the purpose of determining homestead rights, distribution of exempt property, and the making of family allowances.

(d) Marriages Void and Voidable [~~Null in Law~~]. The issue [~~also~~] of marriages declared void or voided by annulment [~~deemed null in law~~] shall be treated in the same manner as issue of a valid marriage [~~nevertheless be legitimate~~].

SECTION 29. Subsections (a) and (b), Section 14, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rule 47a, Article 4477, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The standard certificate of birth shall be in such form and shall provide for such items of information as may be prescribed by the Texas Department of Health and shall include a place for the signature of the father of the child. The father of a [~~an illegitimate~~] child who has no presumed father may also acknowledge paternity by executing an affidavit acknowledging paternity according to the requirements of Section 13.22, Family Code. The affidavit may be filed with the Texas Department of Health. If so filed, the affidavit shall be maintained with the original birth record, but shall not become a part thereof. Once filed, such affidavit becomes privileged, and shall be available only to a court of competent jurisdiction, in which a suit of paternity respecting the subject of the affidavit is pending, on motion of the trial judge. Any person may apply to the Texas Department of Health to have any indication of the absence of paternity of a child who has no presumed father [~~illegitimacy~~] removed from his or her birth record, including separate medical records and the paternity affidavit. The Department shall charge a fee of $10.00 for this service. All items, except the signature of the father, prescribed on the certificate of birth are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records. The items on the birth, death, or fetal death certificate of a child relating to the father of the child shall be completed to show the name and other related information about the father only if:

(1) the mother of the child was married to the father at the time of conception or birth of the child or at some point after birth; [~~or~~]

(2) [~~if~~] the paternity of the child was established by a decree issued by a court of competent jurisdiction; or

(3) the father signs the birth certificate or otherwise consents in writing, on a form prescribed by the department, to be named as the father of the child on the birth certificate. The Texas Department of Health shall be specifically authorized to use and to provide upon request to other state agencies records pertaining to all births in connection with programs to notify the mothers of young children about health needs for the children.

(b) Subject to the regulations of the Texas Department of Health, any person: (1) who becomes the [~~legitimate~~] child of its father by the subsequent marriage of its parents; (2) whose parentage has been determined by a court of competent jurisdiction; or (3) adopted under the law existing at the time of adoption in this state or any other state or territory of the United States of America may request the state registrar to file a supplementary certificate of birth on the basis of the status subsequently acquired or established and of which proof is submitted. The application to file a supplementary certificate of birth may be filed by the person, if of age, or a legal representative of the person. The state registrar shall require such proof in these cases as the Texas Department of Health may by regulation prescribe. The preparation and filing of supplementary certificates of birth based on the subsequent marriage of its parents [~~legitimation~~], paternity determination, and adoption shall be in accordance with the regulations of the Texas Department of Health. Provided, however, that when a child is adopted the new birth certificate shall be in the names of the parents by adoption, and the copies of birth certificates or birth records made therefrom shall not disclose the child to be adopted. After the supplementary certificate is filed, any information disclosed from the record shall be made from the supplementary certificate, and access to the original certificate of birth and to the documents filed upon which the supplementary certificate is based shall not be authorized except upon order of the court that rendered the decree of adoption, notwithstanding the venue provisions of Chapter 15, Civil Practice and Remedies Code [~~Article 1995, Revised Statutes~~], except as hereinafter provided.

SECTION 30. Subsection (i), Section 11, Chapter 183, Acts of the 64th Legislature, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) The board of trustees shall determine all questions of dependency, and their determination shall be final and conclusive on all parties. All unmarried[; ~~legitimate, and legally adopted~~] children under age 22, in the absence of a determination to the contrary, are considered dependent.

SECTION 31. This Act takes effect September 1, 1989, and applies to a presumption or determination of paternity on or after that date in relation to a child who is born before, on, or after that date.

SECTION 32. 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.

Amendment - Yost

Amend **C.S.S.B. 401** as follows:

(1) On page 16, line 9, between the point and "For" insert "(1)".

(2) On page 17, between lines 9 and 10, insert the following:

"(2) A person who purchases for valuable consideration any interest in real or personal property of the heirs of a decedent, who in good faith relies on the declarations in an affidavit of heirship that does not include a child who at the time of the sale or contract of sale of the property is not a presumed child of the decedent and has not under a final court decree or judgment been found to be entitled to treatment under this subsection as a child of the decedent, and who is without knowledge of the claim of that child, acquires good title to the interest that the person would have received, as purchaser, in the absence of any claim of the child not included in the affidavit. This subdivision does not affect the liability, if any, of the heirs for the proceeds of any sale described by this subdivision to the child who was not included in the affidavit of heirship."

Amendment on Third Reading - P. Hill

Subsection (b), Section 12.06, Family Code, is amended to read as follows:

(b) In any suit in which a question of paternity is raised under this section, the court shall conduct the pretrial proceedings and order scientifically accepted paternity testing [~~the blood tests~~] as required in a suit under Chapter 13 of this code.

Section 13.01, Family Code, is amended by adding a new subsection (b) as follows:

(b) The children to whom this section applies include a child for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was in effect.

Section 13.02, Family Code, is amended to read as follows:

Sec. 13.02. PRETRIAL PROCEEDINGS: [~~BLOOD~~] TESTS. (a) When the respondent appears in a paternity suit, the court shall order the mother, alleged father, and child to submit to the taking of blood, body fluid, or tissue samples for the purpose of scientifically accepted paternity [~~blood~~] testing. The court shall require in its order [~~that the blood testing include a minimum of seven independent genetic systems tested and additional~~] testing [~~as~~] necessary to ascertain the possibility of the alleged father's paternity and shall require that the tests exclude at least 95 percent of the male population [~~be excluded~~] from the possibility of being the father of the child, except that the court shall permit the omission of any further [~~blood~~] testing if [~~blood~~] testing has been conducted sufficient to establish that the alleged father is not the father of the child, or if the costs of [~~the blood~~] testing have

reached an amount that the court determines to be the greatest amount that may reasonably be borne by one or more parties to the suit. If the appearance is before the birth of the child, the court shall order the taking of blood, body fluid, or tissue samples to be made as soon as medically practical after the birth.

(b) An order issued under this section is enforceable by contempt, except that:

(1) if the petitioner is the mother or the alleged father and refuses to submit to paternity testing [~~the blood test~~], the court may [~~shall~~] dismiss the suit; or

(2) if any party refuses to submit to court-ordered paternity testing, upon proof sufficient to render a default judgment the court may resolve the question of paternity against that party.

(c) If the respondent is the mother or the alleged father and refuses to submit to the paternity testing [~~blood test~~], the fact of refusal may be introduced as evidence as provided in Section 13.06[~~(d)~~] of this code.

(d) [~~(c)~~] If the respondent fails to appear and wholly defaults or if the allegation of paternity is admitted, paternity testing [~~the blood test~~] shall be waived.

Section 13.03, Family Code, is amended to read as follows:

Sec. 13.03. PRETRIAL PROCEEDINGS: APPOINTMENT OF EXPERTS. (a) The court may appoint one or more experts qualified in paternity testing to perform the [~~as examiners of blood types to make the blood~~] tests. The court may determine the number and qualifications of the experts and shall prescribe the arrangements for conducting the tests.

(b) The court may order [~~fix~~] a reasonable fee for each court-appointed expert [~~examiner~~] and may require the fee to be paid by any or all of the parties or by the Texas Department of Human Services, if the department is a party of the suit, in the amounts and in the manner directed, or the court may tax all or part or none of the fee as costs in the suit.

(c) A party may employ other experts qualified in paternity testing [~~examiners of blood tests~~]. The court may order blood, body fluid, or tissue samples made available to these experts [~~examiners~~] if requested.

Section 13.04, Family Code, is amended to read as follows:

Sec. 13.04. PRETRIAL PROCEEDINGS: CONFERENCE. (a) After completion of paternity testing [~~the blood tests~~], the court shall order all parties to appear, either in person or by counsel, at a pretrial conference. to appear, either in person or by counsel, at a pretrial conference.

(b) Either party may call a paternity testing expert [~~The court shall call its appointed examiners~~] to testify in person or by deposition about the expert's [~~their~~] tests and findings. [~~A party may call other qualified examiners of blood tests to testify.~~]

(c) A witness at a pretrial conference is governed by the Texas Rules of Civil Evidence.

(d) A verified written report of a paternity testing expert is admissible at the pretrial conference as evidence of the truth of the matters it contains.

(e) [~~(b) Witnesses called by the court are the court's witnesses, and witnesses called by a party are that party's witnesses. The court and the parties may examine and cross-examine all witnesses.~~]

[~~(c)~~] All evidence admitted [~~presented~~] at the pretrial conference is a part of the record of the case.

(f) At the pretrial conference the court may issue a temporary order under Section 11.11 of this code, including an order for the temporary support of the child, if the court finds that:

(1) the respondent is not excluded as the biological father of the child; and

(2) at least 95 percent of the male population is excluded from being the biological father of the child.

Section (b), Section 13.05, Family Code, is amended to read as follows:

(b) If the court finds that the paternity [~~blood~~] tests do not exclude [~~fail to show by clear and convincing evidence~~] the alleged father as [~~is not~~] the father of the child, the court shall set the suit for trial.

Section 13.06, Family Code, is amended to read as follows:

Sec. 13.06. EVIDENCE AT TRIAL. (a) [~~Unless otherwise permitted by the court on a showing of good cause, a party may call to testify on the results of the blood tests only those experts who testified at the pretrial conference.~~]

[~~(b)~~] A party may call a paternity testing expert to testify at the trial in person or by deposition [~~witness called by a party at the trial is that party's witness~~].

(b) A verified written report of a paternity testing expert is admissible at the trial as evidence of the truth of the matters it contains.

(c) If the paternity [~~blood~~] tests show the possibility of the alleged father's paternity, the court may admit this evidence if offered at the trial. If the paternity [~~blood~~] tests show the possibility of the alleged father's paternity and that at least 95 percent of the male population is excluded from the possibility of being the father, then evidence of these facts constitutes a prima facie showing of the alleged father's paternity, and the party opposing the establishment of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child.

(d) A party who refuses to submit to paternity testing has the burden of proving that the alleged father is not the father of the child

[~~Evidence of a refusal by the respondent to submit to a blood test is admissible to show only that the alleged father is not precluded from being the father of the child~~].

(e) Proof that the respondent signed the birth certificate as the father of the child as provided by Section 14, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rule 47a, Article 4477, Vernon's Texas Civil Statutes), constitutes a prima facie showing of his paternity.

(f) If a copy is provided to the adverse party and to the court at the pretrial conference, submission of a copy of a medical bill for the prenatal and postnatal health care expenses of the mother and child or for charges directly related to the paternity testing constitutes a prima facie showing that the charges are reasonable, necessary, and customary and may be admitted as evidence of the truth of the matters stated therein.

Section 13.07, Family Code, is amended to read as follows:

Sec. 13.07. NECESSARY PARTY; REPRESENTATION OF CHILD [~~SETTLEMENT~~]. (a) The child is not a necessary party to a suit under this chapter. It is rebuttably presumed in a trial on the merits before a judge or jury that the interests of the child will be adequately represented by the party bringing suit to establish the paternity of the child. If the court finds that the interests of the child will not be adequately represented by a party to the suit or are adverse to that party, the court shall appoint an attorney ad litem to represent the child.

(b) [~~The child must be a party to a settlement agreement with the alleged father.~~] The child shall be represented in a [~~the~~] settlement agreement, dismissal, or nonsuit by a guardian ad litem or an attorney ad litem appointed by the court, unless the court finds on the record that the interests of the child will be adequately represented by a party to the suit or are not adverse to that party and that the[~~. The~~] court approves the [~~must approve any~~] settlement agreement, dismissal, or nonsuit.

Section 13.22, Family Code, is amended to read as follows:

Sec. 13.22. STATEMENT OF PATERNITY. (a) The statement of paternity authorized to be used in Section 13.21 of this code must be in writing and

signed [executed] by the father of the child whether or not the father is a minor [as an affidavit and witnessed by two credible adults].

(b) The statement of paternity [affidavit] must clearly state that:

(1) that the father acknowledges the child as his child;

(2) [;—that] he and the mother, who is named in the statement [affidavit], were not married to each other at the time of conception of the child or at any subsequent time;[;] and

(3) [that] the child is not the biological [legitimate] child of another man.

(c) The statement may include a waiver of citation in a suit to establish the parent-child relationship but shall not include a waiver of the right to notice of the proceedings. If the respondent does not answer or appear after signing a waiver of service of process, notice of the proceedings shall be given to the respondent by first class mail sent to the address supplied in the waiver. The waiver shall be valid in a suit filed within 12 months of the date of signing.

(d) The statement must be executed before a person authorized to administer oaths under the laws of this state.

(e) The statement may be signed before the birth of the child.

Section 13.41, Family Code, is amended to read as follows:

Sec. 13.41. VENUE. Venue shall be as provided in Section 11.04 of this code [(a) If the alleged father is not the petitioner, venue for a suit under this chapter is in the county where the alleged father resides, except that if the alleged father is not a resident or domiciliary of this state and jurisdiction is to be established as provided by Section 11.051 of this code, venue for the suit is in the county where the mother resides.

[(b) If the alleged father is the petitioner, venue for the suit is in the county where the mother resides, except that if the mother is not a domiciliary of this state and jurisdiction is to be established as provided by Section 11.051 of this code, venue for the suit is in the county where the child resides].

(2) [;—that] he and the mother, who is named in the statement [affidavit], were not married to each other at the time of conception of the child or at any subsequent time;[;] and

(3) [that] the child is not the biological [legitimate] child of another man.

(c) The statement may include a waiver of citation in a suit to establish the parent-child relationship but shall not include a waiver of the right to notice of the proceedings. If the respondent does not answer or appear after signing a waiver of service of process, notice of the proceedings shall be given to the respondent by first class mail sent to the address supplied in the waiver. The waiver shall be valid in a suit filed within 12 months of the date of signing.

(d) The statement must be executed before a person authorized to administer oaths under the laws of the state.

(e) The statement may be signed before the birth of the child.

On page 8, delete lines 10-21.

The amendments were read.

On motion of Senator Krier and by unanimous consent, the Senate concurred in the House amendments to **S.B. 401** viva voce vote.

SENATE BILL 1718 WITH HOUSE AMENDMENTS

Senator Krier called **S.B. 1718** 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 - Cain

Amend **S.B. 1718** on page 3, line 6, SECTION 1, after the word "groups" and before the word "to" insert the following:

"including representation from various ethnic socio-economic groups in Texas"

Floor Amendment No. 2 - Cain

Amend **S.B. 1718** page 1, line 15 subsection 78.002 (a):

After the number 2000 and before the word committee, insert organizational

On page 1, line 10 after the number 2000 and before the word committee, insert organizational

On page 3, line 23 after the number 2000 and before the word committee, insert organizational

Floor Amendment No. 3 - Fraser

Amend **S.B. 1718** as follows:

(1) On page 1 line 15 after the period add:

"In order to be eligible for appointment to the committee a person must be married or have been married, and have complied with Section 1.01 of the Family Code, and have children as defined in this chapter."

(2) On page 1 strike lines 22-24 and substitute:

"(4) two (2) persons appointed by the governor;"

Floor Amendment No. 4 - Grusendorf

Amend **S.B. 1718** as follows:

Add paragraph (6) between lines 24 and 25 to read:

(6) the chairman of the State Board of Education

The amendments were read.

Senator Krier moved to concur in the House amendments to **S.B. 1718.**

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

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3127 ADOPTED

Senator Sims called from the President's table the Conference Committee Report on **H.B. 3127.** (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Sims, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 708 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 708.** (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3168 ADOPTED

Senator Dickson called from the President's table the Conference Committee Report on **H.B. 3168**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Dickson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE BILL 437 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 437** 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 - Uher

Amend **S.B. 437** as follows:

(1) Strike SECTION 1 and substitute the following:

SECTION 1. Section 17.42, Business & Commerce Code, is amended to read as follows:

Sec. 17.42. WAIVERS: PUBLIC POLICY. (a) Any waiver by a consumer of the provisions of this subchapter is contrary to public policy and is unenforceable and void; provided, however, that a waiver is valid and enforceable if a defendant in an action or claim under this subchapter pleads and proves (1) the consumer is not in a significantly disparate bargaining position; (2) the consumer is represented by legal counsel in seeking or acquiring goods or services, other than the purchase or lease of a family residence occupied or to be occupied as the consumer's residence, by a purchase or a lease for a consideration paid or to be paid that exceeds $500,000; and (3) the consumer waives all or part of this subchapter, other than Section 17.555, by an express provision in a written contract signed by both the consumer and the consumer's legal counsel; and provided, however, that a business consumer with assets of $5 million or more according to the most recent financial statement of the business consumer prepared in accordance with generally accepted accounting principles that has knowledge and experience in financial and business matters that enable it to evaluate the merits and risks of a transaction and that is not in a significantly disparate bargaining position may by written contract waive the provisions of this subchapter, other than Section 17.555.

(b) The existence or absence of a disparate bargaining position may not be established, as a matter of law, solely by evidence of the consumer's financial position relative to other parties to the contract or by matters contained in a written contract relating to the relative bargaining position of the parties.

(2) Strike SECTION 2 and renumber the remaining sections appropriately.

The amendment was read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendment to **S.B. 437** viva voce vote.

RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the motion to concur in the House amendment.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 1012**.

SENATE BILL 1012 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 1012** 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 - Smithee

Amend **S.B. 1012** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Title 4, Property Code, is amended by adding Chapter 27 to read as follows:

CHAPTER 27. RESIDENTIAL CONSTRUCTION LIABILITY

Sec. 27.001. DEFINITIONS. In this chapter:

(1) "Appurtenance" means any structure or recreational facility that is appurtenant to a residence but is not a part of the dwelling unit.

(2) "Construction defect" means a matter concerning the design, construction, repair, or completion of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance to a residence, on which a person has a complaint against a contractor.

(3) "Contractor" means a person contracting with an owner for the construction or sale of a new residence or of an alteration of or addition to an existing residence, repair of a new or existing residence, or construction, sale alteration, addition, or repair of an appurtenance to a new or existing residence.

(4) "Residence" means a single-family house, duplex, triplex, or quadruplex, or a unit in a multi-unit residential structure in which title to the individual units is transferred to the owners under a condominium or cooperative system.

Sec. 27.002. APPLICATION OF CHAPTER. This chapter applies to any action to recover damages resulting from a construction defect. To the extent of conflict between this chapter and any other law, including the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code), this chapter prevails.

Sec. 27.003. LIABILITY. (a) In an action to recover damages resulting from a construction defect, a contractor is not liable for damages, or any percentage of damages, caused by:

(1) negligence of a person other than the contractor or an agent, employee, or subcontractor of the contractor;

(2) failure of a person other than the contractor or an agent, employee, or subcontractor of the contractor to take reasonable action to mitigate the damages;

(3) normal wear, tear, or deterioration; or

(4) normal shrinkage due to drying or settlement of construction components within the tolerance of building standards.

(b) This chapter does not limit or bar any other defense or defensive matter applicable to an action to recover damages resulting from a construction defect.

Sec. 27.004. NOTICE AND OFFER OF SETTLEMENT. (a) Before the 60th day preceding the date a claimant seeking from a contractor damages arising from a construction defect files suit, the claimant shall give written notice to the contractor specifying in reasonable detail the construction defects that are the subject of the complaint. During the 21-day period after the date the contractor

receives the notice, the contractor shall be given a reasonable opportunity to inspect and have inspected the property that is the subject of the complaint to determine the nature and cause of the defect and the nature and extent of repairs necessary to remedy the defect. The contractor may take reasonable steps to document the defect.

(b) Within the 31-day period after the date the contractor receives the notice, the contractor may make a written offer of settlement. The offer may include an agreement by the contractor to repair or have repaired by an independent contractor at the contractor's expense any construction defect described in the notice. The repairs shall be made within the 45-day period after the date the contractor receives written notice of acceptance of the settlement offer, unless completion is delayed by the claimant or by other events beyond the control of the contractor. For the purposes of this section, "independent contractor" means a person who is independent of the contractor and did not perform any of the work complained of in the claimant's notice.

(c) If the giving of the notice under Subsection (a) within the period prescribed by that subsection is impractical because of the necessity of filing suit at an earlier date to prevent expiration of the statute of limitations or if the complaint is asserted as a counterclaim, that notice is not required. However, the suit or counterclaim shall specify in reasonable detail each construction defect that is the subject of the complaint, and the inspection provided for by Subsection (a) may be made during the 21-day period following the date of service of the suit or counterclaim on the contractor, and the offer provided for by Subsection (b) may be made within the 31-day period following the date of service.

(d) If a claimant unreasonably rejects an offer made as provided by this section or does not permit the contractor or independent contractor a reasonable opportunity to repair the defect pursuant to an accepted offer of settlement, the claimant may not recover an amount in excess of the reasonable cost of the repairs necessary to cure the construction defect and may recover only the amount of reasonable and necessary attorney's fees and costs incurred before the offer was rejected or deemed rejected.

(e) If suit is filed after a contractor makes repairs as provided by this section, the claimant may not be awarded damages arising from the construction defect, attorney's fees, or costs if the trier of fact finds that the attempt to repair was made in good faith and cured the construction defect described in the notice.

(f) An offer of settlement made under this section that is not accepted before the 15th day after the date the offer is received by the claimant is considered rejected.

(g) An affidavit certifying rejection of a settlement offer under this section may be filed with the court. The affidavit may not be offered into evidence or referred to by a party in the presence of the jury on trial of the case.

(h) A contractor who makes or provides for repairs under this section is entitled to take reasonable steps to document the repair and to have it inspected.

(i) Notwithstanding Subsections (a), (b), and (c), a contractor who receives written notice of a construction defect resulting from work performed by the contractor or an agent, employee, or subcontractor of the contractor and creating an imminent threat to the health or safety of the inhabitants of the residence shall take reasonable steps to cure the defect as soon as practicable. If the contractor fails to cure the defect in a reasonable time, the owner of the residence may have the defect cured and may recover from the contractor the reasonable cost of the repairs plus attorney's fees and costs in addition to any other damages recoverable under any law not inconsistent with the provisions of this chapter.

(j) This section does not preclude a contractor from making a monetary settlement offer.

(k) The inspection and repair provisions of this chapter are in addition to any rights of inspection and settlement provided by common law or by another statute, including Section 17.505, Business & Commerce Code.

Sec. 27.005. APPLICATION TO INSURER OR SURETY. An insurer or surety with whom the contractor contracts to provide payment or indemnity for labor or materials provided under a warranty or to provide that labor and materials for warranty work has the same rights and limitations on liability as the contractor under this chapter.

Sec. 27.006. LIMITATIONS ON EFFECT OF CHAPTER. This chapter does not create an implied warranty or extend a limitations period.

SECTION 2. This Act applies only to a claim for damages resulting from a construction defect as defined by Section 27.001, Property Code, as added by this Act, for which a suit is filed on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 1989.

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

The amendment was read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendment to **S.B. 1012** viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 8

Senator Whitmire 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. 8** 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. 8** 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 Whitmire, Chairman; McFarland, Dickson, Washington and Glasgow.

CONFERENCE COMMITTEE ON HOUSE BILL 1405

Senator Sims 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. 1405** 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. 1405** 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 Sims, Chairman; Leedom, Bivins, Ratliff and Brown.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 843 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **H.B. 843**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 783 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **S.B. 783**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT HOUSE BILL 3143

Senator Bivins submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 3143** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BIVINS	CRAWFORD
ARMBRISTER	WATERFIELD
BROWN	CHISUM
HALEY	SMITHEE
RATLIFF	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.

BILLS AND RESOLUTIONS SIGNED

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

S.C.R. 50	**S.B. 570**	**S.B. 913**	**S.B. 1316**
S.C.R. 114	**S.B. 596**	**S.B. 914**	**S.B. 1387**
S.C.R. 126	**S.B. 601**	**S.B. 957**	**S.B. 1419**

S.C.R. 152	S.B. 638	S.B. 983	S.B. 1502
S.C.R. 160	S.B. 642	S.B. 999	S.B. 1504
S.C.R. 174	S.B. 650	S.B. 1001	S.B. 1557
S.B. 79	S.B. 748	S.B. 1035	S.B. 1621
S.B. 147	S.B. 770	S.B. 1052	S.B. 1643
S.B. 340	S.B. 820	S.B. 1190	S.B. 1690
S.B. 357	S.B. 843	S.B. 1271	S.B. 1731
S.B. 388	S.B. 870	S.B. 1275	S.B. 1761
S.B. 488	S.B. 872	S.B. 1288	S.B. 1794
		S.B. 1814	S.B. 1840

S.B. 338 (Signed subject to Art. III Sec. 49a of the Constitution)

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 156**.

SENATE BILL 156 WITH HOUSE AMENDMENT

Senator Lyon called **S.B. 156** 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 - Cain

Amend **S.B. 156** by adding Section 2:

SECTION 2. Subchapter E, Chapter 23, Title 110B, Revised Statutes, is amended by adding Section 23.405 to read as follows:

Sec. 23.405. SERVICE BY CERTAIN JUDICIAL OFFICERS. (a) A contributing member of the Judicial Retirement System of Texas Plan One who has served as a state district court judge and who is serving as a justice of the supreme court may establish service credit in the elected class of the retirement system for service performed as a member of the legislature or as a state employee and for military service creditable in the retirement system.

(b) To establish service credit under this section, a person must apply to the retirement system in writing and make any payments that are required for establishment of the type of service and that are not currently deposited with the retirement system.

(c) The retirement system shall use all credit established under this section in determining eligibility for retirement.

(d) The deadline for establishing service credit under this section is December 31, 1989.

The amendment was read.

Senator Lyon moved to concur in the House amendment to **S.B. 156**.

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

Absent-excused: Parmer.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 992**.

SENATE BILL 992 WITH HOUSE AMENDMENT

Senator Lyon called **S.B. 992** 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 - Carter

Amend **S.B. 992** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 415.062, Government Code, is amended to read as follows:

Sec. 415.062. PROFESSIONAL ACHIEVEMENT AND PROFICIENCY CERTIFICATES. (a) The commission shall issue certificates that recognize professional achievement or proficiency based on law enforcement training, education, and experience. For this purpose the commission shall use the employment records of the employing agency.

(b) The commission shall adopt rules and regulations for making achievement awards to peace officers, reserve peace officers, jailers, or custodial officers who are licensed by the commission.

(1) The awards shall be given in the name of the State of Texas and presented at the Capitol during May of each year.

(2) The awards shall be in three areas with the criteria for each area, including but not being limited to,:

(A) valor—an act of personal heroism or bravery, which exceeds the normal expectations of job performance, such as placing one's own life in jeopardy to save another person's life, prevent serious bodily injury to another, or prevent the consequences of a criminal act;

(B) public service—when an individual through initiative creates or participates in a program or system which has a significant positive impact on the general population of a community which would exceed the normal expectations of job performance; and

(C) professional achievement—when an individual through personal initiative, fixity of purpose, persistence, or endeavor creates a program or system which has a significant positive impact on the law enforcement profession which would exceed the normal expectations of job performance.

(3) The rules shall require recommendations from an elected official of the state or a political subdivision, an administrator of a law enforcement agency, or a person holding a current license issued by the commission.

(4) At the minimum, the award shall consist of a document, an appropriate medal, and a ribbon suitable for wearing on a uniform.

(5) The number of awards presented each year shall not exceed 20.

SECTION 2. This Act takes effect September 1, 1989.

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.

On motion of Senator Lyon and by unanimous consent, the Senate concurred in the House amendment to **S.B. 992** viva voce vote.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Lyon and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 1256.**

SENATE BILL 1256 WITH HOUSE AMENDMENT

Senator Lyon called **S.B. 1256** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment - Polumbo

Amend **S.B. 1256** as follows:

(1) On page 1, line 17 add "or salesman provided that salesman was licensed on or before June 1, 1989" between the word "broker" and the word "in".

(2) On page 2, line 6 add "or salesman, provided that salesman was licensed on or before June 1, 1989" between the word "broker" and word "in".

(3) On page 2, line 21 add "or salesman, provided that salesman was licensed on or before June 1, 1989" between the word "broker" and the word "in".

(4) On page 5, delete line 24 and in its place add the following: "certified real estate appraiser who is the sponsoring broker for the".

The amendment was read.

On motion of Senator Lyon and by unanimous consent, the Senate concurred in the House amendment to **S.B. 1256** viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 600 ADOPTED

Senator Lyon called from the President's table the Conference Committee Report on **S.B. 600.** (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Lyon, the Conference Committee Report was adopted viva voce vote.

RECORD OF VOTES

Senators Edwards and Truan asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

CONFERENCE COMMITTEE REPORT ON SENATE CONCURRENT RESOLUTION 165 ADOPTED

Senator Sims called from the President's table the Conference Committee Report on **S.C.R. 165.** (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Sims, the Conference Committee Report was adopted viva voce vote.

RECORD OF VOTE

Senator Montford asked to be recorded as voting "Present-not voting" on the adoption of the Conference Committee Report.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1517 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **S.B. 1517**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Brooks, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2603 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 2603**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 24 ADOPTED

Senator Washington called from the President's table the Conference Committee Report on **S.B. 24**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Washington, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1193 ADOPTED

Senator Washington called from the President's table the Conference Committee Report on **H.B. 1193**. (The Conference Committee Report having been filed with the Senate and read on Saturday, May 27, 1989.)

On motion of Senator Washington, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE BILL 1183 WITH HOUSE AMENDMENT

Senator Washington called **S.B. 1183** 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 - Berlanga

Amend **S.B. 1183** as follows:

On page 1, line 7, after "Sec. 21.1091. AMERICAN SIGN LANGUAGE.", add "American Sign Language is recognized as a language and any public school may offer an elective course in American Sign Language."

The amendment was read.

Senator Washington moved to concur in the House amendment to **S.B. 1183.**

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

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Bivins and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 3143.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3143 ADOPTED

Senator Bivins called from the President's table the Conference Committee Report on **H.B. 3143.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Bivins, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT HOUSE BILL 3109

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 3109** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	STILES
CARRIKER	HIGHTOWER
WASHINGTON	WILLY
BIVINS	SOILEAU
PARKER	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 RULE 12.09(a) SUSPENDED

On motion of Senator Armbrister and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 3109.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3109 ADOPTED

Senator Armbrister called from the President's table the Conference Committee Report on **H.B. 3109**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

GUESTS PRESENTED

At the President's request, Tom Godfrey, accompanied by his wife, Mae, was escorted to the President's Rostrum.

The President announced that Mr. Godfrey, a long-time and loyal member of the Support Services Department, was retiring.

The Members of the Senate extended a standing ovation to Mr. Godfrey for his faithful service to the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1822 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **H.B. 1822**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Green, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SESSION TO CONSIDER EXECUTIVE APPOINTMENT

The President announced the time had arrived to consider the appointment of Dr. Alfred Raymond Johnson to be a Member of the Texas State Board of Medical Examiners.

(Dr. Johnson's nomination was reported from the Committee on Nominations on May 24, 1989, and severed on May 25, 1989.)

NOMINEE CONFIRMED

Senator Brown moved that Dr. Johnson be confirmed as a Member of the Texas State Board of Medical Examiners.

Dr. Johnson was confirmed by the following vote: Yeas 22, Nays 6.

Yeas: Armbrister, Bivins, Brooks, Brown, Carriker, Dickson, Glasgow, Green, Haley, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Ratliff, Santiesteban, Sims, Uribe, Washington, Whitmire.

Nays: Barrientos, Edwards, Parker, Tejeda, Truan, Zaffirini.

Absent: Caperton, Harris.

Absent-excused: Parmer.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1272**. The following have been appointed on the part of the House: A. Moreno, Chair; Wilson, Berlanga, Rudd, G. Thompson.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 307**. The following have been appointed on the part of the House: P. Hill, Chair; Rangel, Denton, Mowery, Linebarger.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1154**. The following have been appointed on the part of the House: Garcia, Chair; Wentworth, A. Luna, Morales, Alexander.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 973**. The following have been appointed on the part of the House: Madla, Chair; Laney, R. Lewis, Martinez, Patterson.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 400**. The following have been appointed on the part of the House: Perez, Chair; P. Hill, F. Hill, S. Hudson, Collazo.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 356**. The following have been appointed on the part of the House: Blackwood, Chair; Ovard, Repp, Eckels, Campbell.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1212**. The following have been appointed on the part of the House: T. Smith, Chair; Wentworth, Yost, Waterfield, Junell.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1205**. The following have been appointed on the part of the House: T. Smith, Chair; Horn, Harrison, Smithee, Turner.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1067**. The following have been appointed on the part of the House: Turner, Chair; Jones, Conley, Polumbo, S. Thompson.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 740**. The following have been appointed on the part of the House: Cain, Chair; A. Hill, Berlanga, McWilliams, C. Harris.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1484**. The following have been appointed on the part of the House: Martinez, Chair; Counts, Goolsby, Horn, Price.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1564**. The following have been appointed on the part of the House: P. Hill, Chair; Parker, Uher, McCollough, G. Luna.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1757**. The following have been appointed on the part of the House: Laney, Chair; Saunders, Tallas, Perry, Harrison.

The House has adopted the Conference Committee Reports on the following bills by non-record votes:

S.B. 479
H.B. 526
H.B. 708
H.B. 843
H.B. 983
H.B. 1193
H.B. 1822
H.B. 2603
H.B. 2721
H.B. 3168

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT
SENATE BILL 1067

Senator Green submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1067** 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	TURNER
ZAFFIRINI	POLUMBO
URIBE	JONES
WHITMIRE	CONLEY
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to single certification of water and sewer utilities in incorporated or annexed areas.

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

SECTION 1. Section 13.255, Water Code, is amended by amending Subsection (j) and adding Subsection (k) to read as follows:

(j) This section shall apply only in a case where:

(1) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a nonprofit water supply or sewer service corporation; or

(2) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a retail public utility,

other than a nonprofit water supply or sewer service corporation, and whose service area is located entirely within the boundaries of a municipality with a population of 1.7 million or more according to the most recent federal census.

(k) The following conditions apply when a municipality or franchised utility makes an application to acquire the service area or facilities of a retail public utility described in Subsection (j)(2):

(1) the commission or court must determine that the service provided by the retail public utility is substandard or its rates are unreasonable in view of the reasonable expenses of the utility;

(2) if the municipality abandons its application, the court or the commission is authorized to award to the retail public utility its reasonable expenses related to the proceeding hereunder, including attorney fees; and

(3) unless otherwise agreed by the retail public utility, the municipality must take the entire utility property of the retail public utility in a proceeding hereunder.

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.

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

CONFERENCE COMMITTEE REPORT
SENATE BILL 356

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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

ZAFFIRINI	BLACKWOOD
PARKER	ECKELS
DICKSON	REPP
TEJEDA	OVARD
BROWN	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to fees for services provided in criminal cases.

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

SECTION 1. Subsections (a), (e), and (f), Article 102.011, Code of Criminal Procedure, are amended to read as follows:

(a) A defendant convicted of a misdemeanor [~~in a county with a population of two million or more~~] shall pay the following fees for services performed in the case by a peace officer:

(1) $5 [~~$20~~] for issuing a written notice to appear in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, [~~executing an arrest warrant or capias~~] or for making an arrest without a warrant;

(2) $35 for executing or processing an issued arrest warrant or capias;

(3) $5 for summoning a witness;

(4) $35 [~~(3) $20~~] for serving a writ not otherwise listed in this article;

(5) [~~(4)~~] $10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) [~~(5)~~] $5 for a commitment or release;

(7) [~~(6)~~] $5 for summoning a jury, if a jury is summoned; and

(8) [~~(7)~~] $8 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

(e) A fee under Subsection (a)(1) or (a)(2) of this article shall be assessed on conviction, regardless of whether the defendant was also arrested at the same time for another offense, and shall be assessed for each arrest made of a defendant arising out of the offense for which the defendant has been convicted [~~of an offense for which the defendant was arrested. However, only one fee may be assessed for an arrest regardless of the number of offenses for which the arrest was made. For the purposes of this article, the term "arrest" does not include the issuance by a peace officer of a written notice to appear in court, following the defendant's alleged violation of a traffic law or municipal ordinance~~].

(f) The custodian of a municipal or county treasury who receives fees imposed under this article for services performed by peace officers employed by the state shall forward the fees to the comptroller of public accounts by [~~on~~] the last day of the month following each calendar quarter after deducting four-fifths of the amount [~~$10~~] of each fee received for a service performed under Subsection (a)(1) or (a)(2) of this article, in a manner directed by the comptroller. The municipality or county may retain all interest earned on those funds.

SECTION 2. Article 102.001, Code of Criminal Procedure, is repealed.

SECTION 3. (a) The change in law made by this Act applies only to fees for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

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

SECTION 4. This Act takes effect September 1, 1989.

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
HOUSE BILL 3072

Senator Dickson submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 3072** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

DICKSON	PARKER
ZAFFIRINI	SMITHEE
SIMS	COUNTS
	THOMAS
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 1154

Senator Tejeda submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1154** 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.

TEJEDA	GARCIA
DICKSON	ALEXANDER
BARRIENTOS	WENTWORTH
KRIER	A. LUNA
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the offense of injury to a child, elderly individual, or invalid individual.

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

SECTION 1. Section 22.04, Penal Code, is amended to read as follows:

Sec. 22.04. INJURY TO A CHILD, ~~[OR AN]~~ ELDERLY INDIVIDUAL, OR INVALID. (a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, engages in conduct that causes to a child, elderly ~~[who is 14 years of age or younger or to an]~~ individual, or invalid individual ~~[who is 65 years of age or older]~~:

(1) serious bodily injury;

(2) serious physical or mental deficiency or impairment;

(3) disfigurement or deformity; or

(4) bodily injury.

(b) An omission that causes a condition described by Subsections (a)(1) through (a)(4) of this section is conduct constituting an offense under this section if:

(1) the actor has a legal or statutory duty to act; or

(2) the actor has assumed care, custody, or control of a child, elderly individual, or invalid individual.

(c) In this section:

(1) "Child" means a person 14 years of age or younger.

(2) "Elderly individual" means a person 65 years of age or older.

(3) "Invalid individual" means a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself.

(d) The actor has assumed care, custody, or control if he has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter, and medical care for a child, elderly individual, or invalid individual.

(e) An offense under Subsection (a)(1), (2), or (3) of this section is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly it shall be a felony of the third degree.

(f) [~~(c)~~] An offense under Subsection (a)(4) of this section is a felony of the third degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly it shall be a Class A misdemeanor.

(g) [~~(d)~~] An offense under Subsection (a) of this section when the person acts with criminal negligence shall be a Class A misdemeanor.

(h) A person who is subject to prosecution under both this section and another section of this code may be prosecuted under either or both sections. Section 3.04 of this code does not apply to criminal episodes prosecuted under both this section and another section of this code. If a criminal episode is prosecuted under both this section and another section of this code and sentences are assessed for convictions under both sections, the sentences shall run concurrently.

(i) It is an affirmative defense to prosecution under Subsection (b)(2) of this section that before the offense the actor:

(1) notified in person the child, elderly individual, or invalid individual that he would no longer provide any of the care described by Subsection (d) of this section; and

(2) notified in writing the parents or person other than himself acting in loco parentis to the child, elderly individual, or invalid individual that he would no longer provide any of the care described by Subsection (d) of this section; or

(3) notified in writing the Texas Department of Human Services that he would no longer provide any of the care set forth in Subsection (d) of this section.

(j) Written notification under Subsection (i)(2) or (i)(3) of this section is not effective unless it contains the name and address of the actor, the name and address of the child, elderly individual, or invalid individual, the type of care provided by the actor, and the date the care was discontinued.

(k)(1) It is a defense to prosecution under this section that the conduct engaged in by act or omission consisted of:

(A) reasonable medical care occurring under the direction of or by a licensed physician; or

(B) emergency medical care administered in good faith and with reasonable care by a person not licensed in the healing arts.

(2) It is an affirmative defense to prosecution under this section that the act or omission was based on treatment in accordance with the tenets and

practices of a recognized religious method of healing with a generally accepted record of efficacy.

SECTION 2. Section 29.03, Penal Code, is amended to read as follows:

Sec. 29.03. AGGRAVATED ROBBERY. (a) A person commits an offense if he commits robbery as defined in Section 29.02 of this code, and he:

(1) causes serious bodily injury to another; [or]

(2) uses or exhibits a deadly weapon; or

(3) causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:

(A) 65 years of age or older; or

(B) a disabled person.

(b) An offense under this section is a felony of the first degree.

(c) In this section, "disabled person" means an individual with a mental, physical, or developmental disability who is substantially unable to protect himself from harm.

SECTION 3. (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 that purpose.

SECTION 4. This Act takes effect September 1, 1989.

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
SENATE BILL 1715

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1715** 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	CHISUM
PARKER	LANEY
CAPERTON	ROBNETT
SANTIESTEBAN	JUNELL
SIMS	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the administration, boundaries, powers, duties, financing, and validation of the Lubbock County Water Control and Improvement District No. 1, of Lubbock County, Texas, including the power to levy taxes, issue bonds, take property by eminent domain, and impose penalties.

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

ARTICLE I. VALIDATING VARIOUS PROCEEDINGS FOR FORMATION OF DISTRICT

SECTION 1.1. (a) Lubbock County Water Control and Improvement District No. 1, of Lubbock County, Texas, is in all things validated and is declared to be a validly existing and operating water control and improvement district under Article XVI, Section 59, of the Texas Constitution from and after its initial formation on October 10, 1955, by the Commissioners Court of Lubbock County, Texas, under Chapter 25, General Laws, Acts of the 39th Legislature, Regular Session, 1925.

(b) In this Act, "district" means the Lubbock County Water Control and Improvement District No. 1, of Lubbock County, Texas.

SECTION 1.2. All governmental proceedings and acts performed by the Commissioners Court of Lubbock County, Texas, and the board of directors of the district and by any officer of the commissioners court or the district in connection with the establishment of the district are in all things validated as of the respective dates of those acts and proceedings, including the following acts and proceedings:

(1) the order of the Commissioners Court of Lubbock County granting the petition for the formation of the district on October 10, 1955;

(2) election proceedings and the order canvassing returns of the election to confirm the district held in Lubbock County, Texas, on January 10, 1956;

(3) the order confirming the district entered by the Commissioners Court of Lubbock County, Texas, on January 18, 1956;

(4) the notice of hearing for exclusion of land and the order entered on March 5, 1956, finding that no petition had been submitted to exclude land from the district;

(5) proceedings for authorization of bonds to provide funds for capital improvements that were approved by a vote of 2,424 for the bonds and 1,451 against the bonds at an election held on April 17, 1956; and

(6) the notice issued May 28, 1956, for hearing on the method of taxation and the hearing held on June 12, 1956, with a finding that the district should be supported by ad valorem taxation.

SECTION 1.3. (a) It is found and determined that the area described in this section containing approximately 1,209 acres is the land that is included within the boundaries of the district:

METES AND BOUNDS DESCRIPTION of a 1209.1 acre tract located in Sections 6, 7 and 8, Block 1, Sections 19, 20 and 24, Block S and Section 1, Stilson and Case Survey, Lubbock County, Texas, being further described as follows:

BEGINNING at a point which bears N. 00°40' W. a distance of 447.00 feet from the Southwest corner of Section 24, Block S, Lubbock County, Texas;

THENCE N. 00°40' W., along the West line of said Section 24, Block S, a distance of 438.00 feet;

THENCE N. 36°10' E., along the centerline of FM 835, a distance of 221.00 feet to a point of curvature;

THENCE Northwesterly around a curve to the left, continuing along said centerline, said curve having a radius of 447.46 feet, a central angle of 48°56', tangent lengths of 217.3 feet and a chord distance of 395.49 feet;

THENCE N. 12°56' W., continuing along said centerline, a distance of 522.5 feet to a point of curvature;
THENCE Northeasterly around a curve to the right, continuing along said centerline, said curve having a radius of 716.20 feet, a central angle of 17°52', tangent lengths of 112.7 feet and a chord distance of 222.43 feet;
THENCE N. 4°47' E., continuing along said centerline of FM 835, a distance of 1742.6 feet to a point of curvature;
THENCE Northeasterly around a curve to the right, continuing along said centerline, said curve having a radius of 1145.92 feet, a central angle of 9°42', tangent lengths of 97.2 feet and a chord distance of 193.77 feet;
THENCE N. 14°39' E., continuing along said centerline, a distance of 596.0 feet to a point of curvature;
THENCE Northeasterly around a curve to the right, continuing along said centerline, said curve having a radius of 572.96 feet, a central angle of 17°48', tangent lengths of 89.7 feet and a chord distance of 177.29 feet;
THENCE N. 32°27' E., continuing along said centerline of FM 835, a distance of 233.00 feet to a point of curvature;
THENCE Northwesterly around a curve to the left, continuing along said centerline, said curve having a radius of 572.96 feet, a central angle of 83°, tangent lengths of 506.9 feet and a chord distance of 759.31 feet;
THENCE N. 89°11' E. a distance of 4722.93 feet to a point in the East line of Section 20, Block S and in the West line of Section 19, Block S;
THENCE N. 56°05'20" E. a distance of 3560.63 feet;
THENCE N. 89°58' E. a distance of 2829.16 feet to a point in the East line of Section 7, Block I and the West line of Section 8, Block I;
THENCE N. 00°02' W., along the East line of Section 7, Block I and the West line of Section 8, Block I, a distance of 80.00 feet;
THENCE N. 89°58' E. a distance of 1112.00 feet;
THENCE S. 19°57' E. a distance of 2146.14 feet;
THENCE S. 89°58' W. a distance of 323.08 feet;
THENCE S. 63°32'14" W. a distance of 943.62 feet;
THENCE S. 00°02" E. a distance of 1502.27 feet;
THENCE S. 89°58' W., along the South line of Sections 7 and 8, Block I and the North line of Sections 4 and 6, Block I, at 675.00 feet pass the common corner of said Sections 4, 6, 7 and 8, Block I, continuing for a total distance of 2304.17 feet.
THENCE S. 00°02' E. a distance of 1515.20 feet;
THENCE S. 89°58' W. a distance of 2013.44 feet;
THENCE S. 65°20' W. a distance of 2304.19 feet;
THENCE S. 00°04' W., along the West line of Section 6, Block I and the East line of Section 24, Block S, a distance of 441.00 feet.
THENCE West a distance of 1887.50 feet;
THENCE N. 12°35' W. a distance of 1111.11 feet;
THENCE S. 89°16' W. a distance of 1593.33 feet;
THENCE S. 37°36' W. a distance of 454.16 feet;
THENCE S. 48°36' W. a distance of 692.19 feet;
THENCE S. 16°35' W. a distance of 865.40 feet;
THENCE S. 88°46' W. a distance of 525.00 feet to the Point of Beginning.
DOES NOT REPRESENT A SURVEY ON THE GROUND. PREPARED FROM DEED DESCRIPTIONS ONLY.
PREPARED FOR: Lubbock W.C.I.D. No. 1
June 1, 1987
This land and other property on this land included within the boundaries of the district are and will continue to be benefited by the creation and operation of the district.

(b) The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

(c) If a majority of the voters of Lubbock County approve the boundaries provided by Subsection (a) of this section to be boundaries of the district, the boundaries of the district are the boundaries described in Subsection (a) of this section.

(d) The board of directors may call and hold an election to determine whether the district's boundaries will be the boundaries provided by Subsection (a) of this section in lieu of the current boundaries of Lubbock County.

(e) An election to determine the boundaries of the district may not be held later than the 150th day after the effective date of this Act. Subsection (a), Section 41.001, Election Code, does not apply to such an election.

(f) Ballots for the election shall be printed to provide for voting for or against the proposition: "The reduction of the boundaries for the Lubbock County Water Control and Improvement District No. 1 from the entire area of Lubbock County to include only the following area _____(Insert a brief description of the territory in Subsection (a) of this section), and the consequential reduction in the district's taxing authority to include only the citizens living in that area."

(g) If a majority of the qualified voters voting at the election favor the proposition, the boundaries of the district are the boundaries described in Subsection (a) of this section, but if a majority of the qualified voters voting at the election vote against the proposition, the boundaries of the district continue to be coterminous with the boundaries of Lubbock County.

(h) Except as specifically provided by this section, the election shall be conducted in the manner provided for elections under Chapter 51, Water Code, and the Election Code.

(i) An election called and held under this section may be called and held in conjunction with another election of the district.

ARTICLE II. EXTENDING AND ENLARGING POWERS, DUTIES, FUNCTIONS, AND PROCEDURES OF DISTRICT

SECTION 2.1. The district has the rights, powers, privileges, and duties conferred or imposed by and is governed by the general law of this state in Chapter 51, Water Code, and other law of this state applicable to water control and improvement districts created under Article XVI, Section 59, of the Texas Constitution. To the extent that any general law conflicts or is inconsistent with this Act, this Act prevails.

SECTION 2.2. (a) The district may construct, acquire, improve, maintain, and repair dams or other structures and may acquire by eminent domain or otherwise land, easements, property, or equipment that may be necessary to use, control, and distribute water that is impounded, diverted, or controlled by the district. The district may exercise the power of eminent domain both inside and outside the boundaries of the district as provided by Chapter 21, Property Code.

(b) If the district, in the exercise of the power of eminent domain or power of relocation or any other power granted under this Act, requires relocation, raising, lowering, rerouting, changing the grade of, or altering the construction of any highway, railroad, electric transmission, or electric distribution line, telephone or telegraph lines, conduits, poles, facilities, and pipelines, the district must bear the actual cost of relocation, raising, lowering, rerouting, changing the grade, or altering of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

SECTION 2.3. For the purpose of providing dams, structures, projects, and works of improvement and other necessary plans, facilities, and equipment in connection with those items, for flood prevention and the conservation and development of water, for the improvement, repair, and operation of those items and to carry out any other power or authority conferred by this Act or by Chapter 51, Water Code, and for the purpose of paying costs, charges, and expenses of the district, the district may issue negotiable bonds in the manner provided by Chapter 51, Water Code. Before bonds for the financing of any engineering project are issued, the district shall obtain approval of the engineering project, plans, and specifications from the Texas Water Commission, and the construction of the project shall be under the supervision of the Texas Water Commission in the manner provided by the Water Code for water control and improvement district projects and the commission's rules.

SECTION 2.4. In addition to the powers granted by Chapter 51, Water Code, and other law of the state applicable to water control and improvement districts, the district may exercise any power necessary or requisite to fully cooperate with the federal government and its agencies in taking advantage of and in securing and procuring assistance, aid, benefits, grants, loans, credit, and money under federal law. It is the intent of the legislature to grant to the district all the power necessary to fully qualify and gain the full benefits of any federal law, including all power necessary or requisite to carry out the projects, works, and improvements contemplated by any of those federal laws and the power to secure a loan from the proper agency of the federal government and, if necessary, to issue bonds of the district as collateral or security for that loan for the purpose of defraying the cost and expenses of the district in connection with the carrying out of any project, work, and improvement.

SECTION 2.5. The district is a governmental agency and a body politic and corporate.

ARTICLE III. ELECTION AND QUALIFICATION OF DIRECTORS OF DISTRICT AND ORGANIZATION OF BOARD OF DIRECTORS

SECTION 3.1. The district's powers shall be exercised by a board of five directors. Each of the directors serving on the effective date of this Act shall serve for the term for which he was elected. Subsequent directors shall be elected as provided by Chapter 51, Water Code, and the Election Code.

SECTION 3.2. The directors are elected at large from within the district for four-year terms.

SECTION 3.3. A vacancy on the board shall be filled for the unexpired term by 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.

ARTICLE IV. DESIGNATING ADMINISTRATIVE PROCEDURES AND PROCESS

SECTION 4.1. The board of directors may employ a general manager and give him full authority in the management and operation of the district subject only to the orders of the board. On delegation of authority by the board of directors, the general manager may appoint peace officers and employ maintenance employees, machinery operators, and other employees who are required for the proper operation of the district.

SECTION 4.2. In connection with the use of a lake, dam, structure, project, work, or improvement for flood control and the conservation and development of water inside or outside the district, the board of directors may establish, maintain, and operate recreational facilities, including amusement rides, various types of concessions, picnicking and fishing facilities, boating facilities, camping improvements and accommodations, and general park improvements and

arrangements. Also, the board of directors may establish, maintain, control, and operate incidental commercial enterprises that may be convenient, advisable, and requisite to carry on, enlarge, and extend the recreational program instituted on the lakes, dams, and land of the district.

SECTION 4.3. The board of directors may enter into any type of contract with an individual, firm, partnership, corporation, or other legal entity for any length of time and on terms and conditions and for the consideration the board considers advisable for the purpose of making available additional recreational facilities and accommodations for the convenience of the public.

ARTICLE V. AUTHORIZING FINANCING OF OPERATIONS AND CAPITAL IMPROVEMENTS

SECTION 5.1. The board of directors may establish a schedule of fees to be charged by the district for rental of recreation sites and host compartments, entrance on a recreation area for the purpose of boating, fishing, camping, and picnicking, and use of all other recreational facilities. The fees shall be deposited to the credit of an operating fund and may be used to discharge the general operational and maintenance expenses of the district. Any surplus money obtained through assessment of the fees may be used at the discretion of the board of directors for the erection and construction of capital improvements of any kind determined by the board of directors.

SECTION 5.2. A loan may not be consummated by the district from the federal government and bonds may not be issued by the district unless the loan or bonds are approved by a majority of the qualified voters of the district voting at an election called and held for that purpose. On approval of bonds by the attorney general and registration by the comptroller of public accounts they are incontestable.

SECTION 5.3. (a) The board of directors may call an election to submit to the qualified voters of the district the question of whether a maintenance tax is to be levied by the district for the purpose of maintaining the projects, works, structures, or improvements that the district is authorized to construct, purchase, acquire, or improve.

(b) At the time the election is called, the board of directors shall establish the maximum rate of tax that may be levied and collected in a single year. The election shall be called and held in the manner provided by Chapter 51, Water Code, and the Election Code.

(c) A maintenance tax election may be held at the same time as an election for the issuance of bonds or as a separate election.

(d) On the affirmative vote of a majority of the qualified voters voting on a maintenance tax proposition at an election, the district may levy a maintenance tax.

(e) The district may use funds obtained from the maintenance tax to purchase easements and rights-of-way, for any of the purposes for which the district can spend bond proceeds, and for maintenance purposes.

(f) The district may deposit surplus maintenance taxes not needed for maintenance purposes in the interest and sinking fund for payment of the principal of and interest on outstanding bonds of the district.

(g) A determination by the board of directors relating to the expenditure of maintenance taxes is final and is not subject to judicial review except for fraud, palpable error, or gross abuse of discretion.

(h) The maintenance tax may not exceed a rate of 25 cents on each $100 of valuation of all property in the district.

SECTION 5.4. (a) District bonds are legal and authorized investments for:

(1) banks;

(2) savings banks;

(3) trust companies;
(4) savings and loan associations;
(5) insurance companies;
(6) fiduciaries;
(7) trustees;
(8) guardians; and
(9) sinking funds of municipalities, counties, school districts, and other political subdivisions of the state.

(b) The bonds are eligible to secure deposits of public funds of the state and of municipalities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and sufficient security for deposits to the extent of their value if accompanied by all uninsured coupons.

SECTION 5.5. (a) The board of directors shall annually levy and collect an ad valorem tax on taxable property in the district at a rate sufficient to pay the principal of and interest on outstanding bonds of the district and to create an interest and sinking fund. The ad valorem tax rate may not exceed 50 cents on each $100 of valuation of all property in the district. The tax must be approved by a majority of the qualified voters of the district voting on the ad valorem tax proposition at an election called and held for that purpose.

(b) On payment of all principal of and interest on bonds issued by the district, if money remains in the interest and sinking fund for that bond issue that is no longer required for the liquidation of the bonds, the surplus funds together with any uncollected and delinquent taxes that are collected from a tax levy made in a previous year for liquidation of those bonds shall be transferred to a capital improvement account on the books of the district, and the funds in that account may be used by the board of directors to pay for erection, construction, repair, and improvement of the facilities of the district for which the original bonds were issued.

SECTION 5.6. (a) The board of directors may issue without voter approval certificates of indebtedness up to the maximum amount of $50,000 in a single calendar year. The certificates of indebtedness shall bear interest at a rate determined by the board of directors as practical and feasible and may have serial maturities for not longer than 10 years.

(b) The board of directors shall pay the certificates of indebtedness solely from excess income above the amount necessary to pay current operating expenses, from surplus unpledged and unallocated funds that remain in the interest and sinking fund of the district if specific bonds are finally and completely liquidated, and from delinquent taxes collected and to be collected from tax levies for the servicing of bonds if those bonds are completely liquidated.

(c) An order authorizing the issuance of certificates of indebtedness that provides for payment in whole or in part from excess funds from the district's operating fund, as a prerequisite to the issuance of those certificates of indebtedness, shall establish from the audits of the district for the preceding five-year period before the date the certificates of indebtedness are issued the amount of the surplus realized above operating costs each year and must find that this amount if projected for the years the certificates of indebtedness are outstanding and unpaid will be sufficient to retire the certificates of indebtedness and all interest on those certificates to the extent necessary under the order authorizing the issuance of the certificates of indebtedness.

(d) The certificates of indebtedness may be issued for the payment of obligations incurred for capital improvements and for maintenance, improvement, and extension of the antipollution systems of the district and for other plants, facilities, improvements, roads, and other items to be used in operation of the district.

ARTICLE VI. MISCELLANEOUS PROVISIONS RELATING TO DISTRICT

SECTION 6.1. In this Act, "peace officer" means the sheriff of Lubbock County and any of his deputies, a member of the Department of Public Safety, a

Texas Ranger, any employee of the Parks and Wildlife Department who serves as a peace officer for that department, a constable of Lubbock County, an officer or employee of the district who serves as a peace officer for the district, and any member of a police force of a municipality inside the boundaries of the district, if assisting a peace officer of the district.

SECTION 6.2. Recognizing that peace officers of Lubbock County, due to the pressure of their other law enforcement duties, should not be depended on primarily for the enforcement of orders and rules of the district and other law of the state applicable inside the district, the general manager is a peace officer under Article 2.12, Code of Criminal Procedure. The general manager of the district may appoint one or more district employees as peace officers for the district. An employee appointed as a peace officer by the general manager is a peace officer under Article 2.12, Code of Criminal Procedure. The qualification and compensation of peace officers appointed by the general manager and the duration of service shall be established by order of the board of directors.

SECTION 6.3. (a) A district peace officer shall execute a bond for $1,000, payable to the district, conditioned on the faithful execution of the peace officer's duties for the district. A bond may include any further conditions the board of directors considers advisable. The bond must be approved by the board of directors. The district shall pay for each bond.

(b) Each peace officer shall take the oath of office prescribed by law for a sheriff.

SECTION 6.4. District peace officers may:

(1) make arrests if necessary to prevent or abate the commission of an offense against the rules and orders of the district and against state law if the offense or threatened offense occurs on land, water, or easements owned or controlled by the district; or

(2) make an arrest in case of an offense involving injury or detriment to property owned or controlled by the district.

SECTION 6.5. The district is not liable for any act of a peace officer whether within or exceeding the scope of his lawful authority, except in cases in which the officer is acting under express authorization of the board of directors.

SECTION 6.6. Each peace officer appointed to act on behalf of the district under this Act shall have a commission and a badge furnished by the district as evidence of authority to act as peace officer of the district.

SECTION 6.7. A district peace officer may be designated by a title and required to wear, while engaged in his duties on behalf of the district, a standard uniform that bears the insignia prescribed by order of the board of directors.

SECTION 6.8. A peace officer may file specific complaints in the appropriate justice, county, or district courts of Lubbock County concerning offenses committed in violation of an order or rule adopted by the board of directors or in violation of a state or federal law.

SECTION 6.9. (a) Irrespective of the fact that the district may charge an admission charge for entry on a lake, park, or recreation facility that it maintains in connection with a lake, dam, or other conservation project that it operates, all roads, trails, parking grounds, and other facilities to which the public has access and use are declared to be public places and are within the jurisdiction of a person designated as a peace officer as defined by Section 6.1 of this Act, and the peace officer may enter the territory controlled by the district for the purpose of conducting an investigation of a violation of any order or rule of the district or a violation of a state or federal law.

(b) If the driver of a motor vehicle operating on a district road violates the posted speed limit or otherwise violates an order or rule of the district or a state law relating to the driving of motor vehicles or is involved in an accident resulting in injury to or death of a person or total property damage to an apparent extent of $50

or more, an officer of the Department of Public Safety or other peace officer shall investigate the violation or accident and file any justifiable charges without regard to whether the violation or accident occurred on a road of the district for which a fee is charged for entry.

SECTION 6.10. Since the availability of recreation sites in Lubbock County and the surrounding area is limited and since one of the reasons for creating the district was to develop the Buffalo Springs Lake area and make available to the greatest number of people in that area recreational facilities as well as the control of the floodwaters and conservation of the water supply in Lubbock County, it is provided that the best interest of the public would be served by restricting and limiting any individual, partnership, club, association, corporation, or other legal entity to the lease of only one recreational building site on land adjoining any lake, dam, or other project that is controlled and operated by the district.

SECTION 6.11. (a) The board of directors may prepare, file, and amend plats and site plans and specifications, locating and providing for recreational building sites, if the land is not otherwise necessary for the regular use of the district, and lease those sites on the terms and conditions and for the rentals the board of directors may prescribe for the personal use only of the lessee.

(b) The leasing of more than one recreational site by one individual, partnership, club, association, corporation, or other legal entity is prohibited as not being in the best interest of the public of Lubbock County.

SECTION 6.12. The board of directors may adopt any order to further regulate the use of any of the district's facilities by the public and for the purpose of providing penalties for the violation of this Act or of any order or rule.

ARTICLE VII. EXCEPTING ANY MATTERS IN LITIGATION AT TIME OF ADOPTION OF ACT

SECTION 7.1. This Act may not be construed as validating any governmental act or proceeding, if at the time this Act is adopted the governmental act or proceeding was the subject of litigation pending in a court of competent jurisdiction, if such litigation is ultimately determined against the legality of that governmental act or proceeding.

ARTICLE VIII. DISTRICT DECLARED ESSENTIAL

SECTION 8.1. The legislature declares that the enactment of this statute fulfills a responsibility conferred on the legislature by Article XVI, Section 59, of the Texas Constitution that provides that the legislature pass appropriate laws to preserve and conserve the natural resources of the state. The district is essential to the accomplishment of that purpose.

SECTION 8.2. All of the land and other property included in the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

SECTION 8.3. (a) The 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 other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

(b) 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.

(c) 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 are fulfilled and accomplished.

SECTION 8.4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public

necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

CONFERENCE COMMITTEE REPORT
SENATE BILL 1272

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1272** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HARRIS	A. MORENO
HALEY	BERLANGA
CARRIKER	G. THOMPSON
WHITMIRE	WILSON
RATLIFF	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to alcoholic beverage regulation; making an appropriation.

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

SECTION 1. Subchapter B, Chapter 5, Alcoholic Beverage Code, is amended by adding Section 5.51 to read as follows:

Sec. 5.51. BOOKKEEPING RECORDS. A permittee who holds a permit issued under Chapters 28 through 33 of this code may elect to keep all records required under this code on a machine bookkeeping system. A permittee who desires to use such a system must submit a written application for commission approval of the system before implementing the system. The commission may authorize a permittee to centralize the permittee's records.

SECTION 2. Section 5.12, Alcoholic Beverage Code, is amended to read as follows:

Sec. 5.12. CONCURRENT DUTIES OF ADMINISTRATOR. The commission shall specify the duties and powers of the administrator by printed rules and regulations entered in its minutes and shall develop and implement policies that clearly define the respective responsibilities of the administrator, the assistant administrator, and the staff of the commission. The commission or administrator may develop a procedure under which the commission or administrator, or the designee of either, may negotiate the repayment of debts owed the commission, including fees and delinquent taxes. When this code imposes concurrent powers or duties on the commission and the administrator, the commission shall designate those powers and duties which it delegates to the administrator. An order, decision,

or judgment rendered and entered by the administrator in a matter in which the administrator [he] has been authorized to act is not subject to change, review, or revision by the commission. A concurrent power or duty which has not been specifically delegated to the administrator by the commission's order is retained by the commission, and an order, decision, or judgment rendered and entered by the commission in a matter in which the commission has retained authority is not subject to change, review, or revision by the administrator.

SECTION 3. Section 28.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 28.04. CHANGE IN CORPORATE CONTROL. (a) A mixed beverage permit held by a corporation may not be renewed if the commission or administrator finds that legal or beneficial ownership of over 50 percent of the stock of the corporation has changed since the time the original permit was issued.

(b) The commission or administrator may adopt reasonable rules and regulations in accordance with the provisions of this section.

(c) A corporation which is barred from renewing a permit because of this section may file an application for an original permit and may be issued an original permit if otherwise qualified.

(d) This section does not apply to a change in corporate control:

(1) brought about by the death of a shareholder if his surviving spouse or descendants are his successors in interest; or

(2) brought about when legal or beneficial ownership of over 50 percent of the stock of the corporation has been transferred:

(A) to a person who possesses the qualifications required of other applicants for permits and is currently an officer of the corporation and has been an officer of the corporation ever since the date the original permit was issued; or

(B) if the permittee pays a fee of $500 and notifies the commission, on completed forms and attachments prescribed by the commission, of the proposed transfer at least 10 days prior to the date the transfer is to become effective and the commission does not find that circumstances exist which would be grounds for the denial of a renewal of the permit under Section 11.46 of this code and provided the ownership of the corporation immediately after the transfer satisfies the requirements of this code. The commission may require the permittee to furnish a new bond as provided in Section 204.01(a)(3), and where a new bond is required, the permittee shall not be eligible for a bond exemption under Section 204.01(f) until 36 months after the date on which the transfer takes effect.

(e) Nothing in this section shall be construed to grant any property right to any permit or construed to prevent the commission from suspending or cancelling a permit at any time after notice and hearing for a violation of this code.

SECTION 4. Chapter 28, Alcoholic Beverage Code, is amended by adding Section 28.14 to read as follows:

Sec. 28.14. MERGER OR CONSOLIDATION OF CORPORATIONS HOLDING MIXED BEVERAGE PERMITS. When two or more corporations which have substantially similar ownership and which hold mixed beverage permits issued by the commission merge or consolidate and pay to the commission a $100 fee for each licensed premises, the surviving corporation shall succeed to all the privileges of such corporations in the permits held by such corporations provided the surviving corporation is qualified to hold such permits under this code. For purposes of this section, two corporations have substantially similar ownership if 90 percent or more of both corporations is owned by the same persons.

SECTION 5. Chapter 28, Alcoholic Beverage Code, is amended by adding Section 28.15 to read as follows:

Sec. 28.15. RESTRICTIONS ON LOCATIONS. A mixed beverage permit or private club permit may not be issued for a premises if, on the effective date of

this section, the premises is in a freestanding building which has within the five years immediately prior to the effective date of this section been used in the whole or in part as a church or place of religious worship.

SECTION 6. Chapter 6, Alcoholic Beverage Code, is amended by adding Section 6.02 to read as follows:

Sec. 6.02. COORDINATION OF EXPIRATION DATES. (a) The commission may authorize a licensee or permittee to change the expiration date of a license or permit held by the licensee or permittee to any date which is agreeable to the commission, consistent with a reasonable annual distribution of renewal application review work of the commission, and to the licensee or permittee.

(b) The fee for an application for a change in expiration date is $25 per license or permit affected.

(c) The commission may not abate or refund a license or permit fee because of a change in expiration date made under this section but may authorize a license or permit period of less than one year for the period during which the expiration date is changed. The commission may not authorize a license or permit period of greater than one year.

SECTION 7. Subchapter D, Chapter 109, Alcoholic Beverage Code, is amended by adding Section 109.58 to read as follows:

Sec. 109.58. ASSIGNMENT OF CERTAIN TERRITORY TO DISTRIBUTOR. If a dry area adjacent to or in close proximity to a territory which has been assigned by a manufacturer or nonresident manufacturer to a distributor for a brand of beer becomes wet as to the sale of beer and that distributor has lawfully provided services relating to that brand to one or more private club permittees in that area for a period of not less than five years prior to the date on which the area becomes wet as to the sale of beer, then the holder of the manufacturer's or nonresident manufacturer's license of said brand of beer shall include the area in the territory assigned to that general, branch, or local distributor's licensee under Section 102.51 of this code.

SECTION 8. Subsection (a), Section 11.46, Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of his application;

(2) three years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

(3) within the six-month period immediately preceding his application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant is indebted to the state for any taxes, fees, or payment of penalty imposed by this code or by rule of the commission;

(6) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad;

(7) the applicant is a minor;

(8) the place or manner in which the applicant may conduct his business warrants the refusal of a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(9) the applicant is in the habit of using alcoholic beverages to excess or is physically or mentally incapacitated;

(10) the applicant will sell liquor unlawfully in a dry area or in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so;

(11) the applicant is not a United States citizen or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued a permit or renewal permit on or before September 1, 1948, and has at some time been a United States citizen;

(12) the applicant does not have an adequate building available at the address for which the permit is sought;

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of his present application;

(14) the applicant has failed or refused to furnish a true copy of his application to the commission's district office in the district in which the premises for which the permit is sought are located; [or]

(15) during the six months immediately preceding the filing of the application the premises for which the permit is sought have been operated, used, or frequented for a purpose or in a manner that is lewd, immoral, or offensive to public decency; or

(16) with regard to a permit authorizing on-premises consumption of alcoholic beverages, the location lies within a municipality that has not adopted a zoning ordinance and the location is unsuitable because of its proximity to and impact on a residential neighborhood.

SECTION 9. Section 61.43, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.43. DISCRETIONARY GROUNDS FOR REFUSAL: DISTRIBUTOR OR RETAILER. The county judge may refuse to approve an application for a license as a distributor or retailer if he has reasonable grounds to believe and finds that:

(1) the applicant has been finally convicted in a court of competent jurisdiction for the violation of a provision of this code during the two years immediately preceding the filing of his application;

(2) two years has not elapsed since the termination, by pardon or otherwise, of a sentence imposed for conviction of a felony;

(3) the applicant has violated or caused to be violated a provision of this code or a rule or regulation of the commission, for which a suspension was not imposed, during the 12-month period immediately preceding the filing of his application;

(4) the applicant failed to answer or falsely or incorrectly answered a question in his original or renewal application;

(5) the applicant for a retail dealer's license does not have an adequate building available at the address for which the license is sought;

(6) the applicant or a person with whom he is residentially domiciled had an interest in a license or permit which was cancelled or revoked within the 12-month period immediately preceding the filing of his application;

(7) the applicant failed or refused to furnish a true copy of his application to the commission's district office in the district in which the premises sought to be licensed are located;

(8) the premises on which beer is to be sold for on-premises consumption does not have running water, if it is available, or does not have separate free toilets for males and females, properly identified, on the premises for which the license is sought;

(9) the applicant for a retail dealer's license will conduct his business in a manner contrary to law or in a place or manner conducive to a violation of the law; [or]

(10) the place, building, or premises for which the license is sought was used for selling alcoholic beverages in violation of the law at any time during the six months immediately preceding the filing of the application or was used, operated, or frequented during that time for a purpose or in a manner which was lewd, immoral, offensive to public decency, or contrary to this code; or

(11) with regard to a license authorizing on-premises consumption of alcoholic beverages, the location lies within a municipality that has not adopted a zoning ordinance and the location is unsuitable because of its proximity to and impact on a residential neighborhood.

SECTION 10. This Act takes effect September 1, 1989.

SECTION 11. If the 71st Legislature does not appropriate funds for the biennium ending August 31, 1991, to the commission as specified by the commission as necessary to carry out the provisions of this Act, the fees received by the commission from provisions in this Act are hereby appropriated to the licensing program of the commission for the purposes of carrying out the provisions of this Act. This section expires August 31, 1991.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE ON HOUSE BILL 1520

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. 1520** 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. 1520** 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 McFarland, Chairman; Glasgow, Henderson, Bivins and Dickson.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1947

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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.

BROWN	TAYLOR
ARMBRISTER	CARTER
LEEDOM	BLACKWOOD
HENDERSON	KUBIAK
	TELFORD
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 170

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 27, 1989

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. 170** 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.

PARKER	KUBIAK
GREEN	MELTON
LYON	VOWELL
CAPERTON	PARKER
BROOKS	WATERFIELD
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the operation of a vehicle with a child in the open bed of the vehicle and to the operation of a vehicle with a child not secured by a child passenger safety seat system; providing a penalty.

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

SECTION 1. Subsection (e), Section 107B, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) It is a defense to prosecution under [~~Subsection (b) of~~] this section that the person was operating the vehicle in an emergency or for a valid law enforcement purpose [~~acquired a child passenger safety seat system within 10 days after the date~~

~~of the offense. The court shall dismiss the charge if the person shows proof of acquisition by purchase, loan, or rental program~~].

SECTION 2. Article XIII, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by adding Section 107D to read as follows:

Sec. 107D. VEHICLES WITH OPEN BEDS. (a) A person commits an offense if the person, at a speed that exceeds 35 miles per hour, operates an open bed pickup truck or an open flatbed truck or tows an open flatbed trailer on a public street or highway when a child younger than 12 years of age is occupying the bed of the truck or trailer.

(b) An offense under this section is punishable by a fine of not less than $25 nor more than $200.

(c) It is a defense to prosecution under this section that the person was operating or towing the vehicle in an emergency.

SECTION 3. This Act takes effect September 1, 1989, and applies to an offense committed on or after that date. An offense committed before the effective date of this Act is governed by the law in effect at that time and the former law is continued in effect for that purpose. For the 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 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.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 **H.B. 1023** by a non-record vote.

The House has refused to concur in Senate amendments to **H.B. 377** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Shelley, Chair; Arnold, Jackson, Polumbo, Hilbert.

The House has concurred in Senate amendments to the following bills by non-record votes:

H.B. 100
H.B. 151
H.B. 2959
H.B. 240
H.B. 241

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 377

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. 377** 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. 377** 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; Lyon, Caperton, McFarland and Dickson.

CONFERENCE COMMITTEE REPORT HOUSE BILL 377

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 377** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	SHELLEY
McFARLAND	ARNOLD
DICKSON	JACKSON
	HILBERT
	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.

SENATE CONCURRENT RESOLUTION 176

Senator Caperton offered the following resolution:

S.C.R. 176, Expressing appreciation to present and former members of the Legislative Budget Board for the service rendered during the Board's first 40 years.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

GUEST PRESENTED

Senator Caperton recognized the presence of Jim Oliver, Director of the Legislative Budget Board, in the Senate Chamber.

The Senate expressed appreciation to him and his staff for their invaluable assistance.

CONFERENCE COMMITTEE ON SENATE BILL 253 DISCHARGED

On motion of Senator Barrientos and by unanimous consent, the Senate conferees on **S.B. 253** were discharged.

Question - Shall the Senate concur in the House amendments to **S.B. 253**?

SENATE BILL 253 WITH HOUSE AMENDMENTS

Senator Barrientos moved to concur in the House amendments to **S.B. 253**.

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

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT ON SENATE CONCURRENT RESOLUTION 61 ADOPTED

Senator Johnson called from the President's table the Conference Committee Report on **S.C.R. 61**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Johnson, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 925

Senator Dickson 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. 925** 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. 925** 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 Dickson, Chairman; Leedom, Bivins, Haley and Parker.

CONFERENCE COMMITTEE REPORT HOUSE BILL 737

Senator Ratliff submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 737** have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass.

RATLIFF	KUEMPEL
BROOKS	McWILLIAMS
ZAFFIRINI	CRISS
URIBE	FINNELL
TEJEDA	ROBNETT
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 RULE 12.09(a) SUSPENDED

On motion of Senator Brown and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1947**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1947 ADOPTED

Senator Brown 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 on Monday, May 29, 1989.)

On motion of Senator Brown, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator McFarland and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 558**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 558 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **S.B. 558**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator McFarland, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Dickson and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 3072**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3072 ADOPTED

Senator Dickson called from the President's table the Conference Committee Report on **H.B. 3072**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Dickson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Green and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1067**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1067 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **S.B. 1067**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

SENATE BILL 1694 WITH HOUSE AMENDMENT

Senator McFarland, on behalf of Senator Parmer, called **S.B. 1694** 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 - Carter

Amend **S.B. 1694** by striking all below the enacting clause and substituting the following:

SECTION 1. CRIME CONTROL AND PREVENTION DISTRICTS. The Crime Control and Prevention District Act is enacted to read as follows:

ARTICLE 1. GENERAL PROVISIONS

Sec. 1.01. SHORT TITLE. This Act may be cited as the Crime Control and Prevention District Act.

Sec. 1.02. LEGISLATIVE INTENT. The intent of the legislature is to decrease the per capita crime rates in medium-sized urban counties that contain numerous municipalities by:

(1) increasing the deterrents to committing crimes through accelerating the speed and improving the abilities of the local criminal justice system;

(2) increasing the deterrents to committing crimes through facilitating the coordination among the many components of the criminal justice system in those counties; and

(3) assisting criminals to rehabilitate by expanding existing programs and providing new programs that help make these criminals constructive and responsible citizens.

Sec. 1.03. LEGISLATIVE FINDINGS. The legislature finds that:

(1) unacceptable levels of crime threaten the lives and property of citizens in medium-sized urban counties that contain numerous municipalities;

(2) medium-sized urban counties have greater needs than smaller-sized urban counties and do not enjoy the cost-saving benefits that economies of scale provide the larger-sized urban counties;

(3) urban counties that contain numerous municipalities need to spend more funds coordinating the information and components of the criminal justice system than do urban counties that contain fewer municipalities;

(4) the revenue currently available to the state and to local governments is not sufficient to effectively reduce the levels of crime in medium-sized urban counties that contain numerous municipalities;

(5) ultimate responsibility for decreasing crime rests with local governments unless the criminal justice system is so overloaded that local governments are unable to affect the levels of crime;

(6) to the extent local governments can work together to create additional funds to overcome the overloaded criminal justice system, the responsibility for decreasing crime remains with local governments;

(7) additional revenue for these local governments can be spent on a variety of new and existing programs to help provide swift and effective administration of our criminal justice system; and

(8) the programs would provide a deterrent to criminal activity and would assist in the rehabilitation of criminals.

Sec. 1.04. DEFINITIONS. In this Act:

(1) "District" means a crime control district created under this Act.

(2) "Board" means the board of directors of the district.

(3) "Director" means a member of the board.

Sec. 1.05. COUNTIES AUTHORIZED TO CREATE DISTRICTS. A crime control district is established, subject to a confirmation election held as provided by Article 3 of this Act, in a county containing:

(1) a population of more than 750,000 according to the most recent federal census; and

(2) more than 35 incorporated municipalities according to the most recent federal census.

Sec. 1.06. BOUNDARIES. A district is composed of the geographical area of the county in which the district is created. A district may not contain more than one county.

ARTICLE 2. TEMPORARY DIRECTORS

Sec. 2.01. TEMPORARY DIRECTORS. The following persons serve as temporary directors of a proposed district:

(1) a criminal district judge whose judicial district includes a part or all of the proposed district, selected by a majority of the judges of the district courts and criminal district courts of judicial districts that include a part or all of the proposed district;

(2) the district attorney of the county;

(3) the mayor or a city council member selected by the city council of the municipality having the largest population in the proposed district, according to the most recent federal census;

(4) the mayor or a city council member selected by the city council of the municipality having the second largest population in the proposed district, according to the most recent federal census;

(5) the mayor or a city council member of a municipality in the proposed district, other than the two municipalities in the proposed district having the largest populations, selected by a majority of the mayors of municipalities in the proposed district, other than the two municipalities having the largest populations;

(6) the county judge or a county commissioner selected by the commissioners court of the county; and

(7) a member of the general public, to be selected by a majority of the six temporary directors listed in Subdivisions (1) through (6) of this subsection.

Sec. 2.02. TEMPORARY CHAIRMAN. The chairman of a temporary board shall be elected by the members of the temporary board from their membership not later than the 15th day after the date on which the member of the general public is selected to the temporary board as provided by Section 2.03(c) of this Act.

Sec. 2.03. TIME RESTRICTION FOR APPOINTING BOARD MEMBERS. (a) Not later than the 60th day after the effective date of this Act, each group listed in Subdivisions (1), (3), (4), (5), and (6) of Section 2.01 of this Act shall make its selection under that section.

(b) Not later than the 75th day after the effective date of this Act, a temporary board shall organize.

(c) Not later than the 15th day after the date on which the board is organized under Subsection (b) of this section, a member of the general public shall be selected to the temporary board as provided by Subdivision (7) of Section 2.01 of this Act.

Sec. 2.04. DESIGNATED ALTERNATE. A temporary director who is not the temporary chairman may designate another person to serve in the director's place.

Sec. 2.05. VACANCY IN OFFICE. A vacancy in the office of temporary director shall be filled in the same manner that the vacant position was originally filled.

ARTICLE 3. CREATION OF DISTRICTS

Sec. 3.01. CREATION ELECTION. A district may be created and a tax may be authorized only if the creation and the tax are approved by a majority of the qualified voters of the proposed district voting at an election called and held for that purpose.

Sec. 3.02. ORDERING ELECTION. After a majority of the temporary directors of a proposed district have approved a budget plan and a crime control plan in accordance with Section 3.09 of this Act, a majority of the temporary directors may order that a creation election be held.

Sec. 3.03. ELECTION ORDER. (a) An order calling an election under Section 3.02 of this Act must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open;

(4) the location of the polling places;

(5) in summary form, the approved budget plan and crime control plan of the proposed district; and

(6) the proposed rate of the sales and use tax for the district.

(b) The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 323, Tax Code, may be only:

(1) one-fourth of one percent; or

(2) one-half of one percent.

Sec. 3.04. NOTICE. The temporary directors of a proposed district shall give notice of a creation election by publishing a substantial copy of the election order in a newspaper with general circulation in the proposed district once a week for two consecutive weeks. The first publication must appear at least 35 days before the date set for the election.

Sec. 3.05. ELECTION DATE. (a) A creation election shall be held not less than 35 days nor more than 60 days after the date on which the election is ordered.

(b) Section 41.001(a), Election Code, does not apply to a creation election ordered under this Act.

Sec. 3.06. BALLOT PROPOSITION. The ballot for a creation election shall be printed to permit voting for or against the proposition: "The creation of the _____ County Crime Control and Prevention District dedicated to crime reduction programs and the adoption of a proposed local sales and use tax at a rate of _____ (the rate specified in the election order)."

Sec. 3.07. CANVASSING RETURNS. (a) Not earlier than the second day or later than the 13th day after the date of a creation election, the temporary board of a proposed district shall meet and canvass the returns of the election.

(b) If the temporary board finds that the election results are favorable to the proposition to create the district, the temporary board shall issue an order declaring the district created.

(c) If the temporary board finds that the election results are not favorable to the proposition to create the district, the temporary board may order another election on the matter not earlier than one year after the date of the preceding election.

Sec. 3.08. DISSOLUTION OF TEMPORARY BOARD. If a district has not been created under this Act before the fifth anniversary of the effective date of this Act, the temporary board is dissolved on that date and a district may not be created under this Act.

Sec. 3.09. CRIME CONTROL PLAN AND BUDGET PLAN. (a) The temporary board of a proposed district shall formulate and approve a two-year crime control plan and a two-year budget plan. The crime control plan must include:

(1) a detailed list of the crime control and crime prevention strategies to be supported by the district;

(2) the method of annually evaluating the effectiveness and efficiency of individual crime control and crime prevention strategies.

(b) The budget plan must include:

(1) the amount of money budgeted by the district for each crime control and crime prevention strategy;

(2) the amount of money budgeted by the district, and the percentage of the total budget of the district for administration, with individual amounts on how much of the administration would be conducted by the district and how much would be conducted by private or public entities;

(3) the estimated amount of money available to the district from all sources during the ensuing year;

(4) the amount of balances expected at the end of the years for which the budget is prepared; and

(5) the estimated tax rate that will be required.

(c) The crime control plan and budget plan must be adopted in the same manner as provided for adoption of a proposed annual budget under Section 6.05 of this Act.

Sec. 3.10. FINANCING CREATION OF DISTRICT. (a) Except as provided by Subsection (b) of this section, the costs of creating a district shall be allocated as follows:

(1) the county shall pay 40 percent;

(2) the municipality having the largest population in the county shall pay 40 percent; and

(3) the municipality having the second largest population in the county shall pay 20 percent.

(b) The county and the two municipalities may contract for a division of the costs of creating a district that is different from the division of costs described in Subsection (a) of this section.

(c) If a district is created, the district shall reimburse the county and municipalities for actual expenses incurred in the creation of the district.

Sec. 3.11. DONATIONS, GIFTS, AND ENDOWMENTS. On behalf of a district, the temporary board may accept donations, gifts, and endowments to be held in trust for any purpose and under any direction, limitation, or provision prescribed in writing by the donor that is consistent with this Act and the proper management of the district.

ARTICLE 4. DISTRICT ADMINISTRATION

Sec. 4.01. BOARD OF DIRECTORS. (a) A district is governed by a board of seven directors appointed in the same manner as provided for the selection of temporary directors under Section 2.01 of this Act.

(b) Board members serve staggered two-year terms that expire September 1. The initial appointees under this section shall draw lots to determine:

(1) the three directors to serve terms that expire on September 1 of the first year following creation of the district; and

(2) the four directors to serve terms that expire on September 1 of the second year following creation of the district.

Sec. 4.02. DESIGNATED ALTERNATE. A director, other than the president or vice-president, may designate a person to serve in the director's absence.

Sec. 4.03. BOND. (a) Before assuming the duties of the office, each director or officer, including a person designated under Section 4.02 of this Act, must execute a bond for $5,000 payable to the district, conditioned on the faithful performance of the person's duties as director or officer.

(b) The bond shall be kept in the permanent records of the district.

(c) A board may pay for the bonds of the directors or officers with district funds.

Sec. 4.04. BOARD VACANCY. A vacancy in the office of director shall be filled for the unexpired term in the same manner that the vacant position was originally filled.

Sec. 4.05. OFFICERS. A board shall elect from among its members a president and vice-president. The board shall also appoint a secretary. The secretary need not be a director. The person who performs the duties of county auditor shall serve as treasurer for the district.

Sec. 4.06. OFFICERS' TERMS; VACANCY. (a) Each officer of a board serves for a term of one year.

(b) A vacancy in a board office shall be filled for the unexpired term by the board.

Sec. 4.07. COMPENSATION. Directors and officers serve without compensation, but all directors and officers may be reimbursed for actual expenses incurred in the performance of official duties. Those expenses must be reported in the district's minute book or other district records and must be approved by the board.

Sec. 4.08. VOTING REQUIREMENT. A concurrence of a majority of the members of a board is necessary in matters relating to the business of a district. A two-thirds majority vote of the board is required to reject any application for funding available under this Act.

Sec. 4.09. ADMINISTRATION. A board may contract with a public agency or private vendor to assist in the administration or management of a district, or to assist in the review of applications for funding available under this Act.

ARTICLE 5. POWERS AND DUTIES

Sec. 5.01. DISTRICT RESPONSIBILITIES; LIMITATIONS ON EXPENDITURES. (a) A district may finance all the costs of a crime control and crime prevention program, including the costs for personnel, administration, expansion, enhancement, and capital expenditures. A program may include:

(1) police and law enforcement related programs, including:

(A) a multijurisdiction crime analysis center;

(B) mobilized crime analysis units;

(C) countywide crime stoppers telephone lines;

(D) united property-marking programs;

(E) home security inspection programs;

(F) an automated fingerprint analysis center;

(G) an enhanced radio dispatch center;

(H) a computerized criminal history system;

(I) enhanced information systems programs;

(J) a drug and chemical disposal center;

(K) a county crime lab or medical examiner's lab; and

(L) a regional law enforcement training center;

(2) community-related crime prevention strategies, including:

(A) block watch programs;

(B) a community crime resistance program;

(C) school-police programs;
(D) senior citizen community safety programs;
(E) senior citizen anti-crime networks;
(F) citizen crime-reporting projects;
(G) home alert programs;
(H) a police-community cooperation program;
(I) a radio alert program; and
(J) ride along programs;

(3) specific treatment and prevention programs, including:
(A) positive peer group interaction programs;
(B) drug and alcohol awareness programs;
(C) countywide family violence centers;
(D) work incentive programs;
(E) social learning centers;
(F) transitional aid centers and preparole centers;
(G) guided group interaction programs;
(H) social development centers;
(I) street gang intervention centers;
(J) predelinquency intervention centers;
(K) school relations bureaus;
(L) integrated community education systems;
(M) steered straight programs;
(N) probation subsidy programs;
(O) Juvenile Offenders Learn Truth (JOLT) programs;
(P) reformatory visitation programs;
(Q) juvenile awareness programs;
(R) shock incarceration;
(S) shock probation;
(T) community restitution programs;
(U) team probation;
(V) electronic monitoring programs;
(W) community improvement programs;
(X) at home arrest;
(Y) victim restitution programs;
(Z) additional probation officers; and
(AA) additional parole officers;

(4) court and prosecution services, including:
(A) court watch programs;
(B) community arbitration and mediation centers;
(C) night prosecutors programs;
(D) automated legal research systems;
(E) an automated court management system;
(F) a criminal court administrator;
(G) an automated court reporting system;
(H) additional district courts that are required by law to give preference to criminal cases, judges, and staff; and
(I) additional prosecutors and staff; and

(5) additional jails, jailers, guards, and other necessary staff.

(b) The district may not:

(1) fund any program that significantly duplicates existing programs or programs scheduled to begin;

(2) fund any facility that unnecessarily duplicates existing facilities or facilities scheduled to begin operation or construction;

(3) fund any equipment that unnecessarily duplicates existing equipment or equipment scheduled to begin operation;

(4) spend on administration more than one percent of the amount of revenue that would be generated if the tax rate imposed under the sales and use tax under Section 323.105, Tax Code, were one-half percent;

(5) fund a program if sufficient state or other local funds are available to fund the program;

(6) fund a facility or equipment if sufficient state or other local funds are available to fund the facility or equipment; and

(7) continue to fund a program, facility, or equipment in a municipality or county if the municipality or county fails to maintain the same level of support for the program, facility, or equipment as it did the year before the district was created or in any following year, whichever is greater.

(c) The district shall fund an annual evaluation program to study the impact, efficiency, and effectiveness of new or expanded crime control and crime prevention programs.

Sec. 5.02. MANAGEMENT, CONTROL, AND ADMINISTRATION. (a) A board shall manage, control, and administer the district funds, except as provided by Section 6.06 of this Act.

(b) The board, from the sales and use tax revenue distributed by the county to the district under Section 323.105, Tax Code, must budget, to the extent practicable:

(1) not less than 49.75 percent of the revenue to finance programs for which applications are submitted under Subsection 6.11(a) of this Act;

(2) not less than 24.87 percent of the revenue to finance programs for which applications are submitted under Subsection 6.11(b) of this Act; and

(3) not less than 24.87 percent of the revenue to be distributed under Subsection (c) of this section.

(c) The funds under Subsection (b)(3) of this section shall be apportioned to the municipalities of a district based on a formula that averages the proportionate percentage of:

(1) the population of a municipality to the total population of the district;

(2) the index crime reported in each municipality in the district to the total index crime reported in the district; and

(3) the sales tax generated by each municipality to the total sales tax generated in the district based on the amount collected during the preceding year.

(d) The regional council of governments of a county shall compute the formula described in Subsection (c) of this section. The regional council of governments shall provide the population estimates and the index crime statistics that are required to compute the formula. The regional council of governments shall provide the district with a statement of the amounts that the district must make available to each municipality in a district before the board adopts the budget, and at that time also shall provide the district with a detailed summary of the computation.

(e) The budget distribution described by Subsection (b) of this section shall be computed after a county or municipality has been properly reimbursed for expenses described by Section 3.10 of this Act.

Sec. 5.03. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE. A board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 5.04. LIABILITY. A member of a board is not liable for civil damages or criminal prosecution for any act performed in good faith in the execution of duties as a board member or for an action taken by the board.

Sec. 5.05. DISTRICT RULES. A board may adopt rules governing district funded programs and the duties, functions, and responsibilities of district staff and employees.

Sec. 5.06. METHODS AND PROCEDURES. (a) A board may prescribe the method of making purchases and expenditures by and for the district; however, the board may enter purchasing contracts that involve spending more than $5,000 only after competitive bidding as provided by Subchapter C, Chapter 262, Local Government Code, to the extent those provisions can be made applicable to the board.

(b) The board may prescribe accounting and control procedures for the district.

(c) If the county in which the district is located has a purchasing agent authorized by law, that agent shall serve as purchasing agent for the district.

Sec. 5.07. DISTRICT PROPERTY, FACILITIES, AND EQUIPMENT. The board may acquire or lease property, facilities, or equipment for the sole purpose of administering the district.

Sec. 5.08. REIMBURSEMENT FOR SERVICES. (a) A county or municipality located entirely outside the boundaries of the district shall, on request, reimburse a district for the district's cost of including in a district program a resident of that county or municipality.

(b) The board may require reimbursement from the state for the district's cost of including in a district program or facility a person who is a resident of the state but who is not a resident of the district.

(c) On behalf of the district, the board may contract with a municipal or county government or with the state or federal government for the municipal, county, state, or federal government to reimburse the district for including a person in a district program.

Sec. 5.09. SERVICE CONTRACTS. When acting on behalf of a district, the board may contract with a municipality, county, special district, or other political subdivision of the state, with a state or federal agency, with individuals, and with the private sector to furnish the staff, facilities, equipment, programs, and services the board considers necessary for the effective operation of the district.

Sec. 5.10. DONATIONS, GIFTS, AND ENDOWMENTS. On behalf of a district, the board may accept donations, gifts, and endowments to be held in trust for any purpose and under any direction, limitation, or provision prescribed in writing by the donor that is consistent with this Act and the proper management of the district.

Sec. 5.11. AUTHORITY TO SUE AND BE SUED. A board may sue and be sued in the name of a district.

ARTICLE 6. DISTRICT FINANCES

Sec. 6.01. FISCAL YEAR. (a) A district is operated on the basis of a fiscal year established by the board.

(b) A fiscal year may not be changed more than once in a 24-month period.

Sec. 6.02. ANNUAL AUDIT. Annually, a board shall have an audit made of the financial condition of the district by an independent auditor.

Sec. 6.03. DISTRICT AUDIT AND RECORDS. An annual audit and other district records shall be open to inspection during regular business hours at the principal office of the district.

Sec. 6.04. ANNUAL BUDGET. (a) The board shall prepare a proposed annual budget based on the apportionment described by Section 5.02 of this Act. The board shall consider the applications for program funding in preparing the budget.

(b) The proposed budget must contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the district;

(2) the amount of cash on hand to the credit of each fund of the district;

(3) the amount of money received by the district from all sources during the previous year;

(4) the estimated amount of money available to the district from all sources during the current fiscal year;

(5) the amount of money needed to fund programs approved for funding by the board;

(6) the amount of money requested for programs that were not approved for funding by the board;

(7) the tax rate for the next fiscal year;

(8) the amount of the balances expected at the end of the year in which the budget is being prepared; and

(9) the estimated amount of revenues and balances available to cover the proposed budget.

Sec. 6.05. NOTICE; BOARD HEARING; ADOPTION OF BUDGET. (a) Not later than the 100th day before the beginning of each fiscal year, a board shall hold a public hearing on the proposed annual budget.

(b) The board shall publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.

(c) Any resident of the district is entitled to be present and participate at the hearing.

(d) Not later than the 80th day before the beginning of each fiscal year, the board shall adopt a budget by acting on the budget proposed by the administrator. The board may make any changes in the proposed budget that in its judgment the interests of the taxpayers demand.

(e) The board shall submit the budget to the commissioners court of the county in which the district is located not later than the 10th day after the date the budget was adopted.

(f) The board may, by rule, develop and adopt procedures for adopting a budget different from the procedures outlined in this article, but the board must hold public hearings relating to the budget.

Sec. 6.06. NOTICE; COMMISSIONERS COURT HEARING; APPROVAL OR REJECTION OF BUDGET. (a) Not later than the 45th day before the beginning of each fiscal year, the commissioners court of the county in which a district is located shall hold a public hearing on the proposed annual budget.

(b) The commissioners court shall publish notice of the hearing in a newspaper with general circulation in the district not later than the 10th day before the date of the hearing.

(c) Any resident of the district is entitled to be present and to participate at the hearing.

(d) The commissioners court shall approve or reject the budget submitted by the board not later than the 30th day before the beginning of the fiscal year. The commissioners court may not amend the budget.

(e) If the commissioners court rejects the budget submitted by the board, the commissioners court and the board shall meet and together amend and approve the budget before the beginning of the fiscal year.

(f) The budget may be amended after the beginning of the fiscal year on approval by the board and the commissioners court.

Sec. 6.07. LIMITATION ON EXPENDITURES. Money may be spent only for an expense included in an annual budget or an amendment to it.

Sec. 6.08. SWORN STATEMENT. Not later than the 60th day after the last day of each fiscal year, an administrator shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

Sec. 6.09. SPENDING AND INVESTMENT LIMITATIONS. (a) A district may not incur a debt payable from revenues of the district other than the revenues

on hand or to be on hand in the current or immediately following fiscal year of the district.

(b) The board may not invest district funds in funds or securities other than those specified by Article 836 or 837, Revised Statutes, or by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes).

Sec. 6.10. DEPOSIT OF FUNDS. (a) A board shall deposit district funds in a special account in the county treasury of the county in which the district is located.

(b) District funds, other than those invested as provided by Subsection (b) of Section 6.09 of this Act, shall be deposited as received in the county treasury and must remain on deposit.

(c) A board shall reimburse the county for any costs the county incurs for performing the duties imposed under this section, other than personnel.

Sec. 6.11. APPLICATIONS FOR PROGRAM FUNDING. (a) A county officer or the head of a department of the county in which a district is created may, with the consent of the commissioners court, apply to the board for funding of a program as described by Section 5.01 of this Act.

(b) A chief administrative officer of a municipality that is completely or partly located within a district may, with the consent of the governing body of the municipality, apply to the board for funding of a program as described by Section 5.01 of this Act.

(c) Applications under this section must be submitted not later than the 140th day before the beginning of the fiscal year, unless an exception has been adopted by rule.

(d) The board by rule may develop and adopt application procedures.

ARTICLE 7. BONDS

Sec. 7.01. BONDS. A board may not issue or sell general obligation bonds, revenue bonds, or refunding bonds. The board and the district may issue or sell bonds conditioned on the faithful performance of a person's duties as director or administrator as provided by Sections 4.03 of this Act.

ARTICLE 8. DISTRICT CONTINUATION

Sec. 8.01. CONTINUATION REFERENDUM. (a) A board may hold a referendum on the question of whether to continue the district.

(b) The board shall order a continuation referendum if a petition that requests continuation of the district is presented in accordance with this article or if a majority of the commissioners court of the county in which the district is located by resolution requests continuation after notice and a public hearing on the matter. However, the board may not hold a continuation referendum earlier than five years after the date the district was created or earlier than three years after the date of the last preceding continuation or dissolution referendum.

(c) For a continuation referendum, the ballot shall be printed to permit voting for or against the proposition: "Whether the _____ County Crime Control and Prevention District should be continued and the crime control and prevention district sales and use tax should be continued."

Sec. 8.02. METHODS FOR INITIATING ELECTION. A board may order a continuation referendum on its own motion by a majority vote of its members. The board shall order a continuation referendum:

(1) on the presentation of a petition meeting the requirements of Sections 8.03-8.08 of this Act; or

(2) on the request of the commissioners court under Subsection (b) of Section 8.01 of this Act.

Sec. 8.03. APPLICATION FOR PETITION; ISSUANCE. If petitioned to do so by written application of 10 or more registered voters of a district, the county clerk of the county in which the district is located shall issue to the applicants a petition to be circulated among registered voters for their signatures.

Sec. 8.04. CONTENTS OF APPLICATION. To be valid, an application for a petition must contain:

(1) a heading, in the following words: "Application for a Petition for a Local Option Referendum to Continue the Crime Control and Prevention District and to Continue the Crime Control and Prevention District Sales and Use Tax";

(2) a statement of the issue to be voted on, in the following words: "Whether the _____ County Crime Control and Prevention District should be continued and the crime control and prevention district sales and use tax should be continued";

(3) a statement immediately above the signatures of the applicants, reading as follows: "It is the purpose and intent of the applicants whose signatures appear below that the crime control and prevention district be continued and the crime control and prevention district sales and use tax in _____ County be continued"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Sec. 8.05. CONTENTS OF PETITION. To be valid, a petition must contain:

(1) a heading in the following words: "Petition for a Local Option Referendum to Continue the _____ County Crime Control and Prevention District and to Continue the Crime Control and Prevention District Sales and Use Tax";

(2) a statement of the issue to be voted on, in the same words used in the application;

(3) a statement immediately above the signatures of the petitioners reading as follows: "It is the purpose and intent of the petitioners whose signatures appear below that the crime control and prevention district be continued and the crime control and prevention district sales and use tax in _____ County be continued";

(4) lines and spaces for the names, signatures, residence addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the county clerk on each page.

Sec. 8.06. COPIES. A county clerk shall keep an application and a copy of the petition in the files of the county clerk's office. The clerk shall issue to the applicants as many copies as they request.

Sec. 8.07. FILING OF PETITION; NUMBER OF SIGNATURES. To form the basis for the ordering of a referendum, the petition must be filed with the county clerk not later than the 60th day after the date of its issuance, and it must contain a number of signatures of registered voters of the county equal to five percent of the number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election.

Sec. 8.08. REVIEW BY COUNTY CLERK. (a) A county clerk shall, on request of any person, check each name on a petition to determine whether the signer is a registered voter of the county. A person requesting verification by the county clerk shall pay the county clerk a sum equal to 20 cents per name before commencement of the verification.

(b) The county clerk may not count a signature if there is reason to believe that:

(1) it is not the actual signature of the purported signer;

(2) the voter registration certificate number is not correct;

(3) it is a duplication either of a name or of handwriting used in any other signature on the petition;

(4) the residence address of the signer is not correct; or

(5) the name of the voter is not signed exactly as it appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

Sec. 8.09. CERTIFICATION. Not later than the 40th day after the date a petition is filed, excluding Saturdays, Sundays, and legal holidays, a county clerk shall certify to the board the number of registered voters signing the petition.

Sec. 8.10. ORDER OF ELECTION. (a) A board shall record on its minutes the date the petition is filed and the date it is certified by the county clerk.

(b) If the petition contains the required number of signatures and is in proper order, the board shall, at its next regular session after the certification by the county clerk, order a referendum to be held at the regular polling place in each county election precinct in the county on the next uniform election date authorized by Section 41.001(a), Election Code, that occurs at least 20 days after the date of the order. The board shall state in the order the proposition to be voted on in the referendum. The order is prima facie evidence of compliance with all provisions necessary to give it validity.

Sec. 8.11. APPLICATION OF ELECTION CODE. A continuation referendum shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

Sec. 8.12. RESULTS OF REFERENDUM. (a) If a majority of the votes cast in a referendum under this section are not for the continuation of a district:

(1) the board shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns; and

(2) the district is dissolved and ceases to operate except as provided by Subsection (b) of this section.

(b) A district that is dissolved and that owns property or has outstanding short-term or long-term liabilities may continue to operate on a temporary basis as provided by Section 10.02 of this Act.

(c) If a majority of the votes cast in the referendum under this section are for the continuation of the district, another continuation referendum may not be held except as authorized by Section 8.01 of this Act.

Sec. 8.13. CONTEST OF ELECTION. Not later than the 30th day after the date the result of a continuation referendum is declared, any qualified voter of the district may contest the election by filing a petition in a district court located in the district.

ARTICLE 9. DISTRICT DISSOLUTION

Sec. 9.01. DISSOLUTION REFERENDUM. (a) A board may hold a referendum on the question of whether to dissolve the district.

(b) The board shall order a dissolution referendum if a petition that requests dissolution of the district is presented in accordance with this article or if a majority of the commissioners court of the county in which the district is located by resolution requests dissolution after notice and a public hearing on the matter. However, the board may not hold a dissolution referendum earlier than five years after the date the district was created or earlier than three years after the date of the last preceding continuation or dissolution referendum.

(c) For a dissolution referendum, the ballot shall be printed to permit voting for or against the proposition: "Whether the _____ County Crime Control and Prevention District should be dissolved and the crime control and prevention district sales and use tax should be abolished."

Sec. 9.02. METHODS FOR INITIATING ELECTION. A board may order a dissolution referendum on its own motion by a majority vote of its members. The board shall order a dissolution referendum:

(1) on the presentation of a petition meeting the requirements of Sections 9.03-9.08 of this Act; or

(2) on the request of the commissioners court under Subsection (b) of Section 9.01 of this Act.

Sec. 9.03. APPLICATION FOR PETITION; ISSUANCE. If petitioned to do so by written application of 10 or more registered voters of a district, the county

clerk of the county in which the district is located shall issue to the applicants a petition to be circulated among registered voters for their signatures.

Sec. 9.04. CONTENTS OF APPLICATION. To be valid, an application for a petition must contain:

(1) a heading, in the following words: "Application for a Petition for a Local Option Referendum to Dissolve the Crime Control and Prevention District and to Abolish the Crime Control and Prevention District Sales and Use Tax";

(2) a statement of the issue to be voted on, in the following words: "Whether the _____ County Crime Control and Prevention District should be dissolved and the crime control and prevention district sales and use tax should be abolished";

(3) a statement immediately above the signatures of the applicants, reading as follows: "It is the purpose and intent of the applicants whose signatures appear below that the crime control and prevention district be dissolved and the crime control and prevention district sales and use tax in _____ County be abolished"; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant.

Sec. 9.05. CONTENTS OF PETITION. To be valid, a petition must contain:

(1) a heading, in the following words: "Petition for a Local Option Referendum to Dissolve the _____ County Crime Control and Prevention District and to Abolish the Crime Control and Prevention District Sales and Use Tax";

(2) a statement of the issue to be voted on, in the same words used in the application;

(3) a statement immediately above the signatures of the petitioners, reading as follows: "It is the purpose and intent of the petitioners whose signatures appear below that the crime control and prevention district be dissolved and the crime control and prevention district sales and use tax in _____ County be abolished";

(4) lines and spaces for the names, signatures, residence addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the county clerk on each page.

Sec. 9.06. COPIES. A county clerk shall keep an application and a copy of the petition in the files of the county clerk's office. The clerk shall issue to the applicants as many copies as they request.

Sec. 9.07. FILING OF PETITION; NUMBER OF SIGNATURES. To form the basis for the ordering of a referendum, the petition must be filed with the county clerk not later than the 60th day after the date of its issuance, and it must contain a number of signatures of registered voters of the county equal to five percent of the number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election.

Sec. 9.08. REVIEW BY COUNTY CLERK. (a) A county clerk shall, on request of any person, check each name on a petition to determine whether the signer is a registered voter of the county. A person requesting verification by the county clerk shall pay the county clerk a sum equal to 20 cents per name before commencement of the verification.

(b) The county clerk may not count a signature if there is reason to believe that:

(1) it is not the actual signature of the purported signer;

(2) the voter registration certificate number is not correct;

(3) it is a duplication either of a name or of handwriting used in any other signature on the petition;

(4) the residence address of the signer is not correct; or

(5) the name of the voter is not signed exactly as it appears on the official copy of the current list of registered voters for the voting year in which the petition is issued.

Sec. 9.09. CERTIFICATION. Not later than the 40th day after the date a petition is filed, excluding Saturdays, Sundays, and legal holidays, a county clerk shall certify to the board the number of registered voters signing the petition.

Sec. 9.10. ORDER OF ELECTION. (a) A board shall record on its minutes the date the petition is filed and the date it is certified by the county clerk.

(b) If the petition contains the required number of signatures and is in proper order, the board shall, at its next regular session after the certification by the county clerk, order a referendum to be held at the regular polling place in each county election precinct in the county on the next uniform election date authorized by Section 41.001(a), Election Code, that occurs at least 20 days after the date of the order. The board shall state in the order the proposition to be voted on in the referendum. The order is prima facie evidence of compliance with all provisions necessary to give it validity.

Sec. 9.11. APPLICATION OF ELECTION CODE. A dissolution referendum shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

Sec. 9.12. RESULTS OF REFERENDUM. (a) If a majority of the votes cast in a referendum under this section are for the dissolution of a district:

(1) the board shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns; and

(2) the district is dissolved and ceases to operate except as provided by Subsection (b) of this section.

(b) A district that is dissolved and that has outstanding short-term or long-term liabilities may continue to operate on a temporary basis as provided by Section 10.02 of this Act.

(c) If less than a majority of the votes cast in the referendum under this section are for the dissolution of the district, another dissolution referendum may not be held except as authorized by Section 9.01 of this Act.

Sec. 9.13. CONTEST OF ELECTION. Not later than the 30th day after the date the result of a dissolution referendum is declared, any qualified voter of the district may contest the election by filing a petition in a district court located in the district.

ARTICLE 10. DISSOLUTION

Sec. 10.01. SUNSET PROVISION. (a) A district is dissolved five years after the date the district was created if the district has not held a continuation or dissolution referendum.

(b) A district is dissolved five years after the date of the most recent continuation or dissolution referendum.

Sec. 10.02. DISSOLUTION OF DISTRICT. (a) On the date that the district is dissolved, the district shall, as prescribed by Subsection (h) of this section, convey or transfer to the county and municipalities in the district the following:

(1) title to land, buildings, real and tangible improvements, and equipment owned by the district;

(2) operating funds and reserves for operating expenses and funds that have been budgeted by the district for the remainder of the fiscal year in which the district is dissolved to support crime control activities and programs for residents of the county;

(3) taxes levied by the district during the current year for crime control purposes;

(4) funds established for payment of indebtedness assumed by the district; and

(5) any accumulated employee retirement funds.

(b) After the date the district is dissolved, the district may not levy taxes for district purposes or for providing crime control activities and programs for the residents of the district.

(c) If on the date that the district is dissolved the district has outstanding short-term or long-term liabilities, the board shall, not later than the 30th day after the dissolution, adopt a resolution certifying each outstanding short-term and long-term liability. The county in which the district is located shall assume the outstanding short-term and long-term liabilities. The county shall collect the sales and use tax authorized by Section 323.105, Tax Code, for the remainder of the calendar year and may by resolution of the commissioners court continue to collect the tax for an additional calendar year if the revenue from the tax is needed to retire liabilities of the district that were assumed by the county. The commissioners court shall notify the comptroller of this continuation not later than the 60th day before the date on which the tax would otherwise expire. Any tax collected after the liabilities have been retired shall be transferred or conveyed as prescribed by Subsection (a) of this section.

(d) The district and the board may continue to operate for a period not to exceed two months after carrying out the responsibilities required by Subsections (a) and (c) of this section. The board and the district are continued in effect for the purpose of satisfying these responsibilities.

(e) If the board and the district are continued in effect under Subsection (d) of this section, the board and district are dissolved entirely on the first day of the month following the month in which the board issues an order certifying to the secretary of state that no responsibilities of Subsections (a) and (c) of this section are left unsatisfied.

(f) A district or board that continues to operate under Subsection (d) of this section may not incur any new liabilities without the approval of the commissioners court of the county in which the district is located. Not later than the 60th day after the date of the dissolution referendum, the commissioners court shall review the outstanding liabilities of the district and set a specific date by which the county must retire the district's outstanding liabilities.

(g) On the date that the district is dissolved, district-funded programs, including additional courts, shall immediately terminate and district-funded personnel, except personnel required to retire the responsibilities of the district, are terminated.

(h) The board shall convey or transfer the value of the items described in Subsection (a) of this section following the apportionment formula described by Section 5.02(b) of this Act.

ARTICLE 11. STATE LIABILITY

Sec. 11.01. STATE LIABILITY. The state is not obligated for the support, maintenance, or dissolution of a crime control district created under this Act.

SECTION 2. AMENDMENT. Subchapter B, Chapter 323, Tax Code, is amended by adding Section 323.105 to read as follows:

Sec. 323.105. CRIME CONTROL DISTRICT TAX. (a) Subject to an election held in accordance with the Crime Control and Prevention District Act, a county in which a crime control and prevention district is established shall adopt a sales and use tax for the purpose of financing the operation of the crime control and prevention district. The revenue from the tax may be used only for the purpose of financing the operation of the crime control and prevention district. The proposition for adopting a tax under this section and the proposition for creation of a crime control district shall be submitted at the same election. For purposes of Section 323.101(c) of this code, a tax under this section is not a county sales and use tax.

(b) A tax adopted by a county under this section for financing the operation of a crime control and prevention district in the county may be decreased in increments of one-fourth of one percent by order of the board of directors of the crime control district. The rate of a tax adopted by a county under this section may be increased in increments of one-fourth of one percent, not to exceed a total tax rate of one-half percent for financing the operation of the crime control and prevention district, by order of the board of directors of the crime control and prevention district if approved by a majority of the qualified voters voting at an election called by the board and held in the district on the question of increasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The increase of the _____ County Crime Control and Prevention District sales and use tax rate to _____ percent." If there is an increase or decrease under this subsection in the rate of a tax imposed under this section, the new rate takes effect on the first day of the next calendar year after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for one whole calendar quarter. In that event, the new rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(c) The comptroller shall remit to the county amounts collected at the rate imposed under this section as part of the regular allocation of county tax revenue collected by the comptroller. Retailers may not be required to use the allocation and reporting procedures in the collection of taxes under this section different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a county under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a county under a sales or use tax authorized by another section of this chapter is not taxable under this section.

(d) If a county sales and use tax or a county sales and use tax rate increase for the purpose of financing a crime control and prevention district is approved, the county is responsible for distributing to the district that portion of the county sales and use tax revenue received from the comptroller that is to be used for the purposes of financing the crime control and prevention district. Not later than the 10th day after the date the county receives funds under this section from the comptroller, the county shall make the distribution in the proportion that the crime control and prevention portion of the tax rate bears to the total sales and use tax rate of the county. The amounts distributed to a crime control and prevention district are not considered to be sales and use tax revenue for the purpose of property tax reduction and computation of the county tax rate under Section 26.041, Tax Code.

SECTION 3. AMENDMENT. Subdivision (14), Section 51.001, Title 110B, Revised Statutes, is amended to read as follows:

(14) "Subdivision" means a county, a political unit that consists of all of the geographical area of one county or of all or part of more than one county, a political unit of a county that has taxing authority, a crime control and prevention district, the Texas Association of Counties, the Texas County and District Retirement System, or a city and county that jointly operate a city-county hospital under Chapter 383, Acts of the 48th Legislature, Regular Session, 1943 (Article 4494i, Vernon's Texas Civil Statutes), but does not include an incorporated city or town, a school district, or a junior college district.

SECTION 4. NONSEVERABILITY. If Section 1.05 of this Act is held to be invalid by a court of competent jurisdiction and the decision becomes final, this entire Act is invalid.

SECTION 5. 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 amendment was read.

Senator McFarland, on behalf of Senator Parmer, moved to concur in the House amendment to **S.B. 1694**.

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

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Edwards and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 377**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 377 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 377**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Edwards the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Ratliff and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 737**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 737 ADOPTED

Senator Ratliff called from the President's table the Conference Committee Report on **H.B. 737**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Ratliff, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1715**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1715 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.B. 1715**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE CAUCUS

Senator Brooks announced the Senate would caucus upon recess today.

CONFERENCE COMMITTEE REPORT
SENATE BILL 1646

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1646** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BARRIENTOS	T. SMITH
ARMBRISTER	WILLY
TEJEDA	JUNELL
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the West Travis County Municipal Utility District No. 3.

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

SECTION 1. CREATION. (a) A conservation and reclamation district, to be known as West Travis County Municipal Utility District No. 3, is created in Travis County, subject to approval at a confirmation election under Section 9 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means West Travis County Municipal Utility District No. 3.

SECTION 3. BOUNDARIES. The district includes the territory contained within the following area:

DESCRIPTION, based on record information, of a tract or parcel of land containing 206.033 acres situated in the Joseph Rohmuller Survey No. 642, the Fred Seifert Survey No. 656, the C.T. & M.C. Railroad Company Survey No. 75, and the E. C. Gaines Survey No. 76, all in Travis County, Texas, being a portion of that certain 1176.439 acre tract of land described as tract one in a warranty deed conveyed to Bohl's Cattle Ranch and Investment Venture, recorded in Volume 9948, Page 458, of the Deed Records of Travis County, Texas; said 206.033 acres being more particularly described as follows:

BEGINNING at a point in the northerly right-of-way line of FM 2244 (100' R.O.W.), being the most southerly southwest corner of the said 1176.439 acre tract and of the herein described tract, same being the southeast corner of that certain 33.052 acre tract of land conveyed by deed to Henry Lamar Cato & Carole Cato Erwing as recorded in Volume 9102, Page 845 of the said deed records, also being the southwest corner of that certain 146.441 acre tract of land described as Tract

Two in a general warranty deed conveyed to John S. Lloyd, Trustee, recorded in Volume 8064, Page 516 of the said deed records;

THENCE, N 39° 41' 12" W, leaving the said northerly right-of-way line of FM 2244 (100' R.O.W.) and along the common line between the said 1176.439 acre tract, the said 33.052 and the said 146.441 acre tract, for a distance of 1824.39 feet to a point for the northeast corner of the said 33.052 acre tract;

THENCE, along the perimeter of the said 146.441 acre tract and continuing across the said 1176.439 acre tract for the following four (4) courses:

1) N 39° 28' 04" W, for a distance of 242.75 feet to a point for the northwest corner of the said 146.441 acre tract;

2) N 48° 51' 48" E, for a distance of 1861.77 feet to a point for the most northerly corner of the said 146.441 acre tract;

3) S 45° 47' 51" E, for a distance of 2079.22 feet to a point for a corner;

4) N 49° 52' 52" E, for a distance of 863.25 feet to a point for the most easterly northeast corner of the said 146.441 acre tract;

THENCE, N 53° 31' 56" E, leaving the east line of the said 146.441 acre tract and continuing across the said 1176.439 acre tract, for a distance of 54.84 feet to a point for the most westerly corner of that certain 106.652 acre tract of land described as Tract One in a general warranty deed conveyed to John S. Lloyd, Trustee, recorded in Volume 8064, Page 516 of the said deed records;

THENCE, along the north line of the said 106.652 acre tract and continuing across the said 1176.439 acre tract for the following twelve (12) courses:

1) N 53° 04' 08" E, for a distance of 502.26 feet to an angle point;

2) N 55° 35' 08" E, for a distance of 165.75 feet to an angle point;

3) S 27° 01' 51" E, for a distance of 178.28 feet to an angle point;

4) S 22° 54' 20" E, for a distance of 187.59 feet to an angle point;

5) S 33° 01' 24" E, for a distance of 230.56 feet to an angle point;

6) N 89° 37' 56" E, for a distance of 81.20 feet to an angle point;

7) N 04° 46' 39" E, for a distance of 111.94 feet to an angle point;

8) N 19° 31' 24" W, for a distance of 135.94 feet to an angle point;

9) N 10° 26' 56" W, for a distance of 328.21 feet to an angle point;

10) N 02° 22' 44" E, for a distance of 150.92 feet to an angle point;

11) N 52° 17' 30" E, for a distance of 588.90 feet to an angle point;

12) N 53° 03' 58" E, for a distance of 91.11 feet to a point for the most easterly northeast corner of the herein described tract;

THENCE, S 22° 31' 30" E, leaving the north line of the said 106.652 acre tract and continuing across the said 1176.439 acre tract, for a distance of 2103.31 feet to a point in the aforesaid northerly right-of-way line of R.M. 2244 (100' right-of-way), being in the south line of both the said 1176.439 acre tract and the said 106.652 acre tract;

THENCE, along the south line of the said 1176.439 acre tract being the northerly right-of-way line of R.M. 2244 for the following eight (8) courses:

1) S 67° 28' 30" W, for a distance of 471.78 feet to an angle point;

2) S 67° 34' 20" W, for a distance of 550.76 feet to a point for the most southerly corner of the 106.652 acre tract;

3) S 67° 35' 46" W, passing at a distance of 116.68 feet the most easterly corner of the said 146.441 acre tract, for a total distance of 390.62 feet to the point of curvature of a curve to the right;

4) with the said curve to the right having a central angle of 30° 20' 09", a radius of 1385.52 feet, a chord of 725.04 feet (chord bears S 82° 46' 07" W) for an arc distance of 733.57 feet to a point of tangency;

5) N 82° 04' 02" W, 682.55 feet to the point of curvature of a curve to the left;

6) with the said curve to the left having a central angle of 26° 37' 11", a radius of 1483.99 feet, a chord of 683.28 feet (chord bears S 84° 37' 23" W) for an arc distance of 689.46 feet to the point of tangency;

7) S 71° 18' 47" W, 630.15 feet to the point of curvature of a curve to the left;

8) with the said curve to the left having a central angle of 13° 59' 13", a radius of 1980.69 feet, a chord of 482.32 feet (chord bears S 64° 19' 11" W) for an arc distance of 483.52 feet to the POINT OF BEGINNING, CONTAINING 206.033 acres of land area.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 5. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

SECTION 6. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 54, Water Code, applicable to municipal utility districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Water Commission.

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial permanent directors are elected under Section 9.

(c) Initial permanent directors serve until permanent directors are elected under Section 10.

(d) Permanent directors other than initial permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 54.025 or 54.116, Water Code, as appropriate.

(f) A director serves until the director's successor has qualified.

SECTION 8. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) William T. Gunn III
(2) David McNeil
(3) James Shay
(4) Rayden Spracklen
(5) A. Leon Thompson

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 9. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors as provided by Chapter 54, Water Code.

(b) Subsection (a), Section 41.001, Election Code, does not apply to a confirmation election held as provided by this section.

SECTION 10. ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the confirmation election is held, an election shall be held in the district for the election of two directors who shall each

serve two-year terms and three directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

SECTION 11. APPLICATION OF OTHER LAW. Conditions to the consent of the creation of the district imposed by any jurisdiction in which the district is located are not amended, repealed, or otherwise altered by the passage of this Act and remain in full force and effect.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The 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 other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

(b) 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.

(c) 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 are fulfilled and accomplished.

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 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 1647

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1647** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BARRIENTOS	T. SMITH
ARMBRISTER	WILLY
TEJEDA	JUNELL
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the West Travis County Municipal Utility District No. 4.

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

SECTION 1. CREATION. (a) A conservation and reclamation district, to be known as West Travis County Municipal Utility District No. 4, is created in Travis County, subject to approval at a confirmation election under Section 9 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means West Travis County Municipal Utility District No. 4.

SECTION 3. BOUNDARIES. The district includes the territory contained within the following area:

DESCRIPTION, based on record information, of a tract or parcel of land containing 595.190 acres situated in the H. T. & B. Railroad Company Survey No. 1, the W. P. Moore Survey No. 525, and the H.C. Bohls Survye No. 1 and the James Swisher Survey No. 152, all in Travis County Texas, same being a portion of that certain 1176.439 acre tract of land described as tract one in a warranty deed conveyed to Bohl's Cattle Ranch and Investment Venture, recorded in Volume 9948, Page 458, of the Deed Records of Travis County, Texas; said 595.190 acres being more particularly described as follows:

BEGINNING at a point in the south water's edge of Lake Austin, being the northwest corner of the said 1176.439 acre tract, same being the northeast corner of that certain 780.668 acre tract of land conveyed by deed to Bishop John McCarthey as recorded in Volume 9601, Page 691 of the Deed Records of Travis County Texas, being the northwest corner of the herein described tract;

THENCE, with the meanders of the south water's edge of Lake Austin, being the north line of the said 1176.439 acre tract, the following seven (7) courses:

(1) S 48° 48' 50" E, for a distance of 286.83 feet to an angle point;

(2) S 54° 29' 44" E, for a distance of 722.50 feet to an angle point;

(3) S 64° 20' 18" E, for a distance of 600.19 feet to an angle point;

(4) S 71° 19' 03" E, for a distance of 727.59 feet to an angle point;

(5) S 77° 11' 06" E, for a distance of 484.30 feet to an angle point;

(6) S 83° 33' 28" E, for a distance of 598.61 feet to an angle point;

(7) N 83° 20' 20" E, for a distance of 329.93 feet to a point for the northeast corner hereof;

THENCE, leaving the south water's edge of Lake Austin, also leaving the north line of and crossing through the said 1176.439 acre tract the following eleven (11) courses:

(1) S 28° 57' 46" W, for a distance of 950.99 feet to an angle point;

(2) S 08° 31' 00" W, for a distance of 599.55 feet to an angle point;

(3) S 14° 16' 09" E, for a distance of 647.42 feet to an angle point;

(4) S 05° 07' 17" E, for a distance of 415.08 feet to an angle point;

(5) S 40° 57' 46" W, for a distance of 207.38 feet to an angle point;

(6) S 24° 39' 22" W, for a distance of 157.25 feet to an angle point;

(7) S 10° 44' 18" W, for a distance of 274.69 feet to an angle point;

(8) S 04° 45' 48" E, for a distance of 328.95 feet to an angle point;

(9) S 35° 34' 21" E, for a distance of 182.61 feet to an angle point;

(10) S 27° 59' 56" W, for a distance of 444.07 feet to an angle point;

(11) S 68° 28' 12" E, for a distance of 565.24 feet to a point in the north line of that certain 106.652 acre tract of land being described as Tract One in a general warranty deed conveyed to John S. Lloyd, recorded in Volume 8064, Page 516 of the said deed records;

THENCE, along the north line of the said 106.552 acre tract and continuing across the said 1176.439 acre tract for the following two (2) courses:

(1) S 55° 35' 08" W, for a distance of 165.75 feet to an angle point;

(2) S 53° 04' 08" W, for a distance of 502.26 feet to a point for the most westerly corner of the said 106.652 acre tract;

THENCE, S 53° 31' 56" W, leaving the west line of the said 106.652 acre tract and continuing across the said 1176.439 acre tract, for a distance of 54.84 feet to a point for the most easterly northeast corner of that certain 146.441 acre tract of land being described as Tract Two in a general warranty deed conveyed to John S. Lloyd, recorded in Volume 8064, Page 516 of the said deed records;

THENCE, along the northerly line of the the said 146.441 acre tract and continuing across the said 1176.439 acre tract, for the following four (4) courses:

(1) S 49° 52' 52" W, for a distance of 863.25 feet to a point for a corner;

(2) N 45° 47' 51" W, for a distance of 2079.22 feet to a point for the most northerly northeast corner of the said 146.441 acre tract;

(3) S 48° 51' 48" W, for a distance of 1861.77 feet to a point for the northwest corner of the said 146.441 acre tract;

(4) S 39° 28' 04" E, for a distance of 242.75 feet to a point for the northeast corner of that certain 33.052 acre tract being described as Tract Two in a deed conveyed to Henry Lamar Cato and Carole Cato Erwing, recorded in Volume 9102, Page 845 of the said deed records, same being a corner in the southerly line of the said 1176.439 acre tract;

THENCE, along the common line between the said 1176.439 acre tract and the 33.052 acre tract, for the following two (2) courses:

(1) S 88° 49' 22" W, for a distance of 749.46 feet to a point for the northwest corner of the said 33.052 acre tract;

(2) S 08° 48' 59" E, for a distance of 375.76 feet to a point in the west line of said 33.052 acre tract, same being the northeast corner of that certain 66.47 acre tract of land described as Tract Two in a deed conveyed to Robert B. Baldwin as recorded in Volume 8982, Page 776 of the Deed Records of Travis County, Texas;

THENCE, N 68° 41' 00" W, leaving the west line of the said 33.052 acre tract, with the common line between the said 1176.439 acre tract and the said 66.47 acre tract passing at a distance of 1569.97 feet, the northwest corner of the said 66.47 acre tract, same being the northeast corner of that certain 36.00 acre tract of land described as Tract One in a deed conveyed to Robert B. Baldwin as recorded in Volume 8982, Page 776 of the Deed Records of Travis County, Texas, for a total distance of 2639.52 feet to a point for the most westerly southwest corner of the said 1176.439 acre tract and the herein described tract, same being the northwest corner of the said 36.00 acre tract, and a point in the east line of that certain 1.00 acre tract of land as conveyed by deed to Robert B. Baldwin, recorded in Volume 9208, Page 564 of the Deed Records of Travis County, Texas;

THENCE, N 14° 21' 18" E, with the most westerly line of the said 1176.439 acre tract and the east line of the said 1.00 acre tract, for a distance of 117.58 feet to a point for the northeast corner of the said 1.00 acre tract, same being the southeast corner of that certain 1.06 acre tract of land conveyed by deed to Horace B. Webb as recorded in Volume 7303, Page 557 of the Deed Records of Travis County, Texas;

THENCE, N 14° 01' 34" E, with the east line of the said 1.06 acre tract and the most westerly line of the said 1176.439 acre tract, for a distance of 209.62 feet to a point for the northeast corner of the said 1.06 acre tract, same being the southeast corner of that certain 2.37 acre tract of land as conveyed by deed to Robert B. Baldwin, recorded in Volume 7972, Page 47 of the Deed Records of Travis County, Texas;

THENCE, N 14° 01' 05" E, with the east line of the said 2.37 acre tract and the most westerly line of the said 1176.439 acre tract, for a distance of 490.05 feet to a point for the northeast corner of the said 2.37 acre tract, same being the most southerly southeast corner of that certain 780.668 acre tract of land conveyed by deed to Bishop John McCarthey as recorded in Volume 9601, Page 691 of the Deed Records of Travis County, Texas;

THENCE, with the common line between the said 1176.439 acre tract and the said 780.668 acre tract the following three (3) courses:

(1) N 14° 04' 59" E, for a distance of 274.33 feet to a point for an ell corner;

(2) S 75° 18' 20" E, for a distance of 826.26 feet to a point for the most easterly southeast corner of the said 780.668 acre tract;

(3) N 29° 48' 38" E, for a distance of 5616.98 feet to the POINT OF BEGINNING, CONTAINING 595.190 acres of land area, save and except that area lying below the 504.90 foot elevation contour, being the limits of full purpose annexation for the City of Austin.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 5. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

SECTION 6. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 54, Water Code, applicable to municipal utility districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Water Commission.

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial permanent directors are elected under Section 9 of this Act.

(c) Initial permanent directors serve until permanent directors are elected under Section 10 of this Act.

(d) Permanent directors other than initial permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 54.025 or 54.116, Water Code, as appropriate.

(f) A director serves until the director's successor has qualified.

SECTION 8. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) William O. Cromwell III
(2) Hugh Kynard Higgins, Jr.
(3) Stephen Lee Martin
(4) Harry Milner
(5) Thomas H. Nall

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 9. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors as provided by Chapter 54, Water Code.

(b) Subsection (a), Section 41.001, Election Code, does not apply to a confirmation election held as provided by this section.

SECTION 10. ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the confirmation election is held, an election shall be held in the district for the election of two directors who shall each serve two-year terms and three directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

SECTION 11. APPLICATION OF OTHER LAW. Conditions to the consent of the creation of the district imposed by any jurisdiction in which the district is located are not amended, repealed, or otherwise altered by the passage of this Act and remain in full force and effect.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The 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 other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

(b) 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.

(c) 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 are fulfilled and accomplished.

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 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 1648

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1648** have met and had the same

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

BARRIENTOS	T. SMITH
ARMBRISTER	WILLY
TEJEDA	JUNELL
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the West Travis County Municipal Utility District No. 5.

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

SECTION 1. CREATION. (a) A conservation and reclamation district, to be known as West Travis County Municipal Utility District No. 5, is created in Travis County, subject to approval at a confirmation election under Section 9 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means West Travis County Municipal Utility District No. 5.

SECTION 3. BOUNDARIES. The district includes the territory contained within the following area:

DESCRIPTION, based on record information, of a tract or parcel of land containing 375.204 acres situated in the H.T. & B. Railroad Company Survey No. 1, the E.C. Gaines Survey No. 76, and the H.C. Bohl's Survey No. 1, all in Travis County, Texas, same being a portion of that certain 1176.439 acre tract of land described as tract one in a warranty deed conveyed by a warranty deed to Bohl's Cattle Ranch and Investment Venture, recorded in Volume 9948, Page 458, of the Deed Records of Travis County, Texas; said 375.204 acres being more particularly described as follows:

BEGINNING at a point for the southwest corner of the certain 724.68 acre tract as conveyed to Dorothy Geisman Baldwin recorded in Volume 5185, Page 1678 of the Deed Records of Travis County, Texas, same being an ell corner on the easterly line of the said 1176.439 acre tract, and that 106.652 acre tract described as tract one in a deed to John S. Lloyd recorded in Volume 8064, Page 516 of the said deed records;

THENCE, with the common line between the said 724.68 acre tract and the said 1176.439 acre tract the following three (3) courses;

(1) S 60° 09' 16" E, for a distance of 271.49 feet to an angle point;

(2) S 60° 37' 56" E, for a distance of 503.21 feet to an angle point;

(3) S 59° 51' 25" E, for a distance of 390.73 feet to the most easterly southeast corner of the said 1176.439 acre tract being the most easterly southeast corner of the said 106.652 acre tract and the herein described tract, same being the most northerly corner of that certain 6.686 acre tract of land as conveyed by deed to Wiley Johnson recorded in Volume 775, Page 455, of the Deed Records of Travis County, Texas;

THENCE, S 46° 29' 04" W, leaving the south line of the said 724.68 acre tract, with the common line between the said 1176.439 acre tract and the said 6.686 acre tract, 272.67 feet to a point;

THENCE, S 46° 02' 06" W, for a distance of 793.89 feet to a point in the northerly right-of-way line of R.M. 2244 (100' ROW);

THENCE, S 67° 28' 30" W, with the northerly right-of-way line of said R.M. 2244, being the southerly line of the said 1176.439 acre tract, for a distance of 163.13 feet to a point for the most southerly southwest corner of the herein described tract;

THENCE, N 22° 31' 30" W, leaving the northerly right-of-way line of R.M. 2244 being the southerly line of the 106.652 acre tract and continuing across the said 1176.439 acre tract, for a distance of 2103.31 feet to a point in the north line of the said 106.652 acre tract;

THENCE, along the north line of the said 106.652 acre tract and continuing across the said 1176.439 acre tract for the following ten (10) courses:

(1) S 53° 03' 58" W, for a distance of 91.11 feet to an angle point

(2) S 52° 17' 30" W, for a distance of 588.90 feet to an angle point;

(3) S 02° 22' 44" W, for a distance of 150.92 feet to an angle point;

(4) S 10° 26' 56" E, for a distance of 328.21 feet to an angle point;

(5) S 19° 31' 24" E, for a distance of 135.94 feet to an angle point;

(6) S 04° 46' 39" E, for a distance of 111.94 feet to an angle point;

(7) S 89° 37' 56" W, for a distance of 81.20 feet to an angle point;

(8) N 33° 01' 24" W, for a distance of 230.56 feet to an angle point;

(9) N 22° 54' 20" W, for a distance of 187.59 feet to an angle point;

(10) N 27° 01' 51" W, for a distance of 178.28 feet to an angle point;

THENCE, leaving the north line of the said 106.652 acre tract and continuing across the said 1176.439 acre tract, for the following eleven (11) courses:

(1) N 68° 28' 12" W, for a distance of 565.24 feet to an angle point;

(2) N 27° 59' 56" E, for a distance of 444.07 feet to an angle point;

(3) N 35° 34' 21" W, for a distance of 182.61 feet to an angle point;

(4) N 04° 45' 48" W, for a distance of 328.95 feet to an angle point;

(5) N 10° 44' 18" E, for a distance of 274.69 feet to an angle point;

(6) N 24° 39' 22" E, for a distance of 157.25 feet to an angle point;

(7) N 40° 57' 46" E, for a distance of 207.38 feet to an angle point;

(8) N 05° 07' 17" W, for a distance of 415.08 feet to an angle point;

(9) N 14° 16' 09" W, for a distance of 647.42 feet to an angle point;

(10) N 08° 31' 00" E, for a distance of 599.55 feet to an angle point;

(11) N 28° 57' 46" E, for a distance of 950.99 feet to an angle point in the south water's edge of Lake Austin, being a point in the north line of the said 1176.439 acre tract;

THENCE, with the meanders of the south water's edge of Lake Austin being the north line of the said 1176.439 acre tract, the following six (6) courses:

(1) N 83° 20' 02" E, for a distance of 234.20 feet to an angle point;

(2) N 72° 07' 42" E, for a distance of 532.54 feet to an angle point;

(3) N 67° 48' 13" E, for a distance of 797.22 feet to an angle point;

(4) N 62° 27' 05" E, for a distance of 910.27 feet to an angle point;

(5) N 57° 55' 00" E, for a distance of 832.41 feet to an angle point;

(6) N 59° 34' 22" E, for a distance of 1069.49 feet to a point in the centerline of Sycamore Creek for the northeast corner of the said 1176.439 acre tract and the herein described tract, same being the northwest corner of the afore said 724.68 acre tract;

THENCE, leaving the south water's edge of Lake Austin, with the centerline of said Sycamore Creek, said centerline being the boundary line agreement between the said 1176.439 acre tract and the said 724.68 acre tract as recorded in Volume 8064, Page 601 of the Deed Records of Travis County, Texas, for the following nine (9) courses:

(1) S 27° 49' 23" E, for a distance of 114.41 feet to an angle point;

(2) S 10° 53' 09" W, for a distance of 102.60 feet to an angle point;

(3) S 34° 06' 11" E, for a distance of 49.21 feet to an angle point;

(4) S 17° 10' 45" E, for a distance of 244.78 feet to an angle point;

(5) S 28° 24' 33" E, for a distance of 82.43 feet to an angle point;

(6) S 13° 16' 51" E, for a distance of 63.23 feet to an angle point;

(7) S 31° 13' 54" E, for a distance of 176.34 feet to an angle point;

(8) S 25° 44' 34" E, for a distance of 74.98 feet to an angle point;

(9) S 16° 02' 53" E, for a distance of 119.83 feet to a point for the most easterly corner of the said 1176.439 acre tract and the said herein described tract;

THENCE, continuing with a common line between the said 1176.439 acre tract and the said 724.68 acre tract, the following nine (9) courses:

(1) S 30° 14' 02" W, for a distance of 3564.95 feet to an angle point; being the most easterly corner of the said 106.652 acre tract;

(2) S 27° 21' 22" W, for a distance of 31.88 feet to an angle point;

(3) S 29° 49' 44" W, for a distance of 235.44 feet to an angle point;

(4) S 29° 17' 15" W, for a distance of 151.41 feet to an angle point;

(5) S 29° 24' 22" W, for a distance of 132.76 feet to an angle point;

(6) S 29° 54' 13" W, for a distance of 195.09 feet to an angle point;

(7) S 29° 51' 58" W, for a distance of 956.09 feet to an angle point;

(8) S 30° 18' 24" W, for a distance of 324.98 feet to an angle point;

(9) S 29° 09' 55" W, for a distance of 210.85 feet to the POINT OF BEGINNING, CONTAINING 375.204 acres of land area, save and except that area lying below the 504.90 foot elevation contour, being the limits of full purpose annexation for the City of Austin.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 5. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Article XVI, Section 59, of the Texas Constitution. The district is created to serve a public use and benefit.

SECTION 6. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 50 and 54, Water Code, applicable to municipal utility districts created under Article XVI, Section 59, of the Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) The rights, powers, privileges, authority, functions, and duties of the district are subject to the continuing right of supervision of the state to be exercised by and through the Texas Water Commission.

SECTION 7. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial permanent directors are elected under Section 9 of this Act.

(c) Initial permanent directors serve until permanent directors are elected under Section 10 of this Act.

(d) Permanent directors other than initial permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 54.025 or 54.116, Water Code, as appropriate.

(f) A director serves until the director's successor has qualified.

SECTION 8. TEMPORARY DIRECTORS. (a) The temporary board of directors is composed of:

(1) Gregory Baxter

(2) Robert Michael Mann

(3) Phillip McClain

(4) Joseph F. Pinnelli

(5) John Robb Southerland

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Water Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 9. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect five initial directors as provided by Chapter 54, Water Code.

(b) Subsection (a), Section 41.001, Election Code, does not apply to a confirmation election held as provided by this section.

SECTION 10. ELECTION OF DIRECTORS. On the first Saturday in May of the second year after the year in which the confirmation election is held, an election shall be held in the district for the election of two directors who shall each serve two-year terms and three directors who shall each serve four-year terms. Thereafter, on the same date in each subsequent second year, the appropriate number of directors shall be elected to the board.

SECTION 11. APPLICATION OF OTHER LAW. Conditions to the consent of the creation of the district imposed by any jurisdiction in which the district is located are not amended, repealed, or otherwise altered by the passage of this Act and remain in full force and effect.

SECTION 12. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The 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 other laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission.

(b) 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.

(c) 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 are fulfilled and accomplished.

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 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 1207

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 27, 1989

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. 1207** 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.

SANTIESTEBAN	T. SMITH
ARMBRISTER	CULBERSON
SIMS	WILLY
URIBE	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to notice to a purchaser of real property in a water district.

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

SECTION 1. Section 50.301, Water Code, is amended to read as follows:

Sec. 50.301. NOTICE TO PURCHASERS. (a) (1) Any person who proposes to sell or convey [~~sells or conveys~~] real property located in a district which was created under this title or by special act of the legislature, which is providing or proposing to provide, as the district's principal function, water [~~and~~] sewer, drainage, and flood control or protection facilities or services, or any [~~either~~] of these facilities or services that have been financed or are proposed to be financed with bonds of the district payable in whole or part from taxes of the district, to household or commercial users, other than agricultural or irrigation users, and which district includes less than all the territory in at least one county and which, if located within the corporate area of a city, includes less than 75 percent of the incorporated area of the city or which is located outside the corporate area of a city in whole or in substantial part, must first give to the purchaser the written notice provided in this section.

(2) The provisions of this section shall not be applicable to:

(A) transfers of title under any type of lien foreclosure;

(B) transfers of title by deed in cancellation of indebtedness secured by a lien upon the property conveyed; or

(C) transfers of title by reason of a will or probate proceedings.

(b) The prescribed notice for all districts shall be a separate written document executed and acknowledged by the seller and shall read as follows:

"The real property, described below, which you are about to purchase is located in the _____ District. The district has taxing authority separate from any other taxing authority, and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the most recent rate of taxes levied by the district on real property located in the district is $_____ on each $100 of assessed valuation. The total amount of bonds which has been approved by the voters and which have been or may, at this date, be issued is $_____ , and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the district and payable in whole or in part from property taxes is $_____. The purpose of this district is to provide water, [~~and~~] sewer, drainage, and flood control facilities and services within the district through the issuance of bonds payable in whole or in part from property taxes [~~and user charges~~]. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the district. The legal description of the property which you are acquiring is as follows:

Date

Signature of Seller

"The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for [~~closing of~~] the purchase of the real property described in such notice or at closing of purchase of the real property.

Date

Signature of Purchaser

"(Note: Correct district name, tax rate, bond amounts [~~amount~~], and legal description are to be placed in the appropriate space by seller. Except for notices included as part of a purchase contract, the notice shall be executed by the seller and purchaser, as indicated, and the correct [~~Correct~~] acknowledgments shall be provided for both seller and purchaser below. If the district does not propose to provide one or more of the specified facilities and [~~water and sewer~~] services, the appropriate purpose may be eliminated. If the district has not yet levied taxes, a statement to such effect together with the district's projected rate, if any, of debt service tax estimated at the time of the creation of the district shall be substituted.)"

(c) The notice required by this section shall be given to the prospective purchaser [~~at or~~] prior to execution of a binding contract of [~~the final closing of the~~] sale and purchase either separately or as a separate portion or paragraph of a purchase contract. In the event a contract of purchase and sale is entered into without the seller providing the notice required by this subsection, the purchaser shall be entitled to terminate the contract. If, however, the seller furnishes the required notice at or prior to closing the purchase and sale contract and the purchaser elects to close even though such notice was not timely furnished prior to execution of the contract, it shall be conclusively presumed that the purchaser has waived all rights to terminate the contract and recover damages or other remedies or rights under the provision of this section.

(d) The purchaser shall sign and acknowledge the notice or purchase contract including such notice to evidence the receipt of notice.

(e) At the [~~The notice, following execution, acknowledgment, and~~] closing of purchase and sale, a separate copy of such notice shall be executed, acknowledged, and thereafter recorded in the deed records of the county in which the property is located.

(f) For the purposes of this section, an executory contract of purchase and sale having a performance period of more than six months shall be considered a sale under Subsection (a) of this section.

(g) All sellers, and all persons completing the prescribed notice in the sellers' behalf, shall be entitled to rely on the information contained in or shown on the information form and map or plat filed by the district under Section 50.302 of this code in completing the prescribed form. Any information taken from the information form or map or plat filed by the district shall be for purposes of this section conclusively presumed as a matter of law to be correct. All subsequent sellers, purchasers, title insurance companies, examining attorneys, and lienholders shall be entitled to rely upon the information form and map or plat filed by the district.

(h) If such notice is given at closing as provided in this section, a [~~A~~] purchaser, his heirs, successors, or assigns, shall not be entitled to maintain any action for damages or maintain any action against a seller, title insurance company, or lienholder, or any agent, representative, or person acting in their behalf, by reason

of use by the seller of the information filed for record by the district or reliance by the seller on the filed plat and filed legal description of the district in determining whether the property to be sold and purchased is within the district. No action may be maintained against any title company for failure to disclose the inclusion of the described real property within a district when the district has not filed for record the information form, map, or plat with the county clerk.

(i) Any purchaser who purchases any real property in a district and who thereafter sells or conveys the same shall on closing of such subsequent sale be conclusively considered as having waived any prior right to damages under this section for his prior purchase.

(j) It is the express intent of this section that all sellers, title insurance companies, examining attorneys, and lienholders, and any agent, representative, or person acting on their behalf, shall be entitled to rely on the accuracy of the information form and map or plat as last filed by each district.

(k) Except as otherwise provided in Subsection (c) of this section, if [If] any sale or conveyance of real property within a district is not made in compliance with the provisions of this section, the purchaser may institute a suit for damages under the provisions of either Subsection (l) or Subsection (m) of this section.

(l) A purchaser of real property covered by the provisions of this section, if the sale or conveyance of the property is not made in compliance with this section, may institute a suit for damages in the amount of all cost relative to the purchase of the property plus interest and reasonable attorney's fees. The suit for damages may be instituted jointly or severally against the person, firm, corporation, partnership, organization, business trust, estate, trust, association, or other legal entity which sold or conveyed the property to the purchaser. Following the recovery of damages under this subsection, the amount of the damages shall first be paid to satisfy all unpaid obligations on each outstanding lien or liens on the property and the remainder of the damage amount shall be paid to the purchaser. On payment of all damages respectively to the lienholders and purchaser, the purchaser shall reconvey the property to the seller.

(m) A purchaser of real property covered by the provisions of this section, if the sale or conveyance of the property is not made in compliance with this section, may institute a suit for damages in an amount of not to exceed $5,000, plus reasonable attorneys' fees.

(n) A purchaser is not entitled to recover damages under both Subsections (l) and (m) of this section, and entry of a final decision awarding damages to the purchaser under either Subsection (l) or Subsection (m) of this section shall preclude the purchaser from recovering damages under the other subsection. Notwithstanding any part or provision of the general or special laws or the common law of the state to the contrary, the relief provided under Subsections (l) and (m) of this section shall be the exclusive remedies for a purchaser aggrieved by the seller's failure to comply with the provisions of this section. Any action for damages shall not, however, apply to, affect, alter, or impair the validity of any existing vendor's lien, mechanic's lien, or deed of trust lien on the property.

(o) A suit for damages under the provisions of this section must be brought within 90 days after the purchaser receives his first district tax notice or within four years after the property is sold or conveyed to the purchaser, whichever time occurs first, or the purchaser loses his right to seek damages under this section.

(p) Notwithstanding any provisions of this subchapter to the contrary, a purchaser may not recover damages of any kind under this section if he:

(1) purchases an equity in real property and in conjunction with the purchase assumes any liens, whether purchase money or otherwise; and

(2) does not require proof of title by abstract, title policy, or any other proof of title.

SECTION 2. Subsection (b), Section 50.302, Water Code, is amended to read as follows:

(b) The information form filed by a district under this section shall include:

(1) the name of the district;

(2) the complete and accurate legal description of the boundaries of the district;

(3) the most recent rate of district taxes on property located in the district;

(4) the total amount of bonds which have been approved by the voters and which may be issued by the district;

(5) the aggregate initial principal amount of all bonds of the district payable in whole or in part from taxes (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) which have been previously issued;

(6) the date on which the election to confirm the creation of the district was held if such was required; [and]

(7) [~~(6)~~] a statement of the functions performed or to be performed by the district; and

(8) the particular form of Notice to Purchasers required by Section 50.301 to be furnished by a seller to a purchaser of real property in that district completed by the district with all information required to be furnished by the district.

If a district has not yet levied taxes, a statement to such effect together with the district's projected rate of debt service tax estimated at the time of creation of the district shall be substituted for Subdivisions (3) and (4) of this subsection.

SECTION 3. Subchapter I, Chapter 50, Water Code, is amended by adding Section 50.3011 to read as follows:

Sec. 50.3011. NOTICE TO PURCHASERS OF STANDBY FEES. (a) The notice form required to be used under Section 50.301(b) shall include the following:

"The district also has the authority to adopt and impose a standby fee on property in the district that has district-financed water or sewer facilities and services available but not connected. The district may exercise the authority without holding an election on the matter. As of this date, the most recent amount of the standby fee is $_____. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the district stating the amount, if any, of unpaid standby fees on a tract of property in the district."

(b) The notice form required by Section 50.301(b) shall be modified in the manner necessary to incorporate the additional language required by Subsection (a).

SECTION 4. This Act takes effect immediately, except that Section 3 takes effect on the date that **H.B No. 1333**, Acts of the 71st Legislature, Regular Session, 1989, takes effect. If **H.B No. 1333** fails to take effect, Section 3 has no effect.

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 12:40 p.m. took recess until 2:30 p.m. today.

AFTER RECESS

The Senate met at 2:30 p.m. and was called to order by the President.

CONFERENCE COMMITTEE REPORT
SENATE BILL 208

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 208** 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.

GLASGOW	PARKER
BROWN	OVARD
McFARLAND	HINOJOSA
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to proceedings before a grand jury.

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

SECTION 1. Article 19.08, Code of Criminal Procedure, is amended to read as follows:

Art. 19.08. QUALIFICATIONS. No person shall be selected or serve as a grand juror who does not possess the following qualifications:

1. He must be a citizen of the state, and of the county in which he is to serve, and be qualified under the Constitution and laws to vote in said county, provided that his failure to register to vote shall not be held to disqualify him in this instance;
2. He must be of sound mind and good moral character;
3. He must be able to read and write;
4. He must not have been convicted of any felony;
5. He must not be under indictment or other legal accusation for theft or of any felony;
6. He must not be related within the third degree of consanguinity or second degree of affinity to any person selected to serve or serving on the same grand jury;
7. He must not have served as grand juror or jury commissioner in the year before the date on which the term of court for which he has been selected as grand juror begins;
8. He must not be a complainant in any matter to be heard by the grand jury during the term of court for which he has been selected as a grand juror.

SECTION 2. Article 20.04, Code of Criminal Procedure, is amended to read as follows:

Art. 20.04. ATTORNEY MAY EXAMINE WITNESSES. The attorney representing the State may examine the witnesses before the grand jury and shall [~~may~~] advise as to the proper mode of interrogating them. No person other than the attorney representing the State or a grand juror may question a witness before the grand jury. No person may address the grand jury about a matter before the grand jury other than the attorney representing the State, a witness, or the accused or suspected person or the attorney for the accused or suspected person if approved by the State's attorney.

SECTION 3. Article 20.05, Code of Criminal Procedure, is amended to read as follows:

Art. 20.05. MAY SEND FOR ATTORNEY. The grand jury may send for the [~~State's~~] attorney representing the state and ask his advice upon any matter of law or upon any question arising respecting the proper discharge of their duties.

SECTION 4. Article 20.17, Code of Criminal Procedure, is amended to read as follows:

Art. 20.17. HOW SUSPECT OR ACCUSED QUESTIONED. (a) The grand jury, in propounding questions to the person accused or suspected, shall first state the offense with which he is suspected or accused, the county where the offense is said to have been committed and as nearly as may be, the time of commission of the offense, and shall direct the examination to the offense under investigation.

(b) Prior to any questioning of an accused or suspected person who is subpoenaed to appear before the grand jury, the accused or suspected person shall be furnished a written copy of the warnings contained in Subsection (c) of this section and shall be given a reasonable opportunity to retain counsel or apply to the court for an appointed attorney and to consult with counsel prior to appearing before the grand jury.

(c) If an accused or suspected person is subpoenaed to appear before a grand jury prior to any questions before the grand jury, the person accused or suspected shall be orally warned as follows:

(1) "Your testimony before this grand jury is under oath";

(2) "Any material question that is answered falsely before this grand jury subjects you to being prosecuted for aggravated perjury";

(3) "You have the right to refuse to make answers to any question, the answer to which would incriminate you in any manner";

(4) "You have the right to have a lawyer present outside this chamber to advise you before making answers to questions you feel might incriminate you";

(5) "Any testimony you give may be used against you at any subsequent proceeding";

(6) "If you are unable to employ a lawyer, you have the right to have a lawyer appointed to advise you before making an answer to a question, the answer to which you feel might incriminate you."

SECTION 5. Article 21.14, Code of Criminal Procedure, is amended to read as follows:

Art. 21.14. PERJURY AND AGGRAVATED PERJURY. (a) An indictment for perjury or aggravated perjury need not charge the precise language of the false statement, but may state the substance of the same, and no such indictment shall be held insufficient on account of any variance which does not affect the subject matter or general import of such false statement; and it is not necessary in such indictment to set forth the pleadings, records or proceeding with which the false statement is connected, nor the commission or authority of the court or person before whom the false statement was made; but it is sufficient to state the name of the court or public servant by whom the oath was administered with the

allegation of the falsity of the matter on which the perjury or aggravated perjury is assigned.

(b) If an individual is charged with aggravated perjury before a grand jury, the indictment may not be entered by the grand jury before which the false statement was alleged to have been made.

SECTION 6. (a) The change in law made by this Act applies only to grand juror selections made on or after the effective date of this Act. For purposes of this section, a selection is made before the effective date of this Act if any element of the selection process occurs before the effective date.

(b) A selection made before the effective date of this Act is covered by the law in effect when the selection process began, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 1989.

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

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

CONFERENCE COMMITTEE REPORT
SENATE BILL 740

Senator Henderson submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 740** 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.

HENDERSON	CAIN
CAPERTON	A. HILL
McFARLAND	BERLANGA
MONTFORD	McWILLIAMS
SIMS	C. HARRIS
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the purchasing, lease, or conversion of motor vehicles by state agencies, school districts, and local transit authorities and districts to assure use of compressed natural gas or other alternative fuels.

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

SECTION 1. Section 3.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.03. PURCHASE OF MOTOR VEHICLES FOR SCHOOL DISTRICTS. The commission shall purchase all motor vehicles used for

transporting school children, including buses, bus chassis, and bus bodies, tires, and tubes, for school districts participating in the Foundation School Program as provided by Subchapter F, Chapter 21, Texas Education Code. All purchases must comply with the alternative fuels requirements specified by Subchapter F, Chapter 21, Texas Education Code.

SECTION 2. Section 21.174, Education Code, is amended by adding Subsections (c), (d), (e), (f), and (g) to read as follows:

(c)(1) Except as provided in Subdivision (4) of this subsection, no county or local district school board may purchase or lease or authorize the purchase or lease after September 1, 1991, of any motor vehicle used for transporting school children for any county or local school district operating more than 50 such vehicles unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) A county or local district school board may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) The State Purchasing and General Services Commission shall waive the requirements of this section for any school district if the county or local district school board certifies to the commission that:

(A) the county's or district's vehicles will be operating primarily in an area in which neither the county or district nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

(B) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subdivision (2) of this subsection at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(5) Written notice of the date, hour, place, and subject of any county or local district school board meeting called for the purpose of considering certification under Subdivision (4) of this subsection shall be furnished to the secretary of state, who shall then post the notice on a bulletin board to be located in the main office of the secretary of state at a place convenient to the public and shall have a notice posted on a bulletin board located at a place convenient to the public in its central administrative office. Notice of the meeting must be posted for at least 60 days preceding the scheduled time of the meeting.

(d)(1) Any county or local district school board which operates a fleet of more than 50 motor vehicles used for transporting school children shall achieve the following percentages of such vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(A) the percentage shall be equal to or greater than 30 percent of the number of such vehicles operated by September 1, 1994; and

(B) equal to or greater than 50 percent of the number of such vehicles operated by September 1, 1996.

(2) The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from vehicles in the area, county and local district school boards operating fleets of more than 50 motor vehicles used for transporting school children shall achieve a percentage of such vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.

(3) County and local district school boards shall submit to the Central Education Agency annual reports summarizing their progress in achieving these percentage requirements and increasing use of compressed natural gas or other alternative fuels, and the Central Education Agency shall submit the summaries to the Texas Air Control Board by September 1 of each year.

(4) County and local district school boards, the Central Education Agency, and the State Purchasing and General Services Commission shall support the Texas Air Control Board in collecting reasonable information needed to determine air quality benefits from use of alternative fuels in affected districts.

(e) County and local district school boards, the Central Education Agency, and the State Purchasing and General Services Commission in the development of the compressed natural gas or other alternative fuel use program should work with district fleet operators, vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. Districts may also meet the percentage requirements of this section through the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use the alternative fuels.

(f) The State Purchasing and General Services Commission may reduce any percentage specified or waive the requirements of Subsection (d) of this section for any county or district on receipt of certification supported by evidence acceptable to the commission that:

(1) the county or district's vehicles will be operating primarily in an area in which neither the county, district, nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

(2) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subdivision (2) of Subsection (c) of this section at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(g) County and local district school boards and the State Purchasing and General Services Commission in purchasing, leasing, maintaining, or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies.

SECTION 3. Section 21.180, Education Code, is amended by adding Subsection (c) to read as follows:

(c) All purchases of motor vehicles must comply with the alternative fuels use requirements of Section 21.174.

SECTION 4. Subsection (a), Section 21.181, Education Code, is amended to read as follows:

(a) As an alternative to maintaining and operating a complete public school transportation system under this subchapter, a county or local district school board may contract with a public or commercial transportation company or system for all or any part of its public school transportation if the board is able to obtain an economically advantageous contract, provided that the commercial transportation company or system:

(1) requires its school bus drivers to be certified by the Central Education Agency; [and]

(2) uses only those school buses in transporting public school students that satisfy safety requirements imposed by law on school buses operated by public school transportation systems; and

(3) agrees to meet the alternative fuels requirements of Section 21.174 for those buses dedicated to the contract; provided, however, the company or system may claim all exceptions available to county and local district school boards under Section 21.174.

SECTION 5. Subsection (a), Section 21.182, Education Code, is amended to read as follows:

(a) As an alternative to purchasing school buses, a county or local district school board may contract with any person for use, acquisition, or lease with option or options to purchase any school bus or buses if, at the discretion of the school board, such a contract is determined to be economically advantageous to the school district and complies with the alternative fuels requirements of Section 21.174. Contracts may be in the form of a lease or a lease with option or options to purchase. Contracts in the form of an installment purchase or any form other than a lease or a lease with option or options to purchase shall be subject to the provisions of Section 21.165, as well as rules and regulations of the State Purchasing and General Services Commission.

SECTION 6. Section 14.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) The office of vehicle fleet maintenance shall have the authority to take all steps necessary to encourage and facilitate the conversion of and use of motor vehicles which are capable of using alternative fuels, especially compressed natural gas. The office of vehicle maintenance may establish centralized refueling stations throughout the state, may operate regional conversion and repair facilities, and may provide all services and support necessary to expedite the utilization of compressed natural gas or other alternative fuels by state agencies and school districts as required by Sections 3.03 and 3.29 of this Act.

SECTION 7. Section 3.29, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.29. PURCHASE OF PASSENGER VEHICLES. (a) A state agency may not purchase or lease a vehicle designed or used primarily for the transportation of persons, including a station wagon, that has a wheel base longer than 113 inches or that has more than 145 SAE horsepower. This provision does not apply to the purchase or lease of a vehicle to be used primarily for criminal law enforcement or a bus, motorcycle, pickup, van, truck, three-wheel vehicle, tractor, or ambulance.

(b)(1) A state agency operating a fleet of more than 15 vehicles, excluding law enforcement and emergency vehicles, may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) A state agency may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels.

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) The commission may waive the requirements of this subsection for any state agency upon receipt of certification supported by evidence acceptable to the commission that: (A) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

(B) the agency is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(c)(1) Any state agency which operates a fleet of more than 15 motor vehicles, excluding law enforcement and emergency vehicles, shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(A) the percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated by September 1, 1994; and

(B) equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996.

(2) The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, state agencies operating fleets of more than 15 motor vehicles shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.

(3) The commission shall support the Texas Air Control Board in collecting reasonable information needed to determine the air quality benefits from use of alternative fuels at affected agencies.

(4) Each state agency in its annual financial report to the legislature must show its progress in achieving these percentage requirements by itemizing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels.

(d) The commission, in the development of the compressed natural gas or other alternative fuel use program, should work with state agency fleet operators, vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. State agencies may meet the percentage requirements of this section through purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use the alternative fuels.

(e) The commission may reduce any percentage specified or waive the requirements of Subsection (c) of this section for any state agency upon receipt of certification supported by evidence acceptable to the commission that:

(1) the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

(2) the agency is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(f) The commission in purchasing, leasing, maintaining, or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies.

SECTION 8. Section 14, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsections (c), (d), (e), (f), and (g) to read as follows:

(c)(1) The board may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) The authority may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) The board may make exceptions to the requirements of this subsection if the board certifies that:

(A) the authority's vehicles will be operating primarily in an area in which neither the authority nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

(B) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(d)(1) The board shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(A) the percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated in 1994; and

(B) equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996.

(2) The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, the board shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.

(3) The board must submit to the Texas Air Control Board an annual report by December 31 of each year showing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels and any other relevant information the Texas Air Control Board may require.

(e) The board in the development of the compressed natural gas or other alternative fuel use program should work with vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. The board may meet the percentage requirements of this section through purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use such alternative fuels.

(f) The board in purchasing, leasing, maintaining, or converting vehicles for alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies.

(g) The Texas Air Control Board may require reasonable reporting from any board to document the air quality benefits from alternative fuel use programs.

SECTION 9. Section 20, Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended by adding Subsections (e), (f), (g), (h), and (i) to read as follows:

(e)(1) An authority may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) An authority may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) An authority may make exceptions to the requirements of this subsection if the authority certifies that:

(A) the authority's vehicles will be operating primarily in an area in which neither the authority nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

(B) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(f)(1) An authority shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(A) the percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated by September 1, 1994; and

(B) equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996.

(2) The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, the authority shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.

(3) The authority must submit to the Texas Air Control Board an annual report by December 31 of each year showing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels and any other relevant information the Texas Air Control Board may require.

(g) An authority in the development of the compressed natural gas or other alternative fuel use program should work with vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. The authority may meet the percentage requirements of this section through the purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use the alternative fuels.

(h) The authority in purchasing, leasing, maintaining, or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies.

(i) The Texas Air Control Board may require reasonable reporting from any authority to document the air quality benefits from alternative fuel use programs.

SECTION 10. Section 6, Article 1118z, Revised Statutes, is amended by adding Subsections (k), (l), (m), (n), and (o) to read as follows:

(k)(1) The department may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuel which results in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) The department may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

(4) A department may make exceptions to the requirements of this subsection if the department certifies that:

(A) the department's vehicles will be operating primarily in an area in which neither the department nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or

(B) the department is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(l)(1) A department shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(A) the percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated by September 1, 1994; and

(B) equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996.

(2) The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, departments shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.

(3) The department must submit to the Texas Air Control Board an annual report by December 31 of each year showing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels and any other relevant information the Texas Air Control Board may require.

(m) A department in the development of the compressed natural gas or other alternative fuel use program should work with vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. Such department may meet the percentage requirements of this section through the purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use the alternative fuels.

(n) A department in purchasing, leasing, maintaining, or converting vehicles for alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies.

(o) The Texas Air Control Board may require reasonable reporting from any department to document the air quality benefits from alternative fuel use programs.

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.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Henderson and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 740.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 740 ADOPTED

Senator Henderson called from the President's table the Conference Committee Report on **S.B. 740.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Henderson, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1272.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1272 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **S.B. 1272.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Harris, the Conference Committee Report was adopted viva voce vote.

SENATE BILL 1707 WITH HOUSE AMENDMENTS

Senator Barrientos called **S.B. 1707** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment - Delco

Amend **S.B. 1707** as follows:

(1) On page 2, strike lines 8-14, and substitute the following:

(3) not later than March 31, 1990, an incorporated city, town, or village affected by this Act shall award a contract for land acquisition services for the purchase of real property required for the site of a replacement airport and complete a master plan for the replacement airport.

(2) On page 2, line 25, strike "interested" and substitute "affected".

(3) On page 2, line 18, strike "1990" and substitute "1991".

Amendment on Third Reading - Delco

Amend **S.B. 1707** on third reading by striking Subdivision (3) (page 2, lines 8-14, as amended on second reading) and substitute the following:

(3) not later than March 31, 1990, an incorporated city, town, or village affected by this Act shall award a contract for land acquisition services for the purchase of real property required for the site of a replacement airport and

complete a master plan for the replacement airport, and, not later than December 31, 1996, provide the replacement airport.

The amendments were read.

Senator Barrientos moved to concur in the House amendments to **S.B. 1707**.

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

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Barrientos and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1646**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1646 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **S.B. 1646**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Barrientos and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1647**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1647 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **S.B. 1647**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Barrientos and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1648**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1648 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **S.B. 1648**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1405

Senator Sims submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1405** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SIMS	CRADDICK
LEEDOM	TURNER
BIVINS	EVANS
RATLIFF	UHER
BROWN	
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
May 29, 1989

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 refused to concur in Senate amendments to **H.B. 1458** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Guerrero, Chair; T. Smith, Swift, Harrison, Waterfield.

The House has refused to concur in Senate amendments to **H.B. 30** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Clemons, Chair; McCollough, C. Harris, P. Hill, Parker.

The House has refused to concur in Senate amendments to **H.B. 1614** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Perez, Chair; Saunders, Hightower, Kuempel, S. Hudson.

The House has refused to concur in Senate amendments to **H.B. 1582** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Warner, Chair; Parker, McCollough, Richardson, Hilbert.

The House has refused to concur in Senate amendments to **H.B. 1434** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Eckels, Chair; Repp, Seidlits, T. Hunter, Blair.

The House has concurred in Senate amendments to the following House Bills by non-record votes:

H.B. 524	**H.B. 1225**	**H.B. 1494**	**H.B. 2634**
H.B. 579	**H.B. 1231**	**H.B. 1531**	**H.B. 2736**
H.B. 696	**H.B. 1270**	**H.B. 1533**	**H.B. 2970**
H.B. 731	**H.B. 1285**	**H.B. 2301**	**H.B. 3042**
H.B. 1059	**H.B. 1344**	**H.B. 2600**	**H.B. 3043**
			H.B. 3065

The House has adopted the Conference Committee Report on **S.J.R. 11** by a record vote of 143 Ayes, 2 Nays, 2 Present-not voting.

The House has adopted the Conference Committee Report on **H.B. 2335** by a record vote of 144 Ayes, 0 Nays, 1 Present-not voting.

The House has adopted the Conference Committee Report on **H.B. 1588** by a record vote of 148 Ayes, 1 Nays, 1 Present-not voting.

The House has refused to concur in Senate amendments to **H.B. 1446** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Martinez, Chair; Polumbo, Eckels, Evans, A. Luna.

The House has refused to concur in Senate amendments to **H.B. 1671** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Melton, Chair; Robinson, Willy, Willis, Haggerty.

The House has refused to concur in Senate amendments to **H.B. 2629** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Kuempel, Chair; Hollowell, Lucio, Willis, Rangel.

The House has refused to concur in Senate amendments to **H.B. 2494** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Valigura, Chair; Kuempel, Eckels, Oakley, Fraser.

The House has refused to concur in Senate amendments to **H.B. 2896** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: P. Hill, Chair; Perez, S. Thompson, Shine, Larry.

The House has refused to concur in Senate amendments to **H.B. 2816** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Colbert, Chair; Hammond, Schoolcraft, G. Luna, Price.

The House concurred in Senate amendments to **H.B. 504** by a record vote of 125 Ayes, 19 Nays, 1 Present-not voting.

The House concurred in the revenue dedication portion of Senate amendments to **H.B. 183** by a record vote of 139 Ayes, 1 Nay, 1 Present-not voting, and by a non-record vote on the remainder of the bill.

The House has refused to concur in Senate amendments to **H.B. 2473** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Danburg, Chair; Blair, Clemons, Vowell, Waterfield.

The House has refused to concur in Senate amendments to **H.B. 2260** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Wilson, Chair; Collazo, Earley, Hury, Pennington.

The House has refused to concur in Senate amendments to **H.B. 2192** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Glossbrenner, Chair; Colbert, G. Luna, Horn, Delco.

The House has refused to concur in Senate amendments to **H.B. 2064** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Oakley, Chair; Wilson, B. Hunter, Wright, Morales.

The House has refused to concur in Senate amendments to **H.B. 1986** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Beauchamp, Chair; Pierce, Eckels, T. Hunter, Haggerty.

The House has refused to concur in Senate amendments to **H.B. 1884** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Richardson, Chair; Stiles, Wolens, Heflin, F. Hill.

The House has refused to concur in Senate amendments to **H.B. 1868** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Shelley, Chair; C. Harris, P. Hill, Parker, D. Smith.

The House has refused to concur in Senate amendments to **H.B. 1860** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Colbert, Chair; A. Luna, Harrison, A. Smith, Collazo.

The House has refused to concur in Senate amendments to **H.B. 1790** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Carter, Chair; C. Harris, Parker, Uher, Swift.

The House has refused to concur in Senate amendments to **H.B. 3164** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: A. Hill, Chair; Cain, Wolens, Shea, Blair.

The House has refused to concur in Senate amendments to **H.B. 3066** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: J. Johnson, Chair; Wentworth, Willy, Soileau, Chisum.

The House has refused to concur in Senate amendments to **H.B. 3187** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: T. Smith, Chair; Campbell, Kuempel, Stiles, Saunders.

The House has refused to concur in Senate amendments to **H.J.R. 36** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: H. Cuellar, Chair; Telford, Saunders, P. Moreno, Harrison.

The House has refused to concur in Senate amendments to **H.B. 2485** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Campbell, Chair; Guerrero, T. Smith, Delco, Richardson.

The House has concurred in Senate amendments to the following House bills by non-record votes:

H.B. 1576	**H.B. 1935**
H.B. 1777	**H.B. 1967**
H.B. 1786	**H.B. 1992**
H.B. 1803	**H.B. 2060**
H.B. 1808	**H.B. 2247**
H.B. 1849	**H.B. 2420**
H.B. 1929	**H.B. 2435**
	H.B. 2489

The House recommitted the Conference Committee Report on **S.B. 895** back to Conference Committee.

The House has refused to concur in Senate amendments to **H.B. 646** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Carter, Chair; C. Harris, Uher, Parker, B. Hunter.

The House has refused to concur in Senate amendments to **H.B. 721** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Oakley, Chair; Brimer, Counts, Warner, Rangel.

The House has refused to concur in Senate amendments to **H.B. 775** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: H. Cuellar, Chair; Granoff, McCollough, C. Harris, Smithee.

The House has refused to concur in Senate amendments to **H.B. 879** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Barton, Chair; C. Harris, P. Hill, Mowery, Parker.

The House has refused to concur in Senate amendments to **H.B. 588** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: P. Hill, Chair; Schlueter, T. Hunter, Smithee, Denton.

The House has refused to concur in Senate amendments to **H.B. 791** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: McKinney, Chair; R. Lewis, Perry, Schoolcraft, Park.

The House has refused to concur in Senate amendments to **H.B. 948** and has requested the appointment of a Conference Committee to consider the differences

between the two houses. The following have been appointed on the part of the House: P. Hill, Chair; Marchant, A. Smith, Shine, Repp.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 588

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. 588** 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. 588** 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 Armbrister, Chairman; Glasgow, Krier, Caperton and Johnson.

CONFERENCE COMMITTEE ON HOUSE BILL 1458

Senator Santiesteban 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. 1458** 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. 1458** 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 Santiesteban, Chairman; Ratliff, Uribe, Sims and Carriker.

CONFERENCE COMMITTEE ON HOUSE BILL 721

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. 721** 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. 721** 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; Harris, Green, Carriker and Dickson.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1405**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1405 ADOPTED

Senator Sims called from the President's table the Conference Committee Report on **H.B. 1405**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Sims, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 895 WITHDRAWN

On motion of Senator Harris and by unanimous consent, the Conference Committee Report on **S.B. 895**, read and filed on Sunday, May 28, 1989, was withdrawn.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2248

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2248** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SANTIESTEBAN	JUNELL
CARRIKER	H. CUELLAR
MONTFORD	YOST
BROWN	WILLY
LYON	SWIFT
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 983 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **H.B. 983**. (The Conference Committee Report having been filed with the Senate and read on Sunday, May 28, 1989.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1292

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1292** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BARRIENTOS	ARNOLD
JOHNSON	EDGE
PARKER	UHER
EDWARDS	WATKINS
URIBE	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.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Barrientos and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 563**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 563 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 563**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 356**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 356 ADOPTED

Senator Zaffirini called from the President's table the Conference Committee Report on **S.B. 356**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Zaffirini, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Barrientos and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1292**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1292 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 1292**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RESOLUTION 785

Senator Zaffirini offered the following resolution:

S.R. 785, Requesting the State Board of Education to require by rule that local school districts provide a program of education for self-responsibility in each grade from kindergarten through grade 12.

The resolution was read and was adopted viva voce vote.

SENATE RESOLUTION 784

Senator Brooks offered the following resolution:

S.R. 784, Requesting the Congress of the United States to continue the full funding of the National Sea Grant College Program.

The resolution was read and was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 879

Senator Brooks 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. 879** 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. 879** 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 Brooks, Chairman; Glasgow, Krier, Johnson and Parker.

RECESS

On motion of Senator Brooks, the Senate at 3:09 p.m. took recess until 4:00 p.m. today.

AFTER RECESS

The Senate met at 4:00 p.m. and was called to order by the President.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Heavenly Father, on this last day of this Session, we pray for a spirit of sharing—sharing of strengths and of disappointments, sharing of concerns and of hopes—but most of all, the sharing of Your grace.

As this 71st Session comes to a close we express gratitude and appreciation to Lieutenant Governor Hobby for his leadership and skillful direction of the energies of this Senate. For this and many other Sessions he has created and nurtured an atmosphere of fairness and openess in this chamber, and today we offer a special

prayer and give thanks for his devotion to his job and good stewardship of the State's business.

Now bless all who work here today. In Your name. Amen.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 the following House bills and resolution by non-record votes:

H.B. 3108
H.B. 3160
H.B. 3204
H.C.R. 238

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 1868

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. 1868** 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. 1868** 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; Henderson, Parker, Dickson and Whitmire.

CONFERENCE COMMITTEE ON HOUSE BILL 1790

Senator Brooks 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. 1790** 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. 1790** 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 Brooks, Chairman; Johnson, Parker, Tejeda and Uribe.

CONFERENCE COMMITTEE ON HOUSE BILL 2473

Senator Brooks 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. 2473** 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. 2473** 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 Brooks, Chairman; Barrientos, Parker, Johnson and Uribe.

CONFERENCE COMMITTEE ON HOUSE BILL 2494

Senator Brooks 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. 2494** 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. 2494** 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 Brooks, Chairman; Santiesteban, Carriker, Tejeda and Uribe.

CONFERENCE COMMITTEE ON HOUSE BILL 2064

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. 2064** 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. 2064** 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, Truan, Barrientos and Lyon.

CONFERENCE COMMITTEE ON HOUSE BILL 3187

Senator Barrientos 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. 3187** 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. 3187** 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 Barrientos, Chairman; Tejeda, Armbrister, Haley and Carriker.

CONFERENCE COMMITTEE ON HOUSE BILL 2260

Senator Harris 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. 2260** 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. 2260** 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 Harris, Chairman; Whitmire, Truan, Glasgow and Dickson.

CONFERENCE COMMITTEE ON HOUSE BILL 3164

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. 3164** 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. 3164** 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; Leedom, Tejeda, Parmer and McFarland.

CONFERENCE COMMITTEE ON HOUSE BILL 1671

Senator Glasgow 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. 1671** 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. 1671** 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 Glasgow, Chairman; Dickson, Bivins, Krier and Parker.

CONFERENCE COMMITTEE ON HOUSE BILL 775

Senator Zaffirini 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. 775** 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. 775** 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 Zaffirini, Chairman; Henderson, Dickson, Parker and Tejeda.

SENATE CONCURRENT RESOLUTION 186

Senator Uribe offered the following resolution:

S.C.R. 186, Allowing conferees on **S.B. 1205** to go outside the language in either house's version of the bill.

The resolution was read.

On motion of Senator Uribe and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1860

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. 1860** 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. 1860** 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; Armbrister, Washington, Whitmire and Uribe.

CONFERENCE COMMITTEE ON HOUSE BILL 2485

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. 2485** 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. 2485** 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 Armbrister, Chairman; Tejeda, Haley, Barrientos and Carriker.

CONFERENCE COMMITTEE ON HOUSE BILL 2629

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. 2629** 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. 2629** 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 Armbrister, Chairman; Montford, Harris, Bivins and Haley.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1520

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1520** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

McFARLAND	CULBERSON
GLASGOW	HARRISON
HENDERSON	GUERRERO
BIVINS	CAIN
DICKSON	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
SENATE BILL 973

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 973** 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.

GLASGOW	MADLA
EDWARDS	R. LEWIS
ARMBRISTER	MARTINEZ
TEJEDA	
LEEDOM	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to services provided by and records maintained by the Bureau of Vital Statistics of the Texas Department of Health or by local registration officials.

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

SECTION 1. Subsection (a), Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), as amended by Chapters 341 and 1053, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(a) All information collected, assembled, or maintained by governmental bodies pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of any governmental body, with the following exceptions only:

(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;

(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

(4) information which, if released, would give advantage to competitors or bidders;

(5) information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;

(6) drafts and working papers involved in the preparation of proposed legislation;

(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

(8) records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution;

(9) private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;

(10) trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision;

(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency;

(12) information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act;

(13) geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency or an electric log confidential under Subchapter M, Natural Resources Code;

(14) student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, that student's parent, legal guardian, or spouse or a person conducting a child abuse investigation required by Section 34.05, Family Code;

(15) birth and death records maintained by the Bureau of Vital Statistics of the Texas Department of Health or by a local registration official, except that:

(A) a birth record is public information and available to the public on and after the 50th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official; and

(B) a death record is public information and available to the public on and after the 25th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official;

(16) the audit working papers of the State Auditor;

(17) the home addresses and home telephone numbers of each official and employee of a governmental body except as otherwise provided by Section 3A of this Act, and of peace officers as defined by Article 2.12, Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code; [~~and~~]

(18) information contained on or derived from triplicate prescription forms filed with the Department of Public Safety pursuant to Section 3.09 of the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes); [~~and~~]

(19) photographs that depict a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer unless:

(A) the officer is under indictment or charged with an offense by information; or

(B) the officer is a party in a fire or police civil service hearing or a case in arbitration; or

(C) the photograph is introduced as evidence in a judicial proceeding;[~~:~~]

(20) [~~(19)~~] rare books and original manuscripts which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research;

(21) [~~(20)~~] oral history interviews, personal papers, unpublished letters, and organizational records of nongovernmental entities, which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research, to the extent that the archival and manuscript repository and the donor of the interviews, papers, letters, and records may agree to limit disclosure of the item; and

(22) [~~(21)~~] curriculum objectives and test items developed by educational institutions that are funded wholly or in part by state revenue.

SECTION 2. Subsection (c), Section 191.004, Local Government Code, as added by Senate Bill No. 220, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(c) Subsection (a) does not apply to birth and death records maintained under the vital statistics laws of this state as provided by Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rules 34a-55a, Article 4477, Vernon's Texas Civil Statutes). The county clerk shall allow access to and give attested copies of a birth record on and after the 50th anniversary of the date on which it is filed and shall allow access to and give attested copies of a death record on and after the 25th anniversary of the date on which it is filed. Before that time, the county clerk shall allow access to and give attested copies of those records only as provided by the vital statistics laws [~~that chapter~~] and rules adopted under those laws [~~that chapter~~].

SECTION 3. Section 1, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Article 4477, Rule 34a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) The Texas [~~State~~] Department of Health shall have charge of the registration of vital statistics; shall establish a Bureau of Vital Statistics with suitable offices properly equipped for the preservation of its official records; shall install a state-wide system of vital statistics; shall make and may amend necessary regulations, give instructions and prescribe forms for collecting, recording, transcribing, compiling and preserving vital statistics; shall require the enforcement of the Vital Statistics Law and the regulations made pursuant thereto; shall in time of emergency be authorized to suspend any part or parts of the Vital Statistics Law which tend to hinder or impede uniform and efficient registration of vital events and substitute therefor emergency regulations designed to expedite such registration under disaster conditions; and shall from time to time recommend any additional legislation that may be necessary for this purpose.

(b) The Bureau of Vital Statistics may charge fees for providing services to the public and performing other activities in connection with maintenance of the vital statistics system. Where applicable under this Act, such services may include, but are not limited to:

(1) performing searches of birth, death, fetal death, marriage, divorce, annulment, and other records;

(2) preparing and issuing copies and certified copies of birth, death, fetal death, marriage, divorce, annulment, and other records; and

(3) filing of any record, amendment, or affidavit required or permitted under this Act.

(c) The Texas Board of Health may adopt rules establishing a schedule of fees for vital statistics services. The Board must establish the amount of the fees so that the aggregate of the fees collected by the Bureau will not exceed the cost of administering the vital statistics system. All funds collected by the Bureau will be deposited in the state treasury to the credit of a special vital statistics fund. The legislature shall make appropriations to the department from the vital statistics fund to be used for the administration and enforcement of the system of vital statistics authorized or mandated by this and other laws.

(d) A local registrar who issues certified copies of death certificates shall charge the same fee as is charged by the Bureau.

(e) The Bureau of Vital Statistics must refund to an applicant any fee received for services which the Bureau cannot render. If the money has been deposited in the vital statistics fund, the Comptroller must issue a warrant against the fund, upon presentation of a claim signed by the State Registrar, for the purpose of refunding the payment.

SECTION 4. Subsection (a), Section 14, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Article 4477, Rule 47a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The standard certificate of birth shall be in such form and shall provide for such items of information as may be prescribed by the Texas Department of Health.

The father of an illegitimate child may acknowledge paternity by executing an affidavit acknowledging paternity according to the requirements of Section 13.22, Family Code. The affidavit may be filed with the Texas Department of Health. If so filed, the affidavit shall be maintained with the original birth record, but shall not become a part thereof. Once filed, such affidavit becomes privileged, and shall be available only to a court of competent jurisdiction, in which a suit of paternity respecting the subject of the affidavit is pending, on motion of the trial judge. Any person may apply to the Texas Department of Health to have any indication of illegitimacy removed from his or her birth record, including separate medical records and the paternity affidavit. [~~The Department shall charge a fee of $10.00 for this service.~~] All items prescribed on the certificate of birth are hereby declared necessary for the legal, social and sanitary purposes subserved by registration records. The items on the birth, death, or fetal death certificate of a child relating to the father of the child shall be completed to show the name and other related information about the father only if:

(1) the mother of the child was married to the father at the time of conception or birth of the child or at some point after birth; or

(2) if the paternity of the child was established by a decree issued by a court of competent jurisdiction. The Texas Department of Health shall be specifically authorized to use and to provide upon request to other state agencies records pertaining to all births in connection with programs to notify the mothers of young children about health needs for the children.

SECTION 5. Subsection (c), Section 17A, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Article 4477, Rule 50b, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The Bureau of Vital Statistics shall upon request furnish any information it has on record pertaining to the marriage of any person, but the Bureau shall not issue any certificate or certified copies of the information. [~~The Bureau may charge a fee of $2 for the information it gives relating to any person under this Section. All fees collected under this Section shall be deposited in the State Treasury to the credit of the Vital Statistics Fund.~~]

SECTION 6. Subsection (g), Section 17B, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Article 4477, Rule 50c, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) The state registrar shall, upon request, furnish to any applicant any information he has on record pertaining to any divorce or annulment of marriage, but he shall not issue certified copies of reports of divorces or annulments of marriages. [~~The state registrar shall charge the applicant a fee of $2.00 for searching the statewide index of divorces and annulments of marriages, and all fees collected under this section shall be deposited in the state treasury to the credit of the Vital Statistics Fund.~~]

SECTION 7. Subdivision (9), Subsection B, Section 18, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Article 4477, Rule 51a, Vernon's Texas Civil Statutes), is repealed.

SECTION 8. Section 21, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Article 4477, Rule 54a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 21. Copies of Records. [~~(a)~~] Subject to the regulations of the Texas Department of Health controlling the accessibility of vital records, the State Registrar shall, upon request, supply to any properly qualified applicant a certified copy of a record, or any part thereof, registered under the provisions of this Act. [~~The State Registrar is entitled to a fee of Five Dollars ($5.00) for each copy of a birth record or part of a record and Five Dollars ($5.00) for the first copy of a death record and Two Dollars ($2.00) for each additional copy of the record requested by~~

~~the applicant in a single request. The fee is to be paid by the applicant. A local registrar who issues certified copies of death certificates shall charge the same fee as is charged by the State Registrar.~~] Certified copies shall be issued only in the form approved by the Texas Department of Health. And any such copy of a record, when properly certified by the State Registrar, shall be prima facie evidence in all courts and places of the facts therein stated. [~~For any search of the files where a record is not found or a certified copy is not made, the State Registrar shall be entitled to a fee of Five Dollars ($5.00), said fee to be paid by the applicant.~~] The State Registrar shall, upon request of any parent or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment. The State Registrar shall issue free of cost to any veteran, his widow, orphan or other dependents, a certified copy of any record not otherwise prohibited by law when such record is to be used in the settlement of a claim against the government. The State Registrar may issue, upon court order, without fee, a certified copy of a birth record in cases relating to child labor and the public schools. Provided, that the national agency in charge of the collection of vital statistics may obtain, without expense to the State, transcripts of vital records without payment of the fees herein prescribed; and provided further, that the State Registrar is hereby authorized to act as special agent for that agency in accepting the use of the franking privilege and blanks furnished by that agency; and provided further, that the Bureau of Vital Statistics of the Texas Department of Health is hereby authorized to enter into a contract with the national agency in charge of the collection of vital statistics in order to have transcribed for that agency copies of vital records filed with the State Bureau of Vital Statistics. [~~The State Registrar shall keep a true and correct account of all money received by him under these provisions, and deposit the same with the State Treasurer at the close of each month and at such other intervals as the Registrar deems advisable, and all such money shall be kept by the State Treasurer in a special and separate fund, to be known as the vital statistics fund, and the amounts so deposited in this fund shall be used for defraying expenses incurred in the enforcement and operation of this Act.~~

[~~(b) The State Registrar shall refund to the applicant any fee received for services which the Bureau cannot render. If the money has been deposited in the vital statistics fund, the Comptroller shall issue a warrant against the fund, upon presentation of a claim signed by the State Registrar, for the purpose of refunding the payment.~~

[~~(c) The State Registrar shall be entitled to a fee of Ten Dollars ($10.00) for filing a new birth certificate based on adoption, a fee of Ten Dollars ($10.00) for filing a new birth certificate based on legitimation or paternity determination, a fee of Seven Dollars ($7.00) for filing an amendment to a birth certificate based on a court order of change of name, and a fee of Seven Dollars ($7.00) for filing an amendment to complete or correct a birth or death certificate, said fees to be paid by the applicants.~~]

SECTION 9. This Act takes effect September 1, 1989, and applies to birth or death records filed before, on, or after that date.

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.

SENATE CONCURRENT RESOLUTION 188

Senator Parker offered the following resolution:

S.C.R. 188, Allowing conferees to go outside the language in either house's version of **S.B. 1019**.

The resolution was read.

On motion of Senator Parker and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1868

Senator Green submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1868** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GREEN	SHELLEY
PARKER	P. HILL
DICKSON	PARKER
WHITMIRE	C. HARRIS
	D. SMITH
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)

SENATE CONCURRENT RESOLUTION 185

Senator Parker offered the following resolution:

S.C.R. 185, Requesting the Lieutenant Governor and Speaker, pursuant to **H.C.R. 142** (71st Legislature, Regular Session), to establish the Joint Interim Committee on Prescription Drug Programs.

PARKER
BROOKS

The resolution was read.

On motion of Senator Parker and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1458

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1458** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SANTIESTEBAN	GUERRERO
RATLIFF	T. SMITH
	SWIFT
URIBE	HARRISON
CARRIKER	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 255

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 255** 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	GAVIN
CAPERTON	CAVAZOS
HARRIS	SHEA
LYON	TAYLOR
PARKER	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of insurance companies; providing penalties.

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

PREAMBLE; LEGISLATIVE INTENT

This Act is prospective in nature. Nothing in this Act is intended to affect any pending litigation.

ARTICLE 1. FINANCIAL REQUIREMENTS

SECTION 1.01. Section 16, Article 1.10, Insurance Code, is amended to read as follows:

16. Admit Mutual Companies. The Board shall admit into this State mutual insurance companies engaged in cyclone, tornado, hail and storm insurance which are organized under the laws of other states and which have Two Million ($2,000,000.00) [~~Two Hundred Thousand ($200,000.00)~~] Dollars assets in excess of liabilities.

SECTION 1.02. Section 1, Article 3.02, Insurance Code, is amended to read as follows:

Sec. 1. Any three or more citizens of this State may associate themselves for the purpose of forming a life insurance company, or accident insurance company, or life and accident, health and accident, or life, health and accident insurance company. No such company shall transact more than one of the foregoing classes of business except in separate and distinct departments. In order to form such a company, the corporators shall sign and acknowledge its articles of incorporation and file the same in the office of the State Board of Insurance. Such articles shall specify:

1. The name and place of residence of each of the incorporators;
2. The name of the proposed company, which shall contain the words "Insurance Company" as a part thereof, and the name selected shall not be so similar to that of any other insurance company as to be likely to mislead the public;
3. The location of its home office;
4. The kind or kinds of insurance business it proposes to transact;
5. The amount of its capital stock and its surplus, that in no case may be less than Seven Hundred Thousand ($700,000.00) [~~Two Hundred Thousand ($200,000.00)~~] Dollars capital and Seven Hundred Thousand ($700,000.00) [~~Four Hundred Thousand ($400,000.00)~~] Dollars surplus; all of which capital stock must be fully subscribed and fully paid up and in the hands of the corporators before said articles of incorporation are filed. Such minimum capital and surplus shall, at the time of incorporation, consist only of lawful money of the United States or bonds of the United States or of this State or of any county or incorporated municipality thereof, or government insured mortgage loans which are otherwise authorized by this chapter, and shall not include any real estate; provided, however, that fifty (50%) per cent of the minimum capital may be invested in first mortgage real estate loans. After the granting of charter the surplus may be invested as otherwise provided in this Code. Notwithstanding any other provisions of this Code, such minimum capital shall at all times be maintained in cash or in the classes of investments described in this article;
6. The period of time it is to exist, which may be perpetual [~~shall not exceed five hundred years~~];
7. The number of shares of such capital stock;
8. Such other provisions not inconsistent with the law as the corporators may deem proper to insert therein.

SECTION 1.03. Subsection (a), Section 2, Article 3.02, Insurance Code, is amended to read as follows:

(a) If an insurance company [is] subject to this chapter and [is] doing business in this State as an authorized insurer [~~on the effective date hereof and on that date~~] has less than Seven Hundred Thousand ($700,000.00) [~~Two Hundred Thousand~~

~~($200,000.00)~~] Dollars capital and Seven Hundred Thousand ($700,000.00) Dollars surplus, it may continue to transact the kind or kinds of insurance business for which it holds [~~held~~] a Texas certificate of authority. However, the [~~on that date, provided that the~~] insurance company must increase [~~increases~~] its capital to [~~so that it has~~] at least Seven Hundred Thousand ($700,000.00) [~~Two Hundred Thousand ($200,000.00)~~] Dollars [~~capital, either at the time of or~~] immediately after any change of control of the insurance company or any holding company controlling the insurance company[;] if after August 31, 1989, when considered cumulatively, there has been a change of control of at least 50 percent of the voting securities of the insurance company or other means of control if the insurance company or holding company is not controlled by voting securities [~~at any time after such change of control, the controlling person or persons in the aggregate own, hold, or control in the aggregate at least fifty (50%) percent of the voting securities of the insurance company~~]. The insurance company is not required to increase its surplus. For the purposes of this section, a transfer of ownership that occurs because of death, irrespective of whether the decedent died testate or intestate, may not be considered a change of control of an insurance company or change of control of a holding company, if ownership is transferred solely to one or more natural persons, each of whom would be an heir of the decedent if the decedent had died intestate.

SECTION 1.04. Chapter 1, Insurance Code, is amended by adding Article 1.25A to read as follows:

Art. 1.25A. EXAMINATION AND REPORT ON CAPITAL AND SURPLUS. (a) If the State Board of Insurance determines that any capital or surplus requirements established by this code for any insurance companies are inadequate, the board shall include in its report to the governor and the legislature specific recommendations relating to the amounts at which those capital or surplus requirements should be set and the findings and evidence on which those recommendations are based.

(b) The State Board of Insurance shall submit its report to the governor and the legislature not later than December 31 of each even-numbered year.

SECTION 1.05. Article 11.10, Insurance Code, is amended to read as follows:

Art. 11.10. MUTUAL ASSESSMENT COMPANIES MAY CONVERT

Sec. 1. Except as provided by Section 3 of this article, mutual [~~Mutual~~] assessment companies and associations organized and operating under the laws of this State on May 17, 1943 which desire to convert to a mutual legal reserve company, and qualify under Chapter 11 of the Insurance Code, shall be required at the time of conversion to be possessed of free surplus of not less than One Million Four Hundred Thousand ($1,400,000.00) [~~Two Hundred Thousand ($200,000.00)~~] Dollars. In order to convert, such company shall comply with the provisions of Articles 11.01 and 11.02 of the Insurance Code as amended, and upon such conversion shall be subject to all of the provisions of Chapter 11 of this Code.

Sec. 2. Nothing in this article or in the provisions of this chapter or Chapter 3 of this Code shall ever be construed to mean that any of the associations or similar concerns, by whatsoever name or class designated, whether specifically named herein or not, shall be required by the State Board of Insurance [~~Commissioners~~] to convert to mutual legal reserve companies as herein authorized unless they voluntarily decide to do so; and if such associations have not heretofore voluntarily decided to come under this chapter, and if such associations do not hereafter so voluntarily decide to come under this chapter, then this chapter shall not in any way apply to any such associations.

Sec. 3. (a) The requirement under Section 1 of this article that a mutual assessment company or association have a surplus of at least One Million Four Hundred Thousand ($1,400,000.00) Dollars does not apply to a mutual assessment company or association that converts to a Chapter 11 company if:

(1) the mutual assessment company or association shall be possessed of free and unencumbered surplus of at least Two Hundred Thousand ($200,000.00) Dollars; and

(2) the conversion takes effect before September 1, 1999.

(b) A mutual assessment company or association that is converted on or after September 1, 1989, and that has less than One Million Four Hundred Thousand ($1,400,000.00) Dollars surplus may continue to transact the kind or kinds of insurance business for which it has been issued a Texas certificate of authority. However, a mutual assessment company or association that is converted on or after September 1, 1989, must increase its surplus to at least One Million Four Hundred Thousand ($1,400,000.00) Dollars immediately after any change of control of the converted mutual assessment company or association or any holding company controlling the converted mutual assessment company or association if, after August 31, 1989:

(1) there is a change of control of at least 50 percent of the voting securities of the converted company or association; or

(2) if the converted mutual assessment company or association or holding company is not controlled by voting securities, there is a change of at least 50 percent of the ownership of the converted mutual assessment company or association or holding company.

(c) For the purpose of Subsection (b) of this section, a transfer of ownership that occurs because of death, irrespective of whether the decedent died testate or intestate, may not be considered a change of control of a converted mutual assessment company or association or change of control of a holding company, if ownership is transferred solely to one or more natural persons, each of whom would be an heir of the decedent if the decedent had died intestate.

SECTION 1.06. Article 14.63, Insurance Code, is amended to read as follows:

Art. 14.63. CONVERSION OF LOCAL MUTUAL AID ASSOCIATION OR STATEWIDE MUTUAL ASSESSMENT COMPANY INTO STOCK LEGAL RESERVE LIFE INSURANCE COMPANY

Sec. 1. Any local mutual aid association or statewide mutual assessment company or association doing business in this State on January 1, 1955, may convert into a stock legal reserve life insurance company, provided such company or association so converted has at least One Hundred Thousand ($100,000.00) Dollars in its claim or mortuary fund at the time of such conversion and complies with the following provisions:

a. Except as provided by Section 2 of this article, there [~~There~~] shall be contributed in cash of the United States the additional sum of not less than Seven Hundred Thousand ($700,000.00) [~~Fifty Thousand ($50,000.00)~~] Dollars in capital and not less than Seven Hundred Thousand ($700,000.00) [~~Twenty-five Thousand ($25,000.00)~~] Dollars in surplus.

b. All policies of insurance in force shall be exchanged for a legal reserve policy in accordance with the provisions of Section 2 of Article 14.61 of this Code.

c. Such conversion shall only be made upon a vote of the membership duly called for such purposes. Pursuant to such authorization, the board of directors and officers of such company or association shall amend its existing charter or articles of association, as the case may be, so as to comply with the requirements contained in Article 3.02 of this Code, as amended, except as to the capital and surplus requirements thereof.

d. After the exchange of such mutual assessment policies for legal reserve policies in accordance with the provisions of Section 2 of Article 14.61, the proper legal reserve required by Chapter 3 of this Code, as amended, shall be established and maintained for such policies so as to leave the capital of the

company at all times unimpaired and not less than Seven Hundred Thousand ($700,000.00) [~~Fifty Thousand ($50,000.00)~~] Dollars.

e. After compliance with the provisions hereof, and approval of the same by the State Board of Insurance [~~Attorney General of the State of Texas and the Board of Insurance Commissioners~~], such company or association shall be and become a legal reserve stock life insurance company, except that such company so converted shall not: (1) operate in any territory not previously authorized under the old charter or articles of association, as the case may be; nor (2) insure any life for more than Five Thousand ($5,000.00) Dollars in event of death; nor (3) declare or pay any cash dividends; unless and until the capital and surplus of such converted company or association shall be increased to the minimum capital and surplus required for the organization of a stock legal reserve life insurance company under the provisions of Chapter 3 of this Code.

Sec. 2. (a) The requirement under Section 1 of this article that a converted local mutual aid association or statewide mutual assessment company or association have capital of at least Seven Hundred Thousand ($700,000.00) Dollars and surplus of at least Seven Hundred Thousand ($700,000.00) Dollars does not apply to a local mutual aid association or statewide mutual assessment company or association that converts to a Chapter 3 company, if:

(1) a converted local mutual aid association or statewide mutual assessment company or association shall be possessed with at least One Hundred Thousand ($100,000.00) Dollars in capital and at least One Hundred Thousand ($100,000.00) Dollars in free and unencumbered surplus; and

(2) the conversion takes effect before September 1, 1999.

(b) A local mutual aid association or statewide mutual assessment company or association that is converted on or after September 1, 1989, and that has, after conversion, less than Seven Hundred Thousand ($700,000.00) Dollars capital and Seven Hundred Thousand ($700,000.00) Dollars surplus may continue to transact the kind or kinds of insurance business for which it has been issued a Texas certificate of authority. However, a local mutual aid association or statewide mutual assessment company or association that is converted on or after September 1, 1989, must increase its capital to at least Seven Hundred Thousand ($700,000.00) Dollars and its surplus to at least Seven Hundred Thousand ($700,000.00) Dollars immediately after any change of control of the converted local mutual aid association or statewide mutual assessment company or association or any holding company controlling the converted local mutual aid association or statewide mutual assessment company or association if, after August 31, 1989:

(1) there is a change of control of at least 50 percent of the voting securities of the converted company or association; or

(2) if the converted company or association or holding company is not controlled by voting securities, there is a change of at least 50 percent of the ownership of the local mutual aid association or statewide mutual assessment company or association or holding company.

(c) For the purposes of Subsection (b) of this section, a transfer of ownership that occurs because of death, irrespective of whether the decedent died testate or intestate, is not considered a change of control of a converted local mutual aid association or statewide mutual assessment company or association or change of control of a holding company, if ownership is transferred solely to one or more natural persons, each of whom would be an heir of the decedent if the decedent had died intestate.

Sec. 3. Any such company or association so converted shall within ten (10) years from the date of its conversion increase its capital and surplus to the minimum capital and surplus then required to organize a stock legal reserve life insurance company under the provisions of Chapter 3 of the Insurance Code, or its certificate

of authority to do business shall be revoked by the Board of Insurance Commissioners.

Sec. 4 [3]. From and after the date of such conversion such legal reserve stock life insurance company shall be governed by the provisions of Chapter 3 of the Insurance Code, as amended, except as otherwise herein provided.

SECTION 1.07. Article 22.20, Insurance Code, is amended to read as follows:

Art. 22.20. CONVERSION TO CHAPTER THREE (3) COMPANY

Sec. 1. Except as provided by Section 2 of this article, at [~~At~~] such time that a stipulated premium company shall be possessed with at least Seven Hundred Thousand Dollars ($700,000.00) [~~One Hundred Thousand Dollars ($100,000.00)~~] in capital and at least Seven Hundred Thousand Dollars ($700,000.00) [~~One Hundred Thousand Dollars ($100,000.00)~~] in free and unencumbered surplus and additionally shall have on hand sufficient reserves so as to reserve all of its policies under the provisions of Chapter 3 of this Code, the stockholders of the stipulated premium company may convert the stipulated premium company into a legal reserve company under the provisions of Chapter 3 of this Code. Within thirty (30) days following such conversion, the converted company shall furnish to each and every policyholder a certificate of assumption whereby the policy liability is assumed by the converted company and which said assumption certificate shall contain all of the provisions required by Chapter 3 of this Code. In consummating said conversion, each and every of the requirements of Chapter 3 of this Code shall be complied with and the State Board of Insurance shall approve such conversion only after determining that said converted company has complied with said Chapter 3 of this Code.

Sec. 2. (a) The requirement under Section 1 of this article that a stipulated premium company have capital of at least Seven Hundred Thousand Dollars ($700,000.00) and surplus of at least Seven Hundred Thousand Dollars ($700,000.00) does not apply to a stipulated premium company that converts to a Chapter 3 company, if:

(1) the stipulated premium company was organized before September 1, 1989;

(2) the stipulated premium company shall be possessed with at least One Hundred Thousand Dollars ($100,000.00) in capital and at least One Hundred Thousand Dollars ($100,000.00) in free and unencumbered surplus; and

(3) the conversion takes effect before September 1, 1999.

(b) A stipulated premium company that is converted on or after September 1, 1989, and that has less than Seven Hundred Thousand Dollars ($700,000.00) capital and Seven Hundred Thousand Dollars ($700,000.00) surplus may continue to transact the kind or kinds of insurance business for which it has been issued a Texas certificate of authority. However, a stipulated premium company that is converted after September 1, 1989, must increase its capital to at least Seven Hundred Thousand Dollars ($700,000.00) and its surplus to at least Seven Hundred Thousand Dollars ($700,000.00) immediately after any change of control of the converted stipulated premium company or any holding company controlling the converted stipulated premium company if, after August 31, 1989:

(1) there has been a change of control of at least 50 percent of the voting securities of the converted stipulated premium company; or

(2) if the converted stipulated premium company or holding company is not controlled by voting securities, there is a change of at least 50 percent of the ownership of the stipulated premium company or holding company.

(c) For the purposes of Subsection (b) of this section, a transfer of ownership that occurs because of death, irrespective of whether the decedent died testate or intestate, may not be considered a change of control of a converted stipulated premium company or change of control of a holding company, if ownership is

transferred solely to one or more natural persons, each of whom would be an heir of the decedent if the decedent had died intestate.

ARTICLE 2. AUDITS AND EXAMINATIONS

SECTION 2.01. Chapter 1, Insurance Code, is amended by adding Article 1.15A to read as follows:

Art. 1.15A. INDEPENDENT AUDIT OF FINANCIAL STATEMENT

Sec. 1. PURPOSE. The purpose of this article is to require an annual examination by an independent certified public accountant of the financial statements reporting the financial condition and the results of operations of each insurer.

Sec. 2. APPLICATION. This article applies to each insurer except an insurer exempt under Section 4, 5, 6, or 7 of this article.

Sec. 3. DEFINITIONS. In this article:

(1) "Accountant" means an independent certified public accountant or accounting firm that is in good standing with the American Institute of CPAs and that holds a valid, current license to practice accounting in each state in which the accountant or accounting firm acts as an accountant.

(2) "Affiliate" has the meaning assigned by Subsection (a) of Section 2 of Article 21.49-1 of this code.

(3) "Audited financial report" means an audited financial report filed annually by an insurer that includes those items listed in Section 10 of this article and any other items specifically required by the insurance laws of this state.

(4) "Board" means the State Board of Insurance.

(5) "Commissioner" means the commissioner of insurance.

(6) "Insurer" means an insurer authorized to do business under the law of this state and includes life, health, and accident insurance companies, fire and marine companies, general casualty companies, title insurance companies, fraternal benefit societies, mutual life insurance companies, local mutual aid associations, statewide mutual assessment companies, mutual insurance companies other than life, farm mutual insurance companies, county mutual insurance companies, Lloyd's plans, reciprocal and interinsurance exchanges, group hospital service corporations, health maintenance organizations, stipulated premium insurance companies, and nonprofit legal services corporations.

(7) "Subsidiary" has the meaning assigned by Section 2 of Article 21.49-1 of this code.

Sec. 4. AUTOMATIC EXEMPTION. (a) An insurer otherwise subject to this article that has less than $750,000 in direct premiums written in this state during a calendar year or that has less than a total of 1,000 policyholders and certificate holders at the end of a calendar year, in lieu of the annual examination required by this article for that calendar year, may submit an affidavit under oath of an officer of the insurer that specifies the amount of direct premiums written in this state and the total number of policyholders and certificate holders.

(b) The affidavit required by Subsection (a) of this section must be filed with the commissioner on or before June 30 of the calendar year in which the audited financial report required by this article would be filed.

(c) An insurer who intends to file for an exemption under this section must submit a letter of intent to the commissioner not later than December 31 of the calendar year for which the exemption is to be claimed.

Sec. 5. EXEMPTION FOR INSURERS UNDER SUPERVISION OR CONSERVATORSHIP. Unless ordered by the commissioner or required under this code, an insurer that is under supervision or conservatorship pursuant to Article 21.28-A of this code is exempt under this article.

Sec. 6. EXEMPTION FOR INSURERS FILING AUDITS IN ANOTHER STATE. (a) An insurer that files an audited financial report in another state,

pursuant to that state's requirement for audited financial reports, may be exempt from filing a report under this article if the commissioner:

(1) finds that the other state's requirements are substantially similar to the requirements in this article; and

(2) authorizes the exemption.

(b) A copy of the audited financial report and the evaluation of accounting procedures and systems of internal control report of an insurer exempt under Subsection (a) of this section that is filed with the other state must be filed with the commissioner in accordance with the filing dates provided by Sections 9 and 16 of this article.

(c) A copy of a notification of adverse financial conditions report filed with the other state by a person exempt under this section must be filed with the commissioner within the time provided by Section 15 of this article.

Sec. 7. FINANCIAL HARDSHIP EXEMPTION. (a) An insurer otherwise subject to this article and not eligible for an exemption under Section 4, 5, or 6 of this article may apply to the commissioner for a financial hardship exemption or a financial hardship examination.

(b) Financial hardship is presumed to exist if the projected reasonable costs of the audit would exceed the lesser of:

(1) one percent of the insurer's capital and surplus reflected in the insurer's annual statement filed with the board for the calendar year for which the exemption is sought; or

(2) three percent of the insurer's net direct premiums written in this state during the calendar year for which the exemption is sought as reflected in the insurer's annual statement filed with the board. The expense fund of each mutual assessment company or association regulated by Chapter 14, Insurance Code, shall for purposes of this subsection be deemed and considered to be the capital and surplus of that company or association.

(c) Upon a finding of financial hardship as provided by this section, the commissioner shall either:

(1) exempt the insurer from the requirements of this article; or

(2) direct a financial hardship examination to be performed in the manner provided in Article 1.15 of this code. If the commissioner directs an examination, the costs of each examination shall be paid by each insurer examined, and each examination shall be conducted by examiners employed as regular staff of the State Board of Insurance.

(d) The application for a financial hardship exemption must include an affidavit sworn to by a responsible officer of the insurer that specifies:

(1) the projected cost of the independent audit;

(2) the insurer's capital and surplus or the amount of the insurer's direct premiums written in this state for the calendar year as reflected by the annual statement filed with the board;

(3) the name of the accountant who prepared the projected cost of the audit; and

(4) any other information required under rules adopted by the board pursuant to this article.

(e) The accountant providing the projected cost estimate under Subsection (d)(1) of this article must be registered with the commissioner as required by Section 11 of this article. The commissioner may not accept a projected cost under Subsection (d)(1) of this section from an insurer that is prepared by an accountant that is not registered pursuant to Section 11 of this article.

(f) The application for an exemption must be submitted to the commissioner on or before April 30 of the calendar year in which the audited financial report is required by this article to be filed.

(g) If an insurer does not qualify for an exemption for financial hardship under Subsection (b) of this section, the insurer may submit an application for a financial hardship exemption together with an affidavit sworn to by a responsible officer of the insurer that specifies the reasons that compliance with this article will create a financial hardship. The application and affidavit must be submitted to the commissioner in the form required by the commissioner on or before April 30 of the calendar year in which the audited financial report is required by this article to be filed. The commissioner may grant a financial hardship exemption for reasons other than those listed in Subsection (b) of this section if the commissioner finds that the reasons stated in the application and affidavit constitute a financial hardship.

Sec. 8. BOARD'S AUTHORITY. This article does not prohibit, preclude, or limit the board from ordering, conducting, or performing an examination of any insurer under this code or the board's rules.

Sec. 9. FILING AND EXTENSIONS FOR FILING OF ANNUAL AUDITED FINANCIAL REPORTS. (a) Each insurer shall have an annual audit by an accountant and shall file an audited financial report for the preceding calendar year with the commissioner on or before June 30 of each year.

(b) Extension of the filing date for the audited financial report may be granted by the commissioner for 30-day periods on a showing by the insurer and its accountant of reasons for requesting the extension and determination by the commissioner of good cause for an extension. The request for extension must be submitted in writing before the 10th day preceding the date the report is due to be filed and must include sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

Sec. 10. CONTENTS OF AUDITED FINANCIAL REPORT. (a) The audited financial report shall report the financial condition of the insurer as of the end of the most recent calendar year and the results of the insurer's operations, changes in financial position, and changes in capital and surplus for that year in conformity with statutory accounting practices prescribed or otherwise permitted by the insurance regulator in the state of domicile.

(b) The audited financial report must include the following:

(1) the report of an accountant;

(2) a balance sheet that reports admitted assets, liabilities, capital, and surplus;

(3) a statement of gain or loss from operations;

(4) a statement of changes in financial position;

(5) a statement of changes in capital and surplus;

(6) any notes to financial statements; and

(7) supplementary data and information including any additional data or information required by the commissioner.

(c) The notes to the financial statements required by Subdivision (6) of Subsection (b) of this section must include:

(1) a reconciliation of differences, if any, between the audited statutory financial statements and the annual statements filed pursuant to this code with a written description of the nature of these differences; and

(2) a narrative explanation of all significant intercompany transactions and balances.

(d) The financial statements included in the audited financial report must be prepared in a form and using language and groupings substantially the same as the relevant sections of the insurer's annual statement filed with the commissioner. Except in the first year in which an insurer is required to file an audited financial report, the financial statements also must be comparative, presenting the amounts as of December 31 of the reported year and the amounts as of December 31 of the preceding year.

Sec. 11. DESIGNATION OF ACCOUNTANT. (a) Each insurer must register with the commissioner the name and address of the accountant retained to prepare an audited financial report required by this article. The registration must be made in writing not later than December 31 of the calendar year to be covered by the audited financial report.

(b) The commissioner may not accept an audited financial report from an insurer that is prepared by an accountant that is not registered under this section.

(c) The commissioner may not accept registration under this section for a person who does not comply with the requirements of this article.

Sec. 12. QUALIFICATIONS OF ACCOUNTANT. (a) The commissioner may call and hold a hearing to determine if an accountant is independent and, considering the evidence presented, may rule that the accountant is not independent for purposes of expressing an opinion on the financial statements in the audited financial report filed under this article.

(b) If the commissioner rules that an accountant is not independent, the commissioner shall issue an order directing the insurer to replace the accountant with another accountant whose relationship with the insurer is independent for the purposes of expressing an opinion on the financial statements in the audited financial report filed under this article.

Sec. 13. CONSOLIDATED OR COMBINED AUDITS. (a) Before an insurer may file an audited financial report covering combined or consolidated audited financial statements for the insurer and any of its subsidiaries or affiliates, the insurer must submit to the commissioner a written application for approval to file an audited financial report covering those combined or consolidated audited financial statements. The application for approval must be filed on or before December 31 of the calendar year for which the combined or consolidated audited financial statements are to be filed.

(b) An insurer that receives approval from the commissioner under Subsection (a) of this section must file a columnar consolidating or combining worksheet for consolidated or combined financial statements that must include the following:

(1) amounts shown on the consolidated or combined audited financial statements;

(2) amounts for each insurer stated separately;

(3) noninsurance operations shown on a combined or individual basis;

(4) explanations of consolidating and eliminating entries; and

(5) reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the insurers' annual statements.

(c) An insurer who does not receive approval from the commissioner to file an audited financial report covering combined or consolidated audited financial statements for the insurer and any of its subsidiaries or affiliates must file pursuant to all the requirements of this article a separate audited financial report for the insurer and each subsidiary or affiliate.

(d) Notwithstanding any provision of this section, the commissioner may require an insurer to file a separate audited financial report for the insurer and each subsidiary or affiliate.

Sec. 14. SCOPE OF ACCOUNTANT'S EXAMINATION AND REPORT. (a) The financial reports furnished under Section 9 of this article must be examined by an accountant.

(b) The examination of an insurer's financial reports shall be conducted in accordance with generally accepted auditing standards and other procedures as the accountant considers necessary illustrated in the Examiner's Handbook promulgated by the National Association of Insurance Commissioners.

(c) The commissioner by rule may adopt additional procedures to be observed by the accountant in the examination of the financial reports of insurers.

Sec. 15. NOTIFICATION OF ADVERSE FINANCIAL CONDITION. (a) An insurer required to furnish an audited financial report shall require the accountant to immediately notify in writing an executive officer and all directors of the insurer of a final determination by that accountant that:

(1) the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination; or

(2) the insurer does not meet the minimum capital and surplus requirements provided by this code for that insurer as of that date.

(b) The insurer shall furnish to the commissioner a copy of the accountant's written notice not later than the fifth day after the executive officer receives the notice from the accountant.

(c) If the accountant, subsequent to the date of the audited financial report filed under this article, becomes aware of facts that might have affected the report, the accountant must take action as prescribed in Volume 1, Section AU 561, Professional Standards of the American Institute of Certified Public Accountants.

Sec. 16. EVALUATION OF ACCOUNTING PROCEDURES AND SYSTEM OF INTERNAL CONTROL. (a) In addition to the audited financial report, each insurer shall furnish to the commissioner a report of evaluation performed by the accountant, in connection with his examination, of the accounting procedures of the insurer and its system of internal control.

(b) A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, must be filed annually by the insurer with the commissioner not later than the 60th day after the date the audited financial report is filed.

(c) The evaluation report shall follow generally the Form for Reports on Internal Control Based on Audits described in Volume 1, Section AU 640, Professional Standards of the American Institute of Certified Public Accountants.

Sec. 17. DEFINITION, AVAILABILITY, AND MAINTENANCE OF ACCOUNTANT WORK PAPERS. (a) Work papers are the records kept by the accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's examination of the financial statements of an insurer and may include work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules, or commentaries prepared or obtained by the accountant in the course of the accountant's examination of the financial statements of an insurer that support the accountant's opinion.

(b) Each insurer required to file an audited financial report shall require the accountant to make available for review by the board's examiners the work papers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit work papers for a period of not less than five years after the period reported.

(c) In the conduct of the periodic review by the board's examiners, photocopies of pertinent audit work papers may be made and retained by the board. Reviews by the board's examiners are considered investigations, and all work papers obtained during the course of those investigations may be made confidential by the commissioner, unless admitted as evidence in a hearing before a governmental agency or in a court of competent jurisdiction.

(d) The commissioner may issue a protective order relating to the confidentiality of work papers and copies of work papers covered by this section and restrict or limit the distribution of those work papers or copies except as provided by this section.

Sec. 18. REPORTS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. With the commissioner's approval, an insurer may comply with this article by filing the requisite reports that have been prepared in accordance with generally accepted accounting principles, provided that the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed with the board by the insurer and comparable totals on the audited financial statements, with a written description of the nature of these differences.

SECTION 2.02. Subsection (b), Article 16.24, Insurance Code, is amended to read as follows:

(b) Regardless of the preceding portion of this Article, Articles 1.01, 1.02, 1.04, 1.08, 1.09, 1.09-1, 1.11, 1.12, 1.13, 1.14, 1.15, 1.15A, 1.16, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.23, 1.24, 1.29, 2.08, 2.10, 3.12, 3.13, 3.14, 6.16, 21.21, 21.25, 21.28, 21.28A, 21.28B, 21.39-A, and Sections 10(a), (b) and (c) of Article 3.01 and Sections 1, 2, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 17 of Article 1.10 of the Insurance Code as they now exist or shall hereafter be amended shall apply to and govern farm mutual insurance companies except where such Articles or portions thereof are in conflict with the provisions of Chapter 16 of the Insurance Code.

SECTION 2.03. Articles 17.22, 18.23, and 19.12, Insurance Code, are amended to read as follows:

Art. 17.22. EXEMPTION FROM INSURANCE LAWS. County mutual insurance companies shall be exempt from the operation of all insurance laws of this state, except such laws as are made applicable by their specific terms or as in this Chapter specifically provided. In addition to such other Articles as may be made to apply by other Articles of this Code, county mutual insurance companies shall be subject to all the provisions of Article 1.04(e), and of Subdivision 7 of Article 1.10 and of Article 1.15A and of Article 1.24 and of Article 2.04 and of Article 2.05 and of Article 2.08 and of Article 2.10 and of Article 5.12 and of Article 5.37 and of Article 5.38 and of Article 5.39 and of Article 5.40 and of Article 5.49 and of Article 21.21 and of Article 21.28B and of Article 21.49 of this Code, and the provisions of Article 7064 of the Revised Civil Statutes of Texas, 1925.

Art. 18.23. EXEMPTION FROM INSURANCE LAWS WITH LIMITATIONS. Underwriters at a Lloyds' shall be exempt from the operation of all insurance laws of this State except as in this Chapter specifically provided, or unless it is specifically so provided in such other law that same shall be applicable. In addition to such Articles as may be made to apply by other Articles of this Chapter, underwriters at a Lloyds' shall not be exempt from and shall be subject to all of the provisions of Article 1.15A and of Article 2.20 and of Article 5.35 and of Article 5.36 and of Article 5.38 and of Article 5.39 and of Article 5.40 and of Article 5.49 of this Code.

Art. 19.12. EXEMPTION FROM INSURANCE LAWS WITH LIMITATIONS. Reciprocal or inter-insurance exchanges shall be exempt from the operation of all insurance laws of this State except as in this Chapter specifically provided, or unless reciprocal or inter-insurance exchanges are specifically mentioned in such other laws. In addition to such Articles as may be made to apply by other Articles of this Code, reciprocal or inter-insurance exchanges shall not be exempt from and shall be subject to all of the provisions of Section 5 of Article 1.10 and of Article 1.15 and of Article 1.15A and of Article 1.16 and of Article 5.35 and of Article 5.36 and of Article 5.37 and of Article 5.38 and of Article 5.39 and of Article 5.40 and of Article 6.12 and of Article 8.07 of this Code.

SECTION 2.04. Section 1, Article 22.18, Insurance Code, is amended to read as follows:

Sec. 1. The following Articles of this Code, to wit: Article 1.14, Article 1.15, Article 1.15A, Article 1.16, Article 1.19, Article 1.24, Article 3.13, Article 3.39, Article 3.40, Article 3.61, Article 3.62, Article 3.63, Article 3.67, Article 21.21, Article 21.25, Article 21.26, Article 21.28, Article 21.32, Article 21.39, Article 21.45, and Article 21.47, shall apply to and govern stipulated premium companies and each company shall comply with the provisions thereof.

SECTION 2.05. Subsection (b), Article 23.26, Insurance Code, is amended to read as follows:

(b) The following provisions of the Insurance Code as they now exist or shall hereafter be amended shall, where not in conflict with this chapter, apply to corporations complying with the provisions of this chapter to the same extent as they apply to insurers and to those doing the business of insurance: Articles 1.01, 1.02, 1.04, 1.08, 1.09, 1.09-1, 1.11, 1.12, 1.13, 1.14, 1.15, 1.15A, 1.16, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.23, 1.24, 1.25, 1.29, 3.12, 3.13, 3.14, 21.21, 21.21-2, 21.25, 21.28, 21.28A, and 21.47 and Sections 1, 2, 6, 8, 9, 10, 11, 12, 13, 14, and 17 of Article 1.10 of the Insurance Code, as amended.

SECTION 2.06. Subsection (g), Article 1.04, Insurance Code, is amended to read as follows:

(g) In making examinations of any insurance organization as provided by law, the Board may use its own salaried examiners or may use the services of persons or firms qualified to perform such examinations or assist in the performance of such examinations [~~employ any holder of a permit to practice public accountancy in Texas who is engaged as an independent public accountant in the public practice as that term is known and understood in the accounting profession~~]. Such examination shall cover the period of time which the Board shall request. In the event the Board does not specify a longer period of time, such examination shall be from the time of the last examination theretofore made by the Board to December 31st of the year preceding the examination then being made [~~and such public accountants shall so certify the period being examined by him~~]. All fees paid to those persons or firms whose services are used shall be paid at the usual and customary rates charged for the performance of those services, subject to the right of the Board to disapprove for payment any fees that are excessive in relation to the services actually performed [~~Any such public accountant shall be paid for such examination at the usual and customary rates charged by public accountants for similar services~~]. Such payment shall be made by the insurance organization being examined and all such examination fees so paid shall be allowed as a credit on the amount of premium or other taxes to be paid by any such insurance organization for the taxable year during which examination fees are paid just as examination fees are credited when the Board uses its own salaried examiners.

SECTION 2.07. Article 1.18, Insurance Code, is amended to read as follows:

Art. 1.18. OATH AND BOND OF EXAMINERS AND ASSISTANTS; ACTION ON BOND FOR FALSE REPORTS. Each examiner and assistant examiner, before entering upon the duties of his appointment shall take and file in the office of the Secretary of State an oath to support the Constitution of this State, to faithfully demean himself in office, to make fair and impartial examinations, and that he will not accept as presents or emoluments any pay, directly or indirectly, for the discharge of his duty, other than the remuneration fixed and accorded to him by law; and that he will not reveal the condition of, nor any information secured in the course of any examination of any corporation, firm or person examined by him, to anyone except the Members of the State Board of Insurance [~~Commissioners~~], or their authorized representative, or when required as witness in an administrative hearing before the Board or the Commissioner or in Court.

Every such examiner shall enter into a bond payable to the State in the sum of Ten Thousand Dollars ($10,000) and every assistant examiner shall enter into

a bond in the sum of Five Thousand Dollars ($5,000), to be approved by the State Board of Insurance [~~Commissioners~~] and deposited in the office of the State Comptroller, conditioned that he will faithfully perform his duties as such examiner.

In case any such examiner or assistant examiner shall knowingly make any false report or give any information in violation of law relative to any such examination of any corporation, firm or person so examined, any such corporation, firm or person shall have a right of action on such bond for his injuries in a suit brought in the name of the State at the relation of the injured party.

ARTICLE 3. ORDERS AND DECISIONS

SECTION 3.01. Chapter 1, Insurance Code, is amended by adding Articles 1.10A and 1.10B to read as follows:

Art. 1.10A. CEASE AND DESIST ORDERS

Sec. 1. DEFINITIONS. In this article:

(1) "Authorized person" means a company regulated by the State Board of Insurance, including any domestic and foreign, stock and mutual life, health, and accident insurance companies; domestic and foreign, stock and mutual, fire and casualty insurance companies; Mexican casualty companies; domestic and foreign Lloyd's plan insurers; domestic and foreign reciprocal or interinsurance exchanges; domestic and foreign fraternal benefit societies; domestic and foreign title insurance companies; attorney's title insurance companies; stipulated premium insurance companies; nonprofit legal service corporations; statewide mutual assessment companies; local mutual aid associations; local mutual burial associations; exempt associations under Article 14.17 of this code; nonprofit hospital, medical, or dental service corporations including companies subject to Chapter 20 of this code; county mutual insurance companies; and farm mutual insurance companies. The term also includes all agents of those companies and all individuals, corporations, associations, partnerships, and other natural or artificial persons that are engaged in the business of insurance, that hold a permit, certificate, registration, license, or other authority under this code, or that are regulated by the board.

(2) "Unauthorized person" means an individual, corporation, association, partnership, or other natural or artificial person that directly or indirectly does any of the acts of an insurance business provided by Article 1.14-1 of this code, except as provided by and in accordance with specific authorization of law.

(3) "Board" means the State Board of Insurance.

(4) "Commissioner" means the commissioner of insurance.

(5) "Emergency" means a sudden, urgent occurrence requiring immediate action.

(6) "Imminent" means likely to occur at any moment.

(7) "Significant" means having or likely to have influence or effect.

(8) "Irreparable" means incapable of being repaired or rectified.

Sec. 2. AUTHORITY TO ISSUE ORDER. The commissioner may issue an emergency cease and desist order, ex parte, if:

(1) the commissioner believes:

(A) an authorized person engaging in the business of insurance is committing an unfair method of competition or an unfair or deceptive act or practice in violation of Article 21.21 or Article 21.21-2 of this code or in violation of a rule or regulation promulgated under Article 21.21 or Article 21.21-2 of this code;

(B) an unauthorized person is engaging in the business of insurance in violation of Article 1.14-1 of this code or in violation of a rule or regulation promulgated under Article 1.14-1 of this code; or

(C) an unauthorized person engaged in the business of insurance acting in violation of Article 1.14-1 of this code is committing an unfair method of competition or an unfair or deceptive act or practice in violation of Article 21.21 or Article 21.21-2 of this code or in violation of any rule or regulation promulgated under Article 21.21 or Article 21.21-2 of this code; and

(2) it appears to the commissioner that the alleged conduct is fraudulent or creates an immediate danger to the public safety or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury.

Sec. 3. EMERGENCY CEASE AND DESIST ORDERS; NOTICE AND OPPORTUNITY FOR HEARING. (a) On issuance of an emergency cease and desist order under Section 2 of this article, the commissioner shall serve on the person affected by the order, by registered or certified mail, return receipt requested, to the person's last known address, an order that contains a statement of the charges and requires the person immediately to cease and desist from the acts, methods, or practices stated.

(b) If a person affected by an emergency cease and desist order seeks to contest that order, the person may request a hearing before the commissioner. The person affected must request the hearing not later than the 30th day after the date on which the person receives the order. A request to contest an order must be in writing and directed to the commissioner and must state the grounds for the request to set aside or modify the order.

(c) On receiving the request for a hearing, the commissioner shall serve notice of the time and place of the hearing at which the person requesting the hearing shall have the opportunity to show cause why the order should not be affirmed. The hearing is to be held not later than the 10th day after the date the commissioner receives the request for a hearing unless the parties mutually agree to a later hearing date.

(d) Pending the hearing, an emergency cease and desist order continues in full force and effect unless the order is stayed by the commissioner.

(e) The hearing on the order shall be conducted according to the procedures for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(f) At the hearing, the commissioner shall affirm, modify, or set aside in whole or in part the emergency cease and desist order.

(g) Persons affected by the affirmation or modification of the order issued following the hearing are entitled to have the order reviewed by the board by submitting an application to the board as provided by Subsection (d) of Article 1.04 of this code. An appeal to the board does not operate to stay the commissioner's order unless the board directs a stay of the order for good cause.

(h) Persons affected by the board's order may appeal that order by filing suit in a district court in Travis County not later than the 20th day after the date of the board's order. A petition for appeal filed in the district court does not operate to stay or to vacate an order or decision unless the court, after hearing, issues an order that specifically stays or vacates the order or decision.

(i) The board may recover reasonable attorney's fees if judicial action is necessary for enforcement of the order.

(j) A cease and desist order is final 31 days after the date it is received if the person affected by the order does not request a hearing as provided by Subsection (b) of this section.

Sec. 4. PENALTIES; JUDICIAL REVIEW; ATTORNEY'S FEES. (a) If the commissioner reasonably believes that a person has violated a cease and desist order issued under this article, the commissioner may:

(1) initiate administrative penalty proceedings under this section;

(2) refer the matter to the attorney general for enforcement;

(3) initiate proceedings to revoke the certificate of authority of the person affected by a ruling or action issued under this article; or

(4) pursue any other action the commissioner deems appropriate under applicable law.

(b) If the commissioner pursues action under Subdivision (1) of Subsection (a) of this section, the commissioner shall serve on the person, by registered or certified mail, return receipt requested, to the person's last known address, notice of the time and place of a hearing to be held not earlier than the 21st day after the date the notice is received. The notice must contain a statement of the facts or conduct alleged to be in violation of the cease and desist order.

(c) In determining whether a cease and desist order has been violated, the commissioner shall consider the maintenance of procedures reasonably adopted to ensure compliance with the order. The hearing shall be conducted according to the procedures for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) After a hearing, if the commissioner determines that a cease and desist order has been violated, the commissioner may:

(1) impose a civil penalty of at least $1,000 but not more than $5,000 for each act of violation;

(2) direct the person against whom the order was issued to make complete restitution, in the form and amount and within the period determined by the commissioner, to all Texas residents, Texas insureds, and entities operating in Texas damaged by the violation or failure to comply; or

(3) both impose the penalty and direct restitution.

(e) A person affected by the commissioner's ruling or action under this section is entitled to have that ruling or action reviewed by the State Board of Insurance by submitting an application to the board as provided by Subsection (d) of Article 1.04 of this code.

(f) A person affected by the board's order may appeal that order by filing suit in a district court in Travis County not later than the 20th day after the date of the board's order. The board may recover reasonable attorney's fees if judicial action is necessary for enforcement of the board's order.

Sec. 5. FAILURE TO PAY PENALTIES. If a person fails to pay a penalty assessed under Section 4 of this article, the commissioner may:

(1) refer the matter to the attorney general for enforcement; or

(2) cancel or revoke any permit, license, certificate of authority, certificate of registration, or other authorization issued under this code as provided by Subsection (a) of Section 7 of Article 1.10 of this code.

Sec. 6. RULES AND REGULATIONS. The State Board of Insurance may promulgate reasonable rules and regulations to carry out this article, including rules and regulations that will provide to the extent possible uniformity of procedures between this state and other states, the United States, or the National Association of Insurance Commissioners.

Sec. 7. COMMISSIONER'S DISCRETION. The commissioner may proceed solely under this article or under this article in conjunction with other applicable law.

Art. 1.10B. MAILING PROCEDURES FOR CERTAIN ORDERS AND DECISIONS. (a) Notwithstanding the requirements of Subsection (b), Section 16, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the State Board of Insurance shall mail to each party and the party's attorney of record in a contested case before the board or the commissioner of insurance a copy of the board's or commissioner's written decision or order in that case by certified mail, return receipt requested.

(b) Notwithstanding the requirements of Subsection (e), Section 16, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), a motion for rehearing in a contested case must be filed not later than the 15th day after the date of receipt of the decision or order under Section (a) of this article. For purposes of this section, the date of receipt of the decision or order is the date it is delivered as reflected on the return receipt or the fifth day after the date of the postmark stamped on the certified correspondence under Section (a) of this article, whichever date is later.

ARTICLE 4. IMMUNITY AND CONFIDENTIALITY

SECTION 4.01. Article 1.40, Insurance Code, is amended to read as follows:

Art. 1.40. IMMUNITY FROM LIABILITY. (a) A member of the State Board of Insurance, the commissioner of insurance, or another officer or employee of the State Board of Insurance shall not be personally liable for any act performed in good faith within the scope of his or her authority or for damages occasioned by his or her official acts or omissions except for an act or omission that is corrupt or malicious. The attorney general shall defend any actions brought against a board member, employee, or officer by reason of his or her official act or omission, whether or not at the time of the institution of the action the defendant has terminated service with the board.

(b) A person, or an employee or agent of that person, acting without actual malice, is not subject to civil liability for libel, slander, or any other cause of action by virtue of furnishing to the State Board of Insurance under the requirements of law or at the direction of the board reports or other information relating to any known or suspected fraudulent insurance or reinsurance transaction. In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, task forces, delegates, and employees, and all other persons charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of annual statement convention blanks are not subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required by Article 1.11 of this code.

(c) [~~(b)~~] Each member of the State Board of Insurance, the commissioner of insurance, or an employee, an agent, or a designee of the State Board of Insurance, acting without actual malice, is not subject to civil liability for libel, slander, or any other cause of action by virtue of an investigation of any allegedly fraudulent insurance or reinsurance transaction or the publication or dissemination of any official report related to any official investigation of insurance or reinsurance fraud. These persons are not subject to civil liability in relation to the collecting, reviewing, analyzing, and dissemination of information developed by the National Association of Insurance Commissioners from the filing of annual statement convention blanks with the National Association of Insurance Commissioners and communicated to the board or commissioner including any investigation or publication or dissemination of any report or other information in relation thereto.

SECTION 4.02. Article 21.28-A, Insurance Code, is amended by amending Section 3A and adding Section 5A to read as follows:

Sec. 3A. (a) Notwithstanding any other provision of law, hearings, orders, notices, correspondence, reports, records, and other information in the possession of the State Board of Insurance relating to the supervision or conservatorship of any insurance company are not confidential unless the Commissioner of Insurance determines that confidentiality during the initial period of supervision is necessary to accomplish the purposes of this article. The Commissioner of Insurance shall make this determination of confidentiality on the date the first notice of supervision is given. The period of confidentiality determined by the Commissioner of

Insurance may not be for a period that exceeds 60 days after the date of the Commissioner's determination.

(b) This section does not prohibit access to hearings, orders, notices, correspondence, reports, records, and other information by the State Board of Insurance [~~except as provided by this section.~~

[~~(b) The personnel of the State Board of Insurance have access to such proceedings or information as permitted by the Commissioner of Insurance or the State Board of Insurance~~].

(c) The provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) relating to discovery apply to the parties of record in these proceedings.

(d) The Commissioner of Insurance or the State Board of Insurance may open the proceedings or disclose the information to a department, agency, or instrumentality of this or another state or the United States if the Commissioner of Insurance or the State Board of Insurance determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state or the United States.

(e) [~~The Commissioner of Insurance or the State Board of Insurance may open the hearings or make public the orders, notices, correspondence, reports, records, or other information if the Commissioner of Insurance or the State Board of Insurance deems it in the best interest of the public or in the best interest of the insurer in supervision or conservatorship or the holders of its policies or certificates of insurance.~~

[~~(f)~~] An officer or employee of the State Board of Insurance is not liable for release of information without a showing that release of information was accomplished with actual malice.

This section does not apply to information (1) if the insureds of the insurance company are not protected by Article 9.48, 21.28-C, or 21.28-D of this code or by statutes substantially similar to those Articles, or (2) on the appointment of a receiver for the insurance company by a court of competent jurisdiction.

Sec. 5A. (a) On appointment of a conservator as provided by Sections 5 and 6 of this Article, the Commissioner of Insurance shall publish notice of the conservatorship in at least one newspaper with general circulation in each county that has a population of at least 100,000 according to the most recent federal decennial census.

(b) The notice must include:

(1) the name of the insurer placed in conservatorship;

(2) the date on which the insurer was placed in conservatorship in this state;

(3) the reasons for placing the insurer in conservatorship; and

(4) any courses of action with relation to the insurer available to policyholders and any duties with which the policyholders may be required to comply.

(c) The Commissioner of Insurance must publish the notice required by this section not later than the seventh day after the date the Commissioner enters an order placing the insurer in conservatorship.

ARTICLE 5. SUPERVISION AND CONSERVATORSHIP

SECTION 5.01. Article 21.28-A, Insurance Code, is amended by amending Sections 3 and 9 and adding Section 17 to read as follows:

Sec. 3. NOTICE TO COMPLY WITH WRITTEN REQUIREMENTS OF COMMISSIONER; NONCOMPLIANCE; TAKING CHARGE AS CONSERVATOR. If upon examination or at any other time it appears to or is the opinion of the Commissioner of Insurance that any insurance company is insolvent, or its condition is such as to render the continuance of its business hazardous to the

public or to holders of its policies or certificates of insurance, or if such company appears to have exceeded its powers (as defined herein) or has failed to comply with the law, or if such insurance company gives its consent (as defined herein), then the Commissioner of Insurance shall upon his determination (a) notify the insurance company of his determination, and (b) furnish to the insurance company a written list of the Commissioner's requirements to abate his determination, and (c) if the Commissioner makes a further determination to supervise he shall notify the insurance company that it is under the supervision of the Commissioner of Insurance and that the Commissioner is applying and effecting the provisions of this Article. Such insurance company shall comply with the lawful requirements of the Commissioner of Insurance. If [~~and if~~] placed under supervision, the insurance company shall [~~under supervision~~] have not more than sixty (60) days[~~, or another period of time designated by the Commissioner,~~] from the date of the Commissioner's notice of supervision [~~within which~~] to comply with the requirements of the Commissioner. The Commissioner may extend the supervision for an additional period not to exceed thirty (30) days on written determination by the Commissioner that there is a substantial likelihood of rehabilitation. No hearing is required before the Commissioner makes the determination[~~, subject however to the provisions of this Article~~]. During the period [~~pendency~~] of [~~the~~] supervision, the insurance company shall continue to pay claims according to terms of the insurance policy, and the Commissioner may schedule a hearing relating to the insurance company in supervision with not less than ten (10) days' written notice to all parties of record on his own motion or that of any party of record. However, notice may be waived by the parties of record. If after hearing it is determined that the insurance company has failed to comply with the lawful requirements of the Commissioner, it has not been rehabilitated, it is insolvent, or it is otherwise in such a condition as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or if the company appears to have exceeded its powers as defined in this Article, the Commissioner of Insurance [~~in his discretion may continue the period of supervision or, if it is determined that supervision is inadequate to accomplish the rehabilitation of the company~~], acting for himself, or through a conservator appointed by the Commissioner of Insurance for that purpose, shall take charge as conservator of the insurance company and all of the property and effects thereof. If after hearing it is determined that the insurance company has been rehabilitated or its condition has otherwise been remedied such that the continuance of its business is no longer hazardous to the public or to holders of its policies or certificates of insurance, the Commissioner may release that insurance company from supervision. Section 15, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), does not apply to hearings held by the Commissioner or his representative under this Article.

Sec. 9. DURATION OF CONSERVATORSHIP. The [~~As respects a conservatorship, the~~] conservator shall complete his duties and responsibilities [~~serve for such time as is necessary to accomplish the purposes of the conservatorship~~] as required [~~intended~~] by this Act not later than the ninetieth (90th) day after the date on which he is appointed conservator. The Commissioner of Insurance may extend the conservatorship for additional successive periods of thirty (30) days each for a total period of extensions not to exceed one hundred and eighty (180) successive days, if the Commissioner determines and issues written findings that there is a substantial likelihood of rehabilitation and no hearing is required before the Commissioner makes his determination. During the period of conservatorship, the insurance company shall continue to pay claims according to the terms of the insurance policy. If rehabilitated, the rehabilitated insurance company shall be returned to management or new management under such reasonable conditions as will best tend to prevent the defeat of the purposes for which it was placed in conservatorship.

Sec. 17. FEES FROM REHABILITATED ENTITIES. (a) The State Board of Insurance may collect fees from any entity that is regulated by the board as provided by Subsection (h) of Section 7 of Article 1.10 of this code and that is successfully rehabilitated by the board. The fees shall be in amounts sufficient to cover but not exceed the costs of rehabilitation of that entity. The board shall use the fees for the sole purpose of the rehabilitation of the entity from which they are collected. Fees collected under this subsection shall be deposited in and expended through the State Board of Insurance Operating Fund.

(b) The Commissioner may determine the terms of the collection or repayment of the fees from any successfully rehabilitated entity.

ARTICLE 6. RECEIVERSHIP AND LIQUIDATION

SECTION 6.01. Section (6), Article 5.06-1, Insurance Code, is amended to read as follows:

(6) In the event of payment to any person under any coverage required by this Section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury, sickness or disease, or death for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer; provided, however, whenever an insurer shall make payment under a policy of insurance issued pursuant to this Act, which payment is occasioned by the insolvency of an insurer, the insured of said insolvent insurer shall be given credit in any judgment obtained against him, with respect to his legal liability for such damages, to the extent of such payment, but, subject to Section 12 of Article 21.28-C of this code, such paying insurer shall have the right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had if the insured of the insolvent insurer had made the payment.

SECTION 6.02. Paragraphs A and B, Subdivision (2), Section 5, Article 9.48, Insurance Code, are amended to read as follows:

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) and[~~; (ii);~~] (iii)[~~; and (iv)~~] of this paragraph shall be limited to $250,000 per claimant and shall not include any amount in excess of $250,000 per claimant. The amount of a "covered claim" under Subparagraph (ii) or (iv) of this paragraph is the amount of the unpaid claim up to and not to exceed, the lesser of:

(i) the amount of funds delivered to the impaired insurer or agent as trust funds or an escrow account for each claimant in a transaction from which the claim arises; or

(ii) $250,000 per claimant.

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 "impaired" 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, or punitive, exemplary, extracontractual, or bad faith damages awarded by a court judgment against an insured or insurer. A "covered claim" does not include a claim under Subparagraph (ii) or (iv) of Paragraph A of Subdivision (2) of Section 5 if the claimant has a lien against the real estate that was the subject of the transaction from which the claim arises unless that lien is held to be invalid as a matter of law. No claimant who has caused or substantially contributed to his loss by his action or failure to act shall have a covered claim under Paragraph A of Subdivision (2) of Section 5.

SECTION 6.03. Sections 7 and 17, Article 9.48, Insurance Code, are amended to read as follows:

Sec. 7. ADMINISTRATION. Whenever the commissioner determines that an insurer or agent has become impaired, 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. 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. The commissioner shall determine the total net direct written premiums of an individual insurer and for all insurers in the state from the insurers' annual statements for the year preceding the assessment. 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 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. 17. IMMUNITY. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer of the association [~~insurer subject to this article~~] or its agents or employees, the association or its agents [~~representatives~~] or employees, members of the association's board of directors, or the commissioner or his representatives [~~or employees, or the State Board of Insurance or its representatives or employees~~] for any action taken or not taken by them in the performance of their powers and duties under this article.

SECTION 6.04. Article 21.11-2, Insurance Code, is amended to read as follows:

Art. 21.11-2. [~~UNEARNED PREMIUMS UNDER~~] AGENCY CONTRACTS WITH INSOLVENT INSURERS

Sec. 1. Every agency contract entered into on and after the effective date of this Act by an insurance company writing fire and casualty insurance in Texas shall contain, or shall be construed to contain, the following provision:

Notwithstanding any other provision of this contract, the obligation of the agent to remit written premiums to the company shall be changed upon the commencement of delinquency proceedings as defined in Article 21.28, Insurance Code of Texas of 1951, as amended. Subsequent to the commencement of delinquency proceedings, the obligation of the agent to remit premiums shall be confined to premiums earned prior to the date of cancellation of policies stated in

the order of a court of competent jurisdiction under Article 21.28 of this code canceling the policies [~~commencement of such proceedings~~]. The agent shall not owe or remit to the company or to the Liquidator-Receiver any premiums that are unearned as of the date of the cancellation stated in the order canceling the policies.

Sec. 2. On or after the effective date of the cancellation of policies stated in the court's order canceling policies, the agent shall promptly account to the receiver for all premiums to be returned to the insured or the replacement coverage to be obtained and the earned premiums to be paid to the receiver. Any of those unearned premiums in the hands of the agent on the effective date of the policy cancellations shall be returned promptly by the agent to the insured who paid them or, with the approval of the insured, shall be used to purchase new coverage for the insured with a different insurer. Any of the earned premiums in the hands of the agent shall be remitted promptly to the receiver.

Sec. 3. This article does not prejudice any cause of action by the receiver against any agent for the recovery of unearned premiums that were not returned to policyholders and earned premiums that were not promptly remitted to the receiver.

Sec. 4. This article may not be construed to render the agent an agent of the receiver for earned or unearned premiums [~~commencement of such delinquency proceedings, and any such unearned premiums in the possession of the agent on such date shall be returned promptly by the agent to the insured who paid them or, with the approval of the insured, be used to purchase new coverage for the insured with a different insurer~~].

SECTION 6.05. Subsections (b), (e), and (g), Section 2, Article 21.28, Insurance Code, are amended to read as follows:

(b) Title in Receiver. The property and assets of such insurer shall be in the custody of the court as of the date of the commencement of such delinquency proceedings. The said receiver and his successors in office shall be vested by operation of law with the title to all of the property, contracts, and rights of action of such insurer, wherever located, as of the date of entry of the order directing possession to be taken. Such title of the receiver shall relate back to the date of the commencement of the delinquency proceedings unless the court shall otherwise provide. A contractual lien or statutory landlord's lien under Chapter 54, Property Code, that arises after the date of the commencement of the delinquency proceedings is secondary and inferior to the rights of the receiver and his successors in office. The filing or recording of such an order in any record office of the State shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded by such insurer.

(e) Conducting of Business. Upon taking possession of the assets of a delinquent insurer the receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer, or to take such steps as may be necessary to conserve the assets and protect the rights of policyholders and claimants for the purpose of liquidating, rehabilitating, reinsuring, reorganizing or conserving the affairs of the insurer. Notwithstanding the foregoing requirements or the terms of any insurance contract issued by a delinquent insurer, the receiver is not required to defend any action against an insured of a delinquent insurer.

(g) Disposal of Property; Settling Claims. The receiver may, subject to the approval of the court, (1) sell or otherwise dispose of the real and personal property, or any part thereof, of an insurer against whom a proceeding has been brought under this Article, and (2) sell or compound all doubtful or uncollectible debts, or claims owed by or owing to such insurer, including claims based upon an assessment levied against a member of a mutual insurer, reciprocal exchange, or an underwriter at Lloyds. Whenever the amount of any such debt or claim owed by or owing to such insurer or the value of any item of property of the insurer does not exceed One Thousand Dollars ($1,000), exclusive of interest, the receiver may compromise or

compound such debt or claim or sell such property upon such terms as he may deem for the best interests of said insurer without obtaining the approval of the court. The receiver may, subject to the approval of the court, sell or agree to sell, or offer to sell, any assets of such an insurer to such of its creditors who may desire to participate in the purchase thereof, to be paid for, in all or in part, out of dividends payable to such creditors, and, upon the application of the receiver, the court may designate representatives to act for such creditors in the purchase, holding and/or management of such assets, and the receiver may, subject to the approval of the court, advance the expenses of such representatives against the security of the claims of such creditors. The receiver may, subject to the approval of the court and State Board of Insurance, as required by this code, sell or otherwise dispose of the charter or license of the insurer separate and apart from its outstanding liabilities.

SECTION 6.06. Subsections (a), (b), and (e), Section 3, Article 21.28, Insurance Code, are amended to read as follows:

(a) Time for Filing. Where a liquidation, rehabilitation, or conservation order has been entered in a proceeding against an insurer under this Article, all persons who may have claims against such insurer as set out in Subsection (a) of Section 8 of this Article, including claimants with secured claims and claims based on trust or escrow funds, shall present proof of the same to the receiver at a place specified by him within a period of time to be specified by the court, in no event, however, less than ninety (90) days [~~nor more than one (1) year~~] after the date of the entry of the order specifying such time. The receiver shall notify all persons who may have claims against such insurer as disclosed by its books and records, to present proof of the same to him within the time as fixed. The last day for the filing of proofs of claim shall be specified in the notice. Such notice shall be given in a manner determined by the court. Receipt of the required proof of claim by the receiver is a condition precedent to the payment of any claim, and except as provided by Subsection (b) of this section, claims that are not filed within the time specified by the court shall not participate in any distribution of the assets by the receiver.

(b) Late Filing. Subject to court approval, the receiver may accept claims filed after the date specified by the court if the claims are filed with the receiver not later than the ninetieth (90th) day after the date notice of the claimant's right to file a proof of claim is mailed to the claimant [~~Proofs of claims may be filed subsequent to the date specified but in no event later than one (1) year after the entry of the court's order specifying the time for filing claims. Claims filed subsequent to the date specified in the court's order, but prior to the expiration of one (1) year after the entry of such order, may participate only in future dividends. Claims which are not filed within the expiration of such one-year period shall not participate in any distribution of the assets by the receiver~~].

(e) Third Party Claims. Where a liquidation, rehabilitation or conservation order has been entered in a proceeding against an insurer under this Article, any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer, shall have the right to file a claim with the receiver, regardless of the fact that such claim may be unliquidated or undetermined, and such claim may be approved (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 persons 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 out of the same act of its insured shall be no greater than its total liability would be were it not in liquidation, rehabilitation or conservation. A judgment entered against an insured or insurer before the date on which the delinquency proceedings commenced may not be accorded higher than a Class 3 priority under Subsection (a) of Section 8 of this

Article unless the judgment creditor proves to the receiver's satisfaction the allegations supporting the judgment. No judgment against an insured taken after the date of the commencement of the delinquency proceedings shall be considered in the proceedings 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 shall be considered as conclusive evidence in the proceeding, either of the liability of such insured to such person upon such cause of action, or of the amount of damages to which such person is therein entitled.

SECTION 6.07. Section 4, Article 21.28, Insurance Code, is amended by amending Subsections (d) and (f) and adding Subsection (i) to read as follows:

(d) Subpoenas. In addition to the authority granted by law to the receiver relating to the taking of depositions of witnesses in civil actions, the receiver may request the court ex parte to issue a subpoena to compel the attendance and testimony of witnesses before the receiver and the production of any books, accounts, records, papers, and correspondence or other records relating to any matter that pertains to a receivership estate, and for this purpose the receiver or his designated representative may administer oaths and affirmations, examine witnesses, and receive evidence. In this connection the court has statewide subpoena power and may compel attendance and production of records before the receiver at his offices in Austin, Texas. Any person served with a subpoena under this subsection may file a motion with the court for a protective order as provided by Rule 166b of the Texas Rules of Civil Procedure. In a case of disobedience of a subpoena, or of the contumacy of a witness appearing before the receiver or his designated representative, the receiver may invoke the aid of the court, and the court may issue an order requiring the person subpoenaed to obey the subpoena or give evidence or produce books, accounts, records, papers, and correspondence or other records respecting the matter in question. Any failure to obey such an order of the court may be punished as contempt by the court.

Each witness who is not a party and who is required to attend before the receiver is entitled to receive:

(1) reimbursement for travel in the same amount per mile as the mileage travel allowance for state employees for going to and returning from the place where his presence is required, if the place is more than 25 miles from the witness's place of residence; and

(2) a fee of not less than Ten Dollars ($10) a day for each day or part of a day the witness is necessarily present as a witness, but in lieu of such Ten Dollar ($10) fee, a witness will receive a fee equal to the per diem travel allowance of a state employee if the amount exceeds Ten Dollars ($10). All disbursements made in the payment of these fees shall be included and paid in the same manner as provided for the payment of other expenses in Section 12 of this Article.

The sheriff's or constable's fee for serving the subpoena shall be the same as those paid the sheriff or constable for similar services. Any subpoena issued under this subsection may be served, at the receiver's discretion, by the receiver, his authorized agent, a sheriff, or a constable.

On certification by the receiver or the State Board of Insurance under official seal, any books, accounts, records, papers, correspondence, and other records and documents produced or testimony taken pursuant to this Article and held by the receiver are admissible in evidence in all cases without prior proof of their correctness and without other proof except the certificate of the receiver or the State Board of Insurance that the books, accounts, records, papers, correspondence, documents, and testimony were received from the person producing the material or testifying. The certified books, accounts, records, papers, correspondence, and other records and documents or certified copies of them are prima facie evidence

of the facts they disclose. This section may not be construed to limit any other provision of this Article or any law that provides for the admission of evidence or for its evidentiary value.

(f) Pending Lawsuits. No judgment or order rendered by any court of this State or of any other jurisdiction in any action pending by or against the delinquent insurer after the commencement of delinquency proceedings shall be binding upon the receiver unless the receiver shall have been made a party to such suit.

A receiver and his agents and employees are not liable for and a cause of action may not be brought against any of them for an action taken or not taken by them relating to the adjustment, negotiation, or settlement of claims.

(i) Criminal History Information. A receiver is entitled to obtain criminal history information records maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or other law enforcement agency to investigate any matter relating to a receivership estate.

All criminal history information records obtained by the receiver are privileged information and are for the exclusive use of the receiver. Except on court order or with the consent of the person being investigated, the records may not be released to any other person or agency. The receiver may destroy the criminal history information records after the records are used for the purposes authorized by this subsection. A person commits an offense if the person releases or discloses any information received under this subsection without the authorization provided by this subsection. An offense under this subsection is a Class A misdemeanor.

SECTION 6.08. Section 6, Article 21.28, Insurance Code, is amended to read as follows:

Sec. 6. PRIORITY OF CLAIMS FOR WAGES. All wages actually owed to employees of an insurer against whom a proceeding under this Article is commenced, for services rendered within three (3) months prior to the commencement of such proceeding not exceeding One Thousand Dollars ($1,000) [~~Three Hundred Dollars ($300)~~] to each employee shall be paid by the receiver as provided by Subsection (a) of Section 8 of this Article. The receiver shall pay wages actually owed to employees of an insurer against whom a temporary restraining order has been issued under this Article for services rendered during the period covered by the temporary restraining order. Payment for those services must be made at the rate and in the same manner as if paid by the insurer. The receiver may pay wages actually owed to employees of an insurer against whom a temporary injunction has been issued under this Article for services rendered after the issuance of the temporary injunction. Payment for those services is made at the discretion of the receiver and as an expense of administration [~~prior to the payment of every other debt or claim, and in the discretion of the court may be paid as soon as practicable after the proceeding has been commenced; except that at all times there shall be reserved such funds as will be sufficient for the expenses of administration by the receiver~~].

SECTION 6.09. Subsections (a) and (b), Section 7, Article 21.28, Insurance Code, are amended to read as follows:

(a) Application. Within four (4) years from the date of an order of rehabilitation, or liquidation, of a domestic insurer, the receiver may make an application to the court to levy an assessment against the members of a mutual insurer, [~~or the underwriters or~~] members of a reciprocal exchange, or the insureds of a [~~underwriters at~~] Lloyds who have been issued an insurance policy that provides that the policy is subject to assessment. Such application shall set forth the reasonable value of the assets of such insurer, its probable liabilities, and the probable necessary assessment, if any, to pay all possible claims and expenses in full, including expenses of administration and collection.

(b) Levy. After [~~Upon such~~] notice to each member or insured in the manner [~~as may be~~] designated by the court, the court shall proceed to consider such report and may levy one or more assessments. Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the estimated cost of collection and percentage of uncollectibility thereof. An [~~No such~~] assessment shall not be levied against any such member or insured with respect to a policy that does not contain an express provision that the policy is an assessable policy [~~subscriber with respect to any policy which contains a nonassessable or noncontingent liability provision or provisions and which has been issued under authority granted by the Board~~].

SECTION 6.10. Subsection (a), Section 8, Article 21.28, Insurance Code, is amended to read as follows:

(a) Priority of Distribution of [~~General~~] Assets. Notwithstanding any other provision of law, the priority of distribution of [~~general~~] assets from the insurer's estate shall be in accordance with the order of each class as provided by this subsection. Additional subclasses may not be established within any class.

Class 1.

(1) All of the receiver's, conservator's, and supervisor's costs and expenses of administration, including repayment of funds advanced to the receiver from the abandoned property fund of the State Board of Insurance.

(2) All of the expenses of an insurance guaranty association or foreign insurance guaranty association in handling claims.

(3) Wages owed to employees of the insurer as provided for in Section 6 of this Article.

(4) Secured creditors to the extent of the value of the security as provided by Section 8(c) of this Article.

Class 2.

(1) All claims by policyholders, beneficiaries, insureds, and liability claims against insureds covered under insurance policies and insurance contracts issued by the insurer.

(2) All claims by an insurance guaranty association or a foreign insurance guaranty association that are payments of proper policyholder claims.

Class 3.

All other claims of general creditors not falling within any other priority under this section including claims for taxes and debts due the federal government or any state or local government which are not secured claims.

Class 4.

Claims of surplus or contribution note holders, holders of debentures or holders of similar obligations and proprietary claims of shareholders, members, or other owners according to the terms of the instruments.

SECTION 6.11. Subsection (c), Section 2, Article 21.28-A, Insurance Code, is amended to read as follows:

(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 1.24 [~~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; or

(6) if an insurance company is in a condition that renders the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance.

SECTION 6.12. Section 5, Article 21.28-A, Insurance Code, is amended to read as follows:

Sec. 5. CONSERVATORSHIP OR LIQUIDATION. If, after notice and opportunity for hearing, it is determined that such insurance company is insolvent, or its condition is such as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or if the company appears to have exceeded its powers as defined in this Article, or has failed to comply with any lawful requirements of the Commissioner, or upon consent by an insurance company, and if it is determined that supervision is inadequate to accomplish the rehabilitation of the company, the Commissioner in his discretion may appoint a conservator, who shall immediately take charge of such insurance 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 Commissioner may direct. During the pendency of conservatorship, the conservator shall make such reports to the Commissioner from time to time as may be required by the Commissioner, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such insurance company, including claims or causes of action belonging to or which may be asserted by such insurance company, and to deal with the same in his own name as conservator, 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 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 policy holders or certificate holders of such insurance company can best be protected by reinsuring the same, the conservator may, with the approval of or at the direction of the Commissioner: (1) reinsure all or any part of such insurance company's policies or certificates of insurance with some solvent insurance company authorized to transact business in this state, and (2) to the extent that such insurance company in conservatorship is possessed of reserves attributable to such policies or certificates of insurance, the conservator may transfer to the reinsuring company such reserves or any portion thereof as may be required to consummate the reinsurance of such policies, and any such reserves so transferred shall not be deemed a preference of creditors. The liquidator of the State Board of Insurance, or his duly appointed deputy, may be appointed to serve as the conservator. During the pendency of a conservatorship, the Commissioner may schedule a hearing relating to the insurance company in conservatorship with not less than ten (10) days' written notice to all parties of record on his own motion or that of any party of record; provided, however, that notice may be waived by the parties of record. If the Commissioner of Insurance is satisfied at any time and regardless of the presence or absence of any state of supervision or conservatorship, that such insurance company is not in condition to continue business in the interest of its policy or certificate holders, the Commissioner of Insurance shall give notice to the Attorney General who shall thereupon apply to any Court in Travis County, Texas,

having jurisdiction thereof for leave to file a suit in the nature of quo warranto to forfeit the charter of such insurance company or to require it to comply with the law or to satisfy the Commissioner of Insurance as to its solvency, and to satisfy the requirement that its condition is such as to render the continuance of its business not hazardous to the public or to the holders of its policies or certificates of insurance. It shall be in the discretion of the Commissioner of Insurance to determine at any time whether or not the insurance company is placed in supervision or he will operate the insurance company through a conservator, as provided above, or report it to the Attorney General for the purpose of taking any remedial action including, without limitation, applying for appointment of a receiver under Article 21.28 of this code. No period of supervision or conservatorship is necessary as a prerequisite for the Attorney General to take that remedial action. When all the policies of an insurance company are reinsured or terminated, and all of its affairs concluded, as herein provided, the Commissioner of Insurance shall report the same to the Attorney General, who shall take such action as may be necessary to effect the forfeiture or cancellation of the charter of the insurance company so reinsured and liquidated. Where the Commissioner of Insurance lends his approval to the merger, consolidation or reinsurance of all the policies of one insurance company with that of another, the same shall be reported to the Attorney General who shall proceed to effect the forfeiture or cancellation of the charter of the insurance company from which the policies were merged, consolidated or reinsured, in the same manner as is provided for the charters of companies totally reinsured or liquidated. The cost incident to the supervisor's and conservator's service shall be fixed and determined by the Commissioner of Insurance and, subject to Subsection (a) of Section 8 of Article 21.28 of this code, shall be a charge against the assets and funds of the insurance company to be allowed and paid as the Commissioner of Insurance may determine.

A conservator and his agents and employees are not liable for and a cause of action may not be brought against any of them for an action taken or not taken by them relating to the adjustment, negotiation, or settlement of claims.

SECTION 6.13. Subsection (2), Section 5, Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code), is amended to read as follows:

(2) "Covered claim" is an unpaid claim of an insured or third party liability claimant which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this Act applies, issued or assumed (whereby an assumption certificate is issued to the insured) by an insurer licensed to do business in this State, if such insurer becomes an "impaired insurer" after the effective date of this Act and (a) the third party claimant or liability claimant or insured is a resident of this State at the time of the insured event; or (b) the property from which the claim arises is permanently located in this State. "Covered claim" shall also include seventy-five percent (75%) of unearned premiums but in no event shall a "covered claim" for unearned premiums exceed One Thousand Dollars ($1,000). Individual "covered claims" shall be limited to One Hundred Thousand Dollars ($100,000), except that the association shall pay the full amount of any "covered claim" arising out of a workers' compensation policy. "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 and penalties, and interest and bond premiums, incurred prior to the determination that an insurer is an "impaired insurer" under this Act. "Covered claim" shall not include any punitive, exemplary, extracontractual, or bad faith damages awarded in a court judgment against an insured or insurer. With respect

to a "covered claim" for unearned premiums, both persons who were residents of this State at the time the policy was issued and persons who are residents of this State at the time the company is found to be an "impaired insurer" shall be considered to have "covered claims" under this Act. Where the impaired insurer 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 shall also be a "covered claim" under this Act.

SECTION 6.14. Sections 6, 7, 12, and 16, Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code), are amended to read as follows:

Sec. 6. TERMINATION OF POLICIES. This Act shall apply to covered claims existing prior to the determination that an insurer is an impaired insurer and to covered claims arising within thirty (30) days after the determination of impairment, or before the policy expiration date if less than thirty (30) days after the determination of impairment, or before the insured replaces the policy or effects its cancellation, if he does so within thirty (30) days of the determination of impairment.

Upon the determination by the Commissioner that an insurer is an impaired insurer, the conservator or receiver appointed under Article 21.28 or Article 21.28-A of this code [~~Commissioner~~] shall notify the insureds of the impaired insurer of the determination and of their rights under this Act. Such notification shall be by mail at each insured's [~~last known~~] address as disclosed by the books and records of the insurer[~~, where available,~~] but, if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation printed in this State shall be sufficient. Such notification may be combined with notice provided under Subsection (a) of Section 3 of Article 21.28 of this code.

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 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. The Commissioner shall determine the total net direct written premium of an individual insurer and for all insurers in the state from the insurers' annual statements for the year preceding the assessment. 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.

Sec. 12. NONDUPLICATION OF RECOVERY. Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an impaired insurer, which is also a covered claim, shall be required to exhaust first his right under such policy. The amount of an approved [~~Any amount payable on a covered~~] claim under this Act shall be reduced by the policy limits of or amount paid under [~~amount of any recovery under~~] such insurance policy, whichever amount is greater. When a claimant exhausts his right under a policy other than a policy of an impaired insurer, the insurer issuing that policy is not entitled to sue or continue a suit against the insured of the impaired insurer to recover any amount paid the claimant under that policy.

Any recovery under this Act shall be reduced by the amount of recovery under any other insurance guaranty act, or its equivalent, in any other state. Any person having a covered claim who is a resident of another state shall not be entitled to payment under this Act unless and until he furnishes adequate sworn proof that he has exhausted any and all rights of recovery that he has in his state of residence and the state of residence of the insured under any insurance guaranty act or its equivalent; provided, however, that any nonresident holder of a covered claim for damage to property with a permanent location in this State shall be entitled to

payment of the covered claim without first having exhausted his right of recovery in his state of residence.

Sec. 16. IMMUNITY. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer of the association [~~insurer subject to this Act~~] or its agents or employees, the [~~advisory~~] association or its agents or employees, members of the board of directors, or the Commissioner or his representatives for any action taken or not taken by them in the performance of their powers and duties under this Act.

SECTION 6.15. The Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code) is amended by adding Section 7B to read as follows:

Sec. 7B. EMERGENCY CLAIMS. (a) In this section, "emergency claims" means those claims:

(1) that would be covered claims if the insurer was declared an impaired insurer;

(2) for which no bona fide dispute exists as to the liability of the insurer on the claim or for which payments were begun on liability accepted before the finding of insolvency;

(3) for which a bona fide hardship exists or will exist with certain policyholders or claimants if their claims are not handled forthwith; and

(4) for which the insurer under conservation or receivership does not have sufficient funds to pay the emergency claims.

(b) If before a determination by the Commissioner that the insurer has become an impaired insurer, an insurer has been placed in conservation under an order of the Commissioner based on a finding of insolvency or temporary or permanent receivership under a court order based upon a finding of insolvency, the Commissioner may request from the board of directors of the association the advancement of funds to enable the conservator or receiver to have sufficient funds to pay emergency claims.

(c) The Commissioner shall certify to the board of directors of the association a list of active claims that are emergency claims and shall certify the amount of additional funds needed to supplement the assets of the insurer to make payment of those emergency claims.

(d) The Commissioner, in his request, shall state the reason or reasons that a bona fide hardship exists or will exist, that the insurer has not been declared an impaired insurer, and when the Commissioner reasonably anticipates that it will be declared an impaired insurer or released from conservation or receivership.

(e) Upon receipt of the required certifications, the board of directors may advance the funds necessary to pay the additional claims.

(f) In order to avoid undue delay in the payment of emergency claims, the conservator or receiver may contract with an insurer licensed to do business in this State or any other qualified organization for the handling and adjustment of those emergency claims.

(g) If an insolvent insurer is subsequently rehabilitated, any amounts advanced by the association shall be repaid to the association by the insurer or pursuant to any plan of rehabilitation. If an insolvent insurer is subsequently declared an impaired insurer, amounts advanced pursuant to this section shall be considered assessments for covered claims under Section 7 and subject to the provisions of this article.

SECTION 6.16. Section 8, Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code), is amended to read as follows:

Sec. 8. PENALTY FOR FAILURE TO PAY ASSESSMENTS. A. The Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact business in this State of any member insurer who fails to pay

an assessment when due, and the association shall promptly report to the Commissioner any such failure. Any insurer whose certificate of 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.

B. As an alternative to the penalty provided by Subsection A of this section, the Commissioner may levy a monetary penalty on a member insurer who fails to pay an assessment when due. The monetary penalty may not exceed five percent of the unpaid assessment a month and may not be less than $100 a month.

SECTION 6.17. Subsection (4), Section 5, Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act (Article 21.28-D, Insurance Code), is amended to read as follows:

(4) "Contractual obligation" means any policy or contract benefit (including but not limited to death, disability, hospitalization, medical, premium deposits, advance premiums, supplemental contracts, cash surrender, loan, nonforfeiture, extended coverage, annuities, and coupon and dividend accumulations to the owner, beneficiary, assignee, certificate holder, or third-party beneficiary), arising from an insurance policy or annuity contract to which this Act applies, issued or assumed by an insurer who becomes an impaired insurer. A contractual obligation shall not include:

(a) death benefits in an amount in excess of $300,000 or a net cash surrender or net cash withdrawal value in an amount in excess of $100,000 in the aggregate under one or more covered policies on any one life;

(b) an amount in excess of $100,000 in the aggregate under one or more annuity contracts within the scope of this Act issued to the same holder of individual annuity policies or to the same annuitant or participant under group annuity policies or an amount in excess of $5,000,000 in unallocated annuity contract benefits with respect to any one contract holder irrespective of the number of such contracts;

(c) an amount in excess of $200,000 in the aggregate under one or more accident and health, accident, or health insurance policies on any one life;

(d) any benefits that would have been payable under any group life, accident, or health policies or contracts of the impaired insurer for claims incurred after the next renewal date under those policies or contracts or 90 days, but in no event less than 60 days, after the date that a permanent receiver has been appointed for the insurer by a court of competent jurisdiction, whichever occurs first; or

(e) punitive, exemplary, extracontractual, or bad faith damages, whether agreed to or assumed by an insurer or insured or imposed by a court of competent jurisdiction.

If the impaired insurer has no assets within the State of Texas, or has insufficient assets to pay the expenses of administering the receivership or conservatorship of the impaired insurer, that portion of the expenses of administration incurred in the processing and payment of claims against the impaired insurer shall also be a contractual obligation under this Act.

SECTION 6.18. Subsection (1), Section 9, Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act (Article 21.28-D, Insurance Code), is amended to read as follows:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall determine the amount necessary and the commissioner shall assess the member insurers, separately for each account established by Section 6 of this Act, at such times and for such amounts as the board of directors finds necessary. All assessments ordered by the commissioner shall be payable to the association and are due on a date specified by

the commissioner which may not be earlier than the 30th day after the date on which prior [~~the board of directors shall collect the assessments after 30 days'~~] written notice is given to the member insurers. Interest accrues on the unpaid amount at a rate of 10 percent beginning on the [~~before payment is~~] due date.

SECTION 6.19. Subsection (3), Section 9, Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act (Article 21.28-D, Insurance Code), is amended to read as follows:

(3)(a) The amount of any Class A assessment for each account shall be determined by the board of directors taking into consideration one or more of the following: annual premium receipts, admitted assets, or insurance in force, as reflected in the annual statements for the year preceding the assessment. The amount of any Class B assessment shall be divided among the separate accounts as reflected in the annual statements for the year preceding the assessment in the same proportion that the premiums from the policies covered by each account were received by such insolvent or impaired insurer from all covered policies during the [~~preceding calendar~~] year preceding impairment;

(b) Class A assessments shall be allowed as a credit on the amount of premium taxes in the manner provided by Article 1.16 of this code. Class B assessments against member insurers for each account shall be in the proportion that premiums received on all business by each assessed member insurer on policies covered by each account bears to such premiums received on all business by all assessed member insurers;

(c) Assessments for funds to meet the requirements of the association with respect to an insolvent or impaired insurer shall not be made until necessary to implement the purposes of this Act. Classification of assessments under Paragraph (2), above, and computation of assessments under this paragraph shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

SECTION 6.20. Subsection (5), Section 13, Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act (Article 21.28-D, Insurance Code), is amended by adding Subdivisions (f) and (g) to read as follows:

(f) Claims against an impaired insurer placed under an order of liquidation, rehabilitation, or conservation shall be processed and acted on by the receiver in the same manner as other claims under Article 21.28 of this code.

(g) A person who has a claim against an insurer under a provision in an insurance policy, other than a policy of an impaired insurer, that also is a contractual obligation under this Act must first exhaust his right under that policy. The amount of an approved claim under this Act shall be reduced by the policy limits of or amount paid under that insurance policy, whichever amount is greater. If a claimant exhausts his right under a policy other than a policy of an impaired insurer, the insurer issuing that policy is not entitled to sue or continue a suit against the insured of the impaired insurer to recover an amount paid the claimant under that policy. Notwithstanding the foregoing, a person having a contractual obligation as defined by this Act under a life insurance policy or annuity contract issued by an impaired insurer is not required to exhaust other coverage for that claim, and the amount of an approved claim under a life insurance policy or annuity contract issued by an impaired insurer may not be reduced because of that duplicate coverage.

SECTION 6.21. The Loss Claimant's Priorities Act (Article 21.28-B, Insurance Code) is repealed.

SECTION 6.22. Article 9.48, Insurance Code, is amended by adding Section 7A to read as follows:

Sec. 7A. PURPOSE OF ASSESSMENTS. The amounts provided pursuant to assessments made under this article are considered to be supplemental to the

marshaling of assets for the purpose of making payments on behalf of an impaired insurer.

SECTION 6.23. Article 21.28-C, Insurance Code, is amended by adding Section 7A to read as follows:

Sec. 7A. PURPOSE OF ASSESSMENTS. The amounts provided pursuant to assessments made under this article are considered to be supplemental to the marshaling of assets for the purpose of making payments on behalf of an impaired insurer.

SECTION 6.24. Section 9, Life, Accident, Health, and Hospital Service Insurance Guaranty Association Act (Article 21.28-D, Insurance Code), is amended by adding Subsection (10) to read as follows:

(10) The amounts provided pursuant to assessments made under this section are considered to be supplemental to the marshaling of assets for the purpose of making payments on behalf of an impaired insurer.

SECTION 6.25. Chapter 21, Insurance Code, is amended by adding Article 21.28-E to read as follows:

Art. 21.28-E. DISCLOSURE OF GUARANTY FUND NONPARTICIPATION IN INSURANCE POLICIES, CONTRACTS, AND APPLICATIONS AND IN CERTIFICATES AND EVIDENCES OF COVERAGE. (a) Each insurance policy or contract or application or certificate or evidence of coverage delivered or issued for delivery in this state that is not covered by an insurance guaranty fund or other solvency protection arrangement authorized by this code must have affixed to the first page in 10-point type a statement to the effect that, in the event the insurer is unable to fulfill its contractual obligation under this policy or contract or the certificate or evidence of coverage, the insurer is not covered by an insurance guaranty fund or other solvency protection arrangement.

(b) The State Board of Insurance by rule shall promulgate the statements that must be used by insurers to comply with this article, and an insurer may not include in an insurance policy, contract, or application or a certificate or evidence of coverage a statement that does not conform to the appropriate statement promulgated by the board.

ARTICLE 7. REINSURANCE

SECTION 7.01. Articles 3.10 and 5.75-1, Insurance Code, are amended to read as follows:

Art. 3.10. MAY REINSURE. (a) Any domestic company may reinsure in any solvent assuming insurer, any risk or part of a risk which it may assume; provided, however, no credit for the reserve liability on such reinsurance may be taken by the ceding insurer except as provided in this section, [~~unless the assuming insurer is licensed to do business in this state, or such reinsurance and the ceding insurer and assuming insurer comply with the provisions of Article 3.10A of this code;~~] and, provided further, no company operating under Section 2(a) of Article 3.02 shall reinsure any risk or part of a risk with any insurer which is not licensed to do business in this state. No such domestic company shall have the power to reinsure its entire outstanding business to an assuming insurer unless the assuming insurer is licensed in this state and until the contract therefor shall be submitted to the Commissioner of Insurance of Texas and approved by him as protecting fully the interests of all policy holders.

(b) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:

(1) the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state; or

(2) the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which: submits to this state's jurisdiction; submits to this state's authority to examine its books and

records; is domiciled and licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state; files annually a copy of its annual statement, filed with the insurance department of its state of domicile, with the State Board of Insurance; and maintains a surplus as regards policy holders in an amount not less than $20 million; or

(3) the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in Subsection (e)(2), for the payment of the valid claims of its United States policy holders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the State Board of Insurance information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the State Board of Insurance to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than $20 million. In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than $100 million and the group shall make available to the State Board of Insurance an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter. Such trust shall be established in a form approved by the State Board of Insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policy holders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the State Board of Insurance. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust. Not later than February 28 of each year the trustees of the trust shall report to the State Board of Insurance in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31; or

(4) the reinsurance is ceded to an assuming insurer not meeting the requirements of Subdivision (1), (2), or (3), but only with respect to the insurance of risks located in a jurisdiction where such reinsurance is required by applicable law or regulation of that jurisdiction to be ceded to an assuming insurer that does not meet the requirements of Subdivisions (1), (2), and (3) of this subsection.

(c) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by Subsection (b)(3) of this article shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any State of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any Appellate Court in the event of an appeal; and

(2) to designate the State Board of Insurance or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company. This

provision, however, is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

(d) Any asset or reduction from liability for the reinsurance ceded to an assuming insurer not meeting the requirements of Subsection (b) shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer, and such asset or reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer or, in the case of a trust, held in a qualified United States financial institution, as defined in Subsection (e). This security may be in the form of:

(1) cash;

(2) securities readily marketable over a national exchange with a maturity date of not later than one year listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;

(3) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in Subsection (e)(1).

Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; provided, however, the letter of credit must be replaced within three months after the date of the institution's failure to meet applicable standards of issuer acceptability.

(4) any other form of security acceptable to the Commissioner.

(e) Qualified United States Financial Institutions. (1) For the purposes of Subsection (d)(3), a "qualified United States financial institution" means an institution that:

(A) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof;

(B) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) has been determined by either the Commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner.

(2) A "qualified United States financial institution" means, for the purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(A) is organized, or, in the case of a United States branch or agency office or a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted the authority to operate with fiduciary powers; and

(B) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(f) The Board may adopt rules and regulations implementing the provisions of this law.

(g) Subsections (a) through (f) of this article shall apply to all reinsurance agreements having an inception, anniversary, or renewal date not less than four months after the effective date of this statute.

(h) A person does not have any rights against a reinsurer that are not specifically set forth in the contract of reinsurance or in a specific agreement between the reinsurer and the person.

(i) The State Board of Insurance shall require schedules of reinsurance to be filed by every insurer at the time of making the annual report and at such other times as the Board may direct.

(j) Credit may not be given in the accounting and financial statements, either as an asset or a deduction from liability, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer and is payable directly to the ceding insurer or to its domiciliary liquidator or receiver.

(k) "Assuming insurer" means the insurer who under a contract of reinsurance incurs to the ceding insurer an obligation of which the performance is contingent on incurring of liability or loss by the ceding insurer under its contract or contracts of insurance made with third persons.

(l) An insurer shall account for reinsurance agreements and shall record those reinsurance agreements in the insurer's financial statement in a manner that accurately reflects the effect of the reinsurance agreements on the financial condition of the company. The State Board of Insurance may adopt reasonable rules relating to the accounting and financial statement requirements of this section and the treatment of reinsurance agreements between insurance companies, including asset debits or credits, reinsurance debits or credits, and reserve debits or credits relating to the transfer of risks or liabilities by reinsurance agreements and any contingencies arising from reinsurance agreements.

Art. 5.75-1. REINSURANCE. (a) Every company authorized to do business in Texas, writing any line of insurance regulated by Chapter 5 of this Code, and while in compliance with all laws applicable to it, will be eligible to reinsure its liability or any part of its liability which it may assume as a direct writer under authority of law. No such company shall have the power to reinsure its entire outstanding business to an assuming insurer unless the assuming insurer is licensed in this state and until the contract therefor shall be submitted to the State Board of Insurance, and be by it approved, as protecting fully the interests of all the policyholders. This Article shall be cumulative of other provisions of this Code pertaining to reinsurance.

(b) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:

(1) the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state; or

(2) the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which: submits to this state's jurisdiction; submits to this state's authority to examine its books and records; is domiciled and licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state; files annually a copy of its annual statement, filed with the insurance department of its state of domicile, with the State Board of Insurance; and maintains a surplus as regards policyholders in an amount not less than $20 million; or

(3) the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in Subsection (e)(2), for the payment of the valid claims of its United States

policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the State Board of Insurance information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the State Board of Insurance to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than $20 million. In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than $100 million; and the group shall make available to the State Board of Insurance an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter. Such trust shall be established in a form approved by the State Board of Insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the State Board of Insurance. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust. Not later than February 28 of each year the trustees of the trust shall report to the State Board of Insurance in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31; or

(4) the reinsurance is ceded to an assuming insurer not meeting the requirements of Subdivision (1), (2), or (3), but only with respect to the insurance of risks located in a jurisdiction where such reinsurance is required by applicable law or regulation of that jurisdiction to be ceded to an assuming insurer that does not meet the requirements of Subdivision (1), (2), or (3) of this subsection.

(c) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by Subsection (b)(3) of this article shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any State of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any Appellate Court in the event of an appeal; and

(2) to designate the State Board of Insurance or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This provision, however, is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

(d) Any asset or deduction from liability for the reinsurance ceded to an assuming insurer not meeting the requirements of Subsection (b) shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer, and such asset or deduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations

thereunder, if such security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer or, in the case of a trust, held in a qualified United States financial institution, as defined in Subsection (e). This security may be in the form of:

(1) cash;

(2) securities readily marketable over a national exchange with a maturity date of not more than one year listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;

(3) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in Subsection (e)(1).

Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; provided, however, such letter of credit shall be replaced within three months after the date of the institution's failure to meet applicable standards of issuer acceptability.

(4) any other form of security acceptable to the Commissioner.

(e) Qualified United States Financial Institutions. (1) For the purposes of Subsection (d)(3), a "qualified United States financial institution" means an institution that:

(A) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof;

(B) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) has been determined by either the Commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner.

(2) A "qualified United States financial institution" means, for the purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(A) is organized, or, in the case of a United States branch or agency office or a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted the authority to operate with fiduciary powers; and

(B) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(f) Subsections (a) through (e) of this article shall apply to all reinsurance agreements having an inception, anniversary, or renewal date not less than four months after the effective date of this statute [~~the reserve liability on any reinsurance may not be taken by a domestic ceding insurer unless the assuming insurer is licensed to do business in this state or the reinsurance and the ceding insurer and assuming insurer comply with Article 5.75-2 of this Code~~].

(g) [~~(c)~~] A person does not have any rights against a reinsurer that are not specifically set forth in the contract of reinsurance or in a specific agreement between the reinsurer and the person.

(h) [~~(d)~~] The State Board of Insurance shall require schedules of reinsurance to be filed by every insurer at the time of making the annual report and at such other times as the board may direct.

(i) [~~(e)~~] Credit may not be given in the accounting and financial statements, either as an asset or a deduction from liability, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer, and is payable directly to the ceding insurer or to its domiciliary liquidator or receiver, except:

(1) where the contract of reinsurance specifically provides another payee of the reinsurance in the event of insolvency of the ceding insurer; or

(2) where the assuming insurer, with the consent of the direct insured, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payee under the policies and in substitution for the obligations of the ceding insurer to the payee.

(j) [~~(f)~~] "Assuming insurer" means the insurer who under a contract of reinsurance incurs to the ceding insurer an obligation of which the performance is contingent on incurring of liability or loss by the ceding insurer under its contract or contracts of insurance made with third persons.

(k) [~~(g)~~] Each company authorized to do business in this state, writing any line of insurance regulated by this chapter, and while in compliance with all laws applicable to it, may provide reinsurance as provided by Subsection (a) of this article.

(l) [~~(h)~~] A life insurance company authorized to do business in this state may provide reinsurance on the same basis as companies described in Subsection (k) [~~(g)~~] of this article.

(m) [~~(i)~~] The State Board of Insurance may adopt necessary and reasonable rules under this article to protect the public interest.

SECTION 7.02. Articles 3.10A and 5.75-2, Insurance Code, are repealed.

ARTICLE 8. DECEPTIVE TRADE PRACTICES ACT

SECTION 8.01. Subsection (a), Section 17.47, Business & Commerce Code, is amended to read as follows:

(a) Whenever the consumer protection division has reason to believe that any person is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful by this subchapter, and that proceedings would be in the public interest, the division may bring an action in the name of the state against the person to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such method, act, or practice. The consumer protection division may bring any action under this section against a licensed insurer or insurance agent for a violation of this subchapter, Article 21.21, Texas Insurance Code, as amended, or the rules and regulations of the State Board of Insurance issued under Article 21.21, Texas Insurance Code, as amended, only if [~~on the written request of~~] the State Board of Insurance or the commissioner of insurance, acting on behalf of the State Board of Insurance, does not within 25 days after the date the commissioner of insurance receives written notice from the consumer protection division of its intent to bring that action file with the consumer protection division a written objection to the action stating one or more of the following reasons for that objection:

(1) an investigation under the direction of the State Board of Insurance or the commissioner of insurance is in progress at the time the written objections are filed relating to a party or matter that is the subject of the proposed action;

(2) the State Board of Insurance or the commissioner of insurance has directed the commencement of an investigation, disciplinary proceeding, or other action against a party or matter that is the subject of the proposed action;

(3) the party or matter that is the subject of the proposed action is involved in a supervision, conservatorship, or delinquency proceeding;

(4) the identity of the party or matter that is the subject of the proposed action has been made confidential by law or by determination of the commissioner of insurance; or

(5) after investigation, the State Board of Insurance or the commissioner of insurance has made a determination that no violation of Article 21.21, Insurance Code, or other insurance laws of this state or rules or regulations promulgated under that article or those laws has occurred. If the commissioner of insurance has determined that the information that forms the basis for the written objection is confidential under Article 21.28A, Insurance Code, the written objection shall state that the information is confidential, and the written objection may not be disclosed by the consumer protection division without written consent of the commissioner of insurance. Not later than the 10th day after the date on which the period of confidentiality ends, the commissioner of insurance shall forward written notice to the consumer protection division that confidentiality has ended.

On timely filing of written objections stating one or more of the reasons in Subdivisions (1) through (5) of this subsection, the consumer protection division may not bring an action against a licensed insurer or licensed agent for violation of this subchapter, Article 21.21, Insurance Code, or rules and regulations of the State Board of Insurance promulgated under Article 21.21, Insurance Code, unless the consumer protection division petitions a district court in Travis County for a determination of the validity of those reasons stated in the written objection and obtains an order from that court stating that the reason or reasons for objection stated in the written objection are not valid.

Nothing herein shall require the consumer protection division to notify such person that court action is or may be under consideration. Provided, however, the consumer protection division shall, at least seven days prior to instituting such court action, contact such person to inform him in general of the alleged unlawful conduct. Cessation of unlawful conduct after such prior contact shall not render such court action moot under any circumstances, and such injunctive relief shall lie even if such person has ceased such unlawful conduct after such prior contact. Such prior contact shall not be required if, in the opinion of the consumer protection division, there is good cause to believe that such person would evade service of process if prior contact were made or that such person would destroy relevant records if prior contact were made, or that such an emergency exists that immediate and irreparable injury, loss, or damage would occur as a result of such delay in obtaining a temporary restraining order.

SECTION 8.02. Section 17.60, Business & Commerce Code, is amended to read as follows:

Sec. 17.60. REPORTS AND EXAMINATIONS. Whenever the consumer protection division has reason to believe that a person is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful by this subchapter, or when it reasonably believes it to be in the public interest to conduct an investigation to ascertain whether any person is engaging in, has engaged in, or is about to engage in any such act or practice, an authorized member of the division may:

(1) require the person to file on the prescribed forms a statement or report in writing, under oath or otherwise, as to all the facts and circumstances concerning the alleged violation and such other data and information as the consumer protection division deems necessary;

(2) examine under oath any person in connection with this alleged violation;

(3) examine any merchandise or sample of merchandise deemed necessary and proper; and

(4) pursuant to an order of the appropriate court, impound any sample of merchandise that is produced in accordance with this subchapter and retain it in the possession of the division until the completion of all proceedings in connection with which the merchandise is produced.

This section shall not apply to licensed insurers or licensed insurance agents transacting an insurance business in this state under the authority and jurisdiction of the State Board of Insurance unless [~~the State Board of Insurance or the Insurance Commissioner has requested in writing that~~] the consumer protection division has submitted a notice of intent to file an action under Section 17.47 of this subchapter and the State Board of Insurance or the commissioner of insurance has not returned an objection to the action before the deadline provided by Subsection (a) of that section.

SECTION 8.03. Subsection (a), Section 17.61, Business & Commerce Code, is amended to read as follows:

(a) Whenever the consumer protection division believes that any person may be in possession, custody, or control of the original copy of any documentary material relevant to the subject matter of an investigation of a possible violation of this subchapter, an authorized agent of the division may execute in writing and serve on the person a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying. This section shall not apply to licensed insurers or licensed insurance agents transacting an insurance business in this state under the authority and jurisdiction of the State Board of Insurance unless [~~the State Board of Insurance or the Insurance Commissioner has requested in writing that~~] the consumer protection division has submitted a notice of intent to file an action under Section 17.47 of this subchapter and the State Board of Insurance or the commissioner of insurance has not returned an objection to the action before the deadline provided by Subsection (a) of that section.

ARTICLE 9. MISCELLANEOUS PROVISIONS

SECTION 9.01. (a) Except for Article 8 of this Act, this Act takes effect September 1, 1989.

(b) Article 8 of this Act takes effect January 1, 1991.

SECTION 9.02. Section 1, Article 3.02, Insurance Code, as amended by this Act, applies only to articles of incorporation required to be filed by that section and acquisition applications that are filed on and after the effective date of this Act. Articles of incorporation filed before that date are governed by the law that existed at the time those articles were filed, and that law is continued in effect for that purpose.

SECTION 9.03. Section 5A, Article 21.28-A, Insurance Code, as added by this Act, applies only to conservatorships ordered by the commissioner of insurance on and after September 1, 1989.

SECTION 9.04. (a) With regard to an insurer that was put under supervision by the commissioner of insurance before September 1, 1989, the insurance company under supervision must comply with the requirements established by the commissioner under Section 3, Article 21.28-A, Insurance Code, as amended by this Act, not later than December 1, 1989.

(b) With regard to an insurer that was put under conservatorship under Article 21.28-A, Insurance Code, as amended by this Act, before September 1, 1989, the conservator must accomplish the purposes and complete his duties and responsibilities not later than December 1, 1989. If the conservator has not completed his duties by that date, he is automatically discharged as conservator for the insurance company.

SECTION 9.05. The right to file suit and limitations and conditions placed on the right to file suit under amendments made under Article 6 of this Act apply only to suits filed on or after September 1, 1989. Suits filed before that date are

governed by the law that existed at the time the suit was filed, and those laws are continued in effect for that purpose.

SECTION 9.06. The change in the formulas for making assessments against insurers for guaranty purposes under amendments made by Article 6 of this Act applies only to assessments made by the commissioner of insurance or the board of directors of a guaranty fund on and after September 1, 1989. Assessments made before that date are governed by the law that existed at the time the assessments were made, and that law is continued in effect for that purpose.

SECTION 9.07. Immunity from liability granted by Section 17, Article 9.48, Insurance Code, and Section 4, Article 21.28, Insurance Code, and the Texas Property and Casualty Insurance Guaranty Act (Article 21.28-C, Insurance Code), as amended by this Act, applies only to behavior occurring on and after September 1, 1989. Behavior occurring before that date is governed by the law that existed at the time the behavior occurred and that law is continued in effect for that purpose.

SECTION 9.08. Subsection (b), the amendment to Section 2, Article 21.28, Insurance Code, made by this Act, and the amendment of the times for filing claims and late claims and for giving notices made by Article 6 of this Act apply only for proceedings that begin on and after September 1, 1989. The law that existed before those amendments is continued in effect for the proceedings beginning before that date.

SECTION 9.09. Changes in claims that are covered and not covered, the priority of claims, the reduction in claims, rights to claims, and the distribution of assets made by amendments under Article 6 of this Act apply only to claims and asset distributions to which a right has not accrued before September 1, 1989. A claim or an asset distribution to which a right has accrued before that date is governed by the law that existed at the time the right to the claim or asset distribution accrued, and that law is continued in effect for that purpose.

SECTION 9.10. Article 21.28-E, Insurance Code, as added by this Act, applies to all insurance policies, contracts, and applications and to all certificates and evidences of coverage delivered, issued for delivery, or renewed in this state on and after January 1, 1990. Policies, contracts, and applications and certificates and evidences of coverage delivered, issued for delivery, or renewed in this state before January 1, 1990, are governed by the law that existed immediately before September 1, 1989, and that law is continued in effect for that purpose.

SECTION 9.11. 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
SENATE BILL 457

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 457** 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.

PARKER	VOWELL
BARRIENTOS	GIBSON
CAPERTON	GRANOFF
EDWARDS	GUERRERO
KRIER	SCHLUETER
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to funding higher education and the composition, continuation, and functions of the Texas Higher Education Coordinating Board.

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

ARTICLE 1. EDUCATION CODE: GENERAL AMENDMENTS

SECTION 1.01. Sections 61.0211 and 61.0221, Education Code, are amended to read as follows:

Sec. 61.0211. APPLICATION OF SUNSET ACT. The Texas Higher Education Coordinating Board is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished and this chapter expires September 1, 2001 [~~1989~~].

Sec. 61.0221. DUTY IN MAKING OR CONFIRMING APPOINTMENTS. (a) In making or confirming appointments to the coordinating board, the governor and senate shall ensure that the appointee has the background and experience suitable for performing the statutory responsibility of a member of the coordinating board.

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

SECTION 1.02. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.0222 to read as follows:

Sec. 61.0222. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) A member of the board must be a representative of the general public. A person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) An officer, employee, or paid consultant of a Texas trade association in the field of higher education may not be a member or employee of the board if the person 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.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of higher education may not be a board member and may not be a board employee 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) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

(e) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 1.03. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.0223 to read as follows:

Sec. 61.0223. REMOVAL OF BOARD MEMBER. (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 61.0222(a) of this code;

(2) does not maintain during service on the board the qualifications required by Section 61.0222(a) of this code;

(3) violates a prohibition established by Section 61.022 or Section 61.0222(b), (c), or (d) of this code;

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

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless 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 is taken when a ground for removal of a board member exists.

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

SECTION 1.04. Section 61.025, Education Code, is amended to read as follows:

Sec. 61.025. QUORUM; MEETINGS; AGENDA. (a) A majority of the membership of the board constitutes a quorum.

(b) The board shall hold regular quarterly meetings in the city of Austin, and other meetings at places and times scheduled by it in formal sessions and called by the chairman.

(c) An agenda for the meetings in sufficient detail to indicate the items on which final action is contemplated shall be mailed to the chairman of each governing board and to the chief administrative officer of each state institution of higher education at least 30 days prior to the meeting.

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

SECTION 1.05. Section 61.028, Education Code, is amended to read as follows:

Sec. 61.028. COMMISSIONER OF HIGHER EDUCATION; PERSONNEL; CONSULTANTS. (a) The board shall appoint a commissioner of higher education, who shall select and supervise the board's staff and perform other

duties delegated to him by the board. The commissioner shall serve at the pleasure of the board.

(b) The commissioner shall be a person of high professional qualifications having a thorough background by training and experience in the fields of higher education and administration and shall possess such other qualifications as the board may prescribe.

(c) The commissioner shall employ professional and clerical personnel and consultants as necessary to assist the board and the commissioner in performing the duties assigned by this chapter. The number of employees, their compensation and the other expenditures of the board shall be within the limits and in compliance with the appropriation made for those purposes by the legislature and within budgets that shall be approved from time to time by the board.

(d) The commissioner or the commissioner's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(e) The commissioner or the commissioner's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

(f) 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 under 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 board's work force that meets federal and state guidelines;

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

(4) reasonable methods to appropriately address those areas of significant underuse.

(g) A policy statement prepared under Subsection (f) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(h) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (g) of this section. The report may be made separately or as part of other biennial reports made to the legislature.

(i) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

SECTION 1.06. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.029 to read as follows:

Sec. 61.029. INTERNAL AUDITOR. (a) The commissioner of higher education shall appoint an internal auditor for the board. The appointment of an internal auditor must be approved by the board.

(b) The internal auditor shall report to the commissioner. The board by rule may require the internal auditor to submit certain reports directly to the board.

(c) A committee of the board whose primary function is to oversee the administration of the board shall meet with the internal auditor at least as frequently as quarterly.

(d) The internal auditor's duties include:

(1) the review and appraisal of the accounting, financial, and operating activities of the board, including its internal information management; and

(2) appraisal of the board's effectiveness in meeting its statutory duties.

(e) The state auditor shall review the quality and the effectiveness of the board's internal management information as part of the auditor's responsibility to conduct expanded scope audits of state agencies.

SECTION 1.07. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.030 to read as follows:

Sec. 61.030. QUALIFICATIONS AND STANDARDS OF BOARD MEMBERS AND EMPLOYEES. The board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 1.08. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.031 to read as follows:

Sec. 61.031. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.

(b) The board shall keep an information file about each complaint filed with the board that the board has authority to resolve.

(c) If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 1.09. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.032 to read as follows:

Sec. 61.032. NOTICE OF NATIONAL COMPACT MEETINGS. The commissioner of higher education or the commissioner's designee on behalf of Texas members of the Board of Control for Southern Regional Education shall file notice of board of control meetings with the secretary of state's office for publication in the Texas Register.

SECTION 1.10. Subchapter B, Chapter 61, Education Code, is amended by adding Section 61.033 to read as follows:

Sec. 61.033. COMPETITIVE COST REVIEW PROGRAM. The board is subject to Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

SECTION 1.11. Subsections (a), (d), (e), (g), and (h), and (j), Section 61.051, Education Code, are amended to read as follows:

(a) The board shall represent the highest authority in the state in matters of public higher education and is charged with the duty to take an active part in promoting quality education in the various regions of the state. The board shall be responsible for assuring that there is no discrimination in the distribution of programs and resources throughout the state on the basis of race, national origin, or sex. The board shall develop a five-year master plan for higher education in this state and update the plan annually. The five-year plan shall take into account the resources of private institutions of higher education in this state. The board shall:

(1) inform the legislature on matters pertaining to higher education, including the state's activities in the Board of Control for Southern Regional Education; and

(2) [~~shall~~] report to the legislature in January of each year on the state of higher education in Texas.

(d) The board shall develop, after direct consultation with the governing board of the institution and after providing a forum for a public hearing, [~~classify and~~

~~prescribe~~] the role and mission [~~scope~~] for each public institution of higher education in Texas. The board[~~, shall make such changes in classification or role and scope of each institution as it deems necessary, and~~] shall hear applications from the institutions for changes in [~~classification or~~] role and mission and make changes necessary to update the role and mission statements of each institution. The board shall adopt by rule the criteria to be used in reviewing the role and mission statements [~~scope~~]. The board, after direct consultation with the governing board of the institution and after providing the forum for a public hearing, may prescribe by rule maximum enrollment limits for such institution. In setting maximum enrollment limits, the board shall take into account any financial hardship such enrollment limits might cause qualified Texas residents seeking a higher education. The governing board of each institution shall determine the maximum enrollment limits for any department, school, degree program, or certificate program at the institution.

(e) The board shall review periodically the role and mission statements, the table of programs, and all degree and certificate programs offered by the public institutions of higher education to assure that they meet the present and future needs of the state and the counties in which they are located. The board's review shall be performed at least every four years and shall involve the chairperson of the institution's board of regents. The board shall also order the initiation, consolidation, or elimination of degree or certificate programs where that action is in the best interest of the public institutions themselves or the general requirements of the State of Texas, the counties in which they are located, or when that action offers hope of achieving excellence by a concentration of available resources. No new department, school, degree program, or certificate program may be added at any public institution of higher education except with specific prior approval of the board. [~~Once approved, no department, school, degree program, or certificate program at any public institution of higher education may be expanded to include subject matter courses that are outside of approved degree and certificate programs except with specific prior approval of the board.~~] The board may authorize an institution to continue a doctoral program that is inconsistent with the role and mission of the institution if the program was in existence on September 1, 1987, and the board determines that continuation of the program is warranted.

(g) The board shall develop and promulgate a basic core of general academic courses which[~~, when offered at a junior college during the first two years of collegiate study,~~] shall be freely transferable among all public institutions of higher education in Texas which are members of recognized accrediting agencies on the same basis as if the work had been taken at the receiving institution. The board shall develop and implement policies to provide for the free transferability of lower division course credit among institutions of higher education.

(h) The board shall make continuing studies of the needs of the state for research [~~and for extension and public services~~] and designate the institutions of higher education to perform research as needed[~~, public service, and extension programs, including limitation of extension programs for credit to specific geographic areas~~]. The board shall also maintain an inventory of all institutional and programmatic research[~~, extension, and public service~~] activities being conducted by the various institutions, whether state-financed or not. Once a year, on dates prescribed by the board, each institution of higher education shall report to the board all research conducted at that institution during the last preceding year. All reports required by this subsection shall be made subject to the limitations imposed by security regulations governing defense contracts for research.

(j) No off-campus courses for credit may be offered by any public technical institute, public community college, or public college or university without specific prior approval of the board. The board may not prohibit a public junior college

district from offering a course for credit outside the boundaries of the junior college district when such course has met the requirements for approval as adopted by the board. The board shall establish regulations for the coordination of credit and noncredit activities of adult and continuing education by public technical institutes, public community colleges, or public colleges and universities.

SECTION 1.12. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0511 to read as follows:

Sec. 61.0511. ROLE AND MISSION STATEMENT. Each institution of higher education shall develop a statement regarding the role and mission of the institution reflecting the three missions of higher education: teaching, research, and public service.

SECTION 1.13. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0512 to read as follows:

Sec. 61.0512. NEW DEGREE PROGRAMS; NOTIFICATION TO BOARD. At the time a public senior college or university begins preliminary planning for a new degree program or a new organizational unit to administer a new degree program, the college or university shall notify the board. In the implementation of this subsection, the board may not require additional reports from the institutions.

SECTION 1.14. Section 61.052, Education Code, is amended to read as follows:

Sec. 61.052. LIST OF COURSES: ANNUAL SUBMISSION TO BOARD. (a) Each governing board shall submit to the board once each year on dates designated by the board a comprehensive list by department, division, and school of all courses, together with a description of content, scope, and prerequisites of all these courses, that will be offered by each institution under the supervision of that governing board during the following academic year.

(b) After the comprehensive list of courses is submitted by a governing board under Subsection (a) of this section, the governing board shall submit on dates designated by the board any changes in the comprehensive list of courses to be offered.

(c) The board may order the deletion or consolidation of any courses so submitted after giving due notice with reasons for that action and after providing a hearing if one is requested by the governing board involved.

SECTION 1.15. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0571 to read as follows:

Sec. 61.0571. MINORITY AND FEMALE-OWNED BUSINESS CONTRACTS. (a) The board and each public senior college or university shall establish policies to encourage minority and female-owned small businesses to bid for board or institution contract and open market purchases and to assist those businesses in that bidding. Each institution shall file a copy of its policies with the board. The board and each institution shall review its policies periodically to correct any deficiencies in the policies.

(b) The board and each institution annually shall determine the number, types, and value of contracts awarded to minority and female-owned small businesses in the year preceding the determination and the ratio of the number and the value of those contracts to the number and the value of all contracts awarded by the board or institution in that year. Each institution shall submit its determination to the board, and the board shall develop a summary analysis of the information submitted by those institutions.

(c) The board shall:

(1) file the board's policies established under this section with the State Purchasing and General Services Commission and the Texas Department of Commerce; and

(2) submit to those agencies the policies filed with and the determinations submitted to the board by each institution under Subsections (a) and (b) of this section.

(d) The commission shall:

(1) conduct an analysis of the policies of the board and each institution and of those policies' effectiveness; and

(2) report the analysis to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(e) In this section:

(1) "Institution" means a public senior college or university.

(2) "Minority or female-owned small business" means a business enterprise:

(A) that is an independently owned and operated business enterprise, formed for the purpose of making a profit, that has fewer than 100 employees and less than $1 million in annual gross receipts; and

(B) at least 51 percent of which is owned or controlled by one or more socially and economically disadvantaged persons who are socially disadvantaged because of their identification as members of certain groups, including women, black Americans, Mexican-Americans and other Americans of Hispanic origin, Asian Americans, and American Indians.

SECTION 1.16. Section 61.058, Education Code, is renumbered and amended to read as follows:

Sec. 61.0572 [~~61.058~~]. CONSTRUCTION FUNDS AND DEVELOPMENT OF PHYSICAL PLANTS. (a) To assure efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments, the board shall carry out the duties prescribed by this section and Section 61.058 of this code.

(b) The board shall:

(1) determine formulas for space utilization in all educational and general buildings and facilities at institutions of higher education;

(2) devise and promulgate methods to assure maximum daily and year-round use of educational and general buildings and facilities, including but not limited to maximum scheduling of day and night classes and maximum summer school enrollment;

(3) consider plans for selective standards of admission when institutions of higher education approach capacity enrollment;

(4) require, and assist the public technical institutes, public senior colleges and universities, medical and dental units, and other agencies of higher education in developing long-range campus master plans for campus development;

(5) endorse, or delay until the next succeeding session of the legislature has the opportunity to approve or disapprove, the proposed purchase of any real property by an institution of higher education, except a public junior college;

(6) develop and publish standards, rules, and regulations to guide the institutions and agencies of higher education in making application for the approval of new construction and major repair and rehabilitation of all buildings and facilities regardless of proposed use; and

(7) ascertain that the standards and specifications for new construction, repair, and rehabilitation of all buildings and facilities are in accordance with Article 7, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).[~~; and~~]

(c) The board in consultation with institutions of higher education shall develop space standards for new construction or other capital improvement projects at public senior colleges and universities and medical and dental units that address

the differences in space requirements in teaching, research, and public service activities for those institutions. The standards developed under this subsection shall not be used to determine space needs for those projects related to clinical care facilities.

(d)(1) The board, for purposes of state funding, may review and approve as an addition to an institution's educational and general buildings and facilities inventory any improved real property acquired by gifts or lease-purchase only if:

(A) the institution requests to place the improved real property on its educational and general buildings and facilities inventory; and

(B) the value of the improved real property is more than $300,000 at the time the institution requests the property to be added to the educational and general buildings and facilities inventory.

(2) This subsection does not apply to gifts, grants, or lease-purchase arrangements intended for clinical or research facilities.

Sec. 61.058. NEW CONSTRUCTION AND REPAIR AND REHABILITATION PROJECTS. The board shall [~~(8)~~] approve or disapprove all new construction and repair and rehabilitation of all buildings and facilities at institutions of higher education financed from any source provided that:

(A) the board's consideration and determination shall be limited to the purpose for which the new or remodeled buildings are to be used to assure conformity with approved space utilization standards and the institution's approved programs and role and mission [~~scope~~] if the cost of the project is not more than $600,000 [~~$500,000~~], but the board may consider cost factors and the financial implications of the project to the state if the total cost is in excess of $600,000 [~~$500,000~~];

(B) the requirement of approval for new construction [~~financed from other than appropriated funds~~] applies only to projects the total cost of which is in excess of $300,000;

(C) the requirement of approval for major repair and rehabilitation of buildings and facilities applies only to a project [~~projects~~] the total cost of which is more than $600,000 [~~in excess of $300,000~~];

(D) the requirement of approval or disapproval by the board does not apply to any new construction or major repair and rehabilitation project that is specifically approved by the legislature;

(E) the requirement of approval by the board does not apply to a junior college's construction, repair, or rehabilitation financed entirely with funds from a source other than the state, including funds from ad valorem tax receipts of the college, gifts, grants, and donations to the college, and student fees; and

(F) the requirement of approval by the board does not apply to construction, repair, or rehabilitation of privately owned buildings and facilities located on land leased from an institution of higher education if the construction, repair, or rehabilitation is financed entirely from funds not under the control of the institution, and provided further that:

(i) the buildings and facilities are to be used exclusively for auxiliary enterprises; and

(ii) the buildings and facilities will not require appropriations from the legislature for operation, maintenance, or repair unless approval by the board has been obtained.

SECTION 1.17. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0582 to read as follows:

Sec. 61.0582. CAMPUS MASTER PLAN; DEFERRED MAINTENANCE. (a) Each public technical institute, public senior college or university, medical or

dental unit, or other agency of higher education required to submit a campus master plan under Section 61.0572 of this code shall include in the campus master plan:

(1) an assessment of the institution's deferred maintenance needs, including regular, preventive maintenance needs;

(2) a plan to address the institution's deferred maintenance needs;

(3) the amount the institution plans to designate each year for repairs, rehabilitations, and deferred maintenance projects; and

(4) the funding source for any new construction project that costs more than $300,000 or repair and rehabilitation project that costs more than $600,000.

(b) Under Subsection (a)(4) of this section, an institution shall report to the board any change in the funding source of a project before the project begins.

(c) An institution that receives dedicated funding under Article VII, Section 17 or 18, of the Texas Constitution shall include in the campus master plan a description of the projects on which the institution plans to spend those funds.

(d) The board by rule shall specify the information concerning deferred maintenance that an institution must report in the campus master plan.

(e) The board shall use the information reported in the plan to assess the deferred maintenance needs of those institutions and include its findings in the board's annual report.

SECTION 1.18. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0583 to read as follows:

Sec. 61.0583. AUDIT OF FACILITIES. (a) The board periodically shall conduct a comprehensive audit of all educational and general facilities on the campuses of public senior colleges and universities and the Texas State Technical Institute to verify the accuracy of the facilities inventory for each of those institutions.

(b) The board shall verify the accuracy of the square footage reported in each institution's budget request in relation to the facilities inventory.

(c) The audit must include a periodic review of construction projects to confirm that:

(1) a project has received prior approval by the board if required by Section 61.058 of this code; and

(2) an approved project is completed as specified in the request to the board for approval of the project.

(d) The board shall report its findings concerning the audits conducted under this section to the Legislative Budget Board and the audited institutions.

SECTION 1.19. Subsection (b), Section 61.059, Education Code, is amended to read as follows:

(b) The board shall devise, establish, and periodically review and revise formulas for the use of the governor and the Legislative Budget Board in making appropriations recommendations to the legislature for all institutions of higher education, including the funding of postsecondary vocational-technical programs. As a specific element of the periodic review, the board shall study and recommend changes in the funding formulas based on the role and mission statements of institutions of higher education. In carrying out its duties under this section, the board shall employ an ongoing process of committee review and expert testimony and analysis.

SECTION 1.20. Section 61.069, Education Code, is amended to read as follows:

Sec. 61.069. BOARD REPORT. (a) The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year.

(b) The annual report must be in the form and reported in the time provided by the General Appropriations Act ~~[make a report of its activities to the governor annually and to the legislature not later than December 1 prior to the regular session of the legislature]~~.

SECTION 1.21. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.076 to read as follows:

Sec. 61.076. COOPERATION BETWEEN STATE AGENCIES OF EDUCATION. (a) It is the policy of the State of Texas that the entire system of education supported with public funds be coordinated to provide the citizens with efficient, effective, and high quality educational services and activities. The board and the State Board of Education, in conjunction with such other agencies as may be appropriate, shall ensure that long-range plans and educational programs established by the boards complement the functioning of the entire system of public education, extending from early childhood education through postgraduate study. In assuring that plans and programs are coordinated, the boards shall use the Joint Advisory Committee established under Section 61.077 of this code.

(b) The Joint Advisory Committee shall coordinate plans and programs of the two boards, including curricula, instructional programs, research, and other functions as appropriate. This coordination shall include the following areas:

(1) equal educational opportunity for all Texans;

(2) college recruitment, with special emphasis on the recruitment of minority students;

(3) preparation of high school students for further study at colleges and universities;

(4) reduction of the dropout rate and dropout prevention;

(5) teacher education; and

(6) testing and assessment.

SECTION 1.22. Subchapter F, Chapter 61, Education Code, is amended by adding Section 61.230 to read as follows:

Sec. 61.230. ANNUAL REPORT. (a) The coordinating board shall include in its annual report a breakdown by ethnicity indicating the percentage of each ethnic group that received tuition equalization grant money for each academic year at each institution.

SECTION 1.23. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.078 to read as follows:

Sec. 61.078. TRANSFER OF LOWER DIVISION COURSE CREDIT. (a) The board by rule shall adopt policies that provide for the free transferability of lower division course credit among institutions of higher education, including procedures to be followed by:

(1) the institutions of higher education in resolving disputes concerning the transfer of lower division course credit; and

(2) the commissioner of higher education or the commissioner's designee in making a final determination concerning transfer of the course credit if the transfer is in dispute.

(b) Each institution of higher education shall publish in its course catalogs the procedures adopted by the board under Subsection (a) of this section.

(c) If an institution of higher education does not accept course credit earned by a student at another institution of higher education, that institution shall give written notice to the student and the other institution that the transfer of the course credit is denied. The two institutions and the student shall attempt to resolve the transfer of the course credit in accordance with board rules. If the transfer dispute is not resolved to the satisfaction of the student or the institution at which the credit was earned within 45 days after the date the student received written notice of the

denial, the institution that denies the transfer of the course credit shall notify the commissioner of its denial and the reasons for the denial.

(d) The commissioner of higher education or the commissioner's designee shall make the final determination about a dispute concerning the transfer of course credit and give written notice of the determination to the involved student and institutions.

(e) The board shall collect data on the types of transfer disputes that are reported and the disposition of each case that is considered by the commissioner or the commissioner's designee.

SECTION 1.24. Subsections (b) and (f), Section 61.505, Education Code, are amended to read as follows:

(b) The terms of office of each member, excluding the term of office of the president of the Texas Academy of Family Physicians, shall be for three years[; ~~except for the initial term, which shall be designated in a manner approved by the board in such a way, insofar as is possible, that one-third of the members shall serve for one year, one-third for two years, and one-third for three years, and thereafter each member shall serve for a term of three years~~]. Each member shall serve until his replacement has been appointed to the committee.

(f) The committee shall:

(1) review for the board applications for approval and funding of family practice residency training programs and related support programs;[;]

(2) make recommendations to the board relating to:

(A) the standards and criteria for approval of residency training and related support programs; and

(B) the effectiveness of the programs the board administers that provide incentives to physicians to practice in underserved areas of this state;[;] and

(3) perform such other duties as may be directed by the board.

SECTION 1.25. The headings of Subchapters J and K, Chapter 61, Education Code, are amended to read as follows:

SUBCHAPTER J. REPAYMENT OF CERTAIN PHYSICIAN EDUCATION [~~STUDENT~~] LOANS

SUBCHAPTER K. REPAYMENT OF CERTAIN PHYSICAL THERAPIST EDUCATION [~~STUDENT~~] LOANS

SECTION 1.26. Subsection (a), Section 61.534, Education Code, is amended to read as follows:

(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 physician through any [a] lender [~~in Texas~~].

SECTION 1.27. Subsection (a), Section 61.535, Education Code, is amended to read as follows:

(a) The coordinating board shall deliver any repayment made under this subchapter in a lump sum payable [~~directly~~] to the lender and the physician, in accordance with federal law.

SECTION 1.28. Subchapter J, Chapter 61, Education Code, is amended by amending Section 61.536 and adding Section 61.5361 to read as follows:

Sec. 61.536. ADVISORY COMMITTEES. The coordinating board may:

(1) appoint advisory committees from outside the board's membership to assist the board in performing its duties under this subchapter; and

(2) request the assistance of the Family Practice Residency Advisory Committee in performing those duties.

Sec. 61.5361. ACCEPTANCE OF FUNDS. The coordinating board may accept gifts, grants, and donations for the purposes of this subchapter.

SECTION 1.29. Section 52.41, Education Code, is transferred to Subchapter J, Chapter 61, Education Code, and is renumbered and amended to read as follows:

Sec. 61.539 [~~52.41~~]. MEDICAL SCHOOL TUITION SET ASIDE FOR CERTAIN LOAN REPAYMENTS. (a) The governing boards of each medical unit of an institution of higher education shall cause to be set aside two percent of tuition charges for resident students registered in a medical branch, school, or college.

(b) The amount set aside shall be transferred to the comptroller of public accounts to be maintained in the state treasury for the sole purpose of repayment [~~or cancellation~~] of student loans of physicians serving in designated state agencies or economically depressed or rural medically underserved areas of the state as specified by [~~in~~] this subchapter [~~chapter or other provisions of this code~~].

SECTION 1.30. Chapter 61, Education Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. REPAYMENT OF CERTAIN TEACHER EDUCATION LOANS

Sec. 61.701. REPAYMENT AUTHORIZED. The coordinating board may provide, using funds appropriated for that purpose and in accordance with this subchapter and board rules, assistance in the repayment of student loans for teachers who apply and qualify for the assistance.

Sec. 61.702. ELIGIBILITY. (a) To be eligible to receive repayment assistance, a teacher must:

(1) apply to the coordinating board; and

(2) have completed at least one year of employment in the elementary or secondary schools of this state in an area or field of acute teacher shortage as designated by the State Board of Education.

(b) The coordinating board may provide by rule for repayment assistance on a pro rata basis for teachers employed part-time in an elementary or secondary school of this state in an area or field of acute teacher shortage as designated by the State Board of Education.

Sec. 61.703. LIMITATION. A teacher may not receive repayment assistance grants for more than five years.

Sec. 61.704. 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 teacher through any lender.

(b) The coordinating board may not provide repayment assistance for a student loan that is in default at the time of the teacher's application.

Sec. 61.705. REPAYMENT. (a) The coordinating board shall deliver any repayment made under this subchapter in a lump sum payable to the lender and the teacher, in accordance with federal law.

(b) A repayment made under this subchapter may be applied only to the principal amount of the loan.

Sec. 61.706. ADVISORY COMMITTEES. The coordinating board may appoint advisory committees from outside the board's membership to assist the board in performing its duties under this subchapter.

Sec. 61.707. ACCEPTANCE OF FUNDS. The coordinating board may accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.708. 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 teacher in one year.

(b) The coordinating board shall distribute a copy of the rules adopted under this section and pertinent information in this subchapter to:

(1) each institution of higher education that offers a teacher education program;

(2) any other appropriate state agency; and

(3) any appropriate professional association.

SECTION 1.31. Subsections (a) and (b), Section 62.021, Education Code, are amended to read as follows:

(a) Each fiscal year, an eligible institution is entitled to receive an amount allocated in accordance with this section from funds appropriated by Article VII, Section 17(a), of the Constitution of Texas. The comptroller of public accounts shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Section 403.071, Government Code [~~Article 4357, Revised Statutes~~]. The comptroller may not issue a warrant from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, separate allocation for medical units, and additional allocation for compliance with the Texas Desegregation Plan. The amounts allocated by such formula are as follows:

2,971,685	[~~$ 3,253,087~~]	East Texas State University including East Texas State University at Texarkana;
$ 7,125,680	[~~$ 7,172,517~~]	Lamar University including Lamar University at Orange and Lamar University at Port Arthur;
$ 1,645,885	[~~$ 1,693,414~~]	Midwestern State University;
$11,444,067	[~~$10,949,820~~]	University of North Texas;
$ 3,196,287	[~~$ 3,106,426~~]	Pan American University including Pan American University at Brownsville;
$ 5,152,124	[~~$ 5,146,404~~]	Stephen F. Austin State University;
	$ 2,166,667	Texas College of Osteopathic Medicine;
$19,724,411	[~~$19,461,584~~]	Texas State University System Administration and the following component institutions: Angelo State University; Sam Houston State University; Southwest Texas State University; Sul Ross State University including Uvalde Study Center;
$ 6,596,436	[~~$ 6,849,730~~]	Texas Southern University (includes allocation of $2,700,000 for compliance with Texas Desegregation Plan);
$10,538,296	[~~$10,696,291~~]	Texas Tech University;
	$ 4,333,333	Texas Tech University Health Sciences Center;
$ 3,583,869	[~~$ 3,586,150~~]	Texas Woman's University;
$15,799,996	[~~$15,717,588~~]	University of Houston System Administration and the following component institutions: University of Houston—University Park; University of Houston—Victoria; University of Houston—Clear Lake; University of Houston—Downtown;
$ 3,636,316	[~~$ 3,603,059~~]	University System of South Texas System Administration and the following component institutions:

Corpus Christi State University;
Laredo State University;
Texas A&I University; and
$ 2,084,948 [$ 2,263,930] West Texas State University.

(b) Each governing board participating in the distribution of funds as described in this section may expend such funds without limitation, and as such governing board may decide in its sole discretion, for any and all purposes described in Article VII, Section 17, of the Constitution of Texas; provided, however, that for new construction, major repair and rehabilitation projects, and land acquisition projects, such funds may not be expended without the prior approval of the legislature or the approval, review, or endorsement, as applicable, of the Texas Higher Education Coordinating Board[; Texas College and University System]; and provided further that review and approval of major repair and rehabilitation shall apply only to projects in excess of $600,000 [$300,000]; and provided further that any land acquisition project proposed for coordinating board endorsement within three months of a legislative session shall be automatically referred to the legislature for consideration.

SECTION 1.32. Subdivision (14), Section 61.003, Education Code, is amended to read as follows:

(14) "Educational and general buildings and facilities" means buildings and facilities essential to or commonly associated with teaching, research, or the preservation of knowledge, including the proportional share used for those activities in any building or facility used jointly with auxiliary enterprises. Excluded are auxiliary enterprise buildings and facilities, including but not limited to dormitories, cafeterias, student union buildings, stadiums, and alumni centers, used solely for those purposes.

SECTION 1.33. Section 62.022, Education Code, is amended by adding Subsection (f) to read as follows:

(f) A review of the allocation formula conducted by the coordinating board under this section after September 1, 1989, shall include:

(1) a comparison of the deferred maintenance needs of an institution of higher education and the extent to which the constitutionally dedicated funds were used to meet those needs; and

(2) an evaluation of the effectiveness of the allocation formula concerning deferred maintenance needs of those institutions.

SECTION 1.34. Chapter 51, Education Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. MEDICAL AND HEALTH CARE PROFESSIONS RECRUITMENT FUND

Sec. 51.711. FINDING AND PURPOSE. The legislature finds that members of ethnic minorities are underrepresented in programs of health care professions at institutions of higher education. The purpose of this subchapter is to support the recruitment of underrepresented ethnic minorities into those programs.

Sec. 51.712. DEFINITIONS. In this subchapter:

(1) "Coordinator" means the commissioner of higher education or his designee.

(2) "Fund" means the medical and health care professions recruitment fund.

(3) "Institution of higher education" has the meaning assigned by Section 61.003 of this code and includes private, nonprofit institutions of higher education accredited by the recognized regional accrediting agency under Section 61.003 of this code and located and authorized to operate in this state. The term does not include private institutions of higher education operated exclusively for sectarian purposes.

(4) "MedPREP" means the medical preparation program.

(5) "Minority group" means black Americans, Mexican-Americans and other Americans of Hispanic origin, American Indians, Eskimos, and Aleuts.

(6) "Board" means the Texas Higher Education Coordinating Board.

Sec. 51.713. FUND. (a) The medical and health care professions recruitment fund is created as a special fund in the state treasury. The fund consists of gifts, grants, and donations.

(b) The board may solicit and accept gifts, grants, donations, and manpower contributions from local, state, and national colleges and universities, private industry, military commands, other government agencies, local school districts, and summer youth employment and training sponsors.

(c) The board shall adopt rules for the administration of the fund.

Sec. 51.714. USE OF FUND. The commissioner of higher education shall allocate the fund to eligible nonprofit organizations for the purpose of:

(1) establishing or operating various locations for the purpose of assisting minority group members in preparing for a medical or health care profession; and

(2) disseminating information concerning:

(A) educational and career opportunities in medical and health care; and

(B) the fund and programs funded under this subchapter.

Sec. 51.715. ALLOCATION OF FUND. (a) The coordinator shall allocate the fund in accordance with guidelines adopted by the Texas Higher Education Coordinating Board. The guidelines must ensure that MedPREP programs approved for funding:

(1) use professional volunteers at each level of instruction;

(2) require parental involvement;

(3) coordinate with public school officials to identify and recruit program participants;

(4) coordinate with postsecondary educational institutions;

(5) involve organizations of minority group members;

(6) involve participants from grades nine through 12;

(7) provide demonstrated professional leadership in educational activities for minority group members; and

(8) are compatible with state and federal laws governing education.

(b) Preference shall be given to programs that stress the development of medical and applied health professions competence.

(c) In making allocations, the coordinator may solicit advice from public or private organizations working to recruit minority group members into medical and applied health careers.

(d) The comptroller of public accounts shall issue warrants drawn on the fund on receipt of vouchers approved by the coordinator.

(e) The board shall adopt rules establishing procedures that an entity must use to apply for funding and account for funds received.

Sec. 51.716. ELIGIBILITY. (a) To be eligible to receive funds under this subchapter, a MedPREP program location:

(1) must be operated by a state accredited institution of higher education;

(2) must qualify for exemption from federal income tax under Section 501, Internal Revenue Code;

(3) may not distribute earnings to a private shareholder or other individual;

(4) must agree to accept at least 70 percent minority group students with not less than 30 percent of that group being women; and

(5) must agree to cooperate with the coordinator in an annual follow-up of previous participants.

(b) The coordinator shall determine annually which programs meet the requirements of Subsection (a) of this section.

Sec. 51.717. ADVISORY COMMITTEE. (a) A state advisory and oversight committee is established and shall consist of nine members including the commissioner of education and eight other members reflecting the minority groups served by this program, with:

(1) one person appointed by the governor;

(2) one person appointed by the lieutenant governor;

(3) one person appointed by the speaker; and

(4) five persons appointed by the commissioner of higher education.

(b) A member appointed to the advisory committee serves for a four-year term.

Sec. 51.718. PROGRAM REVIEW. The coordinator shall prepare an annual report accounting for the use of funds under this subchapter and including a follow-up of participants from MedPREP programs from previous years.

ARTICLE 2. EDUCATION CODE: AMENDMENTS RELATING TO TEXAS OPPORTUNITY PLAN FUND

SECTION 2.01. Section 52.32, Education Code, is amended to read as follows:

Sec. 52.32. QUALIFICATIONS FOR LOANS. (a) The board may authorize loans from the Texas Opportunity Plan Fund to qualified students if the applicant:

(1) is a resident of Texas as defined by the board in accordance with Subchapter B, Chapter 54 of this code;

(2) has been accepted for enrollment at any postsecondary educational institution within the State of Texas, public or private, which has been approved by an agency of the United States government for the purpose of guaranteeing the maker of such loans against loss due to the death, disability, or default of the borrower. If the postsecondary institution that the student has been accepted to attend was not a participating institution as defined in Section 52.31 of this code on May 1, 1985, the applicant must provide evidence that he is unable to obtain a guaranteed student loan from a commercial lender except as provided by Subsection (b) of this section;

(3) has established that he has insufficient resources to finance his college education;

(4) has been recommended by reputable persons in his home community; and

(5) has complied with other requirements established by the rules and regulations adopted by the board in conformity with this chapter.

(b) If a loan applicant is enrolled at a proprietary school in a degree program that is approved by the board, the applicant is not required to provide evidence that he is unable to obtain a guaranteed student loan from a commercial lender under Subsection (a)(2) of this section.

(c) In no event may a higher standard of academic performance be required of an applicant than the minimum standard required for enrollment in the participating institution. The student must be meeting the minimum academic requirements of the institution in the semester any loan is made.

(d) [~~(c)~~] It is the legislature's intent that the Texas Opportunity Plan Fund provide loan assistance to an applicant who:

(1) is ineligible for assistance under federal guidelines; and

(2) has insufficient resources to finance a college education.

SECTION 2.02. Subchapter C, Chapter 52, Education Code, is amended by adding Section 52.321 to read as follows:

Sec. 52.321. STANDARDS CONCERNING ABILITY TO REPAY CERTAIN LOANS. In establishing requirements to be met by applicants for student loans authorized by the board under this chapter, the board may not establish standards relating to demonstration of ability to repay a federally insured student loan that are stricter for a certain class of applicants than for other applicants, except in cases where the applicant attends a school with a loan default rate of 15 percent or more.

SECTION 2.03. Section 52.40, Education Code, is amended to read as follows:

Sec. 52.40. CANCELLATION OF CERTAIN LOAN REPAYMENTS. [~~(a) The board may cancel the repayment of a loan received by a student who earns a professional doctor of medicine degree or a doctorate of psychology degree and who is employed by the Texas Youth Commission, Texas Department of Human Services, Texas Department of Corrections, or Texas Department of Mental Health and Mental Retardation prior to the date on which repayment of the loan is to commence.~~]

(a) The board may cancel the repayment of a loan received by a student who earns a doctorate of psychology degree and who is employed by the Texas Youth Commission, Texas Department of Human Services [~~Resources~~], Texas Department of Corrections, or Texas Department of Mental Health and Mental Retardation prior to the date on which repayment of the loan is to commence.

(b) [~~The board shall cancel the repayment of a loan received by a student after his or her entry to an accredited teacher education program if the student earns certification in an area designated by the State Board of Education to be an area or field of acute teacher shortage and the student teaches in that area or field in the elementary and secondary schools of Texas. Only those students whose loans have never been in default shall be eligible to participate in the provisions of this section.~~

[~~(c)~~] A person who wishes to apply for a loan cancellation shall enter into a contract with the board which contains the following provisions:

(1) No payment is due from the person as long as he is employed by one of the designated state agencies [~~or teaches in an elementary or secondary school of Texas in an area or field designated by the State Board of Education~~].

(2) Half of the total amount of the loan plus interest due is to be cancelled after two years of the appropriate service, and the remainder is to be cancelled after two additional years of service.

(3) Repayment of the loan and interest is to commence immediately if the person leaves the designated state agency [~~or ceases teaching in a designated area or field~~] before the expiration of two years; repayment of one-half of the loan and interest is to commence immediately if the person leaves the designated state agency [~~or ceases teaching in a designated area or field~~] after completing two years service; upon completion of four years service, the loan, principal and interest, shall be fully cancelled.

(4) Interest continues to accrue until the loan is cancelled or repaid.

(c) [~~(d)~~] Loans and interest on loans may be cancelled under the Texas Opportunity Plan Fund in any year in a total amount not to exceed the amount appropriated for that purpose from general revenue funds.

(d) [~~(e)~~] The board shall publicize the availability of the loan cancellation procedures provided in this section at all institutions of higher education which offer [~~a teacher education program or~~] graduate programs in psychology.

SECTION 2.04. Section 52.52, Education Code, is amended to read as follows:

Sec. 52.52. CONTRACTS. (a) Except as provided by this section, in [~~In~~] achieving the goals outlined in this chapter and the performance of functions assigned to it, the board may contract with any other state governmental agency as

authorized by law, with any agency of the United States, and with corporations, associations, partnerships, and individuals.

(b) The board may not make an agreement with a guarantor concerning any insured student loans the board authorizes that requires the board to file suit or take other action to collect on a defaulted loan beyond the 365th day after the official default date occurs on the loan, unless such a requirement is imposed by the guarantor on other lenders making the same kind of insured student loans.

(c) Not later than January 1, 1991, the board shall amend its contract with the United States Department of Education that requires the board to file suit to obtain judgment on a defaulted loan before filing a claim on the defaulted loan with the guarantor to reflect the requirement in Subsection (b) of this section.

(d) On or before September 1, 1995, the board shall terminate the contract referenced in Subsection (c) of this section. After that date, the board may not make an agreement with a guarantor concerning any insured student loans the board authorizes that requires the board to file suit or take other action to collect on a defaulted loan if the guarantor does not impose that requirement on other lenders making the same kind of insured student loans.

SECTION 2.05. Subchapter D, Chapter 52, Education Code, is amended by adding Section 52.521 to read as follows:

Sec. 52.521. FILING OF CLAIMS ON LOANS IN DEFAULT. (a) The board shall file a claim with the appropriate guarantor on an insured loan in default as soon as it is practicable to do so in accordance with the guarantor's rules.

(b) Funds obtained as a result of any claims, including claims filed on loans in default that have been litigated as provided under a contract with the United States Department of Education, filed with a guarantor shall be deposited in the Texas Opportunity Plan Fund in the appropriate account to be used for making student loans.

SECTION 2.06. Subchapter D, Chapter 52, Education Code, is amended by adding Section 52.541 to read as follows:

Sec. 52.541. ACCOUNTS FOR LOAN PROGRAMS. (a) The board shall establish separate accounting within the Texas Opportunity Plan Fund for each of its existing loan programs, including accounting for the federally insured loans that are insured by the United States Department of Education, the federally insured loans that are insured by the United States Department of Health and Human Services, and each loan program that consists of loans insured by the State of Texas.

(b) If a loan program is established after September 1, 1989, the board shall establish separate accounting within the Texas Opportunity Plan Fund for that loan program.

(c) The board may transfer funds among the separate accounts established under this section if:

(1) the transfer is approved by the board and is necessary to administer the Texas Opportunity Plan Fund; and

(2) the reason for the transfer is documented in the accounting of the funds.

SECTION 2.07. Section 52.56, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The board shall include in its annual report under this section a report of the loans authorized by the board that are in default. The board shall report the data concerning any loans in default in a form that is similar to the reporting of loan default data by the Texas Guaranteed Student Loan Corporation for a commercial lender participating in the student loan program under Chapter 57 of this code.

SECTION 2.08. Chapter 52, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. COLLEGE SAVINGS BONDS

Sec. 52.61. DEFINITIONS. In this subchapter:

(1) "College savings bond" means a general obligation bond issued by the board under Article III, Section 50b-2, of the Texas Constitution.

(2) "Postsecondary educational institution" includes an institution of higher education as that term is defined by Section 61.003 of this code and private institutions approved for purposes of the tuition equalization program under Subchapter F of Chapter 61 of this code.

Sec. 52.62. ESTABLISHMENT OF SAVINGS BONDS PROGRAM; USE OF BOND PROCEEDS. (a) The college savings bonds program is established to provide the public with a method of saving that encourages enrollment at postsecondary educational institutions.

(b) The college savings bonds issued by the board under this subchapter are part of the Texas Opportunity Plan Fund, and the proceeds from the bonds shall be invested as provided by Subchapter B of this chapter and may be used for student loans as provided by Subchapter C of this chapter.

(c) The proceeds from the college savings bonds issued under this subchapter may be used for the costs associated with the issuance of the bonds, including the cost of marketing the bonds.

Sec. 52.63. PUBLIC PURPOSE. The legislature finds and declares that this subchapter:

(1) by authorizing the issuance of general obligation bonds as college savings bonds provides the public with a method of saving that encourages enrollment at postsecondary educational institutions; and

(2) by encouraging enrollment at postsecondary educational institutions, this subchapter promotes the public welfare and economic development of this state and, consequently, serves an important public purpose.

Sec. 52.64. ADMINISTRATION OF SAVINGS BONDS PROGRAM; RULES. (a) The board shall administer the college savings bonds program.

(b) The board may adopt any rules necessary to administer this subchapter.

Sec. 52.65. EFFECT ON OTHER FINANCIAL AID. In determining the eligibility of a student for a scholarship, grant, or other monetary assistance awarded by a state agency, an amount of $10,000 or less in proceeds from savings bonds, including principal and accumulated interest, may not be considered in determining the amount or form of financial assistance to provide to the student.

Sec. 52.66. AUTHORITY TO ISSUE. (a) The board shall issue and sell college savings bonds in a total aggregate amount not exceeding $75 million authorized under Article III, Section 50b-2, of the Texas Constitution.

(b) The college savings bonds may be sold in the manner and in the amounts determined by the board and as provided by this subchapter.

(c) College savings bonds may be sold at a negotiated sale if the board determines that a negotiated sale will result in either a more efficient and economic sale of the college savings bonds or greater access to the college savings bonds by residents of this state.

(d) If any college savings bonds are sold at a negotiated sale, the underwriter to whom those bonds are sold must, in the judgment of the board, have sufficient capability to make a broad distribution of those bonds to investors resident in this state.

Sec. 52.67. SECURITY OF SAVINGS BONDS; GENERAL OBLIGATION. The college savings bonds authorized under Article III, Section 50b-2, of the Texas Constitution and issued in accordance with this subchapter are general obligations of this state.

Sec. 52.68. TERMS. (a) Savings bonds issued under this subchapter must mature serially or otherwise not more than 25 years after they are issued.

(b) The college savings bonds:

(1) must be zero coupon bonds, capital appreciation bonds, compound interest bonds, municipal multiplier bonds, capital accumulator bonds, or a similar type of bond that will encourage the purchaser to hold the bond until maturity; and

(2) must be issued in small denominations of $1,000 or less at a price the board determines to be the most advantageous reasonably obtainable and that renders the bonds attractive for the purpose of financing the costs of higher education.

(c) The college savings bonds may not be redeemed by the state before maturity.

Sec. 52.69. DETERMINATION OF AGGREGATE PRINCIPAL AMOUNT OF BONDS. The aggregate principal amount of the college savings bonds issued under this subchapter shall be the aggregate of the initial offering prices, not including accrued interest, at which those bonds are offered for sale to the public, including private or negotiated sales, or sold to the initial purchasers in a private placement, without a reduction for an underwriter's discount or fees of a placement agent or other intermediary.

Sec. 52.70. MARKETING AND DISTRIBUTION OF BONDS. (a) The board shall coordinate the marketing and distribution of the college savings bonds.

(b) The board may use its staff to assist in the marketing and distribution of the college savings bonds or may contract with another entity for services to carry out some or all of those duties.

(c) In marketing the college savings bonds, the board shall emphasize the use of those bonds to finance the costs of higher education.

Sec. 52.71. MANDAMUS. The performance of official duties prescribed by this subchapter and Article III, Section 50b-2, of the Texas Constitution, in reference to the payment of the college savings bonds, may be enforced in a court of competent jurisdiction by mandamus or other appropriate proceedings.

Sec. 52.72. REPLACEMENT OF BOND. The board may provide for the replacement of any college savings bond that is mutilated, lost, or destroyed.

Sec. 52.73. APPROVAL AND REGISTRATION. (a) College savings bonds issued by the board and the records relating to their issuance must be submitted to the attorney general for examination as to their validity.

(b) If the attorney general finds that the college savings bonds have been authorized in accordance with law, the attorney general shall approve them, and the comptroller of public accounts shall register the bonds.

(c) Following approval and registration, the college savings bonds are incontestable and are binding obligations according to their terms.

Sec. 52.74. EXEMPTION FROM TAXATION. College savings bonds issued under this subchapter may not be taxed by the state or any of its political subdivisions.

SECTION 2.09. Subsection (b), Section 56.033, Education Code, is amended to read as follows:

(b) Of the funds set aside under this section by an institution other than a public community or junior college, not less [~~more~~] than 90 [~~80~~] percent shall be used for Texas Public Educational Grants and not more than 10 [~~less than 20~~] percent shall be used for emergency loans under Subchapter D of this chapter.

ARTICLE 3. AMENDMENTS TO STATUTES OTHER THAN EDUCATION CODE

SECTION 3.01. Subsection (b), Section 4, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), is amended to read as follows:

(b) The administrative council shall be selected, serve, and perform duties as hereinafter described:

(1) Selection. (A) Acting as a group, the presidents of the three [~~six~~] senior level institutions having the highest number of employees as defined in this Act, based on the most current statistical reports of the Texas Higher Education Coordinating Board, [~~Texas College and University System,~~] shall with prior consultation with all other presidents of all senior level institutions covered by this Act[;] designate two [~~three~~] representatives to serve as members of the council who are[~~. The persons so designated shall be~~] employees as defined in this Act of [~~and may be from~~] any of the senior level institutions.

(B) Acting as a group, the presidents of the three junior level institutions or technical institutions having the highest number of employees as defined in this Act, based on the most current statistical reports of the Texas Higher Education Coordinating Board, [~~Texas College and University System,~~] shall with prior consultation with all other presidents of all junior level institutions covered by this Act[;] designate two [~~three~~] representatives to serve as members of the council who are[~~. The persons so designated shall be~~] employees as defined in this Act of [~~and may be from~~] any of the junior level institutions or technical institutions.

(C) The administrative council's advisory committee shall select two persons to serve as members of the council who are employees as defined in this Act of institutions of higher education [~~commissioner of higher education shall appoint three members of the council, which members shall not be subject to the restrictions in Section 4(b)(2)~~].

(D) The governor shall appoint three persons to serve as members of the council who are knowledgeable about the actuarial principles necessary to analyze higher education insurance plans. A person appointed by the governor under this paragraph is not required to be an employee as defined in this Act.

(2) Qualifications of members. The persons designated as members of the administrative council must[~~, in addition to being employees as defined in this Act, shall~~] have demonstrable qualifications for the administration of the program established by this Act.

(3) Terms of membership. (A) All [~~Except for initial appointments, all~~] appointments shall serve for a period of six years each except for appointments to fill vacancies occurring in cases of incompleted terms, in which case the appointment shall be for the remainder of the unexpired term.

(B) [~~The administrative council initially shall be established as follows:~~

[~~(i) Of the three appointments made by the presidents of senior level institutions as described in Subsection (b)(1)(A) of this section, one of the members so appointed shall serve for a period of six years, one shall serve for a period of four years, and one shall serve for a period of two years from the effective date of this Act. Thereafter terms of all appointees shall be for six years.~~

[~~(ii) Of the three appointments made by the presidents of the junior level institutions or technical institutions as described in this Act, one of these appointments shall be for a period of six years, one shall be for a period of four years, and one shall be for a period of two years from the effective date of this Act. Thereafter terms of all appointees shall be for six years.~~

[~~(iii)~~] The members thus appointed shall annually[~~, at the first organizational meeting of the administrative council, draw lots for terms of office as described above in this Act and shall~~] elect a chairman and other such officers as may be necessary. [~~Thereafter, elections shall be held annually for the chairmanship and other such offices.~~]

(4) Duties. The administrative council shall:

(A) determine basic coverage standards which shall be comparable to those commonly provided in private industry and those provided employees of other agencies of the State of Texas under the Texas Employees Uniform Group Insurance Benefits Act, after considering recommendations of the advisory committee. In determining these standards, the council may provide reasonable flexibility for institutions to design a plan around existing local conditions.

(B) require each institution to include in its respective bid documents for the various coverages a provision calling for each bidder to identify its administrative cost as a distinguishable figure and to enumerate what services the bidder will render in exchange for the administrative costs so identified.

(C) determine basic procedural and administrative practices for insurance coverages to be provided employees covered under the provisions of this Act, after considering recommendations of the advisory committee.

(D) determine if existing institutional programs meet, equate to, or exceed standards for such basic coverages. If so, such programs may be continued in accordance with existing contractual arrangements between those institutions and their carrier or carriers, provided, however, that each program so continued shall be submitted by the institution for competitive bidding within standards established by the administrative council at least once every six years. It is further provided that:

(i) The State Board of Insurance shall provide, by request of the institution, a list of all carriers authorized to do business in the State of Texas and who will be eligible to bid on the insurance coverage or coverages provided in this Act.

(ii) The State Board of Insurance shall, upon request by the institution, examine and evaluate the bidding contracts and certify their actuarial soundness to the institution within 15 days from the date of request.

(iii) The institution is not required to select the lowest bid, but shall take into consideration other factors such as ability to service contracts, past experience, financial stability, and other relevant criteria. Should the institution select a carrier whose bid differs from that advertised, such deviation shall be reported to the administrative council and the reasons for such deviation shall be fully justified and recorded in the minutes of the next meeting of the administrative council.

(iv) The institution shall select and contract for services performed by health maintenance organizations that are approved by the federal government, if available, or by the State of Texas, if available, to offer health-care services to eligible employees and retired persons in a specific area of the state. Eligible employees and retired persons may participate in a selected health maintenance organization in lieu of participation in the health insurance benefits under this Act, and the employer contributions provided by Section 13 of this Act for health-care coverage shall be paid to the selected health maintenance organizations on behalf of the participants. A health maintenance organization that has been approved to provide health-care services to employees and retired persons of the state under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) is qualified upon proper application to the institution to provide similar services to eligible employees and retired persons of any institution or agency under this Act located in the same area of the state. More stringent requirements may not be imposed on health maintenance organizations under this Act than are imposed by the state or by the federal government.

(E) [~~determine those institutions whose programs contain deficiencies with regard to the basic standards, administrative costs, and practices provided for under this Act. Where such program deficiencies occur, the president of each institution found to be deficient shall be notified of such program deficiencies by the administrative council, which shall also report its action to the commissioner of higher education, and the institution shall be provided a reasonable deadline not to exceed two years for correcting said deficiencies. The affected institution may appeal this determination of deficiency to the Coordinating Board, Texas College and University System. The board shall within 90 days from receipt of the appeal either affirm or reverse the decision of the administrative council. In case of reversal the board shall return the appeal to the administrative council with written instructions for disposition. Where institutions do not correct said deficiencies as directed by the administrative council, the council is hereby authorized and empowered to direct the institution to establish such plans as determined by the council, and to report its action to the commissioner of higher education. If such plans are not established within a reasonable time period not to exceed six months from date of notification, the council shall notify the state comptroller of public accounts, who shall withhold state insurance premium matching funds from the affected institutions until notified by the administrative council that the deficiencies have been corrected. These notifications to the state comptroller shall be reported to the commissioner of higher education.~~

[~~(F)~~] provide that the governing boards of two or more institutions of higher education may procure one or more group contracts with any insurance company or companies authorized to do business in this state, insuring the employees of each participating institution. The purpose of such authorization shall be to provide institutions of higher education with the ability to obtain the benefits of economy and/or improved coverages for their employees which may occur through increased purchasing economies for larger groups of employees. All contracts for basic coverages negotiated from the effective date of this Act shall be in compliance with basic coverage standards, rules, and regulations of the administrative council promulgated pursuant to this Act. Each governing board may provide such additional or optional insurance programs and coverages as it deems desirable for its employees.

(F) [~~(G)~~] adopt rules and regulations consistent with the provisions of this Act and its purpose as it deems necessary to carry out the statutory responsibilities.

(G) [~~(H)~~] require that procedures be established by each institution to allow each covered employee to obtain prompt action regarding claims pertaining to insurance provided under this Act.

(H) [~~(I)~~] publish such additional goals, guidelines, and surveys as are necessary to assist covered institutions in providing their employees with effective benefits programs.

(I) [~~(J)~~] develop policies, practices, and procedures as necessary in accordance with provisions of applicable statutes to provide for greater uniformity in the administration of retirement annuity insurance programs available to employees of Texas state colleges and universities through the Optional Retirement Program, Chapter 830, Government Code [~~Article 51.351 et seq., Texas Education Code, as amended~~], and tax sheltered annuity programs as provided in Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962, as amended (Article 6228a-5, Vernon's Texas Civil Statutes).

(J) [~~(K)~~] establish rules, regulations, and procedures for preparation and review of the annual reports of the institutions as further provided for under Section 6 of the Act.

SECTION 3.02. The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) is amended by adding Section 4A to read as follows:

Sec. 4A. BID PROCEDURES AND ENROLLMENT REPORTING FORMAT. (a) The executive secretary with staff assistance and advice from technical consultants, as needed, shall:

(1) develop uniform bid specifications and a standard format for the reporting of insurance enrollment data to be used by institutions as prescribed by this section; and

(2) submit the bid specifications and reporting format to the administrative council for review and approval.

(b) The administrative council by rule shall adopt the bid specifications and reporting format after the council is satisfied with the specifications and format.

(c) Each institution with a total enrollment in insurance plans under this Act of fewer than 500 must use the bid specifications and reporting format.

(d) Each institution with a total enrollment in insurance plans under this Act of 500 or more may use the bid specifications and reporting format.

(e) The administrative council may require an institution to use the bid specifications and reporting format if:

(1) an institution's total enrollment in insurance plans under this Act is not fewer than 500 or more than 10,000; and

(2) the administrative council determines by use of criteria adopted by rule under this section that the institution needs to use the bid specifications and reporting format to comply with basic coverage standards and rules adopted by the administrative council under this Act.

(f) The administrative council by rule shall adopt criteria to determine whether an institution will be required under Subsection (e) of this section to use the bid specifications and reporting format adopted under this section.

SECTION 3.03. The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) is amended by adding Section 4B to read as follows:

Sec. 4B. CONTRACT REVIEW; CORRECTION OF DEFICIENCIES. (a) Each institution shall submit a copy of its contract for insurance coverage and its benefits report to the executive secretary on or before the 30th day before the effective date of the contract.

(b) The administrative council shall:

(1) review each institution's contract and benefits report; and

(2) determine whether the institution's insurance program contains any deficiencies concerning the basic coverage standards, administrative costs, and practices provided under this Act.

(c) If the administrative council determines that an institution's insurance program does not comply with the council's rules or standards, the council shall:

(1) notify the president of the institution and provide the institution not more than two years to comply with the council's rules and standards; and

(2) report its action to the commissioner of higher education.

(d) If an institution's insurance program is not in compliance with the council's rules and standards, the executive secretary shall report the compliance problem to an appropriate faculty or staff body of the affected institution such as a faculty senate or council.

(e) The affected institution may appeal the administrative council's determination of noncompliance to the Texas Higher Education Coordinating Board. The coordinating board shall affirm or reverse the administrative council's decision not later than the 90th day after the receipt of the appeal. If the

coordinating board reverses the council's decision, the board shall return the appeal to the council with written instructions for disposition.

(f) If an institution does not comply with the council's rules and standards as directed by the administrative council, the council may notify the institution to establish the plans the council determines are necessary to address the problem and the council shall report its action to the commissioner of higher education. If the plans are not established by the institution within six months after the date of notification, the council shall notify the state comptroller of public accounts and report its action to the commissioner of higher education. The comptroller shall withhold state insurance premium matching funds from the affected institution until the administrative council notifies the comptroller that the compliance problem has been corrected.

(g) Each contract for insurance coverage entered into by an institution must include a provision that if the administrative council finds a contract is not in compliance with the basic coverage standards and rules adopted by the administrative council under this Act, the insurance carrier and the institution must negotiate and attempt to resolve the problem. The existing contract remains in effect until that contract can be amended to correct the problem.

(h) A member of the administrative council selected from an institution of higher education may not participate in a decision concerning that institution's insurance program compliance with basic coverage standards and rules adopted by the administrative council under this Act.

SECTION 3.04. The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) is amended by adding Section 15A to read as follows:

Sec. 15A. AUDITS; REPORTING TO AUDITOR OF INAPPROPRIATE USE OF FUNDS. (a) The state auditor shall conduct periodic audits of each institution's insurance program to verify that each person enrolled in the insurance program is eligible for the program benefits.

(b) The executive secretary shall notify the state auditor if the executive secretary becomes aware of any inappropriate expenditure of insurance program funds.

SECTION 3.05. Subdivision (4), Subsection (a), Section 3, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), is amended to read as follows:

(4)(A) "Employee" shall mean any person employed by a governing board of a state university, senior or community/junior college, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code:

(i) who retires under the provisions cited in Subsection (a)(2) of this section;

(ii) who receives his compensation for services rendered to a public community/junior college or a senior college, university, or other agency of education within the meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code, on a warrant or check issued pursuant to a payroll certified by an institution or by an elected or duly appointed officer of this state, and who is eligible for participation in the Teacher Retirement System of Texas;

(iii) who receives his compensation for services rendered as provided in this subdivision but is not permitted to be a member of the Teacher Retirement System of Texas because he is solely employed by an institution of higher education that as a condition of employment requires the employee to be enrolled as a student in the institution.

SECTION 3.06. The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) is amended by adding Section 11A to read as follows:

Sec. 11A. This section applies to persons who are employed at least 20 hours per week at institutions of higher education but who are not permitted to be members of the Teacher Retirement System of Texas because they are solely employed by an institution of higher education that as a condition of employment requires them to be enrolled as a student in the institution in graduate-level courses. The legislature may provide appropriations to institutions of higher education for the purpose of assisting such employees in purchasing any insurance coverages available under this Act, and the institution of higher education may use any available funds in assisting such employees in purchasing any insurance coverages made available by this Act. Insurance coverages made available to employees covered by this section shall be made available on a year-round basis at a premium rate equal to premiums paid for insurance coverage by other employees, including state contributions, covered by other provisions of the Act. On or before October 1, 1990, the institutions shall report to the legislature, the Legislative Budget Board, and the Governor's Office of Budget and Planning the number and classification of employees that would be affected by the changes made by this section and Section 3(4)(A)(iii), Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code).

SECTION 3.07. Chapter 348, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4498c, Vernon's Texas Civil Statutes), is amended by amending Section 1 and adding Sections 1b, 1c, and 1d to read as follows:

Sec. 1. There is hereby established and created the State [~~Rural~~] Medical Education Board, which shall have the general powers and duties authorized and imposed by the provisions of this Act. The State Medical Education Board is administratively attached to the Texas Higher Education Coordinating Board. The coordinating board shall provide the staff necessary for the State Medical Education Board to perform its duties. The State Medical Education Board shall adopt rules to carry out this Act.

Sec. 1b. This Act may be cited as the State Medical Education Act.

Sec. 1c. In this Act, "Board" means the State Medical Education Board.

Sec. 1d. The duties of the State Medical Education Board are to carry out the administration and collection of loans already made under this Act.

SECTION 3.08. Sections 2, 14, and 17, Chapter 348, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4498c, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2. The [~~State Rural Medical Education~~] Board shall consist of six [~~(6)~~] members, who shall be appointed by the Governor with the advice and consent of the Senate, and who shall have the following qualifications: Three [~~(3)~~] of the members shall be legally qualified practicing physicians, who shall have had not less than five [~~(5)~~] years experience in the actual practice of medicine within the State of Texas in rural areas as defined by this Act, of good professional standing and graduates of recognized medical colleges; three [~~(3)~~] of whose members shall consist of citizens of this State who have maintained residence for a period of not less than five [~~(5)~~] years in a rural area as defined by this Act.

The terms of office of members of the [~~said~~] Board shall be for six [~~(6)~~] years [~~except the terms of office of members appointed to the initial Board shall be two for two years, two for four years and two for six years. The initial appointments shall be made to insure that there shall always be an equal number of said Board members with the same term of both qualifications as described above~~]. Any vacancy in an unexpired term shall be filled by appointment of the Governor with the advice and consent of the Senate for the unexpired term. The members of the [~~State Rural~~

~~Medical Education~~] Board shall qualify by taking a Constitutional Oath of office before an officer authorized to administer oaths with this State, and, upon presentation of such oath of office, together with a certificate of their appointment, the Secretary of State shall issue commissions to them[~~, which shall be evidence of their authority to act as such~~].

Sec. 14. (a) The Board shall collect any payments due from a loan recipient under this Act. The Attorney General shall make those collections only if the loan recipient defaults on making those payments.

(b) Upon any default as provided for herein the Board shall turn the same over to the Attorney General for prosecution and suit for the remaining sum shall be instituted by the Attorney General, or any county or district attorney acting for him, in the county of the person's residence, the county in which is located the institution at which the person was last enrolled, or in Travis County, unless the Attorney General finds reasonable justification for delaying suit and so advises the Board in writing.

Sec. 17. The Board may accept gifts, grants or donations of real or personal property from any individual, group, association, or corporation or the United States, subject to limitations or conditions set by law. The gifts, grants, or donations of money shall be deposited in the Texas [~~Rural~~] Medical Education Board fund, separately accounted for, and expended in accordance with the specific purposes for which given and under such conditions as are imposed by the donor and as provided by law.

SECTION 3.09. Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

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; and

(4) the Texas Higher Education Coordinating Board.

SECTION 3.10. Chapter 357, Acts of the 66th Legislature, 1979 (Article 4413(203), Vernon's Texas Civil Statutes), is amended by adding Section 2A to read as follows:

Sec. 2A. PROVISIONS APPLICABLE TO JUNIOR COLLEGES. (a) On request of the governor, the Texas Higher Education Coordinating Board with the advice and assistance of the state auditor shall determine if a condition of gross fiscal mismanagement exists at a public junior college. If the board finds that the condition exists, the governor by proclamation may order the board to act as conservator of the college in accordance with the provisions of this Act. For this purpose, the junior college is considered an agency notwithstanding Section 2 of this Act.

(b) The periodic reports required by Section 10 of this Act shall be filed with the Texas Higher Education Coordinating Board.

(c) The board's conservatorship continues until:

(1) the governor issues a proclamation declaring that the condition of gross fiscal mismanagement no longer exists and the conservatorship is dissolved; or

(2) the Texas Higher Education Coordinating Board finds and certifies to the governor that the condition of gross fiscal mismanagement no longer exists, in which case the conservatorship is dissolved.

ARTICLE 4. REPEALER; TRANSITION; MISCELLANEOUS PROVISIONS

SECTION 4.01. The following are repealed:

(1) Sections 61.051(i), 61.538, and 160.041, Education Code;

(2) Subchapter C of Chapter 54, and Chapter 60, Education Code; and

(3) Sections 1a, 3, 4, 5, 6, 7A, 15, and 19, Chapter 348, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4498c, Vernon's Texas Civil Statutes).

SECTION 4.02. (a) The changes in law made by Sections 1.02 and 1.03 of this Act apply only to appointments to the Texas Higher Education Coordinating Board made on or after the effective date of this Act.

(b) The first equal employment opportunity policy statement required to be filed under Section 61.028, Education Code, as amended by this Act, must be filed before November 1, 1989.

(c) Under Section 61.0511, Education Code, as added by this Act:

(1) a public senior college or university that has developed a role and mission statement before the effective date of this Act shall revise its role and mission statement as necessary to reflect the teaching, research, and public service missions of higher education, in accordance with a schedule developed by the Texas Higher Education Coordinating Board; and

(2) a public senior college or university that does not have a role and mission statement developed before the effective date of this Act must develop a role and mission statement on or before June 1, 1991, that reflects the teaching, research, and public service missions of higher education.

(d) The rights and duties under a contract to cancel loan repayments entered into before the effective date of this Act by an individual with the Texas Higher Education Coordinating Board under Subchapter C of Chapter 54, or Chapter 60, Education Code, are not affected by the repeal of those provisions by this Act, and those provisions concerning such contracts are continued in effect for this purpose.

(e) Not later than September 1, 1990, the Texas Higher Education Coordinating Board shall file the initial policies established under Section 61.0571, Education Code, as added by this Act, with the State Purchasing and General Services Commission and the Texas Department of Commerce.

SECTION 4.03. The changes in law made by Sections 2.01 and 2.02 of this Act apply only to an application for a loan submitted on or after the effective date of this Act.

SECTION 4.04. Section 2.08 of this Act takes effect only if the constitutional amendment proposed by **S.J.R No. 74**, 71st Legislature, Regular Session, 1989, is approved by the voters. If that amendment is not approved, Section 2.08 of this Act has no effect.

SECTION 4.05. (a) This Act does not affect the loan obligations of recipients of loans made by the State Rural Medical Education Board.

(b) The continuing administrative duties of the State Rural Medical Education Board are duties of the State Medical Education Board. Current members on the State Rural Medical Education Board shall serve out their current terms on the State Medical Education Board.

(c) The State Medical Education Board shall be substituted for and acts in the place of the State Rural Medical Education Board regarding all loan contracts and assumes all powers, duties, and rights of the State Rural Medical Education Board regarding those contracts.

(d) Funds appropriated to the State Rural Medical Education Board are transferred from that board to the State Medical Education Board.

SECTION 4.06. (a) The Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act, applies only to contracts entered into or renewed and bid specifications and insurance enrollment reporting formats used by institutions on or after the effective date of this Act.

(b) The administrative council under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas

Insurance Code) shall study, through contract with consultants or a technical advisory committee:

(1) whether the individual health insurance programs at public higher education institutions should be combined; and

(2) what may be the most cost-effective and advantageous method of combining health insurance programs for those institutions.

(c) The study authorized under Subsection (b) of this section may include an analysis of:

(1) the feasibility of the multiple option insurance concept in which one insurance carrier provides an indemnity plan, health maintenance organization, and preferred provider organization to an institution or a group of institutions; and

(2) the risks and benefits of self-insurance programs.

(d) Not later than February 1, 1991, the administrative council shall submit to the legislature a report and its recommendations concerning the results of the study of the health insurance programs at public institutions of higher education conducted under this section.

(e) Not later than October 1, 1989, the administrative council's advisory committee shall appoint one member who is an employee of an institution of higher education and the governor shall appoint two members with actuarial experience to the administrative council as prescribed by Paragraphs (C) and (D), Subdivision (1), Subsection (b), Section 4, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act. The terms of the three members appointed under this subsection expire on August 31, 1995. The three members of the administrative council whose terms expire August 31, 1989, shall continue to serve on the council until the three new members begin their terms as provided by this subsection.

(f) Three new members shall be appointed to the administrative council for terms that begin on September 1, 1991, and expire on August 31, 1997. Those appointees shall include one member who is an employee of a public senior college or university, one member who is an employee of a public junior college or public technical institute, and one member with actuarial experience, appointed as prescribed by Paragraphs (A), (B), and (D), Subdivision (1), Subsection (b), Section 4, Texas State College and University Employees Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act.

(g) Three new members shall be appointed to the administrative council for terms that begin on September 1, 1993, and expire on August 31, 1999. Those appointees shall include one member who is an employee of a public senior college or university, one member who is an employee of a public junior college or public technical institute, and one member who is an employee of an institution of higher education appointed by the administrative council's advisory committee, as prescribed by Paragraphs (A), (B), and (C), Subdivision (1), Subsection (b), Section 4, Texas State College and University Employees Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), as amended by this Act.

(h) Except as provided by Subsection (e) of this section, a member of the administrative council who is serving on the council on the effective date of this Act serves until the member's term expires.

(i) Successors to the appointees appointed to the administrative council under this section serve for six-year terms.

SECTION 4.07. Notwithstanding Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by this Act, and Section 61.033, Education Code, as added by this Act, the competitive cost review provisions, until September 1, 1991, are applicable only to the loan servicing, collections, and litigation functions carried out in the Texas Higher

Education Coordinating Board's student loan program established under Chapter 52, Education Code.

SECTION 4.08. In making initial appointments of public members to the advisory committee created by Section 51.717, Education Code, as added by this Act, the governor, the lieutenant governor, and the speaker of the house shall each designate one member to serve for a term expiring February 1, 1991, and the coordinator of the Texas medical preparation program shall designate four members to serve for a term expiring February 1, 1993.

SECTION 4.09. (a) This Act takes effect September 1, 1989.

(b) Subsection (a), Section 62.021, Education Code, as amended by this Act, takes effect September 1, 1990.

(c) Section 3.05 of this Act takes effect September 1, 1991.

SECTION 4.10. 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
SENATE BILL 307

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 307** 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.

GLASGOW	P. HILL
PARKER	LINEBARGER
BIVINS	MOWERY
	RANGEL
	DENTON
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to clarifications and technical corrections concerning the marriage relationship, proof of informal marriages, the parent-child relationship, and suits affecting the parent-child relationship.

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

SECTION 1. Subsection (a), Section 1.07, Family Code, is amended to read as follows:

(a) Except as provided by Subsection (b) of this section, the county clerk may not issue a license to the applicants if:

(1) either applicant fails to provide information as required by Sections 1.02 and 1.05 of the code;

(2) either applicant fails to submit proof of age and identity;

(3) either applicant is under 14 years of age and has not received a court order under Section 1.53 of this code;

(4) either applicant is 14 years of age or older but under 18 years of age and has received neither parental consent nor a court order under Section 1.53 of this code;

(5) either applicant checks "false" in response to a statement in the application, except as provided in Subsection (b) of this section, or fails to make a required declaration in an affidavit required of an absent applicant; or

(6) either applicant indicates that he or she has been divorced by a decree of a court of this state within the last 30 days, unless:

(A) the applicants were divorced from each other; or

(B) the prohibition against remarriage was waived under Section 3.66 of this code.

SECTION 2. Section 2.48, Family Code, is amended to read as follows:

Sec. 2.48. MARRIAGE LESS THAN 72 HOURS AFTER ISSUANCE OF LICENSE. (a) A marriage is voidable and subject to annulment if the marriage ceremony takes place in violation of Section 1.82 of this code during a 72-hour period immediately following the issuance of the marriage license.

(b) A suit may not be brought under this section more than 30 days after the date of the marriage.

SECTION 3. Subsection (b), Section 3.521, Family Code, is amended to read as follows:

(b) The notice shall be sufficient if given in substantially the following form:

"STATE OF TEXAS

To (name of person to be served with citation), and to all whom it may concern (if the name of any person to be served with citation is unknown), Respondent(s),

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you. The

[~~GREETINGS:~~

[~~"YOU ARE HEREBY COMMANDED to appear and answer before the Honorable District Court _____ Judicial District, _____ County, Texas, at the Courthouse of said county in _____, Texas, at or before 10 o'clock a.m. of the Monday next after the expiration of 20 days from the date of service of this citation, then and there to answer the~~] petition of _____, Petitioner, was filed in the [said] Court of _____ County, Texas, on the _____ day of _____, against _____, Respondent(s), numbered _____, [~~and the said suit being number _____ on the~~ docket of said Court,] and entitled 'In the Matter of Marriage of _____ and _____. The suit requests[~~, the nature of which suit is a request to~~] _____ (statement of relief sought).'

"The Court has authority in this suit to enter any judgment or decree dissolving the marriage and providing for the division of property which will be binding on you.

"Issued and given under my hand and seal of said Court at _____, Texas, this the _____ day of _____, _____.

.....

Clerk of the District Court of
_____ County, Texas
By _____, Deputy."

SECTION 4. Section 4.02, Family Code, is amended to read as follows:

Sec. 4.02. DUTY TO SUPPORT. Each spouse has the duty to support the other spouse. Each[~~, and each~~] parent has the duty to support his or her child[;] during the period that the child is a minor, and thereafter so long as the child is fully enrolled in an accredited [~~primary or~~] secondary school in a program leading toward a high school diploma[;] until the end of the school year in which the child graduates. A spouse or parent who fails to discharge the duty of support is liable to any person who provides necessaries to those to whom support is owed.

SECTION 5. Subsection (a), Section 4.031, Family Code, is amended to read as follows:

(a) A person [~~spouse~~] is personally liable for the acts of the person's [~~other~~] spouse only if:

(1) the spouse acts as an agent for the person [~~other spouse~~]; or

(2) the spouse incurs a debt for necessaries under Section 4.02 of this code.

SECTION 6. Section 5.81, Family Code, is amended to read as follows:

Sec. 5.81. SALE, CONVEYANCE, OR ENCUMBRANCE OF HOMESTEAD. Whether the homestead is the separate property of either spouse or community property, neither spouse may sell, convey, or encumber it without the joinder of the other spouse except as provided in this subchapter [~~Section 5.82, 5.83, 5.84, or 5.85 of this code~~] or by other rules of law.

SECTION 7. Subdivision (1), Section 11.01, Family Code, is amended to read as follows:

(1) "Child" or "minor" means a person under 18 years of age who is not and has not been married or who has not had his disabilities of minority removed for general purposes. In the context of child support, "child" includes a person over 18 years of age who is fully enrolled in an accredited secondary school in a program leading toward a high school diploma. "Adult" means any other person.

SECTION 8. Subsection (e), Section 11.09, Family Code, is amended to read as follows:

(e) Notice by publication shall be sufficient if given in substantially the following form:

"STATE OF TEXAS

To (names of persons to be served with citation), and to all whom it may concern (if the name of any person to be served with citation is unknown), Respondent(s),

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you. The

[~~GREETINGS:~~

[~~"YOU ARE HEREBY COMMANDED to appear and answer before the Honorable District Court, _____ Judicial District, _____ County, Texas, at the Courthouse of said county in _____, Texas, at or before 10 o'clock a.m. of the Monday next after the expiration of 20 days from the date of service of this citation, then and there to answer the~~] petition of _____, Petitioner, was filed in the [~~said~~] Court of _____ County, Texas, on the _____ day of _____, 19____, against _____, Respondent(s), numbered _____, [~~and said suit being number _____ on the docket of said Court,~~] and entitled 'In the interest of _____, a child (or

children).' The suit requests[~~, the nature of which suit is a request to~~] (statement of relief sought, e.g., 'terminate the parent-child relationship'). The date and place of birth of the child (children) who is (are) the subject of the suit: _____. [~~Said child was born the _____ day of _____, 19_____, in (place of birth).~~]

"The court has authority in this suit to enter any judgment or decree in the child's (children's) interest which will be binding upon you, including the termination of the parent-child relationship, the determination of paternity and the appointment of a conservator with authority to consent to the child's (children's) adoption.

"Issued and given under my hand and seal of said Court at _____, Texas, this the _____ day of _____, 19_____.

"....,
Clerk of the District Court of
.....County, Texas.
By _____, Deputy."

SECTION 9. Subsection (b), Section 1.91, Family Code, is amended to read as follows:

(b) A [~~In any~~] proceeding in which a marriage is to be proved under [~~Subsection (a)(2) of~~] this section must be commenced not later than one year after the date on which the relationship ended or not later than one year after September 1, 1989, whichever is later [~~, the agreement of the parties to marry may be inferred if it is proved that they lived together as husband and wife and represented to others that they were married~~].

SECTION 10. (a) This Act takes effect September 1, 1989.

(b) This Act applies only to a suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect at the time the suit was filed, and that law is continued in effect for that purpose.

(c) Section 2 of this Act applies only to a marriage ceremony conducted on the basis of a marriage license issued on or after the effective date of this Act.

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.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1458**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1458 ADOPTED

Senator Santiesteban called from the President's table the Conference Committee Report on **H.B. 1458**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Santiesteban, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2248**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2248 ADOPTED

Senator Santiesteban called from the President's table the Conference Committee Report on **H.B. 2248**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Santiesteban, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1207**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1207 ADOPTED

Senator Santiesteban called from the President's table the Conference Committee Report on **S.B. 1207**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Santiesteban, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Tejeda and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1154**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1154 ADOPTED

Senator Tejeda called from the President's table the Conference Committee Report on **S.B. 1154**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Tejeda, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 791

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. 791** 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. 791** 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 Tejeda, Chairman; Haley, Brooks, Zaffirini and Santiesteban.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator McFarland and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1520**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1520 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **H.B. 1520**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator McFarland, the Conference Committee Report was adopted viva voce vote.

SENATE CONCURRENT RESOLUTION 190

Senator Green offered the following resolution:

S.C.R. 190, Allowing the Conference Committee on **H.B. 1860** to make certain changes in the language of the bill.

The resolution was read.

On motion of Senator Green and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1582

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. 1582** 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. 1582** 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 Uribe, Chairman; McFarland, Barrientos, Santiesteban and Tejeda.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 457**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 457 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **S.B. 457**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

SENATE CONCURRENT RESOLUTION 191

Senator Johnson offered the following resolution:

S.C.R. 191, Allowing the Conference Committee on **H.B. 3164** to go outside the bounds of the bill.

The resolution was read.

On motion of Senator Johnson and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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. 168, Directing that a suitable portrait of Governor William P. Clements, Jr., be placed in the rotunda of the Capitol.

S.C.R. 148, Urging the Bush Administration, the newly reconvened National Space Council, the Congress of the United States, the Department of Defense and the National Aeronautics and Space Administration to maintain a strong and clear federal commitment to hypersonics research.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE SENATE RESOLUTION 362 ON SECOND READING

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

C.S.S.R. 362, Requesting Texas Southern University, The University of Texas System and The Texas A&M University System to immediately undertake a study of the desirability of making Texas Southern University a component of one of the two major university systems.

The resolution was read second time and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1860

Senator Green submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1860** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GREEN	COLBERT
ARMBRISTER	A. LUNA
WASHINGTON	HARRISON
WHITMIRE	A. SMITH
URIBE	COLLAZO
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 2064

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2064** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	OAKLEY
BARRIENTOS	MORALES
LYON	WILSON
	B. 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 1582

Senator Uribe submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1582** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

URIBE	McCOLLOUGH
McFARLAND	HILBERT
BARRIENTOS	WARNER
TEJEDA	RICHARDSON
	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.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Green and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1868**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1868 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **H.B. 1868**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Green, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE BILL 826 WITH HOUSE AMENDMENTS

Senator Green called **S.B. 826** 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 - Seidlits

Amend **S.B. 826** as follows:

On page 2, line 24, insert the words "no later than once each month by the fifteenth of the following month" after the word "court".

Amendment on Third Reading - Seidlits

Amend **S.B. 826**, as amended on second reading, by striking Section 14.92(b), Family Code, and substituting a new Section 14.92(b) to read as follows:

(b) A friend of the court, not later than the 15th day of the month immediately following the reporting month, shall:

(1) report to the court or monitor reports made to the court on:

(A) the amount of child support collected as a percentage of the amount ordered; and

(B) efforts to ensure compliance with orders relating to possession of or access to a child; and

(2) institute actions to enforce, clarify, and modify court orders relating to child support or possession of or access to a child.

The amendments were read.

On motion of Senator Green and by unanimous consent, the Senate concurred in the House amendments to **S.B. 826** viva voce vote.

(President in Chair)

SENATE RESOLUTION 773

Senator Uribe offered the following resolution:

S.R. 773, Directing the Senate Health and Human Services Committee to conduct an interim study of the quality of indoor air in the public buildings of the State.

The resolution was read and was adopted viva voce vote.

SENATE CONCURRENT RESOLUTION 189

Senator Caperton offered the following resolution:

S.C.R. 189, Instructing the Senate Enrolling Clerk to make certain changes in the Conference Committee Report on **S.B. 222**.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1517

Senator Krier 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. 1517** 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. 1517** 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 Krier, Chairman; Washington, Glasgow, Brown and Henderson.

CONFERENCE COMMITTEE ON HOUSE BILL 1884

Senator Krier 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. 1884** 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. 1884** 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 Krier, Chairman; Caperton, Montford, McFarland and Glasgow.

CONFERENCE COMMITTEE ON HOUSE BILL 30

Senator Krier 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. 30** 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. 30** 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 Krier, Chairman; Caperton, Parker, Glasgow and Brooks.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 255**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 255 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.B. 255**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Edwards and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2064**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2064 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 2064**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Edwards, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Parmer.

SENATOR ANNOUNCED PRESENT

Senator Parmer who had previously been recorded as "Absent-excused" was announced "Present".

CONFERENCE COMMITTEE ON HOUSE BILL 646

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. 646** 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. 646** 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 McFarland, Chairman; Brown, Tejeda, Caperton and Dickson.

CONFERENCE COMMITTEE REPORT
SENATE BILL 895

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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

HARRIS	CAIN
MONTFORD	F. HILL
URIBE	WATKINS
BROOKS	McDONALD
CAPERTON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to admissions to, programs at, and management of certain components of The University of Texas System, including The University of Texas at Dallas, The University of Texas of the Permian Basin, and The University of Texas—Pan American—Brownsville.

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

ARTICLE 1. THE UNIVERSITY OF TEXAS AT DALLAS

SECTION 1.01. Chapter 70, Education Code, is amended by adding Section 70.08 to read as follows:

Sec. 70.08. UNDERGRADUATE ADMISSIONS. (a) The Board of Regents of The University of Texas System may provide for the admission and enrollment of not more than 2,000 entering freshman students at The University of Texas at Dallas.

(b) The board may provide for the admission of undergraduate transfer students with less than 54 semester hours of college credit at The University of Texas at Dallas as provided by this section. The board shall control the admission and enrollment of entering freshmen and of undergraduate transfer students with less than 54 semester hours of college credit in a manner that ensures that the enrollment of students classified as freshmen and sophomores at the institution does not exceed 5,000, except as provided by Subsection (c) of this section.

(c) For each academic year, in addition to the enrollments targeted by the academic plan for that academic year, The University of Texas at Dallas may admit

an additional number of students equal to no more than four percent of the targeted number if such students are classified as sophomores, have earned more than 29 but less than 54 semester hours of college credit at a community college in the Dallas or the Collin County Community College District, and otherwise meet the minimum criteria for transfer admission to The University of Texas at Dallas. This subsection does not limit or otherwise affect the enrollment of students at The University of Texas at Dallas who have earned semester credit hours at a community college in the Dallas or the Collin County Community College District and who otherwise compete successfully for admission and enrollment at The University of Texas at Dallas.

(d) It is the intent of the legislature that minority students be full participants in the educational opportunities created by the admission of lower-division undergraduate students to The University of Texas at Dallas primarily in programs leading to degrees in natural sciences, mathematics, and engineering. Therefore, until such time as the minority student population at The University of Texas at Dallas is fully representative of the state's minority populations, the board shall cause to be set aside for each academic year from among the enrollments targeted by the academic plan for that academic year a number of enrollments equal to at least five percent of the targeted number, such reserved enrollments to be open exclusively to minority students.

(e) The board shall develop policies for undergraduate admission to The University of Texas at Dallas that emphasize the admission and enrollment of lower-division students who intend to enroll in academic programs leading to degrees in natural sciences, mathematics, or engineering. Nothing in this Act shall prohibit the senior institutions of higher education in the North Texas region from creating and developing undergraduate and graduate programs in the areas of natural sciences, mathematics, and engineering.

(f) At a minimum, in addition to other qualitative criteria that the board may establish, the board shall provide that the admission criteria for entering freshmen and for transfer students with less than 54 semester hours of college credit be no less stringent than the criteria for admission to The University of Texas at Austin for those students.

(g) The board shall continue to provide for the admission at The University of Texas at Dallas of undergraduate transfer students with 54 or more semester hours of college credit. The admission criteria effective on March 1, 1989, for those students may continue in effect but may be amended from time to time by the board. In amending those criteria, the board shall consider that one of the primary missions of The University of Texas at Dallas is to serve those students who have received freshman-level and sophomore-level undergraduate instruction at community colleges located in the surrounding area.

(h) This section does not affect the criteria for admission to graduate programs at The University of Texas at Dallas.

(i) In this section, the number of students is determined by head count.

SECTION 1.02. (a) The University of Texas at Dallas may admit freshman and sophomore students beginning with the summer sessions, 1990. Notwithstanding Subsections (a) and (b), Section 70.08, Education Code, for the period beginning with the summer sessions, 1990, and continuing through the summer sessions, 1991, and for the academic year beginning with the fall semester, 1991, the board shall cause the academic plan for The University of Texas at Dallas to restrict the total enrollment of lower-division students to no more than 1,040 for each such period.

(b) It is the intent of the legislature that any general revenue funds appropriated to The University of Texas at Dallas for costs related to the implementation of this

Act not exceed $500,000 for each year of the fiscal biennium beginning September 1, 1989.

(c) For the fiscal biennium that follows the fiscal biennium beginning September 1, 1989, in addition to the funding that is provided by the regular general academic institution formulas, The University of Texas at Dallas is entitled to the incremental funding for enrollments in junior-level and senior-level courses that is provided by the upper-level formulas to those institutions that enroll only junior-level and senior-level undergraduate students, and the Texas Higher Education Coordinating Board shall take that entitlement into account in preparing its formula recommendation under Section 61.059, Education Code.

ARTICLE 2. THE UNIVERSITY OF TEXAS—PAN AMERICAN—BROWNSVILLE

SECTION 2.01. Chapter 77, Education Code, is amended by adding Section 77.36 to read as follows:

Sec. 77.36. The Board of Regents of The University of Texas System shall maintain and promote the evolution and development of the Brownsville center into a degree-granting institution. The board shall assist the center to meet all the requirements imposed by the Texas Higher Education Coordinating Board by 1996 or at such time as it is justified, whichever is sooner.

ARTICLE 3. THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN

SECTION 3.01. Section 72.01, Education Code, is amended to read as follows:

Sec. 72.01. ESTABLISHMENT. (a) The Board of Regents of The University of Texas System shall establish and maintain a fully state-supported coeducational institution of higher education to be known as The University of Texas of the Permian Basin. The institution is organized to teach primarily [~~only~~] junior-, senior-, and graduate-level courses but, with the prior approval by the Texas Higher Education Coordinating Board, the Board of Regents may establish four-year undergraduate degree programs for students majoring in engineering and energy-related sciences; provided, however, that four-year undergraduate degree programs for engineering and energy-related sciences may not be established to be effective prior to the fall semester, 1991 [~~approved by the Coordinating Board, Texas College and University System~~].

(b) In the event such four-year programs for students majoring in engineering and energy-related sciences are approved by the Texas Higher Education Coordinating Board and the Board of Regents, the resources for such programs shall be divided equally between the main campus in Odessa and the Center for Energy and Economic Diversification in Midland.

ARTICLE 4. MISCELLANEOUS PROVISIONS

SECTION 4.01. This Act takes effect September 1, 1989, except that Section 1.01 of this Act takes effect May 16, 1990.

SECTION 4.02. (a) Notwithstanding any other provision of this Act, implementation of each of the preceding articles is contingent on the prior approval of the Texas Higher Education Coordinating Board and shall be granted only after the coordinating board makes a determination that the article sought to be implemented meets the usual and customary criteria employed by the coordinating board, including but not limited to those applicable elements cited in Chapter 61, Subchapter C, Education Code. It is the intent of the legislature that no public funds may be expended on any matter requiring coordinating board approval under the terms of this section until approval by the coordinating board is granted; provided, however, that this provision does not prohibit the governing board from accepting any private gift, grant, or donation or from using public funds for presentations to the coordinating board under this section.

(b) It is the intent of the legislature that such a determination be made in a fair and equitable manner and that the review required herein be conducted in a manner

consistent with the current statutory authority of the Texas Higher Education Coordinating Board. The passage of this legislation is in no way intended to either encourage or discourage a particular result or decision by the coordinating board.

SECTION 4.03. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 895**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 895 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **S.B. 895**. (The Conference Committee Report having been again filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 23, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Caperton, Carriker, Dickson, Edwards, Green, Haley, Harris, Johnson, Leedom, Lyon, Montford, Parmer, Ratliff, Santiesteban, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: McFarland, Sims, Washington.

Absent: Brown, Glasgow, Henderson, Krier, Parker.

CONFERENCE COMMITTEE ON HOUSE BILL 1434

Senator Parmer 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. 1434** 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. 1434** 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 Parmer, Chairman; Carriker, Tejeda, Barrientos and Leedom.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Green and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1860**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1860 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **H.B. 1860**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 and resolutions by non-record votes:

H.B. 1292	**S.B. 1517**
H.B. 3183	**S.B. 1154**
H.B. 3143	**S.B. 558**
S.C.R. 165	**S.B. 538**
S.C.R. 61	**S.B. 531**
	S.B. 191

The House has refused to concur in Senate amendments to **H.B. 2608** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: McKinney, Chair; Taylor, R. Lewis, Shea, McDonald.

The House has refused to concur in Senate amendments to **H.B. 2988** and has requested the appointment of a Conference Committee to consider the differences between the two houses. The following have been appointed on the part of the House: Uher, Chair; C. Harris, Laney, Willy, J. Harris.

The House has refused to concur in Senate amendments to **H.B. 3016** and has requested the appointment of a conference committee to consider the differences between the two houses. The following have been appointed on the part of the House: Tallas, Chair; R. Lewis, Taylor, Pierce, Cain.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Uribe and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1582**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1582 ADOPTED

Senator Uribe called from the President's table the Conference Committee Report on **H.B. 1582**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Uribe, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1594

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1594** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

McFARLAND	GAVIN
HALEY	SHEA
HARRIS	COUNTS
HENDERSON	BRIMER
MONTFORD	TAYLOR
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 RULE 12.09(a) SUSPENDED

On motion of Senator McFarland and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1594**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1594 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **H.B. 1594**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator McFarland, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Green and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 417**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 417 ADOPTED

Senator Green 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 Monday, May 29, 1989.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2629

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2629** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	KUEMPEL
HARRIS	HOLLOWELL
MONTFORD	LUCIO
BIVINS	RANGEL
HALEY	WILLIS
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 RULE 12.09(a) SUSPENDED

On motion of Senator Armbrister and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2629.**

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2629 ADOPTED

Senator Armbrister called from the President's table the Conference Committee Report on **H.B. 2629.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 3187

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 3187** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BARRIENTOS	T. SMITH
ARMBRISTER	CAMPBELL
TEJEDA	KUEMPEL

HALEY	STILES
CARRIKER	SAUNDERS
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 RULE 12.09(a) SUSPENDED

On motion of Senator Barrientos and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 3187**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3187 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 3187**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

LAW ENFORCEMENT OFFICERS HONORED

At the request of Senator Carriker, the Senate paused a moment in memory of Young County Sheriff Ed Shields, killed in a highway accident, and Munday Police Officer Perry Floyd Patton, who lost his life in the line of duty.

BILLS AND RESOLUTIONS SIGNED

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

S.J.R. 5	**S.C.R. 166**	**S.B. 269**
S.J.R. 24	**S.C.R. 168**	**S.B. 312**
S.C.R. 47	**S.C.R. 170**	**S.B. 413**
S.C.R. 57	**S.C.R. 177**	**S.B. 525**
S.C.R. 107	**S.C.R. 179**	**S.B. 688**
S.C.R. 139	**S.C.R. 180**	**S.B. 1025**
S.C.R. 148	**S.C.R. 182**	**S.B. 1095**
S.C.R. 163	**S.C.R. 183**	**S.B. 1602**
		S.B. 1678

SENATE CONCURRENT RESOLUTION 187

Senator Caperton offered the following resolution:

S.C.R. 187, Requesting the lieutenant governor and the speaker of the House of Representatives to establish the Special Advisory Committee on Property Tax Administration.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 721

Senator Edwards submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 721** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

EDWARDS	OAKLEY
GREEN	BRIMER
CARRIKER	COUNTS
	WARNER
	RANGEL
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 6:01 p.m. took recess until 7:30 p.m. today.

AFTER RECESS

The Senate met at 7:30 p.m. and was called to order by the President.

BILLS AND RESOLUTIONS SIGNED

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

S.J.R. 59	**S.B. 1634**	**H.B. 642**	**H.B. 2255**
S.C.R. 108	**S.B. 1635**	**H.B. 691**	**H.B. 2330**
S.C.R. 117	**S.B. 1636**	**H.B. 808**	**H.B. 2340**
S.B. 115	**S.B. 1674**	**H.B. 953**	**H.B. 2379**
S.B. 189	**S.B. 1775**	**H.B. 1050**	**H.B. 2382**
S.B. 246	**H.J.R. 13**	**H.B. 1087**	**H.B. 2404**
S.B. 424	**H.C.R. 16**	**H.B. 1098**	**H.B. 2408**
S.B. 441	**H.C.R. 104**	**H.B. 1139**	**H.B. 2461**
S.B. 582	**H.C.R. 107**	**H.B. 1147**	**H.B. 2481**
S.B. 607	**H.C.R. 116**	**H.B. 1293**	**H.B. 2482**
S.B. 619	**H.C.R. 178**	**H.B. 1299**	**H.B. 2501**
S.B. 822	**H.C.R. 188**	**H.B. 1314**	**H.B. 2575**
S.B. 823	**H.C.R. 216**	**H.B. 1356**	**H.B. 2631**
S.B. 881	**H.C.R. 221**	**H.B. 1440**	**H.B. 2645**
S.B. 891	**H.C.R. 223**	**H.B. 1466**	**H.B. 2698**
S.B. 935	**H.C.R. 237**	**H.B. 1505**	**H.B. 2795**
S.B. 971	**H.C.R. 280**	**H.B. 1556**	**H.B. 3060**
S.B. 1066	**H.C.R. 288**	**H.B. 1567**	**H.B. 3078**
S.B. 1070	**H.C.R. 300**	**H.B. 1673**	**H.B. 3113**
S.B. 1071	**H.B. 108**	**H.B. 1677**	**H.B. 3115**
S.B. 1206	**H.B. 165**	**H.B. 1694**	**H.B. 3116**
S.B. 1362	**H.B. 329**	**H.B. 1780**	**H.B. 3124**

S.B. 1397	H.B. 405	H.B. 1964	H.B. 3134
S.B. 1525	H.B. 590	H.B. 2059	H.B. 3148
S.B. 1531	H.B. 603	H.B. 2104	H.B. 3150
S.B. 1571	H.B. 608	H.B. 2119	H.B. 3155
S.B. 1607	H.B. 624	H.B. 2185	H.B. 3158
		H.B. 2195	H.B. 3190

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1434

Senator Parmer submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1434** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

PARMER	ECKELS
LEEDOM	BLAIR
BARRIENTOS	T. HUNTER
TEJEDA	REPP
	SEIDLETS
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 1212

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1212** 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.

SANTIESTEBAN	T. SMITH
BIVINS	WENTWORTH
RATLIFF	WATERFIELD

SIMS	JUNELL
	YOST
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, and operation of underground water conservation districts and of management and critical areas.

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

SECTION 1. Section 52.001, Water Code, is amended to read as follows:

Sec. 52.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Water Commission.

(2) "Executive director" means the executive director of the Texas Water Commission.

(3) "Water development board" means the Texas Water Development Board.

(4) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(5) [~~(3)~~] "District" means an underground water conservation district created under this chapter.

(6) [~~(4)~~] "Underground water" means water percolating below the surface of the earth and that is suitable for agricultural, gardening, domestic, or stock raising purposes, but does not include defined subterranean streams or the underflow of rivers.

(7) [~~(5)~~] "Underground water reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries and containing underground water that can be produced from a well at a rate of 25,000 gallons or more a day.

(8) [~~(6)~~] "Subdivision of an underground water reservoir" means a reasonably definable part of an underground water reservoir in which the underground water supply will not be unreasonably affected by withdrawing water from any other part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.

(9) [~~(7)~~] "Waste" means any one or more of the following:

(A) withdrawal of underground water from an underground water reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from an underground water reservoir if the water produced is not used for a beneficial purpose;

(C) escape of underground water from an underground water reservoir to any other reservoir that does not contain underground water;

(D) pollution or harmful alteration of underground water in an underground water reservoir by salt water, other deleterious matter admitted from another stratum or from the surface of the ground; [~~or~~]

(E) wilfully or negligently causing, suffering, or permitting underground water to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well; or

(F) groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge.

(10) [~~(8)~~] "Use for a beneficial purpose" means use for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user.

(11) [~~(9)~~] "Subsidence" means the lowering in elevation of the land surface caused by withdrawal of groundwater.

(12) [~~(10)~~] "Board" means the board of directors of a district.

(13) [~~(11)~~] "Director" means a member of a board.

(14) [~~(12)~~] "Critical area" means an area designated and delineated by the [~~department and~~] commission under Subchapter C of this chapter as an area that is experiencing or that is expected to experience critical groundwater problems.

[~~(13) "Department" means the Texas Department of Water Resources.~~]

SECTION 2. Chapter 52, Water Code, is amended by adding Section 52.005 to read as follows:

Sec. 52.005. APPLICABILITY TO UNDERGROUND WATER CONSERVATION DISTRICTS GENERALLY. (a) In this section, "underground water conservation district" means any district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution that has the authority to regulate the spacing of or production from water wells, including districts created under this chapter.

(b) Subchapters D, J, and K of this chapter and Section 52.262 of this code apply to an underground water conservation district to the extent those provisions do not conflict with a special Act of the legislature relating to that district.

SECTION 3. Subchapter B, Chapter 52, Water Code, is amended to read as follows:

SUBCHAPTER B. CREATION OF DISTRICTS AND MANAGEMENT AREAS GENERALLY

Sec. 52.021. PURPOSE. In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the underground water of underground water reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those underground water reservoirs or their subdivisions [~~therefrom~~], consistent with the objective of Article XVI, Section 59, of the Texas Constitution, underground water management areas and underground water conservation districts may be created as provided by this subchapter.

Sec. 52.022. METHOD OF CREATING DISTRICT. (a) An underground water conservation district may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution.

(b) The commission has exclusive jurisdiction over the delineation of management areas and the creation of districts under this subchapter. [~~Except as otherwise provided by this subchapter, the provisions in Chapter 51 of this code for creating water control and improvement districts apply to the creation of underground water conservation districts under this subchapter to the extent that those provisions may be made applicable.~~]

Sec. 52.023. COMPOSITION [~~BOUNDARIES~~] OF DISTRICT. (a) A district may include all or part of one or more counties, cities, districts, or other political subdivisions.

(b) A district may not include territory located in more than one county except on a majority vote of the voters residing within the territory in each county sought to be included in the district at an election called for that purpose.

(c) The boundaries of a district created under this subchapter must be coterminous with or inside the boundaries of a management area designated by the commission pursuant to this subchapter or the boundaries of a critical area designated by the commission pursuant to Subchapter C of this chapter.

(d) The areas of which a district is composed do not have to be contiguous but may consist of separate bodies of land separated by land not included in the district.

(e) A majority of the voters in a segregated area must approve the creation of the district before that area may be included in the district.

Sec. 52.024. DESIGNATION OF MANAGEMENT AREAS. (a) On its own motion from time to time, or on receiving a petition, the commission may[~~, after notice and hearing as provided by Sections 51.018 and 51.027-51.029 of this code, shall~~] designate underground water management areas. Each management area shall be designated with the objective of providing the most suitable area for the management of the underground water resources of the part of the state in which the district is to be located. To the extent feasible, the management area shall coincide with the boundaries of an underground water reservoir or a subdivision of an underground water reservoir. However, the commission also may consider other factors, including the boundaries of political subdivisions. The size and configuration of a management area shall be appropriate for the performance of the duties provided by Subchapter E of this chapter.

(b) On the request of any person interested in the petition, or on the request of the commission, the executive director shall prepare available evidence relating to the configuration of an underground water management area. Before making the designation, the commission shall consider the evidence prepared by the executive director and other evidence submitted at the hearing.

(c) The commission may alter the boundaries of designated management areas as required by future conditions and as justified by factual data. However, an alteration of boundaries does not invalidate the previous creation of any district.

(d) When the commission has designated the boundaries of a management area as provided by this subchapter [~~section~~], its findings on the location of the boundaries and all other questions essential to the existence of a management area are conclusive and final unless a suit is brought under Section 52.401 of this code within the 30-day period immediately following the date on which the commission enters its order.

(e) The commission shall designate underground water management areas using the procedures applicable to rule making under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), but if procedures prescribed by this chapter are in conflict with that Act, this chapter controls.

Sec. 52.025. PETITION TO DESIGNATE AN UNDERGROUND WATER MANAGEMENT AREA [~~FINDINGS~~]. (a) A petition may be submitted to the commission for the sole purpose of requesting that the commission designate a management area for all or part of one or more counties.

(b) A petition filed pursuant to this section must be signed by:

(1) a majority of the landowners in the proposed management area; or

(2) if there are more than 50 landowners in the proposed management area, the petition must be signed by at least 50 of those landowners.

(c) A petition filed pursuant to this section must contain the following statement:

"Petitioners request that the Texas Water Commission designate an underground water management area to include all or part of _____ County (counties). The management area shall be designated with the objective of providing the most suitable area for the management of underground water resources of the

part of the state in which a district is to be located. Petitioners understand that this petition requests only the designation of a management area, but that all or part of the land in the management area designated may later be added to an existing underground water conservation district or become a new underground water conservation district, as provided by Chapter 52 of the Water Code."

(d) A petition shall include a map that shows the location of the proposed management area and may include any other information desired by the petitioners concerning the proposed management area.

(e) The petitioners shall file the petition with the executive director for review in accordance with the rules of the commission.

(f) The petitioners shall supply any additional information requested by the commission or the executive director. [~~If the commission finds that a district is feasible and practicable, that it would be a benefit to land in the district, and that it would be a public benefit or utility, the commission shall make these findings and grant the petition.~~

[~~(b) If the commission finds that the district is not feasible and practicable, that it would not be a benefit to land in the district, that it would not be a public benefit or utility, or that it is not needed, the commission shall refuse to grant the petition.~~]

Sec. 52.026. NOTICE FOR DESIGNATION OF MANAGEMENT AREA [~~APPLICATION OF SUBCHAPTER~~]. (a) In addition to the notice prescribed for rule making under Section 5 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the petitioners shall have notice published in at least one newspaper with general circulation in the county or counties in which the proposed management area is to be located. Notice must be published not later than the 30th day before the date set for the commission to consider the designation of the management area.

(b) The notice must include:

(1) a statement of the general purpose and effect of designating the proposed management area;

(2) a map generally outlining the boundaries of the proposed management area or notice of the location at which a copy of the map may be examined or obtained; and

(3) the time and place at which the commission will consider the designation of the management area.

(c) If the commission designates a management area on its own motion, the commission shall give the same notice as required to be given by the petitioner under this section. [~~The provisions of this subchapter apply only to districts created under this subchapter.~~]

[Sections 52.027-52.030 reserved for expansion]

Sec. 52.031. PETITION TO CREATE DISTRICT. (a) A petition requesting creation of a district must be filed with the executive director for review and submission to the commission.

(b) The petition filed pursuant to this section must be signed by:

(1) a majority of the landowners within the proposed district, as indicated by the county tax rolls; or

(2) if there are more than 50 landowners in the proposed district, the petition must be signed by at least 50 of those landowners.

(c) The petition must include:

(1) the name of the proposed district;

(2) the area and boundaries of the proposed district, including a map generally outlining the boundaries of the proposed district;

(3) the purpose or purposes of the district; and

(4) a statement of the general nature of any projects proposed to be undertaken by the district, the necessity and feasibility of the work, and the

estimated costs of those projects according to the persons filing the petition if the projects are to be funded by the sale of bonds or notes.

(d) If a part of the proposed district is not included either within a management area delineated pursuant to this subchapter or a critical area delineated pursuant to Subchapter C of this chapter, the petition to create a district may also contain a request to create a management area. A request to create a management area must comply with the requirements for a petition prescribed by Section 52.025 of this code.

Sec. 52.032. NOTICE OF PETITION AND HEARING TO CREATE A DISTRICT. (a) The notice of hearing on a petition must include a statement of the nature and purpose of the proposed district and the date, time, and place of hearing.

(b) The notice must be posted on the bulletin board used for posting legal notices in each county in which all or a part of the proposed district is to be located.

(c) Notice of the hearing shall be published in a newspaper with general circulation in the county or counties in which the proposed district is to be located. Notice must be published not later than the 30th day before the date of hearing.

(d) If the petition contains a request to create a management area in all or part of the proposed district, the notice must also be given in accordance with the requirements prescribed by Section 52.026 of this code for the designation of underground water management areas.

Sec. 52.033. FINDINGS. (a) If the commission finds that a district is feasible and practicable, that it would be a benefit to the land in the district, and that it would be a public benefit or utility, the commission shall issue an order containing these findings and grant the petition.

(b) If the commission finds that the district is not feasible and practicable, that it would not be a benefit to the land in the district, that it would not be a public benefit or utility, or that it is not needed, the commission by order shall deny the petition.

(c) If the commission finds that any of the land sought to be included in the proposed district will not be benefited by inclusion in the district, the commission in its order may exclude land not benefited and define the boundaries of the district to include only the land that will receive benefits from the district.

(d) If the commission grants the petition to create the district, it may provide for additional terms or conditions that restrict the powers of the district from those provided in Chapter 52, Water Code, but may not increase them. (e) If the commission grants the petition to create the district, it shall direct in its order creating the district that an election be called by the temporary directors to confirm the creation of the district and to elect permanent directors.

(f) The refusal to grant a petition to create a district does not invalidate or affect the designation of any management area requested in the same petition.

[Sections 52.034-52.040 reserved for expansion]

Sec. 52.041. APPOINTMENT OF TEMPORARY DIRECTORS. (a) If the commission grants a petition to create a district, it shall appoint five temporary directors who shall serve until the initial directors are elected and have qualified for office or until the voters fail to approve the creation of the district.

(b) Not later than the 15th day after the date that an individual is appointed to be a temporary director, the individual shall take the oath of office.

(c) If an appointee of the commission fails to qualify or if a vacancy occurs in the office of temporary director, the commission shall appoint an individual to fill the vacancy.

(d) As soon as all temporary directors have qualified, the directors shall meet and elect a chairman and vice-chairman from among their membership. The chairman shall preside at all meetings of the board and, in the chairman's absence, the vice-chairman shall preside.

Sec. 52.042. CONFIRMATION AND DIRECTORS' ELECTION. (a) Not later than the 30th day after the date all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election to be held within the boundaries of the proposed district to approve the creation of the district and to elect permanent directors.

(b) In the order calling the election, the temporary directors shall designate election precincts and polling places for the election. In designating the polling places, the temporary directors shall consider the needs of all voters for conveniently located polling places.

(c) The temporary directors shall publish notice of the election at least one time in at least one newspaper with general circulation within the boundaries of the proposed district. The notice must be published before the 30th day preceding the date of the election.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the _____ Underground Water Conservation District." If the district levies a maintenance tax for payment of its expenses, the proposition shall include the following language: "and the levy of a maintenance tax at a rate not to exceed _____ cents for each $100 of assessed valuation."

(e) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the temporary board, and the board shall canvass the returns and declare the result.

(f) If a majority of the votes cast at the election favor the creation of the district, the temporary board shall declare the district created and shall enter the result in its minutes.

(g) If a majority of the votes cast at the election are against the creation of the district, the temporary board shall declare the district defeated and shall enter the result in its minutes. The temporary board shall file a copy of the election result with the commission.

(h) If the majority of the votes cast at the election are against the creation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

Sec. 52.043. BOND AND TAX PROPOSITION. (a) At an election to create a district, the temporary directors may include a proposition for the issuance of bonds or notes, the levy of taxes to retire all or part of the bonds or notes, and the levy of a maintenance tax at a rate not to exceed 50 cents on each $100 of assessed valuation.

(b) The board shall include in any bond and tax proposition the maximum amount of bonds or notes to be issued and their maximum maturity date.

Sec. 52.044. INCLUSION OF MUNICIPALITY. (a) If part of the territory to be included in a district is located in a municipality, a separate voting district may not be established in the municipality for the purpose of determining whether the municipality as a separate area is to be included in the district.

(b) If for any other reason the territory in a municipality is established as a separate voting district, the failure by the voters in the municipal territory to confirm the creation of the district or the annexation of territory to a district does not prevent the territory in the municipality from being included in the district.

Sec. 52.045. CONFIRMATION ELECTION IN DISTRICT INCLUDING LAND IN MORE THAN ONE COUNTY. A district the major portion of which is located in one county may not be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is approved by a majority of the voters of the other county voting in an election called for that purpose.

SECTION 4. Subchapter C, Chapter 52, Water Code, is amended to read as follows:

SUBCHAPTER C. CREATION OF DISTRICTS IN CRITICAL AREAS

Sec. 52.051. PURPOSE. The legislature recognizes that certain areas of the state are experiencing and will experience in the future critical underground water problems including water shortages, land subsidence, underground water contamination including saltwater intrusion, and waste of underground water. To assure the availability of a clean and adequate supply of underground water and to adequately control land subsidence problems and waste of underground water, it is the purpose of the legislature to establish a procedure through which the commission and the water development board [~~department~~] can monitor and study on a continuing basis the underground water situation within the state and work within critical areas to solve existing or potential problems. It is also the purpose of the legislature to assure that the local areas will determine the best methods for handling underground water problems either through the creation of underground water conservation districts or through other means available to each individual and local governmental entity.

[~~Sec. 52.052. MONITORING UNDERGROUND WATER. The department, on a continuing basis, shall monitor the underground water situation within the state and shall make available to all districts information that is acquired by the department in its monitoring activities.~~]

Sec. 52.052 [~~52.053~~]. IDENTIFYING, DESIGNATING, AND DELINEATING CRITICAL AREAS. (a) The executive director and the executive administrator shall meet at least once a year to [~~As part of its monitoring activities, the department shall~~] identify those areas of the state that are experiencing or that are expected to experience, based on information available to the commission and the water development board [~~department~~], within the immediately following 20-year period, critical underground water problems including shortages of surface or underground water, land subsidence resulting from underground water withdrawal, and contamination of underground water supplies.

(b) If the executive director concludes that an area of the state should be considered for designation as a critical area, the executive director shall prepare a report to the commission.

(c) The executive director shall begin preparation of a critical area report by requesting a study from the executive administrator. The study must include an appraisal of the hydrogeology of the area and matters within the water development board's planning expertise that are relevant to the area. The study must be completed and delivered to the executive director on or before the 90th day following the date of the request. If the study is not delivered within this 90-day period, the executive director may proceed with the preparation of the report.

(d) The report shall include:

(1) the recommended delineation of the boundaries of any proposed critical area in the form of a rule to be considered for adoption by the commission;

(2) the reasons and supporting information for or against designating the area as a critical area;

(3) a recommendation regarding whether a district should be created in the critical area or whether the critical area should be added to an existing district; and

(4) any other information that the executive director considers helpful to the commission.

(e) The executive director must complete the report and file it with the commission on or before the 210th day following the date on which the executive administrator was requested to produce a study. The executive director also shall provide a copy of the report to at least one library in each county in which the

proposed critical area is located for the purpose of making the report available for public inspection.

(f) [~~(b)~~] To carry out this section, the executive director [~~department~~] may make necessary studies, hold hearings, solicit and collect information, and use information already prepared by the executive director or the executive administrator [~~department~~] for other purposes.

[~~(c) If through its monitoring activities the department identifies an area of the state as an area with critical underground water problems, the department shall create and appoint to an advisory committee persons familiar with the underground water problems of the area including representatives of those economic sectors that are significant water users in the area being studied.~~

[~~(d) The regional management advisory committee shall assist the department in evaluating information relating to underground water in the area.~~

[~~(e) The department shall prepare a report on underground water conservation and protection in the area.~~

[~~(f) The report prepared by the department under this section shall:~~

[~~(1) provide a technical assessment of information available on underground water resources in the area to be covered by the plan;~~

[~~(2) evaluate the significance of groundwater problems within the area including problems with water quality;~~

[~~(3) assess the efficiency of existing institutions regulating underground water use;~~

[~~(4) assess the administrative feasibility and economic impact of restricting withdrawals of underground water;~~

[~~(5) assess potential methods of increasing aquifer recharge;~~

[~~(6) assess the potential for additional underground water development;~~

[~~(7) assess the potential and need for conjunctive use of underground water and surface water;~~

[~~(8) evaluate and recommend potential control strategies for protecting underground water supplies on a regional basis;~~

[~~(9) make recommendations as to whether an underground water conservation district would be a benefit to the area and if so what the boundaries of the district should be; and~~

[~~(10) assess the alternative methods of financing the district.~~

[~~(g) In preparing the report, the department shall seek the advice and comments of the management advisory committee and shall administer this section so as to utilize the underground and surface water management studies and plans developed by the municipalities, special districts, and other governmental entities within the regions.~~

[~~(h) The department shall complete the report within a reasonable time.~~

[~~(i) If the report recommends the creation of a district under this chapter, the department shall call and hold a hearing within the boundaries of the area identified to provide information to local governmental officials and citizens relating to the critical underground water situation within the area to present the results of the plan and to determine if the area should be designated as a critical area. At the hearing, the department through its professional staff shall present detailed information relating to the underground water situation within the identified area and the procedures, administration, powers, duties, and financing of underground water districts under this chapter. Also, at the hearing, the department shall receive evidence and testimony from local governmental officials and citizens of the area relating to the underground water situation in the area and the potential economic, political, geological, and hydrological impact of the creation of a district under this chapter on the persons and land located in the area.~~

[~~(j) In addition to the requirements of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the department shall give written notice of the date, time, place, and purpose of the hearing to the governing body of each county, city, and district created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution, all or part of which is located in the area identified by the department, and shall publish notice of the date, time, place, and purpose of the hearing in one or more newspapers in each county all or part of which is located in the area identified by the department. The notice must be published not less than 10 days before the date of the hearing.~~

[~~(k) Within 30 days after the conclusion of the hearing, the department shall consider all of the information relating to the identified area including information compiled by the department and information presented at the hearing and shall issue an order prescribing whether the area should be designated as a critical area and, if so, delineating the boundaries of the critical area.~~

[~~(l) The critical area shall be designated with the objective of providing the most suitable area for management of the underground water resources of the part of the state in which the problem is located. To the extent feasible, the critical area shall coincide with the boundaries of an underground water reservoir or a subdivision of an underground water reservoir. However, the department also may consider other factors, including the boundaries of political subdivisions. The size and configuration of a critical area shall be appropriate for the performance of the duties provided by Subchapter E of this chapter.~~

[~~(m) If an area is designated and delineated as a critical area, the department shall prepare and submit to the commission a written report that includes the delineation of the boundaries of the critical area, the reasons for designating the area as a critical area, the information supporting the findings, the recommendation that a district be created in the critical area or that the critical area be added to an existing district, and any other information that the department considers helpful to the commission. The report also shall recommend the method of election or appointment of the board of directors for the proposed district.~~

[~~(n) An order issued under this section may not be appealed.~~]

Sec. 52.053. PROCEDURES APPLICABLE TO DESIGNATION OF CRITICAL AREAS. (a) The commission shall designate critical areas using the procedures applicable to rule making under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), but if procedures prescribed by this subchapter are in conflict with that Act, this subchapter controls.

(b) The designation of a critical area under this subchapter may not be appealed nor may it be challenged under Section 12 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 52.054. NOTICE FOR DESIGNATION OF CRITICAL AREA [~~NOTICE AND HEARING~~]. (a) In addition to the notice prescribed for rule making under Section 5, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the commission shall have notice published in at least one newspaper with general circulation in the county or counties in which the proposed critical area is to be located. Notice must be published not later than the 30th day before the date set for the commission to consider the designation of the critical area.

(b) The notice must include:

(1) a statement of the general purpose and effect of designating the proposed critical area;

(2) a map generally outlining the boundaries of the proposed critical area or notice of the location at which a copy of the map may be examined or obtained;

(3) a description or the name of the locations at which the commission has provided copies of the executive director's report to be made available for public inspection; and

(4) the date, time, and place at which the commission will consider the designation of the critical area. [~~On receiving a report from the department, the commission shall call a hearing to consider the report and to determine if the creation of a district is feasible and necessary.~~

[~~(b) In addition to the notice requirements of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and department rules, the commission shall give written notice of the date, time, place, and purpose of the hearing to the governing body of each county, city, and district created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution, all or a part of which is located in the critical area. The notice must be given before the 10th day preceding the date set for the hearing.~~

[~~(c) The commission shall include with the notice under Subsection (b) of this section a brief summary of the department's report designating the area as a critical area including a description of the delineated boundaries, the reasons that the area has been designated as a critical area, the benefits, powers, and duties that may be exercised by a district, and any other information the commission considers necessary.~~

[~~(d) The commission also shall include in its notice under Subsection (b) of this section notice that the full department report is available at the commission's main office in Austin, Texas, and that the report is available for inspection during regular business hours.~~

[~~(e) The commission shall publish notice of the date, time, place, and purpose of the hearing in one or more newspapers with general circulation within the boundaries of the critical area. The notice must be published at least one time before the 10th day preceding the date of the hearing.~~]

Sec. 52.055. CONSIDERATION OF THE CREATION OF A DISTRICT OR ADDITION OF LAND IN A CRITICAL AREA TO AN EXISTING DISTRICT [~~TESTIMONY, EVIDENCE, AND CONSIDERATIONS~~]. (a) Following its designation of a critical area, the commission may call a hearing to consider:

(1) whether a district should be created over all or part of a critical area; or

(2) whether all or part of the land in the critical area should be added to an existing district.

(b) If an evidentiary hearing is held, it shall be held at a location in one of the counties in which the critical area is located or in the nearest convenient location if adequate facilities are not available in the critical area.

(c) At the hearing, the commission shall hear testimony and receive evidence from all interested parties [~~relating to whether a district should be created to solve the problems of the critical area and, if so, whether the boundaries as delineated by the department should be adopted or changed in any manner~~]. The [~~(b) At the conclusion of the hearing and before issuing any order, the~~] commission shall consider the executive director's [~~department's~~] report and supporting information and the testimony and evidence received at the hearing. If the commission considers further information necessary, it may request it from any source.

[~~(c) In making its decision, the commission shall consider:~~

[~~(1) the economic, political, geological, and hydrological impact of the creation of a district on the persons and the land located in the critical area;~~

[~~(2) whether the land and property within the boundaries of the proposed district will benefit from the creation of the district;~~

[~~(3) whether there is a public need for the district, and~~

[~~(4) whether the creation of the district would further the public welfare.~~]

(d) The commission also shall give written notice of the date, time, place, and purpose of the hearing to the governing body of each county, city, and district created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution, all or a part of which is located in the critical area. The notice must be given before the 30th day preceding the date set for the hearing.

(e) The commission shall include with the notice under Subsection (d) of this section a brief summary of the executive director's report including a description of the delineated boundaries, the reasons that the area has been designated as a critical area, the benefits, powers, and duties that may be exercised by a district, and any other information the commission considers necessary.

(f) In the notice required under Subsection (d) of this section, the commission shall include:

(1) a statement that the full executive director's report is available for public inspection during regular business hours at the commission's main office in Austin, Texas; and

(2) the name and address of each library in the critical area to which the commission has provided copies of the executive director's report.

Sec. 52.056. NOTICE OF HEARING TO CREATE DISTRICT OR ADD CRITICAL AREA TO EXISTING DISTRICT. (a) The commission shall have notice of the hearing published in a newspaper with general circulation in the county or counties in which the area that is being considered for district creation or addition to an existing district is located. Notice must be published not later than the 30th day before the date of the hearing.

(b) The notice must include:

(1) a general statement of the nature and purpose of the district that may be created in the critical area;

(2) if applicable, a statement that all or part of the land in the critical area could be added to an existing district;

(3) a map generally outlining the boundaries of the critical area being considered for district creation or addition to an existing district or notice of the location at which a copy of the map may be examined or obtained;

(4) a statement that the full executive director's report concerning the critical area in question is available at the commission's main office in Austin, Texas, and that the report is available for inspection during regular business hours;

(5) the name and address of each library in the proposed critical area to which the commission has provided copies of the executive director's report; and

(6) the date, time, and place of the hearing.

Sec. 52.057 [~~52.056~~]. COMMISSION ORDER. (a) At the conclusion of its hearing and considerations, the commission shall issue an order stating its findings and conclusions.

(b) If the commission finds that the land and other property in the critical area would benefit from the creation of a district, that there is a public need for the district, and that district creation would further the public welfare, the commission shall issue an order proposing the creation of a district, delineating the boundaries of the proposed district, directing that an election be held within the boundaries of the proposed district to determine if the district will be created, and appointing five persons to serve as temporary directors for the proposed district.

(c) If the commission fails to find that the district would be a benefit to the land and other property within the critical area, that there is a public need for the district, or that creation of the district will further the public welfare, the commission shall issue an order stating that a district should not be created within the boundaries of the critical area.

(d) [~~If the commission authorizes creation of a district under Subsection (b) of this section, it may alter the boundaries delineated by the department as the critical area. Any change in the boundaries must be based on testimony, evidence, data, and other information available to the department.~~

[~~(c)~~] An order of the commission issued under this section may not be appealed.

Sec. 52.058 [~~52.057~~]. TEMPORARY DIRECTORS. (a) The [~~If the commission orders an election to be held to determine whether a district should be created within the critical area, it shall appoint~~] five temporary directors [~~who~~] shall serve until the initial directors are elected and have qualified for office or until the voters fail to approve the creation of the district.

(b) Within 15 days after an individual is appointed to be a temporary director, the individual shall take the oath of office.

(c) If an appointee of the commission fails to qualify or if a vacancy occurs in the office of temporary director, the commission shall appoint an individual to fill the vacancy.

(d) As soon as all temporary directors have qualified, the directors shall meet and elect a chairman and vice-chairman from among their membership. The chairman shall preside at all meetings of the board and in his absence, the vice-chairman shall preside.

Sec. 52.059 [~~52.058~~]. CREATION AND DIRECTORS' ELECTION. (a) Within 30 days after all temporary directors have been appointed and have qualified, the temporary directors shall meet and shall call an election to be held within the boundaries of the proposed district to approve the creation of the district and to elect permanent directors.

(b) In the order calling the election, the temporary directors shall designate election precincts and polling places for the election. In designating the polling places, the temporary directors shall consider the needs of all voters [~~the rural areas~~] for conveniently located polling places.

(c) The temporary directors shall publish notice of the election at least one time in a newspaper or newspapers that have general circulation within the boundaries of the proposed district. The notice must be published before the 30th day preceding the date of the election.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the _____ Underground Water Conservation District." If the district levies a maintenance tax for payment of its expenses, the proposition shall include the following language: "and the levy of a maintenance tax at a rate not to exceed _____ cents for each $100 of assessed valuation."

(e) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the temporary board, and the board shall canvass the returns and declare the result.

(f) If a majority of the votes cast at the election favor the creation of the district, the temporary board shall declare the district created and shall enter the results in its minutes. If a majority of the votes cast at the election are against the creation of the district, the temporary board shall declare the district defeated and shall enter the results in its minutes. The temporary board shall file a copy of the election results with the commission [~~department~~].

(g) If the proposition to create a district is defeated, an election to create a district in the area may not be called during the 12-month period immediately following the date on which the election on the proposition was held.

Sec. 52.060 [~~52.059~~]. BOND AND TAX PROPOSITION. (a) At an election to create a district, the temporary directors may include a proposition for the issuance of bonds, the levy of taxes to retire [~~pay for~~] all or part of the bonds, and

the levy of a maintenance tax at a rate not to exceed 50 cents on each $100 of assessed valuation.

(b) The board shall include in any bond and tax proposition the maximum amount of bonds to be issued and their maximum maturity date.

Sec. 52.061 [~~52.060~~]. ADDING CRITICAL AREA TO EXISTING DISTRICT. (a) If land in a critical area is located adjacent to one or more existing districts, the commission, instead of issuing an order under Section 52.057(b) [~~52.056(b)~~] of this code, may issue an order recommending that the critical area be added to the existing district designated by the commission[~~, delineating the boundaries of the critical area proposed to be added to the existing district, and ordering the board of the existing district to call and hold on the same day separate elections within the existing district and within the critical area to determine whether the critical area will be added to the district~~]. In its order, the commission must find that the land and other property in the critical area and the land in the existing district will benefit from the addition of the area, that there is a public need to add the critical area to the existing district, and that addition of the land to the existing district would further the public welfare.

(b) If the executive director [~~department~~] recommends that the critical area be added to an existing district in the [~~its~~] report under Section 52.052 [~~52.053~~] of this code or if the commission, on receiving that report, considers it possible to add the critical area to an adjacent existing district, the commission shall give notice as provided by Section 52.055(d) [~~52.054(b)~~] of this code to the board of the existing district recommended by the executive director [~~department~~] or considered by the commission to possibly serve the area and to any other existing districts adjacent to the critical area.

(c) The commission shall submit a copy of the order issued under this section to the board of the district to which it is recommended that the critical area be added. If the board votes to decline addition of the critical area to the district, the board shall advise the commission of this fact.

(d) If the board votes to accept the addition of the critical area to the district [~~Within 10 days after receiving a copy of the commission's order~~], the board shall call an election [~~on the same day separate elections within the existing district and~~] within the critical area as delineated by the commission to determine if the critical area will be added to the district. In the order calling the election, the board shall designate election precincts and polling places for the elections.

(e) The board shall give notice of the election [~~elections~~] and the proposition to be voted on. The board shall publish notice of the election [~~elections~~] at least one time in one or more newspapers with general circulation within the boundaries of the [~~existing district and the~~] critical area. The notice must be published before the 30th day preceding the date set for the election [~~elections~~].

(f) The ballots for the election [~~elections~~] shall be printed to provide for voting for or against the proposition: "The inclusion of _____ (briefly describe critical area) in the _____ District and assumption by the described area of a proportional share of the outstanding indebtedness of the district."

(g) Immediately after the election [~~elections~~], the presiding judge of each polling place shall deliver the returns of the election to the board, and the board shall canvass the returns for the election [~~within the existing district and the election~~] within the critical area [~~separately~~] and declare the results. If a majority of the voters [~~in the existing district and a majority of the voters~~] in the critical area voting on the proposition vote in favor of the proposition, the board shall declare that the critical area is added to the district. If a majority of the voters in [~~either or both the existing district and~~] the critical area voting on the proposition vote against adding the critical area to the district, the board shall declare that the critical area is not

added to the district. The board shall file a copy of the election results with the commission [~~department~~].

(h) If the voters approve adding the critical area to the district, the board of the district to which the critical area is added shall provide for the critical area reasonable representation on the board that is compatible with the district's existing scheme of representation.

(i) If the proposition is defeated, another election to add the critical area to an existing district may not be called before the first anniversary of the date on which the election on the proposition was held [~~no further elections may be called by the board to add the critical area to the district unless the procedures provided by this subchapter for designating and delineating critical areas and ordering that an election be held are followed in their entirety~~].

Sec. 52.062 [~~52.061~~]. COSTS OF ELECTIONS. (a) The costs of an election to create a district at which a district is authorized to be created shall be paid by the district.

(b) The costs of an election to add a critical area to an existing district at which the voters approve adding the critical area to the district shall be paid by the existing district.

(c) If at an election to create a district or add a critical area to an existing district the voters do not approve the proposition and the district is not created or the critical area is not added to the existing district, the commission shall pay the costs of the election.

Sec. 52.063 [~~52.0611~~]. STATE ASSISTANCE. A city, county, or district created under Article III, Section 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution that is located in an area delineated as a critical area under this chapter and in which the qualified voters fail to approve the creation of a district is not eligible to receive any financial assistance from the state under Chapter 15, 16, or 17 of this code.

Sec. 52.064 [~~52.062~~]. EXEMPTION FROM SUBCHAPTER. Except for Sections 52.061 and 52.062 [~~52.060 and 52.061~~] of this code, this subchapter does not apply to the following districts or land within those districts:

(1) a district created under Subchapter B, Chapter 52, of this code;

(2) the Edwards Underground Water District created by Chapter 99, Acts of the 56th Legislature, Regular Session, 1959;

(3) the North Plains Ground Water Conservation District No. Two created by Chapter 498, Acts of the 54th Legislature, Regular Session, 1955;

(4) the Ground Water Conservation District No. 3, South of the Canadian River confirmed by Chapter 19, Acts of the 55th Legislature, Regular Session, 1957;

(5) the Glasscock County Underground Water Conservation District created by Chapter 489, Acts of the 67th Legislature, Regular Session, 1981;

(6) the Dallam County Underground Water Conservation District No. 1 confirmed by Chapter 91, Acts of the 56th Legislature, Regular Session, 1959;

(7) the High Plains Underground Water Conservation District No. 1 confirmed by Chapter 10, Acts of the 53rd Legislature, Regular Session, 1953;

(8) the Harris-Galveston Coastal Subsidence District created by Chapter 284, Acts of the 64th Legislature, Regular Session, 1975;

(9) the Hickory Underground Water District;

(10) the Hudspeth County Underground Water District;

(11) the Evergreen Underground Water Conservation District created by Chapter 197, Acts of the 59th Legislature, Regular Session, 1965;

(12) the Plateau Underground Water Conservation and Supply District created by Chapter 517, Acts of the 59th Legislature, Regular Session, 1965; or

(13) a district created under Article XVI, Section 59, of the Texas Constitution, by the 69th Legislature.

Sec. 52.065 [~~52.063~~]. STATE-OWNED LAND. Subject to resolution of constitutional and other legal issues, if state-owned land or a portion of state-owned land is located in a critical area, the state agency that has management and control over that land under the constitution or by statute may elect by written agreement with the commission and the district to include the state-owned land in the district. The agreement shall be entered into as provided by The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) and may include provisions for the payment by the state agency of reasonable fees to the district. If the state does not elect to enter into the agreement to include the state-owned land in the district, the state agency must establish an underground water management plan that will conserve, protect, and prevent the waste of underground water on that state-owned land.

SECTION 5. Subchapter D, Chapter 52, Water Code, is amended by adding Sections 52.104 through 52.121 to read as follows:

Sec. 52.104. BOARD OF DIRECTORS. The governing body of a district is the board of directors, which shall consist of five directors elected for four-year terms.

Sec. 52.105. ELECTION TO REPLACE DIRECTORS TEMPORARILY APPOINTED BY COMMISSION. A district organized by order of the commission shall elect five directors at the election that is held to confirm the creation of the district.

Sec. 52.106. QUALIFICATIONS FOR DIRECTORS. To be qualified to serve as a director, a person must be a registered voter in the precinct that the person represents.

Sec. 52.107. APPLICATION TO GET ON BALLOT. A candidate for the office of director or other elective office may file an application with the secretary of the board to have the candidate's name printed on the election ballot. The application must be signed by the applicant and must be filed not later than the 20th day before the date of the election.

Sec. 52.108. OATH OF OFFICE. (a) Each director shall take the oath of office prescribed by the constitution for public officers.

(b) The oath shall be filed with the district and retained in its records.

Sec. 52.109. ORGANIZATION OF BOARD. After the directors have been elected, the board shall organize by electing a president, a vice-president, a secretary, and any other officers that in the judgment of the board are necessary.

Sec. 52.110. VACANCIES ON BOARD. A vacancy in the office of director shall be filled by appointment of the board until the next election for directors. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

Sec. 52.111. ELECTION. (a) An election in the district shall be held on an authorized uniform election date as provided by the Election Code.

(b) Each election shall be held in accordance with the Election Code.

Sec. 52.112. DISTRICT OFFICE. The board shall establish and maintain a regular office and meeting place for conducting the business of the district. The office shall be located inside the district, or, if the district does not include a municipality in or adjoining the territory included in the district, the office may be located in a nearby municipality that is best suited for the transaction of business.

Sec. 52.113. COMPENSATION OF DIRECTORS. A director is entitled to receive compensation of not more than $100 a day for each day the director actually spends performing the duties of a director, but the compensation may not exceed $500 for any one month. Each director is also entitled to receive reimbursement of actual expenses incurred while engaging in activities in the district.

Sec. 52.114. OFFICERS; QUORUM. Three directors constitute a quorum for a meeting, and a concurrence of three is sufficient for transacting business of the district.

Sec. 52.115. MEETINGS. (a) The board shall hold regular quarterly meetings. It may hold meetings at other times as required for the business of the district.

(b) Any person may attend a meeting of the board and may present in an orderly manner matters for the board's consideration.

(c) Meetings shall be conducted and notice of meetings shall be posted in accordance with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

Sec. 52.116. MINUTES AND RECORDS OF DISTRICT. The board shall keep a complete account of all its meetings and proceedings and shall preserve its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place. All minutes, contracts, records, notices, accounts, receipts, and other records are the property of the district and subject to public inspection.

Sec. 52.117. CONTRACTS. District contracts shall be executed by the board in the name of the district. The district may contract with any individual or public or private entity as necessary or appropriate to effectively exercise the authority provided by this chapter.

Sec. 52.118. GENERAL MANAGER. The board may employ a general manager and give him full authority in the management and operation of the affairs of the district, subject only to the orders of the board.

Sec. 52.119. EMPLOYEES OF DISTRICT. The board may employ or authorize the manager to employ all persons necessary for the proper handling of the business and operation of the district, its plant, and improvements.

Sec. 52.120. EMPLOYEES' COMPENSATION AND TERMS OF EMPLOYMENT. The board shall determine the compensation to be paid the general manager and any other employee of the district or it may choose to allow the manager to determine the compensation to be paid the employees other than the general manager. An employee may be removed by the board or by the general manager.

Sec. 52.121. EMPLOYEES' BOND. (a) The board shall require an employee who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of his duties and on accounting for all funds and property of the district.

(b) The bond may be signed by individual sureties or by a surety company authorized to do business in the state.

SECTION 6. Section 52.160, Water Code, is amended to read as follows:

Sec. 52.160. PLANNING. (a) In this section, "district" means a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution that has the authority to regulate the spacing of or production from water wells, including districts created under this chapter.

(b) The district shall develop a comprehensive management plan [~~plans~~] for the most efficient use of the underground water, [~~and~~] for controlling and preventing waste of underground water, and for controlling and preventing subsidence. The district shall provide for public participation by conducting a hearing to receive testimony on the development of the plan. The plan may be reviewed annually but must be reviewed by the board at least once every two years.

(c) [~~(b)~~] The district shall specify in the management plan [~~plans~~], in as much detail as possible [~~practicable~~], the acts, procedures [~~procedure~~], performance, and avoidance that are or may be necessary to effect the plan [~~plans~~], including specifications and proposed rules. The district shall adopt rules that are necessary

to implement the management plan. The district shall file a copy of the management plan and the rules with the commission.

(d) If two or more districts are located within the boundaries of a management area designated by the commission under this chapter, each district shall prepare a comprehensive management plan as required by Subsections (b) and (c) of this section, covering the district's respective territory. On completion of the plan, each district shall forward a copy of the new or revised management plan to the other districts in the management area.

(e) The board of directors of each district in the management area shall meet jointly with the boards of directors of the other districts in the management area each even-numbered year to review the management plans and accomplishments for the management area. The boards shall consider the plans individually and shall compare them to other management plans then in force in the management area. In reviewing the management plans, the boards shall consider:

(1) the goals of each management plan and its impact on planning throughout the management area;

(2) the effectiveness of the measures prescribed by each management plan for conserving and protecting groundwater and preventing waste and the effectiveness of these measures in the management area generally; and

(3) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(f) A joint meeting of the boards of directors must be held in accordance with the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes). Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act. In addition, notice of the meeting shall be published not later than the 31st day before the date of the scheduled meeting in a newspaper or newspapers with general circulation in each county in the management area.

(g) A district in the management area may file a petition with the commission requesting an inquiry if the petitioner district believes that:

(1) another district in the management area has failed to adopt rules;

(2) the underground water in the management area is not adequately protected by the rules adopted by another district; or

(3) the underground water in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(h) Not later than the 90th day after the date of receipt of a petition filed under Subsection (g) of this section, the commission may:

(1) review the petition and dismiss it if it finds that the evidence is not adequate to show that any of the conditions in Subsection (g)(1), (2), or (3) of this section exist or for any other reason; or

(2) select a review panel as provided by Subsection (i) of this section.

(i) A review panel consists of a chairman and four other members appointed by the commission. A director or general manager of a district that is located outside the management area may be appointed to the review panel. The commission may not appoint more than two members of the review panel from a single district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

(j) Not later than the 120th day after appointment, the review panel shall review the petition and any evidence relevant to the petition and, in a public meeting, prepare a report to the commission. The commission may direct the review panel

to conduct public hearings at a location in the management area to take evidence on the petition. The review panel may attempt to negotiate a settlement or resolve the dispute between the petitioner and the district complained of.

(k) In its report, the review panel shall include:

(1) a summary of all evidence taken in any hearings on the petition;

(2) a list of any actions, including approval of a settlement, that it finds are appropriate for the commission to take and the reasons it finds those actions appropriate or, if it finds that no action by the commission is necessary, the reasons why it so finds; and

(3) any other information that the panel considers appropriate.

SECTION 7. Subsections (c) and (d), Section 52.170, Water Code, are amended to read as follows:

(c) The district shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce [~~producing~~] more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce underground water from his land, subject to the rules of the district.

(d) The district may not restrict the production of any well that is equipped to produce [~~produces~~] 25,000 gallons or less a day.

SECTION 8. Subsection (b), Section 52.171, Water Code, is amended to read as follows:

(b) As used in this section, "open or uncovered well" means an artificial excavation [~~at least 10 feet deep and at least 10 inches but not more than six feet in diameter;~~] that is dug or drilled for the purpose of exploring for or producing water from the underground water reservoir and is not capped or covered as required by this chapter.

SECTION 9. Section 52.173, Water Code, is amended to read as follows:

Sec. 52.173. INFORMATION. Annually, the district shall make available to the executive director and executive administrator [~~department~~] information that it acquires concerning the underground water resources within its jurisdiction. The district shall also provide information to the commission and water development board [~~department~~] concerning its plans and activities in conserving and protecting underground water resources. On request of a district, the executive director and the executive administrator shall provide information they acquire concerning the underground water resources within the district's jurisdiction.

SECTION 10. Section 52.258, Water Code, is amended to read as follows:

Sec. 52.258. SWORN STATEMENT. As soon as practicable after the close of the fiscal year, the general manager [~~executive director~~] shall prepare for the board a sworn statement of the amount of money that belongs to the district and an account of the disbursements of that money.

SECTION 11. Subchapter F, Chapter 52, Water Code, is amended by adding Section 52.262 to read as follows:

Sec. 52.262. AUTHORITY TO RECEIVE GRANTS OR DONATIONS. The district may apply for and receive grants or donations from local, state, or federal agencies, private individuals, companies, or corporations for special projects or research or to be used for the operation and maintenance of the district.

SECTION 12. Subsection (c), Section 52.294, Water Code, is amended to read as follows:

(c) Notice of an election must be given as provided by Section 52.059(c) [~~52.058(c)~~] of this code for creation elections.

SECTION 13. Section 52.352, Water Code, is amended to read as follows:

Sec. 52.352. BOARD AUTHORITY. (a) The board may levy taxes for the entire year in which the district is created.

(b) If territory is added to or annexed by the district, the board may levy taxes in the new territory for the entire year in which the territory is added or annexed.

(c) The board shall levy taxes on all property in the district subject to district taxation.

SECTION 14. Chapter 52, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ADDING TERRITORY TO DISTRICTS

Sec. 52.521. ADDING LAND BY PETITION OF LANDOWNER. The owner of land contiguous to the district may file with the board a petition requesting that the owner's land be included in the district. The petition must describe the land by legal description or 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. This petition must be signed by the owner of the land and notarized.

Sec. 52.522. ASSUMPTION OF BONDS. If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxation that have been voted but are unissued, the petitioner shall assume its share of the outstanding bonds, notes, or other obligations and any voted but unissued tax bonds of the district, and the property shall be assessed an ad valorem tax at the same rate as that set for the existing district to pay for outstanding bonds and for the maintenance and operation of the district.

Sec. 52.523. HEARING AND DETERMINATION OF PETITION. (a) 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 petitioner and to the existing district.

(b) If the district has bonds payable in whole or in part from taxation that are voted but unissued at the time of the annexation, 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.

Sec. 52.524. RECORDING PETITION. 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 and in the county or counties in which the existing district's principal office is located.

Sec. 52.525. ADDING CERTAIN TERRITORY BY PETITION. Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by at least 50 landowners if the number of landowners is more than 50. The petition must describe the land by legal description or 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.

Sec. 52.526. HEARING ON PETITION. The board by order shall set the time and place of separate hearings on the petition to include the territory in the district. At least one hearing shall be held in the existing district and one hearing shall be held in the territory to be added.

Sec. 52.527. RESOLUTION TO ADD TERRITORY. If the board finds after the hearing on the petition that the addition of the land would be of benefit to the district and to the territory to be added, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

Sec. 52.528. ELECTION TO RATIFY ANNEXATION OF LAND. (a) Annexation of the territory is not final until ratified by a majority vote of the voters in the territory to be added. An election in the existing district accepting the addition of land is not required.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of (briefly describe additional area) in the _____ District." If the district levies a property tax for payment of

its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each $100 of assessed valuation for payment of maintenance and operating expenses of the district."

(c) The amount of the tax included in the proposition shall be the maximum amount that the district is authorized to levy. If the district has outstanding or authorized bonded indebtedness, the proposition shall include language providing for the assumption by the additional area of a proportional share of the bonded indebtedness of the district.

Sec. 52.529. NOTICE AND PROCEDURE OF ELECTION. The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by the Election Code.

Sec. 52.530. LIABILITY OF ADDED TERRITORY. The added territory shall bear its pro rata share of indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

Sec. 52.531. ANNEXATION OF NONCONTIGUOUS TERRITORY. Land that is not contiguous to the existing boundaries of a district may not be added to or annexed to a district unless the land is located either within the same management area, critical area, or an underground water subdivision designated by the commission or its predecessors.

[Sections 52.532-52.540 reserved for expansion]

Sec. 52.541. CONSOLIDATION OF DISTRICTS. Two or more districts governed by this chapter may consolidate into one district.

Sec. 52.542. ELECTIONS TO APPROVE CONSOLIDATION. (a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the other district's bonds, notes, or other obligations and voted but unissued bonds payable in whole or in part from taxation, the levy of taxes to pay for the bonds, and adoption of a name for the consolidated district, the board shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district. The election shall be held and notice given in the manner provided by the Election Code.

(c) The district may be consolidated only if a majority of the electors in each district vote in favor of the consolidation.

Sec. 52.543. GOVERNING CONSOLIDATED DISTRICTS. (a) After two or more districts are consolidated, they become one district and are governed as one district, except for the payment of debts created before consolidation unless the conditions of consolidation provide for the assumption by the consolidated district of bonds, notes, or other obligations and voted but unissued bonds.

(b) During the 90-day period following the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original district agree to resign. At the next general election, directors shall be elected for the consolidated district in the same manner and for the same term as directors elected at a confirmation election.

Sec. 52.544. DEBTS OF ORIGINAL DISTRICTS. (a) After two or more districts are consolidated, the consolidated district shall protect the debts of the original districts and shall assure that the debts are not impaired. The debts may be paid by taxes levied on the land in the original districts as if they had not

consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

(b) If the consolidated district assumes the bonds, notes, and other obligations of the two districts, taxes may be levied uniformly on all taxable property within the consolidated district to pay the debts.

Sec. 52.545. ASSESSMENT AND COLLECTION OF TAXES. After consolidation, the district shall assess and collect taxes on property in the original districts for maintenance and operation of the district and to pay debts created by the original districts unless the consolidated district has assumed the two districts' bonds, notes, or other indebtedness.

Sec. 52.546. VOTED BUT UNISSUED BONDS. If either district has voted but unissued bonds payable in whole or in part from taxation and the consolidated district assumed the voted but unissued bonds and the consolidated district was authorized to levy taxes to pay for the bonds, the consolidated district may issue the voted but unissued bonds in the name of the consolidated district and levy a uniform tax on all taxable property in the consolidated district to pay for the bonds.

Sec. 52.547. CONSOLIDATION ORDER ISSUED BY BOARD. After the consolidation has been ratified by the voters in the districts that have been consolidated, the board shall issue an order declaring the consolidation to be ratified and stating the terms and conditions of consolidation, the boundaries of the consolidated district, and the names and addresses of the members of the board of directors.

Sec. 52.548. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR. The consolidation order issued by the board shall be recorded in the office of the county clerk in each of the counties in the consolidated district and with the executive director.

SECTION 15. Subchapter J, Chapter 52, Water Code, is amended by adding Section 52.502 to read as follows:

Sec. 52.502. DISSOLUTION OF INACTIVE DISTRICT. (a) After notice and hearing, the commission may dissolve a district that was created under this chapter or that is subject to this chapter and that:

(1) is inactive for a period of three consecutive years; and

(2) has no outstanding bonded indebtedness.

(b) A district dissolved under this section shall be dissolved in the manner provided by Sections 50.252 through 50.257 of this code.

SECTION 16. Subsection (b), Section 52.401, Water Code, is amended to read as follows:

(b) A person, firm, corporation, or association of persons affected by and dissatisfied with any provision of this chapter or by an act of the commission other than an order delineating a critical area issued under Section 52.053 of this code or an order creating a district issued under Section 52.057 [~~52.056~~] of this code is entitled to file suit against the commission to challenge the validity of the law or the act of the commission. The suit shall be filed in a court of competent jurisdiction in Travis County.

SECTION 17. Section 52.101, Water Code, is amended to read as follows:

Sec. 52.101. GENERAL PROVISIONS AND REQUIREMENTS APPLICABLE TO ALL DISTRICTS AND AUTHORITIES [~~ADMINISTRATIVE AND PROCEDURAL PROVISIONS~~]. To the extent applicable, underground water conservation districts are governed by Chapter 50 of this code, including the general reporting requirements and financial reporting requirements of Chapter 50. [~~Except as otherwise provided by this chapter, the administrative and procedural provisions of Chapter 51 of this code apply to districts created under this chapter.~~]

SECTION 18. Subsection (b), Section 52.291, Water Code, is amended to read as follows:

(b) Issuance of bonds and notes authorized by this section shall be approved by the commission in the manner provided for bonds of municipal utility districts under Section 54.516 of this code and rules adopted by the commission [board].

SECTION 19. Subsection (d), Section 51.021 and Subsection (c), Section 52.501, Water Code, are repealed.

SECTION 20. This Act takes effect September 1, 1989, and applies to petitions that are pending with the commission on that date and that are filed with the commission on and after that date.

SECTION 21. 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 1484

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1484** 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.

WHITMIRE	MARTINEZ
BARRIENTOS	COUNTS
EDWARDS	GOOLSBY
GREEN	HORN
WASHINGTON	PRICE
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the days and hours for conducting absentee voting by personal appearance in certain elections.

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

SECTION 1. Section 85.005, Election Code, is amended by amending Subsection (a) and by adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), in [~~In~~] an election in which a county clerk or city secretary is the absentee voting clerk under Section 83.002 or 83.005, absentee voting by personal appearance at the main absentee polling place shall be conducted on the weekdays of the absentee voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business.

(c) In a county with a population of 200,000 or more, the voting in a primary election or the general election for state and county officers shall be conducted at

the main absentee polling place for at least 12 hours on each weekday of the last week of the absentee voting period, and the voting in a special election ordered by the governor shall be conducted at the main absentee polling place for at least 12 hours on each of the last two days of the absentee voting period. Voting shall be conducted in accordance with this subsection in those elections in a county with a population under 200,000 on receipt by the absentee voting clerk of a written request for the extended hours submitted by at least 15 registered voters of the county.

SECTION 2. Section 85.006, Election Code, is amended by adding Subsection (e) to read as follows:

(e) In a primary election or the general election for state and county officers in a county with a population of 200,000 or more, the absentee voting clerk shall order personal appearance voting at the main absentee polling place to be conducted for at least 12 hours on the last Saturday and for at least five hours on the last Sunday of the absentee voting period. The absentee voting clerk shall order voting to be conducted at those times in those elections in a county with a population under 200,000 on receipt of a written request for those hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.007. This subsection supersedes any provision of this subchapter to the extent of any conflict.

SECTION 3. Subsection (c), Section 85.064, Election Code, is amended to read as follows:

(c) The authority authorized under Section 85.006 to order absentee voting on a Saturday or Sunday may also order, in the manner prescribed by that section, absentee voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. In addition, the absentee voting clerk of a county covered by Section 85.006(e) shall order such voting in accordance with that subsection at each temporary branch polling place.

SECTION 4. Subsection (b), Section 85.065, Election Code, is amended to read as follows:

(b) Subject to Section 85.005(c), voting [~~Voting~~] at a temporary branch polling place may be conducted on any one or more days and during any hours of the period for voting absentee by personal appearance, as determined by the authority establishing the branch. The authority authorized under Section 85.006 to order absentee voting on a Saturday or Sunday may also order, in the manner prescribed by that section, absentee voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. In addition, the absentee voting clerk of a county covered by Section 85.006(e) shall order such voting in accordance with that subsection at each temporary branch polling place.

SECTION 5. Subsection (a), Section 85.068, Election Code, is amended to read as follows:

(a) The absentee voting clerk shall post notice for each election stating any dates and the hours that voting on Saturday or Sunday will be conducted under Section 85.064(c) or 85.065(b), if the absentee voting clerk is a county clerk or city secretary under Section 83.002 or 83.005.

SECTION 6. This Act takes effect September 1, 1989.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT
HOUSE BILL 1425

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1425** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

CAPERTON	CONNELLY
McFARLAND	HURY
MONTFORD	SAUNDERS
	SCHLUETER
	STILES
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 1546

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1546** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SANTIESTEBAN	T. SMITH
SIMS	YOST
MONTFORD	RICHARDSON
URIBE	
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 646

Senator McFarland submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 646** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

McFARLAND	CARTER
CAPERTON	B. HUNTER
DICKSON	UHER
TEJEDA	PARKER
BROWN	C. HARRIS
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 1564

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1564** 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.

GLASGOW	P. HILL
PARKER	McCOLLOUGH
BIVINS	G. LUNA
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 powers, assignment, and retirement of certain judges; and candidates for certain judicial offices.

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

SECTION 1. Subsection (d), Section 21.002, Government Code, as amended by Senate Bill No. 221, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(d) An officer of a court who is held in contempt by a trial court shall, on proper motion filed in the offended court, be released on his own personal recognizance pending a determination of his guilt or innocence [~~by a judge of a district court that is not the offended court~~]. The presiding judge of the administrative judicial region in which the alleged contempt occurred shall assign [~~appoint~~] a judge who is subject to assignment by the presiding judge [~~of a district court~~] other than the judge of the offended court to determine the guilt or innocence of the officer of the court.

SECTION 2. Subsection (c), Section 21.008, Government Code, as added by Chapter 674, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(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 regions [~~districts~~], and for the administration of this section.

SECTION 3. Subsection (c), Section 33.005, Government Code, is amended to read as follows:

(c) The commission shall distribute the report to the governor, lieutenant governor, and speaker of the house of representatives and shall cause the report to be printed in the [~~Annual Report of the Texas Judicial Council and the~~] Texas Bar Journal.

SECTION 4. Section 34.001, Government Code, is amended to read as follows:

Sec. 34.001. CANDIDATE SUBJECT TO CODE. (a) A person who has filed an application for a place on the ballot as provided by the Election Code for a judicial office listed in Subsection (b) [~~described by Canon 8A, Code of Judicial Conduct;~~] is subject to Canon 7, Code of Judicial Conduct, and is subject to sanctions as provided by this chapter.

(b) This chapter applies to candidates for the following offices:

(1) chief justice or justice of the supreme court;

(2) presiding judge or judge of the court of criminal appeals;

(3) chief justice or justice of a court of appeals;

(4) district judge, including a criminal district judge;

(5) judge of a statutory county court;

(6) county judge who performs judicial functions;

(7) justice of the peace; and

(8) municipal court judge.

SECTION 5. Section 72.002, Government Code, is amended to read as follows:

Sec. 72.002. EFFECT ON [~~JURISDICTION OR~~] JUDICIAL DISCRETION. This chapter or a rule adopted by the supreme court under Section 74.024 does not authorize[:

[~~(1) a judge to act in a case over which his court would not have potential jurisdiction under the Texas Constitution or other state law; or~~

[~~(2)~~] an infringement of the judicial discretion of a judge in the trying of a case properly before his court.

SECTION 6. Section 74.041, Government Code, is amended by adding Subdivision (3) to read as follows:

(3) "Retiree" means a person who has retired under the Judicial Retirement System of Texas, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two.

SECTION 7. Section 74.054, Government Code, is amended to read as follows:

Sec. 74.054. JUDGES SUBJECT TO ASSIGNMENT. (a) Except as provided by Subsections [~~Subsection~~] (b) and (c), 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, constitutional county, or statutory county court judge in this state;

(2) a district judge who is a retiree under Subtitle E or H, Title 110B, Revised Statutes, 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 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; and

(4) a retiree or a former judge whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals and who has been assigned by the chief justice to the administrative judicial region in which the retiree or former judge resides for reassignment by the presiding judge of that region to a district or statutory county court in the region.

(b) A regular 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.

(c) A constitutional county court judge may only be assigned to sit for another constitutional county court judge and must be a licensed attorney in this state.

SECTION 8. Subsections (a) and (c), Section 74.055, Government Code, are amended to read as follows:

(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.

(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 county, or appellate court;

(2) have developed substantial experience in the judge's [~~his~~] area of specialty;

(3) not have been removed from office [~~or resigned while under investigation for discipline or removal~~];

(4) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that the judge did not resign from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before the final disposition of the proceedings;

(5) annually demonstrate that the judge [~~he~~] has completed in the past calendar year the educational requirements for active district and statutory county court judges; and

(6) [~~(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 9. Chapter 74, Government Code, is amended by adding Section 74.0551 to read as follows:

Sec. 74.0551. CERTIFICATION OF WILLINGNESS NOT TO APPEAR AND PLEAD AS AN ATTORNEY. (a) The two-year period provided for in Section 74.055(c)(6) is from January 1 of one year through December 31 of the next year.

(b) A retired or former judge shall make an initial certification of willingness not to appear and plead not later than the 90th day after the date the person leaves active service. An initial certification made before the judge leaves active service extends through December 31 of the year following the year in which the judge leaves active service. An initial certification made after the judge leaves active service extends through December 31 of the year following the year in which the certification is made.

(c) The person's second and subsequent certifications begin on the January 1 following the year in which the initial certification ends and each second January 1 thereafter, unless a written revocation is filed with the presiding judge not later than the 30th day before the date the revocation takes effect. A revocation may not take effect until the completion of the initial certification period under Subsection (b).

(d) If a revocation is not filed, recertification for subsequent two-year periods takes effect by operation of law.

(e) A revocation may be rescinded and a certification of willingness not to appear and plead reinstated only on written request to the presiding judge and with the consent of the presiding judge.

SECTION 10. Section 74.056, Government Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to an assignment under Sections 74.003, 75.002, and 75.003, the chief justice of the supreme court may assign a retiree or a former judge whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals to the administrative judicial region in which the retiree or former judge resides for reassignment by the presiding judge of that region to a district or statutory county court in the region. The reassignment by a presiding judge is subject to the requirements of Section 74.055. The assignment of a retiree or former judge by the chief justice to the administrative region continues only during the period for which the retiree or former judge has certified a willingness to serve under Section 74.0551.

SECTION 11. Subsections (e) and (f), Section 74.061, Government Code, are amended to read as follows:

(e) When a district, constitutional county, or statutory county court judge is assigned under this chapter to a court outside his own district or county, 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 for that county.

(f) When a district, constitutional county, or statutory county court judge is assigned under this chapter to a court outside his own district or county, 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 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 in which the judge resides.

SECTION 12. Section 74.091, Government Code, is amended to read as follows:

Sec. 74.091. LOCAL ADMINISTRATIVE DISTRICT JUDGE. (a) There is a local administrative district judge in each county.

(b) In a county with two or more district [~~or statutory county~~] courts the judges of those courts shall elect a district judge as local administrative district judge for

a term of not more than two years. The local administrative district judge may not be elected on the basis of rotation or seniority.

(c) In a county with only one district judge, the district judge serves as the local administrative district judge.

SECTION 13. Subchapter D, Chapter 74, Government Code, is amended by adding Section 74.0911 to read as follows:

Sec. 74.0911. LOCAL ADMINISTRATIVE STATUTORY COUNTY COURT JUDGE. (a) There is a local administrative statutory county court judge in each county that has a statutory county court.

(b) In a county with two or more statutory county courts, the judges of those courts shall elect a statutory county court judge as local administrative statutory county court judge for a term of not more than two years. A local administrative statutory county court judge may not be elected on the basis of rotation or seniority.

(c) In a county with only one statutory county court, the statutory county court judge serves as the local administrative statutory county court judge.

SECTION 14. Section 74.092, Government Code, is amended to read as follows:

Sec. 74.092. DUTIES OF LOCAL ADMINISTRATIVE JUDGE. A [~~The~~] local administrative judge, for the courts for which the judge serves as local administrative judge, shall:

(1) implement and execute the local rules of administration, including the assignment, docketing, transfer, and hearing of cases;

(2) appoint any special or standing committees necessary or desirable for court management and administration;

(3) promulgate local rules of administration if the other judges do not act by a majority vote;

(4) recommend to the regional presiding judge any needs for assignment from outside the county to dispose of court caseloads;

(5) supervise the expeditious movement of court caseloads, subject to local, regional, and state rules of administration;

(6) provide the supreme court and the office of court administration requested statistical and management information;

(7) set the hours and places for holding court in the county;

(8) supervise the employment and performance of nonjudicial personnel;

(9) supervise the budget and fiscal matters of the local courts, subject to local rules of administration; and

(10) perform other duties as may be directed by the chief justice or a regional presiding judge.

SECTION 15. Subsections (a) and (c), Section 74.093, Government Code, are amended to read as follows:

(a) The district and statutory county court judges in each county shall, by majority vote [~~votes~~], adopt local rules of administration.

(c) The rules may provide for:

(1) the selection and authority of a presiding judge of the courts giving preference to a specified class of cases, such as civil, criminal, juvenile, or family law cases; and

(2) any other matter necessary to carry out this chapter or to improve the administration and management of the court system and its auxiliary services.

SECTION 16. Section 74.121, Government Code, is amended to read as follows:

Sec. 74.121. TRANSFER OF CASES; EXCHANGE OF BENCHES. (a) The judges of constitutional county courts, statutory county courts, justice courts, and

small claims courts in a county may transfer cases to and from the dockets of their respective courts, except that a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The judges of those courts within a county may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case. Either judge may hear all or any part of a case pending in court and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. A judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(b) The judge of a statutory county court may transfer a case to the docket of the district court, except that a case may not be transferred without the consent of the judge of the court to which it is being transferred and may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which the case is transferred as if originally required to appear before the court to which the transfer is made.

SECTION 17. The heading to Subchapter A, Chapter 75, Government Code, is amended to read as follows:

SUBCHAPTER A. ASSIGNMENT OF FORMER JUDGES AND RETIRED JUDGES[~~JUDICIAL RETIREES~~] WHO ELECT TO BE JUDICIAL OFFICERS

SECTION 18. Sections 75.001 and 75.002, Government Code, as amended by Senate Bill No. 221, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

Sec. 75.001. JUDICIAL RETIREE ELECTION TO BE JUDICIAL OFFICER. (a) A retiree under Subtitle E or H, Title 110B, Revised Statutes, may elect to be a judicial officer.

(b) An election under this section may be made:

(1) not later than the 90th day [~~within 90 days~~] after the date of the person's retirement in a document addressed to the chief justice of the supreme court; or

(2) after the 90th day after the date of the person's retirement in a petition addressed to the supreme court.

(c) An election under Subsection (b)(2) takes effect only on approval of the petition by the supreme court.

(d) A retiree who makes an election under this section shall be designated a senior judge.

Sec. 75.002. ASSIGNMENT OF RETIREE AS JUDICIAL OFFICER. (a) A retiree who makes an election under Section 75.001 is, with the retiree's consent to each assignment, subject to assignment:

(1) by the chief justice of the supreme court to sit on any court of the state of the same or lesser dignity as that on which the person sat before retirement;

(2) by the presiding judge of the court of criminal appeals to sit as a commissioner of that court; and

(3) if the retiree's last judicial office before retirement was judge of a district or statutory county court, by the presiding judge of an administrative

judicial region to sit on a district or statutory county court in that administrative region or, on request of the presiding judge of another administrative judicial region, to that administrative region [~~on a court in that other administrative region, if in either circumstance the court is of the same or lesser dignity as that on which the person sat before retirement~~].

(b) In addition to an assignment under Section 74.003 and Subsection (a)(1), the chief justice of the supreme court may assign a retiree whose last judicial office before retirement was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals to the administrative judicial region in which the retiree resides for reassignment by the presiding judge of that region to a district or statutory county court in the region. The reassignment by a presiding judge is subject to the requirements of Section 74.055. The assignment by the chief justice of a retiree to the administrative region of the retiree's residence continues only during the period for which the retiree has certified a willingness to serve under Section 74.0551. [~~Assignment of a retiree to sit on a district court is subject to the requirement for assignments in Subchapter C, Chapter 74.~~]

(c) A retiree assigned under this subchapter has all the powers of a judge of the court to which the retiree has been assigned.

SECTION 19. Subchapter A, Chapter 75, Government Code, is amended by adding Section 75.003 to read as follows:

Sec. 75.003. ASSIGNMENT OF FORMER APPELLATE JUDGE. (a) A former judge whose last judicial office before leaving active service was justice or judge of the supreme court, the court of criminal appeals, or a court of appeals is, with the former judge's consent to each assignment, subject to assignment by the chief justice of the supreme court:

(1) to sit on an appellate, district, or statutory county court; and

(2) to the administrative judicial region in which the former judge resides for reassignment by the presiding judge of that region to a district or statutory county court within the region.

(b) A reassignment by a presiding judge under Subsection (a)(2) is subject to the requirements of Section 74.055. The assignment of a former judge by the chief justice to the administrative region of the former judge's residence continues only during the period for which the former judge has certified a willingness to serve under Section 74.0551.

SECTION 20. The heading of Subchapter C, Chapter 75, Government Code, is amended to read as follows:

SUBCHAPTER C. SENIOR DISTRICT JUDGES FOR THE FIRST ADMINISTRATIVE JUDICIAL REGION [~~DISTRICT~~]

SECTION 21. Sections 75.104 and 75.115, Government Code, are amended to read as follows:

Sec. 75.104. QUALIFICATIONS. A senior judge must:

(1) have served as the judge of a district court for 12 years, regardless of whether or not the service was consecutive, exercising primarily criminal, civil, or family court jurisdiction;

(2) have developed an expertise in criminal law, civil law, or family law;

(3) not have been removed from office by impeachment, the supreme court, or the governor on address by the legislature;

(4) not have been removed from office or involuntarily retired by the State Commission on Judicial Conduct or the supreme court;

(5) certify under oath to the presiding judge, on a form prescribed by the state board of regional judges, that the judge did not resign from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before the final

disposition of the proceedings [~~not have resigned from office at a time when an investigation by the State Commission on Judicial Conduct of the applicant's judicial conduct was pending, in progress, or on appeal~~];

(6) certify a willingness to serve; and

(7) be 65 years of age or younger.

Sec. 75.115. CONTINUING JUDICIAL EDUCATION. A senior district court judge must be able to demonstrate yearly that the judge [~~he~~] participated in the preceding 12 months in at least the number of hours of instruction in [~~10 days of~~] continuing judicial education required by the Rules of Judicial Education adopted by the supreme court for active appellate, district, and statutory county court judges [~~at a program sponsored by a state bar association, by the American Bar Association, or by a law school~~]. Failure to meet this criterion is grounds for denying reappointment as a senior district court judge.

SECTION 22. The following are repealed:

(1) Sections 22.104, 22.227, 24.961, 74.002, and 75.1041, Government Code;

(2) Section 75.011, Government Code, as amended by Senate Bill No. 221, Acts of the 71st Legislature, Regular Session, 1989; and

(3) Subsection (a), Section 17, Chapter 602, Acts of the 69th Legislature, Regular Session, 1985.

SECTION 23. Notwithstanding Subsection (b), Section 74.0551, Government Code, as added by this Act, an initial certification of willingness not to appear and plead as an attorney filed under Subdivision (6), Subsection (c), Section 74.055, Government Code, as renumbered by this Act, before January 1, 1990, expires December 31, 1991. The second and subsequent certifications take effect and expire as provided by Subsections (c) through (e), Section 74.0551, Government Code, as added by this Act.

SECTION 24. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT
SENATE BILL 1205

Senator Uribe submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1205** 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	T. SMITH
CARRIKER	TURNER

BARRIENTOS	SMITHEE
TRUAN	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the designation and operation of enterprise zones; providing for certain tax refunds.

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

SECTION 1. Subsection (a), Section 3, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In this Act:

(1) "Administrative authority" means a board, commission, or committee appointed by a governing body to administer this Act in a local enterprise zone.

(2) "Department" [~~"Commission"~~] means the Texas Department of Commerce.

(3) "Depressed area" means an area within the jurisdiction of a county or municipality designated by ordinance or resolution and that meets the criteria set by this Act.

(4) "Economically disadvantaged individual" means an individual who for at least six months [~~the entire year~~] before obtaining employment with a qualified business was unemployed or received public assistance benefits, such as welfare payments and food stamp payments, based on need and intended to alleviate poverty or an economically disadvantaged individual, as defined by Section 4(8), Job Training Partnership Act (29 U.S.C. Section 1503(8)). For purposes of this subdivision, an individual is unemployed if the individual is not employed and has exhausted all unemployment benefits, whether or not the individual is actively seeking employment.

(5) "Enterprise project" means a qualified business designated by the department [~~commission~~] as an enterprise project under Section 10 of this Act that is eligible for the state tax incentives provided by law for an enterprise project.

(6) "Enterprise zone" means an area of the state designated by the department [~~commission~~] as an enterprise zone under Section 9 of this Act.

(7) "Governing body" with respect to an enterprise zone means the governing body of a municipality or county that has applied to have an area within its jurisdiction designated as an enterprise zone.

(8) "Neighborhood enterprise association" means a private sector neighborhood organization within an enterprise zone that meets the criteria set by this Act.

(9) "New job" means a new employment position created by a qualified business that has provided employment to a qualified employee of at least 1,040 hours annually.

(10) "Qualified business" means a person, including a corporation or other entity, that the department [~~commission~~] certifies to have met the following criteria:

(A) the person is engaged in or has provided substantial commitment to initiate the active conduct of a trade or business in the zone;

(B) at least 25 percent of the business's employees in the zone are residents of any zone within the governing body's or bodies' jurisdiction [~~the zone~~] or economically disadvantaged individuals; and

(C) if a business that is already active within the enterprise zone at the time it is designated and that operates continuously after that time, the business has hired residents of any zone within the governing body's or bodies' jurisdiction [~~the zone~~] or economically disadvantaged workers after the

designation so that those individuals constitute at least 25 percent of the business's new or additional employees in the zone.

(11) [~~(10)~~] "Qualified employee" means an employee who works for a qualified business and who performs at least 50 percent of his service for the business within the enterprise zone.

(12) [~~(11)~~] "Qualified property" means:

(A) tangible personal property located in the zone that was acquired by a taxpayer after designation of the area as an enterprise zone and was used predominantly by the taxpayer in the active conduct of a trade or business;

(B) real property located in a zone that:

(i) was acquired by the taxpayer after designation of the zone and used predominantly by the taxpayer in the active conduct of a trade or business; or

(ii) was the principal residence of the taxpayer on the date of the sale or exchange; or

(C) interest in a corporation, partnership, or other entity if, for the most recent taxable year of the entity ending before the date of sale or exchange, the entity was a qualified business.

SECTION 2. Section 4, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. CRITERIA FOR DESIGNATION OF ENTERPRISE ZONE. (a) An area of a municipality, county, or combination of these local governments may be designated as an enterprise zone if it:

(1) has a continuous boundary;

(2) is at least one square mile in size but does not exceed the larger of the following:

(A) 10 square miles (exclusive of lakes and waterways); or

(B) five percent of the area of the municipality, county, or combination of municipalities or counties nominating [~~designating~~] the area as an enterprise zone, but not more than 20 square miles (exclusive of lakes and waterways);

(3) has been nominated as an enterprise zone in a resolution adopted by the legislative body of the applicable municipality, county, or combination of municipalities or counties; and

(4) is an area with:

(A) pervasive poverty, unemployment, and economic distress; or

(B) designated a rural area as defined by Section 481.085 of Chapter 481, Government Code.

(b) An area is an area of pervasive poverty, unemployment, and economic distress if the average rate of unemployment in the area during the most recent 12-month period for which data is available was at least one and one-half times the local, state, or national average for that period or if the area has had at least a nine percent population loss during the most recent six-year period or an annualized population loss of at least 1-1/2 percent for the most recent six-year period and the area meets one or more of the following criteria:

(1) the area was a low-income poverty area according to the most recent federal census;

(2) the area is in a jurisdiction or pocket of poverty eligible for urban development action grants under federal law;

(3) at least 70 percent of the residents of the area have an income below 80 percent of the median income of the residents of the locality or state, whichever is lower; or

(4) the nominating government establishes to the satisfaction of the department [~~commission~~] that either:

(A) chronic abandonment or demolition of commercial or residential structures exists in the area; or

(B) substantial tax arrearages for commercial or residential structures exist in the area.

(c) An area may be designated as an enterprise zone for a maximum period of seven years. A designation remains in effect until September 1 of the final year of the designation. However, if an area is designated as a federal enterprise zone, the area may be designated for a longer period not to exceed that permitted by federal law.

(d) If an enterprise zone has been lawfully designated, the original nominating governing body or bodies, by resolution adopted following public hearing, may amend the original boundaries subject to the following limitations:

(1) the boundaries as amended must not exceed the original size limitations and boundary requirements set by this Act and may not exclude any part of the zone within the boundaries as originally designated;

(2) the enterprise zone must continue to meet all unemployment and economic distress criteria throughout the zone as required by this Act; and

(3) the governing body or bodies may not make more than one boundary amendment annually during the life of the zone.

(e) The department [~~commission~~] may remove the designation of any area as an enterprise zone if the area no longer meets the criteria for designation as set out in this Act or by rule adopted under this Act by the department [~~commission~~] or if the department [~~commission~~] determines that the governing body has not complied with commitments made in the resolution nominating the area as a reinvestment zone. The removal of a designation does not affect the validity of any tax incentives or regulatory relief granted or accrued before the removal or of any bonds issued under this Act.

SECTION 3. Subsection (a), Section 5, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The governing body of any municipality, county, or combination of these local governments may nominate by resolution any economically distressed area within its jurisdiction as a potential enterprise zone, if the area meets the criteria established in Section 4 of this Act. The municipality, county, or combination of these local governments may then make written application to the department [~~commission~~] to have the area certified as an enterprise zone.

SECTION 4. Subsection (a), Section 6, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A resolution nominating an area as an enterprise zone must set forth:

(1) a precise description of the area comprising the zone, either in the form of a legal description or by reference to roadways, lakes and waterways, and municipal or county boundaries;

(2) a finding that the zone area meets the qualifications of this Act;

(3) provisions for any tax incentives applicable to business enterprises in the zone at the election of the designating municipality or county not applicable throughout the municipality or county; and

(4) a designation of the area as an enterprise zone, subject to the approval of the department [~~commission~~] in accordance with this Act.

SECTION 5. Section 7, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. APPLICATION FOR DESIGNATION OF ZONE. (a) The governing body of a municipality or county or the governing bodies of a combination of municipalities or counties nominating an area as an enterprise zone

may make a written application to the department [~~commission~~] to designate the area as an enterprise zone.

(b) The application must include:

(1) a certified copy of the resolution nominating the proposed zone;

(2) a map of the proposed enterprise zone showing existing streets and highways;

(3) an analysis and any appropriate supporting documents and statistics demonstrating that the proposed zone area qualifies for designation as an enterprise zone;

(4) a statement detailing any tax, grant, and other financial incentives or benefits and any programs to be provided by the municipality or county to business enterprises in the zone, other than those provided in the designating ordinance, that are not to be provided throughout the municipality or county;

(5) a statement setting forth the economic development and planning objectives for the zone;

(6) a statement describing the functions, programs, and services to be performed by designated neighborhood enterprise associations in the zone;

(7) an estimate of the economic impact of the zone, considering all of the tax incentives, financial benefits, and programs contemplated, on the revenues of the municipality or county;

(8) a transcript or tape recording of all public hearings on the zone;

(9) in the case of a joint application, [~~a statement detailing the need for a zone covering portions of more than one municipality or county and~~] a description and copy of the agreement between joint applicants;

(10) procedures for negotiating with communities impacted by the zone and with qualified businesses in the zone;

(11) a description of the administrative authority, if any, created for the zone; and

(12) the additional information that the department [~~commission~~] requires.

(c) Information required by Subsection (b) of this section to be provided in an application under this section is for evaluation purposes only. The department [~~commission~~] may reject an application only if the department [~~commission~~] determines that the nominated area does not satisfy the criteria established by Section 4 of this Act.

SECTION 6. Section 8, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. POWERS AND DUTIES OF THE DEPARTMENT [~~COMMISSION~~]. (a) The department [~~commission~~] shall administer this Act and shall:

(1) establish criteria and procedures for designating qualified areas as enterprise zones and for designating enterprise projects;

(2) monitor the implementation of this Act and submit an annual report [~~reports~~] evaluating the effectiveness of the program and describing the use and revenue impact of state and local incentives under this Act and making suggestions for legislation to the governor and the legislature by December [~~October~~] 1 of each year [~~preceding a regular session of the legislature~~];

(3) conduct a continuing evaluation of the programs of enterprise zones and develop data based on any available information demonstrating the relationship between the incentives provided by this Act and the economy;

(4) adopt all rules necessary to carry out the purposes of this Act;

(5) assist units of local government in obtaining status as a federal enterprise zone;

(6) assist qualified employers in obtaining the benefits of any incentive or inducement program provided by law [~~and certify qualified employers to be eligible for the benefits of this Act~~]; and

(7) assist the governing body of an enterprise zone in obtaining assistance from any other agency of state government, including assistance in providing training and technical assistance to qualified businesses in a zone[;

[~~(8) review all state agency regulations and recommend to the appropriate state agencies the exemptions from regulations adopted by the agencies to contribute to the implementation of this Act; and~~

[~~(9) designate and certify private sector neighborhood enterprise associations within a zone as defined in this Act~~].

(b) The department [~~commission~~] shall provide information and appropriate assistance to persons desiring to locate and engage in business in an enterprise zone regarding state licenses, permits, certificates, approvals, registrations, and charters, along with [~~and any~~] other forms of permission required by law to engage in business in the state.

(c) [~~The commission shall provide information and appropriate assistance to persons desiring to locate and engage in business in an enterprise zone, to persons engaged in business in an enterprise zone, and to neighborhood enterprise organizations operating in an enterprise zone.~~

[~~(d)~~] The department [~~commission~~] shall, in cooperation with appropriate units of local government and state agencies, coordinate and streamline existing state business assistance programs and permit and license application procedures for businesses in enterprise zones.

(d) [~~(e)~~] The department [~~commission~~] shall publicize existing tax incentives and economic development programs within enterprise zones and on request offer technical assistance in abatement and alternative revenue source development to local units of government that have enterprise zones within their jurisdictions.

(e) [~~(f)~~] The department [~~commission~~] shall work together with the responsible state and federal agencies to promote the coordination of other relevant programs, including but not limited to housing, community and economic development, small business, banking, financial assistance, and employment training programs that are carried on in an enterprise zone.

(f) [~~(g)~~] The department [~~commission~~] shall assist the governing body of an enterprise zone in the development of small business incubators.

(g) [~~(h)~~] The department [~~commission~~] shall review local incentives every two years.

(h) [~~(i)~~] The department [~~commission~~] shall prohibit the certification of any future qualified businesses in an enterprise zone if it determines the governing body is not in compliance with any provision of this Act until it determines that the governing body is in compliance.

SECTION 7. Section 9, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. DESIGNATION OF ZONES BY DEPARTMENT [~~COMMISSION~~]. (a) On receipt of an application from a municipality, county, or combination of these local governments, the department [~~commission~~] shall review the application to determine if the area described in the application qualifies to be designated as an enterprise zone under the criteria of Section 4 of this Act. The department [~~commission~~] shall provide an applicant at least two weeks after the date of receipt of the application to correct any omissions or clerical errors that may be present in the application and to return [~~resubmit~~] the application to the department [~~commission~~]. Following the close of the application period and the resubmission period, if any, the department [~~commission~~] shall meet to review the applications that have qualified for consideration as enterprise zones.

(b) Not later than the 60th day after the last day of each fiscal year, the comptroller shall furnish to the department a report stating the statewide total of the tax refunds made under Section 17 of this Act during the fiscal year [~~the qualified applications have been selected, the commission shall request from the Comptroller a fiscal impact statement containing an estimate of revenue effects of the proposed nomination on the State of Texas and all affected political subdivisions~~].

(c) If the department [~~commission~~] determines that the nominated area satisfies the criteria established by Section 4 of this Act, the department [~~commission~~] shall begin negotiations for agreements with the governing body or bodies filing the application. A negotiated agreement must designate the enterprise zone. A negotiated agreement must designate the administrative authority, if any, and its functions and duties. The department [~~commission~~] shall complete the negotiations and sign the agreements not later than the 60th [~~120th~~] day after the day of receipt of the application. The department [~~commission~~] may extend this deadline for an additional 30 days. If an agreement is not completed within the stated period, the department [~~commission~~] shall provide the applicant with the specific areas of concern and a final proposal for the agreement. If the agreement is not executed [~~signed~~] before the 90th [~~30th~~] day after the day of the receipt of the application by the department [~~applicant of the final proposal~~], the application is considered to be denied. The department [~~commission~~] shall inform the governing body or bodies of the specific reasons for the denial.

(d) The department [~~commission~~] may not designate an area as an enterprise zone if in the jurisdiction of the municipality or county nominating the area as an enterprise zone there are three enterprise zones in existence that were nominated as enterprise zones by the governing body of that municipality or county.

SECTION 8. Subsections (a), (b), (c), (d), (f), and (g), Section 10, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A qualified business in an enterprise zone having an unemployment rate of not less than one and one-half times the state average, a population loss of at least 12 percent during the most recent six-year period, or an annualized population loss of at least two percent for the most recent six-year period may apply to the governing body or combination of governing bodies that nominated the enterprise zone and to the administrative authority, if any, for designation as an enterprise project. If the governing body or bodies and administrative authority agree, the governing body or bodies may apply to the department [~~commission~~] to designate the business as an enterprise project.

(b) The application to the department [~~commission~~] must include:

(1) a complete description of the conditions in the zone that constitute pervasive poverty, unemployment, and economic distress for purposes of Subsection (b) of Section 4 of this Act;

(2) a description of each municipality's or county's procedures and efforts to facilitate and encourage participation by and negotiation between all affected entities in the zone in which the qualified business is located;

(3) an economic analysis of the plans of the qualified business for expansion, revitalization, or other activity in the zone, including the anticipated number of new jobs it will create, the amount of investment to be made in the zone, and other information that the department [~~commission~~] requires; and

(4) [~~an analysis of the social impact that the designation of the qualified business as an enterprise project would have on the zone; and~~

[~~(5)~~] a description of the local effort made by the municipality or county, the administrative authority, the qualified business, and other affected entities to achieve development and revitalization of the zone.

(c) The department [~~commission~~] may not designate a nominated qualified business as an enterprise project unless it determines that:

(1) the qualified business is located in an enterprise zone having an unemployment rate of not less than one and one-half times the state unemployment rate, or a population loss of at least 12 percent during the most recent six-year period, or an annualized population loss of at least two percent for the most recent six-year period;

(2) the applicant governing body or bodies have demonstrated that a high level of cooperation between public, private, and neighborhood entities exists in the zone; and

(3) the designation of the qualified business as an enterprise project will contribute significantly to the achievement of the plans of the applicant governing body or bodies for development and revitalization of the zone.

(d) The department [~~commission~~] shall designate qualified businesses as enterprise projects on a competitive basis. In designating enterprise projects, the department [~~commission~~] shall base its decision on a weighted scale with 60 percent dependent on the economic distress of the enterprise zone in which a proposed enterprise project is located and 40 percent dependent on the local effort to achieve development and revitalization of the enterprise zone.

(f) The department [~~commission~~] may designate the following number of enterprise projects in this state:

(1) 10 enterprise projects in the state fiscal year ending August 31, 1988;

(2) 15 enterprise projects in the state fiscal year ending August 31, 1989;

(3) 25 enterprise projects in the state fiscal year ending August 31, 1990; and

(4) 25 enterprise projects in the state fiscal year ending August 31, 1991.

(g) The department [~~commission~~] may remove the designation of a qualified business as an enterprise project if it determines that the qualified business is not in compliance with any requirement for designation as an enterprise project.

SECTION 9. Section 10, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended by adding Subsection (k) to read as follows:

(k) The number of enterprise projects that have not been designated before the end of each state fiscal year may be designated in subsequent fiscal years, except that an enterprise project may not be designated after August 31, 1991.

SECTION 10. Section 11, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. REINVESTMENT ZONE. An enterprise zone may be designated a reinvestment zone for tax increment financing [~~or tax abatement~~] purposes as provided by the Tax Increment Financing Act (Chapter 311, Tax Code). For the purposes of tax abatement under [~~or~~] the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code), an enterprise zone is considered to be a reinvestment zone without further designation.

SECTION 11. Section 12, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), as amended by **S.B No. 221**, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 12. REFUND OF SALES AND USE TAX. (a) To encourage the development of areas designated as enterprise zones, a municipality may refund local sales and use taxes as provided by Section 321.508, Tax Code.

(b) To promote the public health, safety, or welfare, the governing body of a municipality or county may establish a program by which it refunds local sales and use taxes that it imposes on a qualified business or qualified employee.

(c) The governing body of a municipality or county that nominated an enterprise zone designated by the department may provide for the partial or total refund of local sales and use taxes by persons making a taxable purchase, lease, or rental for purposes of development or revitalization in the zone.°°

(d) A qualified business, qualified employee, or person entitled to a refund of local sales and use taxes under this section shall pay the entire amount of state and local sales and use taxes at the time they would otherwise be due without reduction because of any agreement with a municipality or county for the refund of local sales and use taxes.

(e) Any agreement to refund local sales and use taxes under this section must be in writing, contain an expiration date, and require the beneficiary to provide documentation necessary to support a refund claim to the municipality or county granting the refund. The municipality or county granting a refund shall make the refund directly to the beneficiary in the manner set out in the agreement.

SECTION 12. Section 13, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. REDUCTION OR ELIMINATION OF FEES AND TAXES. To promote the public health, safety, or welfare, the governing body of a municipality or county may establish a program by which it reduces or eliminates any fees or taxes, other than sales and use or property taxes, that it imposes on a qualified business or qualified employee. The governing body of a municipality or county may not reduce or eliminate local sales and use taxes except to the extent it grants a refund under Section 12 of this Act.

SECTION 13. Section 14, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. OTHER LOCAL INCENTIVES. [~~(a)~~] The governing body of a municipality or county that nominated an enterprise zone designated by the department [~~commission~~] may:

(1) defer compliance in the zone with subdivision and development ordinances and regulations, other than those governing streets and roads or sewer or water services;

(2) give priority to the zone for the receipt of urban development action grant money, community development block grant money, industrial revenue bonds, or funds received under the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes);

(3) adopt and implement a plan for police protection in the zone;

(4) amend zoning ordinances to promote economic development in the zone;

(5) establish preferences for businesses in the zone in permit processes;

(6) establish simplified, accelerated, or other special permit procedures for businesses in the zone;

(7) waive development fees for projects in the zone;

(8) [~~provide for the partial or deferred payment of local sales and use taxes as provided by Subsection (b) of this section by persons making a taxable purchase, lease, or rental for purposes of development or revitalization in the zone;~~

[~~(9)~~] create a local enterprise zone fund for funding bonds or other programs or activities to develop or revitalize the zone;

(9) [~~(10)~~] reduce utility rates for qualified businesses in the zone charged by:

(A) utilities owned by the municipality or county [~~for persons in the zone~~]; or

(B) subject to agreement of the affected utility and the approval of the appropriate regulatory authority under Sections 16 and 17, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), by a

cooperative or a utility owned by private investors except that rates of the utility for qualified businesses in the zone may not be reduced more than five percent and the appropriate regulatory authority in setting the rates of the utility shall allow the utility to recover the amount of the reduction;

(10) [~~(11)~~] give priority to persons or projects in the zone in issuing housing finance bonds; or

(11) [~~(12)~~] give priority in providing services to local economic development, educational, job training, or transportation programs that benefit the zone.

[~~(b) The comptroller shall provide procedures for a person authorized to make a partial or deferred payment of local sales and use taxes under this section to give an exemption certificate to the seller of the property eligible for the partial or deferred tax payment and pay the taxes directly to the comptroller in the amount and at the times provided by the governing body granting the partial or deferred tax payment. The comptroller by rule may provide the additional procedures necessary to administer the partial or deferred tax payments authorized by this section.~~]

SECTION 14. Subsections (c) and (e), Section 15, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) Within an enterprise zone designated by the department [~~commission~~], a local government may suspend local ordinances, rules, regulations, or standards relating to zoning, licensing, or building codes unless the ordinance, rule, regulation, or standard relates to one of the proscribed topics in Subsection (a) of this section.

(e) Each state agency rule adopted after September 1, 1987, when applicable, may provide encouragements and incentives to increase rehabilitation, renovation, restoration, improvement, or new construction of housing and to increase the economic viability and profitability of business and commerce in enterprise zones. In addition, each state agency annually shall [~~may~~] review the rules it administers that may negatively impact the rehabilitation, renovation, restoration, improvement, or new construction of housing or the economic viability and profitability of business and commerce in enterprise zones, or that may otherwise affect the implementation of this Act. An agency may take the necessary steps to waive, modify, create exemptions to, or otherwise minimize the adverse effects of those rules on the rehabilitation, renovation, restoration, improvement, or new construction of housing or the economic viability and profitability of business and commerce located in enterprise zones and contribute to the implementation of this Act.

SECTION 15. Section 17, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. [~~STATE SALES AND USE~~] TAX REFUNDS. An enterprise project is entitled to refunds [~~a refund~~] of certain state [~~sales and use~~] taxes as provided by Section 151.429, Tax Code, and the deduction provided by Section 171.1015, Tax Code. A qualified business is entitled to refunds of certain state taxes under Sections 151.431 and 171.501, Tax Code.

SECTION 16. Subsection (d), Section 18, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The department [~~commission~~] may give preferences to enterprise zones in the granting of any economic development money or other benefit.

SECTION 17. Subsections (d), (g), (h), (k), (l), and (m), Section 21, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

(d) The incorporators shall publish in a newspaper of general circulation in the municipality or county [~~send to all registered voters of the association's neighborhood area by the same means as for the service of process:~~

[~~(1)~~] an explanation of the proposed new association and their rights in it. A[~~; and~~

[~~(2) a~~] copy of the association's articles of incorporation and bylaws shall be made available for public inspection at the office of the city manager or comparable municipal officer or at the county judge's office, as applicable.

(g) The governing body may not grant its approval unless the association has hired or appointed a suitable chief executive officer.

[~~(h) After granting its certification, the governing body shall forward the application to the commission for the commission's final certification. The commission may not grant its certification unless the commission determines that the association has complied with all requirements of this section. On granting certification, the commission shall place the association's articles of incorporation and bylaws in a public file. The commission may suspend the association's certification or any of the leases issued under Subsection (p) of this section if the association fails to continue to comply with the requirements of this section. The commission shall give technical assistance to enterprise zone residents attempting to start such an association.~~]

(k) The association may carry out other projects or types of projects as approved by the governing body [~~and the commission. The commission shall adopt rules regarding the projects. The rules may include types of activities that will be given automatic approval by the commission~~]. In other cases, an application must be submitted by the association to the governing body [~~and the commission~~] that describes the nature and benefit of the project, specifically:

(1) how it will contribute to the self-help efforts of the residents of the area involved;

(2) how it will involve the residents of the area in project planning and implementation;

(3) whether there are sufficient resources to complete the project and whether the association will be fiscally responsible for the project; and

(4) how it will enhance the enterprise zone in one of the following ways:

(A) by creating permanent jobs;

(B) by physically improving the housing stock;

(C) by stimulating neighborhood business activity; or

(D) by preventing crime.

(l) If the governing body does [~~and the commission do~~] not specifically disapprove of the project before the 45th day after the day of the receipt of the application, it shall be considered approved. If the governing body [~~or the commission~~] disapproves of the application, it shall specify its reasons for this decision and allow 60 days for the applicant to make amendments. [~~The commission shall provide assistance upon request to applicants of such process.~~]

(m) The neighborhood enterprise association shall furnish an annual statement to the governing body [~~and the commission~~] on the programmatic and financial status of any approved project and an audited financial statement of the project.

SECTION 18. Subsections (a), (b), and (d), Section 22, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The administration of an enterprise zone is under the jurisdiction of the appropriate unit of local government, either a municipality or county, or any combination of these local governments, consistent with its function as specified in the state constitution. The governing body may delegate its administrative duties to an administrative authority. The administrative authority, if any, must be composed of 3, 5, 7, 9, 11, or 15 members, must be a viable and responsive body generally representative of all public or private entities having a stake in the development of the zone, and must include enterprise zone residents and representatives of the governing body and[~~,~~] local businesses[~~, and enterprise zone residents~~].

(b) The functions and duties of an administrative authority must be specified in the agreement negotiated by the governing body and the department [~~commission~~], or in amendments to the negotiated agreement. Those functions and duties should include decision-making authority and the authority to negotiate with affected entities.

(d) The governing body shall designate a liaison to communicate and negotiate with the department [~~commission~~], the administrative authority, an enterprise project, and other entities in or affected by an enterprise zone.

SECTION 19. Section 23, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 23. ANNUAL REPORTS ON ENTERPRISE ZONES. Each municipality, county, or combination of municipalities or counties that authorized the creation of an enterprise zone shall submit an annual report to the department [~~commission~~], in such form as the department [~~commission~~] may require, on or before October [~~March~~] 1 of each year. The local administrative authority, if any, for the zone must approve the report. The report must include:

(1) a list of local incentives for community redevelopment available in the zone during the prior year;

(2) the use and revenue impact of the local incentives that the governing body committed to provide in the zone in the resolution designating the zone;

(3) the number of business establishments located in the zone during the prior year and the number of business establishments located in the zone in the year prior to the approval of the area as an enterprise zone;

(4) a copy of the report required pursuant to Section 103, Internal Revenue Code of 1986, for all industrial revenue bonds issued to finance projects located in the zone during the prior year; and

(5) a report on the attainment of revitalization goals for the zone.

SECTION 20. Section 24, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 24. COORDINATION OF ENTERPRISE ZONE PROGRAMS WITH OTHER PROGRAMS OF THE FEDERAL AND STATE GOVERNMENT. (a) The department [~~commission~~] shall work together with the responsible federal and state agencies to promote the coordination of other relevant programs, including housing, community and economic development, small business, banking, financial assistance, transportation, and employment training programs that are carried out within an enterprise zone. It shall further work to expedite, to the greatest extent possible, the consideration of applications for the programs through the consolidation of forms or otherwise and shall work, whenever possible, for the consolidation of periodic reports required under the programs into one summary report.

(b) The department [~~commission~~] shall encourage other state agencies to give priority to businesses in enterprise zones for the receipt of grants, loans, or services.

SECTION 21. Subsection (d), Section 151.429, Tax Code, is amended to read as follows:

(d) To receive a refund under this section, an enterprise project must apply to the comptroller for the refund. The department of commerce [~~Texas Economic Development Commission or other state agency that administers the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes)~~] shall provide the comptroller with the assistance that the comptroller requires in administering this section.

SECTION 22. Section 151.429, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) For the purposes of Subsection (a) of this section, items purchased by an enterprise project after the 91st day preceding the date it is designated as a project may be considered eligible for the refund.

SECTION 23. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.431 to read as follows:

Sec. 151.431. SALES AND USE TAX REFUND FOR JOB RETENTION. (a) A qualified business operating in the enterprise zone's jurisdiction for at least three consecutive years may apply for and be granted a onetime refund of sales and use tax paid by the qualified business after certification of the qualified business as provided by Subsection (b) of this section to a vendor or directly to the state for the purchase of equipment or machinery sold to the business for use in an enterprise zone if the governing body or bodies certify to the Texas Department of Commerce that the business is retaining 10 or more jobs held by qualified employees during the year. For the purposes of this subsection "job" means an existing employment position of a qualified business that has provided employment to a qualified employee of at least 1,820 hours annually.

(b) Only qualified businesses that have been certified as eligible for a refund under this section by the governing body or bodies to the department and by the department to the comptroller, including certification of the number of jobs retained, are entitled to the refund. During each calendar year, no more than three eligible qualified businesses may be certified to the department by a municipality or county, subject to Subsection (c).

(c) If a municipality or county sponsors more than one enterprise zone, that municipality or county may certify to the department only a total of three eligible qualified businesses from all enterprise zones of which it is the governing body or one of the governing bodies and must allocate the three certifications for which it is eligible as evenly as possible among those zones. If an enterprise zone has more than one governing body, it is entitled to only the number of certifications that is equal to the total that all of its governing bodies may allocate to it, but in no case is it entitled to more than three certifications. A certification that must be allocated to a particular zone but would exceed the three allowable to that zone may not be made. The department by rule may require:

(1) multiple governing bodies jointly to certify all or some of the certifications for which a zone is eligible; and

(2) governing bodies to follow uniform procedures or selection criteria in selecting the qualified businesses certified to it under this section.

(d) The total amount of the onetime refund that a qualified business may apply for may not exceed $500 for each qualified employee retained, up to a limit of $5,000 for each qualified business.

(e) In this section, "enterprise zone," "governing body," "qualified business," and "qualified employee" have the meanings assigned to those terms by Section 3, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

SECTION 24. Subchapter C, Chapter 171, Tax Code, is amended by adding Section 171.1015 to read as follows:

Sec. 171.1015. REDUCTION OF TAXABLE CAPITAL FOR INVESTMENT IN AN ENTERPRISE ZONE. (a) A corporation that has been designated as an enterprise project as provided by the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) may deduct from its taxable capital allocated to this state 50 percent of its capital investment in the enterprise zone in which the enterprise project is located. The deduction may be taken on each franchise tax report that is based on a corporation's fiscal year during all or part of which the corporation is an enterprise project.

(b) The deduction authorized by this section is limited to the depreciated value of capital equipment or other investment that qualifies for depreciation for federal

income tax purposes and that is placed in service in the zone after designation as an enterprise project. The depreciated value must be computed by a method which is otherwise acceptable for that corporation's franchise tax report and must be computed for each report on which it is taken by the same method of depreciation.

(c) To qualify for the deduction authorized by this section, an investment must be used in the normal course of business in the enterprise zone and must not be removed from the enterprise zone, except for repair or maintenance. Qualifying use and presence in the zone must occur during the accounting year on which the report is based.

(d) The deduction authorized by this section may not be used to reduce taxable capital below a zero value and no carryover of unused deductions to a later privilege period is allowed.

(e) In this section, "enterprise project" and "enterprise zone" have the meanings assigned to those terms by Section 3, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

SECTION 25. Chapter 171, Tax Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. REFUNDS

Sec. 171.501. REFUND FOR JOB CREATION IN ENTERPRISE ZONE. (a) A corporation that has been certified a qualified business as provided by the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) may apply for and be granted a refund of franchise tax paid with an initial or annual report if the governing body or bodies certify to the Texas Department of Commerce that the business has created 10 or more new jobs in its enterprise zone held by qualified employees during the calendar year that contains the end of the accounting period on which the report is based. The Texas Department of Commerce shall certify eligibility for any refund to the comptroller.

(b) Only qualified businesses that have been certified as eligible for a refund under this section by the governing body or bodies to the department and by the department to the comptroller are entitled to the refund. During each calendar year, no more than three eligible qualified businesses may be certified to the department by a municipality or county, subject to Subsection (c).

(c) If a municipality or county sponsors more than one enterprise zone, that municipality or county may certify to the department only a total of three eligible qualified businesses from all enterprise zones of which it is the governing body or one of the governing bodies and must allocate the three certifications for which it is eligible as evenly as possible among those zones. If an enterprise zone has more than one governing body, it is entitled to only the number of certifications that is equal to the total that all of its governing bodies may allocate to it, but in no case is it entitled to more than three certifications. A certification that must be allocated to a particular zone but would exceed the three allowable to that zone may not be made. The department by rule may require:

(1) multiple governing bodies jointly to certify all or some of the certifications for which a zone is eligible; and

(2) governing bodies to follow uniform procedures or selection criteria in selecting the qualified businesses certified to it under this section.

(d) The amount of a refund under this section is the lesser of $5,000 or 25 percent of the amount of taxes paid for any one privilege period. For purposes of this subsection, the initial and second periods are considered to be the same privilege period.

(e) In this section, "enterprise zone," "governing body," "new job," "qualified business," and "qualified employee" have the meanings assigned to those terms by Section 3, Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

SECTION 26. Chapter 311, Tax Code, is amended by adding Section 311.0031 to read as follows:

Sec. 311.0031. ENTERPRISE ZONE. Designation of an area as an enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) constitutes designation of the area as a reinvestment zone under this chapter without further hearing or other procedural requirements other than those provided by the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

SECTION 27. Subsection (a), Section 311.005, Tax Code, as amended by **S.B No. 221**, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title; or

(H) conditions that endanger life or property by fire or other cause;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; or

(3) be in a federally assisted new community located in the municipality or in an area immediately adjacent to a federally assisted new community[; or

~~[(4) be designated as an enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes)~~].

SECTION 28. Subchapter B, Chapter 312, Tax Code, is amended by adding Section 312.2011 to read as follows:

Sec. 312.2011. ENTERPRISE ZONE. Designation of an area as an enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) constitutes designation of the area as a reinvestment zone under this subchapter without further hearing or other procedural requirements other than those provided by the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

SECTION 29. Subsection (a), Section 312.202, Tax Code, as amended by **S.B No. 221**, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) [~~be designated as an enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes); or~~

[~~(7)~~] be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.

SECTION 30. Subchapter C, Chapter 312, Tax Code, is amended by adding Section 312.4011 to read as follows:

Sec. 312.4011. ENTERPRISE ZONE. Designation of an area as an enterprise zone under the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes) constitutes designation of the area as a reinvestment zone under this subchapter without further hearing or other procedural requirements other than those provided by the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

SECTION 31. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately.

(b) Section 2, Paragraph (B) of Subdivision (4) of Section 4, and Sections 23, 24, and 25 of this Act take effect September 1, 1991.

SECTION 32. 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 791

Senator Tejeda submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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.

TEJEDA	McKINNEY
HALEY	R. LEWIS
ZAFFIRINI	PERRY
BROOKS	
SANTIESTEBAN	
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 2473

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2473** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS	DANBURG
BARRIENTOS	BLAIR
PARKER	CLEMONS
JOHNSON	VOWELL
URIBE	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 2566

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2566** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

PARKER	GLOSSBRENNER
HALEY	ARNOLD
GREEN	BERLANGA
KRIER	HAMMOND
TRUAN	G. LUNA
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 8

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 8** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE	MORALES
McFARLAND	STILES
DICKSON	PARKER
	SOILEAU
	McCOLLOUGH
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 1019

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1019** 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.

PARKER	GLOSSBRENNER
CAPERTON	COLBERT
GREEN	EDGE
HALEY	RUDD
URIBE	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the funding of elementary and secondary education.

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

SECTION 1. Section 16.002, Education Code, is amended to read as follows:

Sec. 16.002. PURPOSE OF FOUNDATION SCHOOL PROGRAM. (a) The purposes [~~purpose~~] of the Foundation School Program set forth in this chapter are [~~is~~] to guarantee that each school district in the state has:

(1) adequate resources to provide each eligible student a basic instructional program suitable to the student's [~~his~~] educational needs; and

(2) access to a substantially equalized program of financing in excess of basic costs for certain services, as provided by this chapter.

(b) The Foundation School Program consists of two tiers to provide for the purposes specified by Subsection (a) of this section. The first tier guarantees sufficient financing for all school districts to provide a basic program of education that meets accreditation and other legal standards. The second tier provides a guaranteed yield system of financing to provide all school districts with substantially equal access to funds to provide an enriched program.

SECTION 2. Subchapter A, Chapter 16, Education Code, is amended by adding Section 16.007 to read as follows:

Sec. 16.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS). Each school district shall participate in the Public Education Information Management System (PEIMS) and shall provide through that system information required for the administration of this chapter and of other appropriate provisions of this code.

SECTION 3. Subsections (b) and (c), Section 16.056, Education Code, are amended to read as follows:

(b) For the 1989-1990 school year each individual shall be paid at a step set forth in Subsection (c) in an amount that provides $180 per month increase in salary over that individual's 1988-1989 minimum monthly salary. For the 1990-1991

school year and thereafter each individual shall advance one step per each year of experience until step 10 is reached. ~~[An individual shall advance one step for each year of experience until step 10 is reached.]~~ For each year, up to a maximum of two years, of work experience required for certification in a vocational field, a vocational teacher who is certified in that field is entitled to salary step credit as if the work experience were teaching experience.

(c) SALARY SCHEDULE BY STEPS

0	1	2	3	4	5	6	7	8	9	10
1700	1814	1928	2042	2156	2270	2384	2498	2612	2726	2840
~~[1520~~	~~1634~~	~~1748~~	~~1862~~	~~1976~~	~~2090~~	~~2204~~	~~2318~~	~~2432~~	~~2546~~	~~2660]~~

SECTION 4. Section 16.101, Education Code, is amended to read as follows:

Sec. 16.101. BASIC ALLOTMENT. For each student in average daily attendance, not including the time students spend each day in special education or vocational education programs for which an additional allotment is made under Subchapter D of this chapter, a district is entitled to an allotment of $1,477 [~~$1,290~~] for the 1989-1990 [~~1984-1985~~] school year and $1,500 [~~$1,350~~] for each school year thereafter, or a greater amount provided by appropriation.

SECTION 5. Section 16.102, Education Code, is amended to read as follows:

Sec. 16.102. COST OF EDUCATION [~~PRICE DIFFERENTIAL~~] ADJUSTMENT. (a) The basic allotment for each district is adjusted by multiplying the amount of the basic allotment by an index factor that reflects the geographic variation in known resource costs and costs of education due to factors beyond the control of the school district.

(b) For the 1989-1990 and the 1990-1991 school years, the commissioner of education shall adjust each district's basic allotment by applying the following formula:

$$ABA = [((BA \times 0.63 \times PDI) + (BA \times 0.37)) \times R] + [ABA89 \times 1 + \frac{BA - 1426}{1350}) \times (1 - R)] + T$$

where:

"ABA" is the adjusted basic allotment;

"BA" is the basic allotment;

"PDI" is the price differential index for the district adopted by the State Board of Education in November, 1988;

"ABA89" is the district's adjusted basic allotment for the 1988-1989 school year;

"R" is a factor that is 0.2 for the 1989-1990 school year and 0.5 for the 1990-1991 school year; and

"T" is a factor the application of which the commissioner determines results in limiting the district's loss of state aid to not more than eight percent of the district's prior year maintenance and operations tax levy.

(c) If no index or formula is adopted pursuant to Subchapter E of this chapter, the commissioner shall apply the index and formula provided by this section for the 1990-1991 school year.

(d) Beginning with the 1990-1991 school year, the benefit derived under this section shall be reduced by the commissioner of education if the current year tax collection of the district is less than the collection that would result by imposing a tax rate of $0.70 on the value of taxable property in the district used under Section 16.252 of this code. The amount of the reduction shall be proportionate to the relationship between the district's tax collection and the collection computed under this subsection. ~~[For each school year until a different formula is adopted under Subchapter E of this chapter, the commissioner shall adjust each district's basic allotment by applying the following formula:~~

[~~ABA = ((BA × .75) × PDI) + (BA × .25)~~

[~~where:~~

[~~"ABA" is the adjusted basic allotment;~~

[~~"BA" is the basic allotment; and~~

[~~"PDI" is the price differential index applicable to the district.~~

[~~(c) For each school year until a different price differential index is adopted under Subchapter E of this chapter, the price differential index is calculated in accordance with the following formula, as modified by Subsection (d) of this section:~~

[~~CATS~~

[~~PDI = CFTS + (.10 × DED)~~

[~~where:~~

[~~"PDI" is the price differential index applicable to a district;~~

[~~"CATS" is the total of salaries paid in the preceding year to classroom teachers (not including federally funded teachers) in other districts in the same county as the district for which the calculation is made, except that if there are fewer than three districts assigned to that county by the Central Education Agency for administrative purposes, "CATS" is the total of salaries paid in the preceding year to those teachers in districts contiguous to the district for which the calculation is made;~~

[~~A district with territory in or contiguous to a county with a population of 1.5 million or more may elect to have CATS calculated for the district on the basis of salaries in both the county to which it is assigned for administrative purposes and the county with a population of 1.5 million or more;~~

[~~A district with territory in two counties may elect to have CATS calculated for the district on the basis of salaries in both counties.~~

[~~"CFTS" is the total minimum salary portion of salaries paid in the preceding year to the classroom teachers used to determine CATS; and~~

[~~"DED" is the percentage of the district's students who are educationally disadvantaged as defined by Section 16.152 of this code.~~

[~~(d) The commissioner of education shall rank school districts in the order of the index values determined under Subsection (c) of this section. For any district in the bottom five percent of that order, according to the number of districts, the PDI is considered to be 1.00. If the highest actual index value of the districts in that bottom five percent is greater than 1.00, the commissioner shall divide the remaining index value by the highest actual index value of the districts in that bottom five percent. The resulting quotient is the PDI for the remaining districts, except that for any district in the top five percent of the total order, according to the number of districts, the PDI is considered to be that of the lowest index value of the districts in that top five percent.~~

[~~(e) Notwithstanding other provisions of this section a school district is entitled to the maximum PDI if located in a county in which the number of full-time state employees at pay grades 10-14, plus the number of public senior college or university faculty at the rank of instructor or a higher rank, employed within the county as of May 31, 1984, exceeds 125 percent of the number of nonfederally funded teachers employed in that county as of that date.~~]

SECTION 6. Section 16.103, Education Code, is amended to read as follows:

Sec. 16.103. SMALL DISTRICT ADJUSTMENT. (a) For the 1989-1990 and 1990-1991 school years, the [~~The~~] basic allotment for certain small districts is adjusted in accordance with Subsections (b) and (c) of this section. In this section:

(1) "AA" is the district's adjusted allotment per student;

(2) "ADA" is the number of students in [~~district's~~] average daily attendance for which the district is entitled to an allotment under Section 16.101 of this code[~~, not including the time students spend each day in special education or vocational education programs~~]; and

(3) "ABA" is the adjusted basic allotment determined under Section 16.102 of this code.

(b) The average daily attendance of a school district that contains at least 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

$$AA = (1 + ((1{,}600 - ADA) \times .0004)) \times ABA$$

(c) The average daily attendance of a school district that contains less than 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

$$AA = (1 + ((1{,}600 - ADA) \times .00025)) \times ABA$$

(d) Beginning with the 1990-1991 school year, the benefit derived under this section shall be reduced by the commissioner of education if the current year tax collection of the district is less than the collection that would result by imposing a tax rate of $0.70 per $100 valuation on the value of taxable property in the district used under Section 16.252 of this code. The amount of the reduction shall be proportionate to the relationship between the district's tax collection and the collection computed under this subsection.

(e) If no index or formula is adopted pursuant to Subchapter E of this chapter, a district's basic allotment shall be adjusted under this section in the manner provided for the 1990-1991 school year.

SECTION 7. Section 16.151, Education Code, is amended to read as follows:

Sec. 16.151. SPECIAL EDUCATION. (a) For each full-time equivalent student in average daily attendance in a special education program under Subchapter N, Chapter 21, of this code, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined [~~the following amount~~] according to instructional arrangement, which for the 1989-1990 and 1990-1991 school years is as follows:

Homebound	5.0	
Hospital class	5.0	
Speech therapy	7.11	[~~10.0~~]
Resource room	2.7	
Self-contained, mild and moderate, regular campus	2.3	
Self-contained, severe, regular campus	3.5	
Self-contained, separate campus	2.7	
Multidistrict class	3.5	
Nonpublic day school	3.5	
Vocational adjustment class	2.3	
Community class	3.5	
Self-contained, pregnant	2.0	
Mainstream	0.25	

(b) A special instructional arrangement for handicapped students residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services shall be established under the rules of the State Board of Education. The funding weight for this arrangement shall be 5.0 for those students who receive their education service on a local school district campus. A special instructional arrangement for handicapped students residing in state schools shall be established under the rules of the State Board of Education with a funding weight of 5.0.

(c) For the 1991-1992 school year and each school year thereafter, the instructional arrangements and the weights for each instructional arrangement are determined by rule of the State Board of Education. Not later than the 30th day

before the first day of each regular session of the legislature, the State Board of Education by rule shall adopt weights according to such instructional arrangements as determined by the board. Each weight established by the board must correlate to the costs per student of the instructional arrangement for which the funds are allocated. The average weight established by the board under this section for all instructional arrangements in all districts may not exceed the greater of 3.30 or a weight provided by appropriation.

(d) The legislature by general law may adopt the weights adopted by the State Board of Education for any biennium. If the weights are not adopted, the amount of an allotment under this section is determined under Subsection (a) of this section.

(e) The State Board of Education by rule shall prescribe the qualifications an instructional arrangement must meet in order to be funded as a particular instructional arrangement under [~~Subsection (a) of~~] this section.

(f) [~~(c)~~] In this section, "full-time equivalent student" means 30 hours of contact a week between a special education student and special education program personnel.

(g) [~~(d)~~] The State Board of Education shall adopt rules and procedures governing contracts for residential placement of special education students. The legislature shall provide by appropriation for the state's share of the costs of those placements.

(h) [~~(e)~~] Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule [~~the amount that represents the program's share of general administrative costs~~], must be used in the special education program under Subchapter N, Chapter 21, of this code.

(i) In the determination of instructional arrangements and assignment of weights for students in residential instructional arrangements, the State Board of Education shall develop arrangements and weights that encourage placement of students in the least restrictive environment appropriate for their educational needs.

(j) The Central Education Agency shall encourage the placement of students in special education programs in the least restrictive environment appropriate for their educational needs. The Central Education Agency shall provide transitional support for the movement of students from self-contained severe (totally self-contained) to self-contained mild and moderate (partially self-contained) instructional arrangements. For each student placed in a partially self-contained classroom who was placed in a totally self-contained classroom for at least two-thirds of the prior year, a district will receive $2,500. This payment must be used to facilitate the placement of the student in the less restrictive environment (partially self-contained classroom). A district may not receive more than one support payment for any individual student. This support payment shall be forfeited by the district if the student is returned to the totally self-contained classroom instructional arrangement within one month of placement into the partially self-contained classroom or within one year of initial reclassification without adequate justification.

(k) A school district that maintains for two successive years a ratio of full-time equivalent students placed in totally self-contained classrooms to the number of full-time equivalent students placed in partially self-contained classrooms that is 25 percent higher than the statewide average ratio shall be reviewed by the Central Education Agency to determine the appropriateness of student placement. To the extent that there are net cost savings to the state resulting from the movement of students from totally self-contained to partially self-contained, as provided in Subsection (j) of this section, those net savings will be directed to regional education service centers to provide technical assistance in accordance with Section 11.33(c) of this code regarding the movement of students to less restrictive environments to

those school districts whose ratio of full-time equivalent students placed in totally self-contained classrooms is 25 percent higher than the statewide average.

(l) A student in a mainstream instructional arrangement who is not also in another instructional arrangement as provided in Subsection (a) of this section is provided the support necessary for the student to remain in the regular classroom. This support may include related services as defined in Section 21.502 of this code, special teaching, or other special education support services while in the regular classroom.

SECTION 8. Subchapter D, Chapter 16, Education Code, is amended by adding Section 16.1511 to read as follows:

Sec. 16.1511. SPECIAL EDUCATION EXTENDED SERVICES ALLOTMENT. (a) For each full-time equivalent student in average daily attendance for whom a district provides an extended year program under Subchapter N, Chapter 21, of this code, the district is entitled to 75 percent of the annual allotment that is computed by prorating the adjusted basic allotment for the period of the extended year program and multiplying the prorated amount by the amount designated for the student's instructional arrangement under Section 16.151 of this code.

(b) Funds allocated under this section, other than the amount that represents the program's share of general administrative costs, must be used to provide extended year programs under Subchapter N, Chapter 21, of this code.

(c) In this section:

(1) "Extended year program" means services provided under Subchapter N, Chapter 21, of this code during the period in which school is recessed for the summer.

(2) "Full-time equivalent student" has the meaning assigned by Section 16.151 of this code.

(d) This section expires September 1, 1991.

SECTION 9. Section 16.152, Education Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule [~~the amount that represents the program's share of general administrative costs~~], must be used in providing remedial and compensatory education programs under Section 21.557 of this code, and the district must account for the expenditure of state funds by program and by campus.

(e) The State Board of Education shall undertake a comprehensive study of the compensatory education allocation formula and shall develop a funding system for implementation in the 1991-1992 school year that is based on appropriate funding weights for students in remedial education programs under Section 21.557 of this code, students at risk of dropping out of school as defined under Section 21.557(f) of this code, and students who are pregnant. The funding system may provide for funding on a participating student or full-time equivalent student basis.

SECTION 10. Section 16.153, Education Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule [~~the amount that represents the program's share of general administrative costs~~], must be used in providing bilingual education or special language programs under Subchapter L, Chapter 21, of this code.

(c) A district's bilingual education or special language allocation may be used only for program and pupil evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

SECTION 11. Section 16.155, Education Code, is amended to read as follows:

Sec. 16.155. VOCATIONAL EDUCATION ALLOTMENT. (a) For each full-time equivalent student in average daily attendance in an approved vocational education program, a district is entitled to an annual allotment for the 1989-1990 and 1990-1991 school years equal to the adjusted basic allotment multiplied by a weight of 1.45.

(b) For each full-time equivalent student in average daily attendance in an approved vocational education program under Section 21.112 of this code, a district is entitled to an annual allotment, beginning with the 1991-1992 school year, equal to the adjusted basic allotment multiplied by a weight established by the State Board of Education according to program component. Each weight established by the board must correlate to the costs per student of the program component. The average weight established by the board under this section for all program components in all districts may not exceed the greater of 1.45 or a weight provided by appropriation. The components for which the board shall establish weights are general vocational education, pre-employment laboratory, education for special needs students, and master plan initiatives. The board shall adopt the system not later than 30 days before the first day of each regular session of the legislature.

(c) The legislature by general law may adopt the weights adopted by the State Board of Education for any biennium. If the weights are not adopted, the weight contained in Subsection (a) of this section shall be utilized for the determination of vocational education allotments. [~~The State Board of Education shall conduct a biennial study of the cost differentials among vocational education programs and recommend to the legislature appropriate weights for this section.~~]

(d) [~~(c)~~] In this section, "full-time equivalent student" means 30 hours of contact a week between a student and vocational education program personnel.

(e) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing vocational education programs under the provisions of Sections 21.111, 21.1111, and 21.112 of this code.

(f) The indirect cost allotment established under board rules shall first be effective for the 1991-1992 school year consistent with the weight effective that year.

SECTION 12. Section 16.158, Education Code, is amended to read as follows:

Sec. 16.158. [~~EDUCATION IMPROVEMENT AND~~] CAREER LADDER ALLOTMENT. (a) Each district is entitled to an allotment for [~~education improvement and~~] support of the career ladder equal to its unadjusted average daily attendance multiplied by $90 [~~the following amount or a greater amount provided by appropriation:~~

[~~(1) $100 for the 1984-1985 school year;~~

[~~(2) $120 for the 1985-1986 school year; and~~

[~~(3) $140 for the 1986-1987 school year and each school year thereafter~~].

(b) An allotment under this section may be used only for the purposes of career ladder supplements [~~A district may expend 25 percent of the allotment for any legal purpose, shall expend 25 percent of the allotment for payment of salaries for personnel other than classroom teachers, and shall expend 50 percent of the allotment for career ladder salary supplements~~].

(c) From the funds designated for that purpose, the district shall supplement the salary of each teacher above level one on the career ladder. The district shall decide the amount of supplement to be provided at each career ladder level.

(d) Money received under this section may not be used to supplement the salary of an employee for directing cocurricular or extracurricular activities.

SECTION 13. Subsection (a), Section 16.159, Education Code, is amended to read as follows:

(a) For each student a school district serves in a Central Education Agency approved program for gifted and talented students under Subchapter Q, Chapter 21, of this code or, in the case of a district that is developing a program in accordance with standards established by the commissioner of education, for each student the district identifies as gifted and talented under State Board of Education criteria, a district is entitled to an annual allotment equal to the district's adjusted basic allotment as determined under Section 16.102 or Section 16.103 of this code, as applicable, multiplied by:

(1) [~~.032 for the 1985-1986 school year;~~

[~~(2) .035 for the 1986-1987 school year;~~

[~~(3) .039 for the 1987-1988 school year;~~

[~~(4) .043 for the 1988-1989 school year;~~

[~~(5)~~] .047 for the 1989-1990 school year; and

(2) [~~(6)~~] .12 for the 1990-1991 school year and for each school year thereafter or a greater amount provided by appropriation [~~unless otherwise specified by rider in the appropriations bill~~].

SECTION 14. Subchapter E, Chapter 16, Education Code, is amended to read as follows:

SUBCHAPTER E. COST OF EDUCATION [~~PRICE DIFFERENTIAL~~] INDEX

Sec. 16.176. PURPOSE. The cost of education [~~price differential~~] index is designed to reflect the geographic variation in known resource costs and costs of education due to factors beyond the control of school districts.

Sec. 16.177. DATA COLLECTION. (a) The commissioner of education shall [~~comptroller of public accounts shall biennially~~] collect [~~price~~] information necessary to the development of the cost of education [~~price differential~~] index based on one or more models [~~an econometric model~~] that consider [~~considers~~] the effect of school district or other characteristics on the price and cost of public education in the various school districts of the state. The districts may be divided into a variety of categories which may include region, size, area, density, educational characteristics, and economic conditions [~~prices paid in the school district for goods and services~~].

(b) The State Board of Education shall by rule adopt [~~prescribe~~] the specifications of the [~~econometric~~] model or models and shall consult with the cost of education [~~price index~~] advisory committee and the commissioner [~~comptroller~~] in developing those specifications.

(c) The commissioner [~~comptroller~~] shall report the data collected to the State Board of Education and the [~~price index~~] advisory committee.

Sec. 16.178. ADVISORY COMMITTEE. (a) The State Board of Education shall appoint an advisory committee to advise the board in the development of the [~~price differential~~] index. The committee must be composed of 15 [~~nine~~] persons with the expertise the board considers necessary to the development of the index. [~~A majority of the members of the committee must be business officers of local school districts.~~]

(b) Using the data reported by the commissioner [~~comptroller of public accounts~~], the advisory committee shall develop and recommend an [~~a price differential~~] index based on an [~~econometric~~] analysis of the prices and costs of goods and services and the effect of school district characteristics and other characteristics on those prices and costs.

(c) The comptroller of public accounts shall assist the advisory committee as the committee requests.

(d) The Central Education Agency shall provide clerical and staff assistance to the advisory committee. Subject to the approval of the State Board of Education, the commissioner of education shall retain from the allotments under Sections

16.102 and 16.103 of this code an amount appropriate to finance necessary additional costs for the study authorized by this subchapter.

(e) Advisory committee members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties. Reimbursement is from funds appropriated to the Central Education Agency and available for that purpose.

Sec. 16.179. BIENNIAL ADOPTION OF INDEX AND FORMULA. Not later than the 30th day before the first day of each regular session of the legislature, the State Board of Education by rule shall recommend [~~adopt~~] a cost of education [~~price differential~~] index based on the information from the [~~econometric~~] model or models. That index, subject to adoption by the legislature, shall be used in adjusting the allotment of foundation school funds under this chapter for the following biennium. The board shall also recommend [~~adopt~~] the formula under which the index is applied to the basic allotment.

Sec. 16.180. NAVAL MILITARY FACILITY IMPACT. (a) The [~~econometric~~] model on which the cost of education [~~price differential~~] index is based must specifically consider the impact of a significant new naval military facility on each district in an impacted region.

(b) If the construction or operation of a significant new naval military facility begins during a school year, the State Board of Education by rule shall provide for the adjustment of the basic allotment during that school year to consider any impact of the facility on the cost of education [~~price differential~~] index of the districts in the impacted region.

(c) In this section, "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.

SECTION 15. Subchapter F, Chapter 16, Education Code, is amended to read as follows:

SUBCHAPTER F. [~~ACCREDITED~~] PROGRAM ACCOUNTABLE COSTS

Sec. 16.201. REPORT. The [~~As part of its biennial report to the legislature, the~~] State Board of Education shall report what it determines to be:

(1) the minimum basic accountable costs per student to school districts of providing [~~quality~~] education programs, personnel, and other operating costs [~~facilities~~] that meet the accreditation standards prescribed by law and rule, for each year of the next biennium;

(2) the estimated costs per student to school districts of providing exemplary education programs, personnel, and other operating costs that exceed basic accreditation levels;

(3) the costs of implementing the long-range plan for public school education authorized by Section 11.26(b) of this code;

(4) facility and debt service costs necessary to provide for both current and projected facilities for public schools according to the standards adopted under Subchapter I of this chapter;

(5) the basic accountable costs per student for each programmatic area that is recognized by the Foundation School Program; and

(6) the basic accountable costs of transportation.

Sec. 16.202. ADVISORY COMMITTEE. (a) The State Board of Education shall appoint an advisory committee to assist the board in determining the minimum basic accountable costs. The committee must be composed of 15 [~~nine~~] members, a majority of whom may not be employees or officials of a local school district.

(b) In making appointments to the committee, the board shall give representation to different geographic areas and different sizes of schools and districts.

(c) Members of the committee serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their duties. Reimbursement is from funds appropriated to the Central Education Agency and available for that purpose.

Sec. 16.203. LEGISLATIVE CONSIDERATION. In adopting the amount of basic, special, and transportation allotments under this chapter, the legislature shall consider the recommendations and report of the State Board of Education as to the minimum basic accountable costs of a program that meets accreditation standards. The board shall file the report with the governor, the Legislative Budget Board, and the Legislative Education Board.

SECTION 16. Section 16.251, Education Code, is amended to read as follows:

Sec. 16.251. FINANCING; GENERAL RULE. (a) The sum of the basic allotment under Subchapter C, [and] the special allotments under Subchapter D, and the guaranteed yield allotments under Subchapter H, computed in accordance with the provisions of this chapter, constitute the total cost of the Foundation School Program.

(b) The program shall be financed by:

(1) ad valorem tax revenue generated by an equalized uniform local school district effort;

(2) ad valorem tax revenue generated by local school district effort in excess of the equalized uniform effort;

(3) state available school funds distributed in accordance with law; and

(4) [~~(3)~~] state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

(c) The commissioner of education shall compute for each school district the total amount, if any, by which the state aid under this chapter is reduced from one school year to the next because of a change in the method by which the amount of state aid is determined under this chapter. The commissioner shall certify the amount of the reduction to the school district for use in determining the school district's rollback rate under Section 26.08, Tax Code.

(d) Not later than June 1 of each year, the commissioner of education shall estimate for and certify to each school district the amount of tax levy for maintenance and operations that will result in the greatest amount of distributions to the district from the foundation school fund under this subchapter in the following school year.

SECTION 17. Section 16.252, Education Code, is amended to read as follows:

Sec. 16.252. LOCAL SHARE OF PROGRAM COST. (a) Each school district's share of its Foundation School Program shall be an amount determined by the following formula:

$$LFA = TR \times DPV \quad [\sout{LFA = \frac{DPV \times (N \times FSP)}{SPV}}]$$

where:

"LFA" is the district's local share;

"TR" is a tax rate computed by the commissioner of education before each school year that will raise a total local share, prior to adjustments, equal to 33.3 percent of the current year Foundation School Program estimated costs under Subchapters C and D of this chapter other than the adjustments made under Sections 16.102(d) and 16.103(d) of this code; and

"DPV" is the taxable value of property in the district for the prior tax year determined under Section 11.86 of this code[;

~~["SPV" is the total of the taxable values of property in the state for the prior tax year determined under Section 11.86 of this code;~~

~~["N" is a percentage, which for the 1984-1985 school year is 30 percent, and which for each school year thereafter is 33.3 percent; and~~

~~["FSP" is the total cost of the Foundation School Program under this chapter, not including experienced teacher allotments or enrichment equalization allotments~~].

(b) The commissioner of education shall adjust the values reported in the official report of the State Property Tax Board to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. The decision of the commissioner of education shall be final. An adjustment does not affect the local fund assignment of any other district.

(c) Appeals of district values shall be held pursuant to Subsection (e) of Section 11.86 of this code.

(d) A district shall [~~need not~~] raise its total local share of its program cost in order to qualify for aid from the foundation school fund.

(e) The commissioner of education shall hear appeals from local school districts which have experienced a rapid decline in tax base used in calculating the local fund assignment, exceeding eight percent of prior year, that is beyond the control of the local board of trustees. The commissioner of education may adjust the local school district's taxable values for local fund assignment purposes for such losses in value exceeding eight percent and thereby adjust the local fund assignment to reflect the local current year taxable value. The decision of the commissioner of education shall be final. An adjustment does not affect the local fund assignment of any other district.

SECTION 18. Section 16.254, Education Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) Notwithstanding any other provision of this chapter, if for any year the total state's share of the Foundation School Program, including enrichment equalization allotments, as determined under this chapter, exceeds the total amount appropriated for that year, the commissioner shall reduce the total amount of state funds allocated to each district by an amount determined by a formula adopted by the State Board of Education. In adopting the formula, the board shall consider each district's taxable property value, each district's effective tax rate, the amount of delinquent taxes as a percent of the district's total tax levy, and other factors that the board considers appropriate.

(e) The commissioner of education shall compute for each school district the total amount by which the district's allocation of state funds is reduced under Subsection (d) of this section and shall certify that amount to the district [~~each district's allocation per student in average daily attendance by an amount equal to the quotient that results from dividing the excess by the statewide total average daily attendance~~].

SECTION 19. Chapter 16, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. GUARANTEED YIELD PROGRAM

Sec. 16.301. PURPOSE. The purpose of the guaranteed yield component of the Foundation School Program is to provide each district with the opportunity to supplement the basic program at a level of its own choice. An allotment under this subchapter may be used for any legal purpose, including capital outlay and debt service.

Sec. 16.302. ALLOTMENT. Each district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject to Section 16.303 of this code, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is $18.25 or a greater amount provided by appropriation;

"WADA" is the number of weighted students in average daily attendance, which is calculated by dividing the sum of the district's allotments under Subchapters C and D of this chapter, less any allotments to the district for transportation or for career ladder supplements and 50 percent of the adjustments under Sections 16.102 and 16.103 of this code, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the district, which is determined by subtracting the local fund assignment of the district from the amount of taxes collected by the district for the applicable school year and dividing the result by the quotient of the district's taxable value of property (DPV) under Section 16.252 of this code divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property (DPV) under Section 16.252 of this code divided by 100.

Sec. 16.303. LIMITATION ON ENRICHMENT TAX RATE. (a) The district enrichment tax rate ("DTR") under Section 16.302 of this code may not exceed $0.36 or a greater amount for any of those school years provided by appropriation.

(b) For the 1989-1990 school year, a district may not receive less per student in guaranteed yield state funds than the amount of state funds received under the enrichment equalization allotment in the 1988-1989 school year.

SECTION 20. Chapter 16, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. CAPITAL OUTLAY AND DEBT SERVICE

Sec. 16.401. INVENTORY OF SCHOOL FACILITIES. (a) The State Board of Education shall establish a statewide inventory of school facilities and shall update the inventory on a periodic basis.

(b) The inventory shall include information on the condition, use, type, and replacement cost of public school facilities in this state.

Sec. 16.402. STANDARDS. The State Board of Education shall establish standards for adequacy of school facilities. The standards shall include requirements related to space, educational adequacy, and construction quality.

Sec. 16.403. ADVISORY COMMITTEE. The State Board of Education shall appoint a committee composed of 15 persons knowledgeable of various aspects of school facility planning, construction, renovation, and financing. The advisory committee shall provide the board and the commissioner with assistance on the development of the inventory system, the creation of facility standards, and the conduct of facility research related to current and future roles of the state in the provision of financial and technical assistance to school districts. The members of the committee shall serve without compensation but may be reimbursed for actual and necessary expenses.

SECTION 21. The State Board of Education shall develop a comprehensive set of recommendations for the provision of state assistance to school districts for

school facilities beginning in the school year 1991-1992. The board shall report its recommendations to the legislature no later than October 1, 1990.

SECTION 22. Section 26.08, Tax Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) If a school district is certified by the commissioner of education under Section 16.251(c), Education Code, to have been subject to a reduction in state funds for the school year ending on August 31 of the tax year:

(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of any reduction in state funds certified by the commissioner of education under Section 16.251(c), Education Code, for the school year ending on August 31 of the preceding year; and

(2) the district's rollback tax rate for the tax year calculated as provided by Section 26.04 or by Subsection (e) of this section, as applicable, is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction in state funds certified by the commissioner of education under Section 16.251(c), Education Code, for the school year ending on August 31 of the tax year.

(h) A district's rollback rate shall be the rate calculated, taking into account the amounts certified under Section 16.251(d), Education Code, as the rate that will result in the greatest amount of distributions to the district from the foundation school fund if that rate is greater than the rate calculated as provided by Section 26.04 of this code or by Subsection (e) of this section.

(i) If a school district is certified by the commissioner of education under Section 16.254(e), Education Code, to have been subject to a reduction in state funds for the school year ending on August 31 of the tax year:

(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of any reduction in state funds certified by the commissioner of education under Section 16.254, Education Code, for the school year ending on August 31 of the preceding year; and

(2) the district's rollback tax rate for the tax year calculated as provided by Section 26.04 or by Subsection (e) of this section, as applicable, is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction in state funds certified by the commissioner of education under Section 16.254, Education Code, for the school year ending on August 31 of the tax year.

SECTION 23. Section 11.32, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The commissioner of education, with the approval of the State Board of Education, may enter into performance contracts with regional education service centers for technical assistance and other services to school districts in relation to accreditation, training, curriculum, implementation of the Public Education Information Management System (PEIMS), and other services approved by the State Board of Education. The commissioner shall file summaries of all approved performance contracts with the Governor's Office of Budget and Planning and with the legislative budget office. Funding for these performance contracts shall be provided by appropriation.

SECTION 24. For the biennium ending August 31, 1991, funds appropriated under Subsection (h) of Section 11.32 of the Education Code shall be computed on the basis of $1 per student in average daily attendance for each year of the biennium.

These funds are additional to funds appropriated for other regional education service center purposes.

SECTION 25. Subchapter N, Chapter 21, Education Code, is amended by adding Section 21.508 to read as follows:

Sec. 21.508. NONEDUCATIONAL COMMUNITY-BASED SUPPORT SERVICES FOR CERTAIN HANDICAPPED STUDENTS. (a) The Central Education Agency shall establish procedures and criteria for the allocation of funds appropriated pursuant to this section to school districts for the provision of noneducational community-based support services to certain handicapped students and their families so that those students may receive an appropriate free public education in the least restrictive environment.

(b) The funds shall be used solely for eligible handicapped students who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community-based support services.

(c) The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by a school district in a private residential facility.

(d) The provision of services under this section does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any handicapped student to receive a free appropriate public education in the least restrictive environment. Specifically, services provided under this section may not be used for a handicapped student who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons.

SECTION 26. The provisions of Section 21.508, Education Code, as added by this Act, supersede any provisions in Article II of Senate Bill 222, Acts of the 71st Legislature, Regular Session, 1989, relating to residential placements for mentally retarded and mentally ill school-age individuals.

SECTION 27. Subsection (e), Section 21.136, Education Code, is amended to read as follows:

(e) For the 1989-1990 and 1990-1991 school years the [~~The~~] cost of the program is shared by the state and district in the same percentages used to determine the state/local shares under Chapter 16 of this code. The state's share is paid from the foundation school fund and may not exceed $55 [~~$50~~] million a year. If that amount will not fully fund the program, the commissioner shall proportionately reduce each district's allocations.

SECTION 28. For the 1989-1990 and 1990-1991 school year, under Subsection (b), Section 825.405, Government Code, a salary shall be multiplied by the applicable price differential index for the 1988-1989 school year.

SECTION 29. The allocation of funds appropriated under the provisions of Rider 26 of appropriations to Central Education Agency - Programs is as follows:

Foundation School Program Allocations
to Local Schools

For the Years Ending

	August 31, 1990	August 31, 1991
Foundation School Program Allocations to Local Schools		
1. Section 16.254(d), sum certain		
a. Basic Allotment, estimated	168,416,553	233,708,395

b.	Special Education Allotment, estimated	23,556,653	32,685,048
c.	Compensatory Education Allotment, estimated	14,154,717	19,105,564
d.	Bilingual Education Allotment, estimated	1,313,848	1,776,329
e.	Vocational Education Allotment, estimated	8,663,755	11,467,135
f.	Gifted and Talented Allotment, estimated	389,640	1,403,273
g.	Transportation, estimated	0	0
h.	Education Improvement and Career Ladder Allotment, est.		
	(1) Career Ladder, estimated	61,212,198	61,986,388
	(2) Other Salary Support, estimated	-107,121,347	-108,476,180
	(3) Any Legal Purpose, estimated	-107,121,347	-108,476,180
	Subtotal, Career Ladder Allotment, est.	-153,030,495	-154,965,971
i.	Less: Net Local Share, estimated	-17,531,353	-44,842,316
j.	Experienced Teacher Allotment, (net) estimated	-35,603,481	-35,470,643
k.	Guaranteed Yield, (net) estimated	178,948,914	170,491,277
	Total, Section 16.254(d), sum certain	189,278,750	235,358,090
2.c.(6)	Performance Contracts	3,000,000	3,000,000
2.f.(1)	Pre-Kindergarten	5,000,000	5,000,000
2.h.	Department of Corrections (Windham Schools), estimated	490,251	796,441
	Community-Based Support Services	2,000,000	2,000,000
	Agency Administration	2,500,000	1,576,468 and U.B.
	Total	202,269,001	247,730,999

Agency administration costs under the provision of this Act and agency administration costs under the provisions of other education legislation including sunset bills **S.B. 417** and **H.B. 884** adopted by the 71st Legislature, Regular Session, 1989, shall be considered, not to exceed the amounts above, as a portion of the Foundation School Program for the purpose of distributing funds

appropriated under Rider 26 to Central Education Agency-Programs of **S.B. 222**, 71st Legislature, Regular Session, 1989. The commissioner of education shall consult with the executive director of the Legislative Budget Board prior to authorizing expenditures for agency administration under this section. Such funds may be transferred from Central Education Agency-Programs to Central Education Agency-Administration. Notice of all such transfers shall be filed with the Governor's Office of Budget and Planning, the legislative budget office, and the state auditor's office.

SECTION 30. The following are repealed:

(1) Section 16.154, Education Code, effective September 1, 1989; and

(2) Section 16.157, Education Code, effective September 1, 1989.

SECTION 31. This Act takes effect September 1, 1989, except that Section 14 of this Act takes effect immediately.

SECTION 32. Notwithstanding any other provision to the contrary, for a district that has entered into an employment contract with an individual prior to June 15, 1989, if the contract specifies a salary supplement or addition to the salary schedule prescribed by law, the applicable salary schedule shall be the salary schedule contained in Subsection (c), Section 16.056, Education Code, that was in effect at the time the contract was executed; provided, however, that an individual shall be paid at least the minimum salary prescribed by this Act for the step at which the individual is assigned.

SECTION 33. 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 ON HOUSE JOINT RESOLUTION 36

Senator Zaffirini 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.J.R. 36** 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.J.R. 36** 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 Zaffirini, Chairman; Parmer, Barrientos, Tejeda and Parker.

CONFERENCE COMMITTEE ON HOUSE BILL 2988

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. 2988** 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. 2988** 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 Montford, Chairman; Caperton, Harris, Henderson and Bivins.

CONFERENCE COMMITTEE ON HOUSE BILL 2816

Senator Barrientos 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. 2816** 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. 2816** 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 Barrientos, Chairman; Edwards, Truan, Green and Brooks.

CONFERENCE COMMITTEE ON HOUSE BILL 3016

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. 3016** 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. 3016** 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; Leedom, Armbrister, Haley and Tejeda.

CONFERENCE COMMITTEE ON HOUSE BILL 948

Senator Glasgow 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. 948** 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. 948** 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 Glasgow, Chairman; Bivins, Henderson, Krier and Ratliff.

CONFERENCE COMMITTEE ON HOUSE BILL 2608

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. 2608** 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. 2608** 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 Washington, Chairman; Johnson, Leedom, Uribe and Brooks.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 **H.B. 3072** by a record vote of 141 Ayes, 0 Nays, 1 Present-not voting.

The House has adopted the Conference Committee Report on **H.B. 3109** by a record vote of 142 Ayes, 0 Nays, 0 Present-not voting.

The House reconsidered the vote by which the House refused to concur in Senate amendments to **H.B. 3171**. The House then discharged the conferees on **H.B. 3171** and concurred in Senate amendments to **H.B. 3171** by a non-record vote.

The House reconsidered the vote by which **H.C.R. 303**, allowing conferees on **H.B. 1232** to consider other matters, failed adoption, and finally passed **H.C.R. 303** by a record vote of 70 Ayes, 64 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 535** by a non-record vote.

The House has adopted the Conference Committee Report on **H.B. 1947** by a record vote of 142 Ayes, 0 Nays, 1 Present-not voting.

S.C.R. 191, Granting conferees on **H.B. 3164** permission to consider certain matters.

S.C.R. 189, Instructing the Senate enrolling clerk to make certain corrections in **S.B. 222**.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 208**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 208 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **S.B. 208**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted by viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 307**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 307 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **S.B. 307**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 973**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 973 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **S.B. 973**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1564**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1564 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **S.B. 1564**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE ON SENATE BILL 1197 DISCHARGED

On motion of Senator Dickson and by unanimous consent, the Senate conferees on **S.B. 1197** were discharged.

Question - Shall the Senate concur in the House amendments to **S.B. 1197**?

SENATE BILL 1197 WITH HOUSE AMENDMENTS

On motion of Senator Dickson and by unanimous consent, the Senate concurred in the House amendments to **S.B. 1197** viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Edwards and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 721**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 721 ADOPTED

Senator Edwards called from the President's table the Conference Committee Report on **H.B. 721**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Edwards, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 879

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 879** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS	BARTON
GLASGOW	C. HARRIS
JOHNSON	PARKER
PARKER	MOWERY
	P. HILL
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 2608

Senator Washington submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2608** have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass.

WASHINGTON	McKINNEY
BROOKS	R. LEWIS
LEEDOM	McDONALD
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.

GUESTS PRESENTED

The President introduced his guests, seated at the President's Rostrum, Ted Fehrenbach and his wife, Lillian, of San Antonio.

The Senate welcomed this distinguished author and his wife.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2494

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2494** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROOKS	VALIGURA
CARRIKER	ECKELS
SANTIESTEBAN	KUEMPEL
TEJEDA	OAKLEY
URIBE	FRASER
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 1976

Senator Dickson submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 1976** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

DICKSON	STILES
WASHINGTON	LINEBARGER
HALEY	CRAWFORD
CARRIKER	CHISUM
SIMS	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 RULE 12.09(a) SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 879**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 879 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **H.B. 879**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Brooks, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1546**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1546 ADOPTED

Senator Santiesteban called from the President's table the Conference Committee Report on **H.B. 1546**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Santiesteban, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1671

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1671** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GLASGOW	MELTON
DICKSON	ROBINSON
KRIER	HAGGERTY
	WILLY
	WILLIS
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 RULE 12.09(a) SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1212.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1212 ADOPTED

Senator Santiesteban called from the President's table the Conference Committee Report on **S.B. 1212.** (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Santiesteban, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1517

Senator Krier submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1517** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

KRIER	WENTWORTH
WASHINGTON	DANBURG
GLASGOW	D. HUDSON

BROWN	SEIDLITS
HENDERSON	TURNER
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 RULE 12.09(a) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1671**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1671 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 1671**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1434**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1434 ADOPTED

Senator Parmer called from the President's table the Conference Committee Report on **H.B. 1434**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Parmer, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator McFarland and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 646**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 646 ADOPTED

Senator McFarland called from the President's table the Conference Committee Report on **H.B. 646**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator McFarland, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2566**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2566 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **H.B. 2566**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

RECORD OF VOTE

Senator Carriker asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

CONFERENCE COMMITTEE ON HOUSE BILL 1614

Senator Santiesteban 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. 1614** 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. 1614** 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 Santiesteban, Chairman; Johnson, Armbrister, Zaffirini and Barrientos.

(Senator Zaffirini in Chair)

CONFERENCE COMMITTEE REPORT HOUSE BILL 911

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 911** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONTFORD	T. SMITH
BARRIENTOS	RICHARDSON
ARMBRISTER	PEREZ
WHITMIRE	McCOLLOUGH
	SCHLUETER
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 in Chair)

BILLS AND RESOLUTIONS SIGNED

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

S.J.R. 11	**S.B. 644**	**S.B. 1321**
S.J.R. 16	**S.B. 677**	**S.B. 1322**
S.J.R. 53	**S.B. 698**	**S.B. 1325**
S.B. 40	**S.B. 769**	**S.B. 1340**
S.B. 75	**S.B. 795**	**S.B. 1426**
S.B. 158	**S.B. 801**	**S.B. 1519**
S.B. 224	**S.B. 835**	**S.B. 1527**
S.B. 309	**S.B. 838**	**S.B. 1668**
S.B. 328	**S.B. 852**	**S.B. 1669**
S.B. 365	**S.B. 869**	**S.B. 1677**
S.B. 376	**S.B. 951**	**S.B. 1697**
S.B. 401	**S.B. 978**	**S.B. 1698**
S.B. 419	**S.B. 980**	**S.B. 1701**
S.B. 482	**S.B. 1072**	**S.B. 1707**
S.B. 510	**S.B. 1075**	**S.B. 1744**
S.B. 541	**S.B. 1249**	**S.B. 1770**
S.B. 622	**S.B. 1312**	**S.B. 1807**

S.B. 1379 (Signed subject to Art. III, Sec. 49a of the Constitution)

CONFERENCE COMMITTEE REPORT HOUSE BILL 948

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 28, 1989

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. 948** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GLASGOW	P. HILL
KRIER	REPP
BIVINS	SHINE
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 1517 ADOPTED

Senator Krier called from the President's table the Conference Committee Report on **H.B. 1517**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 26, 1989.)

On motion of Senator Krier, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 948**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 948 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 948**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2494**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2494 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **H.B. 2494**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Brooks, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 170**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 170 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **S.B. 170**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Uribe and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1205**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1205 ADOPTED

Senator Uribe called from the President's table the Conference Committee Report on **S.B. 1205**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Uribe, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Washington and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2608**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2608 ADOPTED

Senator Washington called from the President's table the Conference Committee Report on **H.B. 2608**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Washington, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 1884

Senator Krier submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1884** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

KRIER	RICHARDSON
CAPERTON	STILES
MONTFORD	WOLENS
McFARLAND	HEFLIN
GLASGOW	F. HILL
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 RULE 12.09(a) SUSPENDED

On motion of Senator Whitmire and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1484**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1484 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **S.B. 1484**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Whitmire, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 2896

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. 2896** 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. 2896** 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, Bivins and Dickson.

CONFERENCE COMMITTEE ON HOUSE BILL 1986

Senator Whitmire 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. 1986** 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. 1986** 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 Whitmire, Chairman; Brown, Green, Lyon and Zaffirini.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Tejeda and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 791**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 791 ADOPTED

Senator Tejeda 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 on Monday, May 29, 1989.)

On motion of Senator Tejeda, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1425**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1425 ADOPTED

Senator Caperton called from the President's table the Conference Committee Report on **H.B. 1425**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Caperton, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Krier and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1884**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1884 ADOPTED

Senator Krier called from the President's table the Conference Committee Report on **H.B. 1884**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Krier, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2473**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2473 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **H.B. 2473**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Brooks, the Conference Committee Report was adopted viva voce vote.

SENATE RESOLUTION 838 (Caucus Report)

Senator Brooks offered the following resolution:

Honorable William P. Hobby
President of the Senate
Austin, Texas

Sir:

At a caucus held on May 29, 1989, and attended by 26 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 71st 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 71st 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 71st 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 71st 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 71st Legislature, Regular Session, 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 $15,500 per month. Any unexpended portion of this amount may be carried forward from month to month until the end of the fiscal year. 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, 1989, will not be carried forward after January 1, 1990. 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 71st 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 72nd Legislature will vacate their Senate offices by December 15, 1990; 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/Chet Brooks
Chairman of the Caucus

/s/Ike Harris
Secretary of the Caucus

The resolution was read and was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 it adopted the Conference Committee Report on **S.B. 417**, and then passed the Conference Committee Report on **S.B. 417** by a record vote of 74 Yeas, 64 Nays, 1 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Dickson and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1976**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1976 ADOPTED

Senator Dickson called from the President's table the Conference Committee Report on **H.B. 1976**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Dickson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2816

Senator Barrientos submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2816** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BARRIENTOS	COLBERT
EDWARDS	HAMMOND
TRUAN	PRICE
	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 3164

Senator Johnson submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 3164** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

JOHNSON	A. HILL
LEEDOM	CAIN
TEJEDA	WOLENS
PARMER	SHEA
McFARLAND	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
HOUSE BILL 2988

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2988** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONTFORD	UHER
CAPERTON	C. HARRIS
BIVINS	J. HARRIS
	LANEY
	WILLY
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 RULE 12.09(a) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2988**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2988 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **H.B. 2988**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 855

Senator Whitmire offered the following resolution:

S.R. 855, Allowing the Conference Committee on **H.B. 1986** to go outside the bounds of the bill.

The resolution was read and was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Johnson and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 3164**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3164 ADOPTED

Senator Johnson called from the President's table the Conference Committee Report on **H.B. 3164**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Johnson, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Barrientos and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2816**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2816 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 2816**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 911**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 911 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **H.B. 911**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE REPORT HOUSE BILL 863

Senator Parker submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 863** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

PARKER	VOWELL
McFARLAND	GUERRERO
GREEN	LANEY
LEEDOM	
BROOKS	
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 RULE 12.09(a) SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 863**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 863 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **H.B. 863**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Parker, the Conference Committee Report was adopted viva voce vote.

CONFERENCE COMMITTEE REPORT HOUSE BILL 2485

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2485** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	CAMPBELL
HALEY	RICHARDSON
CARRIKER	DELCO
BARRIENTOS	GUERRERO
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 BILL 265 WITH HOUSE AMENDMENT

Senator Green called **S.B. 265** 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 - Guerrero

Amend **S.B. 265** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section (f), Article 1.02, Insurance Code, is amended to read as follows:

(f) The State Board of Insurance is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished September 1, 1993 [~~1995~~].

SECTION 2. Section 2.01a, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.01a. APPLICATION OF SUNSET ACT. The Texas Air Control Board is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished and this Act expires September 1, 1997 [~~1991~~].

[~~The policy structure and enforcement activities of the board shall be reviewed under the provisions of the Texas Sunset Act prior to January 1, 1987.~~]

SECTION 3. Section 815.005, Government Code, as renumbered and amended by Senate Bill 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 815.005. APPLICATION OF SUNSET ACT. The board of trustees of the Employees Retirement System of Texas is subject to the Texas Sunset Act (Chapter 325), but is not abolished under that Act. The board shall be reviewed under that Act during the period in which state agencies abolished September 1, 1993 [~~1991~~], and every 12th year after that date are reviewed.

SECTION 4. Section 825.006, Government Code, as renumbered and amended by Senate Bill 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 825.006. APPLICATION OF SUNSET ACT. The board of trustees of the Teacher Retirement System of Texas is subject to the Texas Sunset Act (Chapter 325), but is not abolished under that Act. The board shall be reviewed under that Act during the period in which state agencies abolished September 1, 1993 [~~1991~~], and every 12th year after that date are reviewed.

SECTION 5. Section 845.006, Government Code, as renumbered and amended by Senate Bill 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 845.006. APPLICATION OF SUNSET ACT. The board of trustees of the Texas County and District Retirement System is subject to the Texas Sunset Act (Chapter 325), but is not abolished under that Act. The board shall be reviewed under that Act during the period in which state agencies abolished September 1, 1993 [~~1991~~], and every 12th year after that date are reviewed.

SECTION 6. Section 855.006, Government Code, as renumbered and amended by Senate Bill 1045, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 855.006. APPLICATION OF SUNSET ACT. The board of trustees of the Texas Municipal Retirement System is subject to the Texas Sunset Act (Chapter 325), but is not abolished under that Act. The board shall be reviewed under that Act during the period in which state agencies abolished September 1, 1993 [~~1991~~], and every 12th year after that date are reviewed.

SECTION 7. This Act takes effect September 1, 1989.

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

The amendment was read.

On motion of Senator Green and by unanimous consent, the Senate concurred in the House amendment to **S.B. 265** viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 non-record votes:

S.B. 1715
S.B. 1646
S.B. 1647
S.B. 1648
S.B. 1272
S.B. 1207
S.B. 1067
S.B. 973
S.B. 170
S.B. 208
S.B. 356
S.B. 740
H.B. 377
H.B. 737
H.B. 563
H.B. 925
H.B. 2248
H.B. 1520
H.B. 1405

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2260

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2260** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS
DICKSON
GLASGOW
TRUAN
On the part of the Senate

WILSON
COLLAZO
EARLEY
HURY
On the part of the House

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

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2260**.

(Senator Henderson in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2260 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **H.B. 2260**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Armbrister.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Armbrister and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2485**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2485 ADOPTED

Senator Armbrister called from the President's table the Conference Committee Report on **H.B. 2485**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

(President in Chair)

SENATE RESOLUTION 837

Senator Brooks offered the following resolution:

S.R. 837, Creating the Task Force on Waste Reduction and Minimization.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RESOLUTION 778

Senator Brown offered the following resolution:

S.R. 778, Directing the State Board of Education to develop a waste management and resource conservation education program for inclusion as an essential element of instruction in the public school curriculum.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RESOLUTION 615 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration on its second reading:

S.R. 615, Directing the Senate Jurisprudence Committee to study issues relating to blood and organ donation.

The resolution was read second time and was adopted viva voce vote.

SENATE RESOLUTION 770

Senator Edwards offered the following resolution:

S.R. 770, Creating a select interim committee to study the regulation of the medigap insurance industry in Texas.

The resolution was read.

On motion of Senator Edwards and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RESOLUTION 791

Senator Glasgow offered the following resolution:

S.R. 791, Directing the Senate Jurisprudence Committee to study the present law and procedures governing marital dissolution.

The resolution was read.

On motion of Senator Glasgow and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RESOLUTION 864

Senator Brooks offered the following resolution:

S.R. 864, Directing the Senate Health and Human Services Committee to monitor the Child Protective Services program and the Chronically Ill and Disabled Children's program.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RESOLUTION 801

Senator Truan offered the following resolution:

S.R. 801, Directing the Senate Health and Human Services Subcommittee on Health Services to study the statewide need for psychiatric and counselling services for children.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the resolution was considered immedately and was adopted viva voce vote.

SENATE RESOLUTION 807

Senator Uribe offered the following resolution:

S.R. 807, Encouraging the Texas Supreme Court to consider granting the request of the students of the Garza School of Law to be allowed to take the State Bar Examination.

The resolution was read.

On motion of Senator Uribe and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE CONCURRENT RESOLUTION 187

Senator Caperton offered the following resolution:

S.C.R. 187, Requesting the lieutenant governor and speaker of the House to establish the Special Advisory Committee on Property Tax Administration.

The resolution was read.

On motion of Senator Caperton and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

ELECTION OF PRESIDENT PRO TEMPORE AD INTERIM SEVENTY-FIRST LEGISLATURE

The President announced the election of the President Pro Tempore Ad Interim as the next order of business.

Senator McFarland nominated Senator J. E. (Buster) Brown of Lake Jackson as President Pro Tempore Ad Interim of the Seventy-First Legislature.

Senators Henderson, Edwards, Glasgow, Caperton, Whitmire, Leedom, Santiesteban, Bivins, Uribe, Montford, Harris, Truan, Barrientos, Washington and Green seconded the nomination.

The President declared Senator Brown elected as President Pro Tempore Ad Interim of the Seventy-First Legislature.

OATH OF OFFICE ADMINISTERED TO PRESIDENT PRO TEMPORE AD INTERIM

The President announced that administering the Oath of Office to the President Pro Tempore Ad Interim was the next order of business.

The President appointed Senators McFarland, Henderson, Whitmire, Krier and Washington to escort Senator Brown and his family: wife, Jill; sons, Jeb and Jay; daughter, Jennifer, to the President's Rostrum.

The Oath of Office was administered by Governor William P. Clements, Jr., to Senator Brown, who addressed the Senate, expressing his appreciation for the honor of serving the Senate as the President Pro Tempore Ad Interim for the Seventy-First Legislature.

CONFERENCE COMMITTEE REPORT HOUSE BILL 588

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 588** have met and had the same

under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER	P. HILL
GLASGOW	T. HUNTER
KRIER	SMITHEE
CAPERTON	DENTON
JOHNSON	
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 1614

Senator Santiesteban submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 1614** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

SANTIESTEBAN	PEREZ
BARRIENTOS	SAUNDERS
ARMBRISTER	HIGHTOWER
WHITMIRE	KUEMPEL
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 2252

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. 2252** 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. 2252** 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; Whitmire, Barrientos, Washington and Carriker.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2252

Senator Green submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2252** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GREEN	CAMPBELL
WHITMIRE	D. SMITH
BARRIENTOS	MARCHANT
WASHINGTON	FRASER
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.

CONFERENCE COMMITTEE REPORT
HOUSE BILL 2541

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 2541** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GLASGOW	P. HILL
BROOKS	UHER
EDWARDS	C. HARRIS
CAPERTON	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.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Armbrister and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 588**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 588

Senator Armbrister called from the President's table the Conference Committee Report on **H.B. 588**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

The Conference Committee Report failed of adoption by the following vote: Yeas 8, Nays 20.

Yeas: Armbrister, Bivins, Glasgow, Krier, Leedom, Ratliff, Sims, Tejeda.

Nays: Barrientos, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Green, Haley, Johnson, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Truan, Washington, Whitmire, Zaffirini.

Absent: Harris, Henderson, Uribe.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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. 188, Granting conferees to make certain changes in **S.B. 1019**.

S.C.R. 190, Granting conferees on **H.B. 1860** permission to consider certain matters.

The House has concurred in Senate amendments to **H.B. 1078** by a non-record vote.

S.C.R. 186, Granting conferees to make certain changes in **S.B. 1205**.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 1019**.

(Senator McFarland in Chair)

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1019 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **S.B. 1019**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Parker, the Conference Committee Report was adopted by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Dickson, Edwards, Glasgow, Green, Haley, Johnson, Krier, Leedom, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Bivins, Carriker, Lyon.

Absent: Harris, Henderson, Parmer.

STATEMENT OF THE SENATE HISPANIC CAUCUS AND THE HOUSE MEXICAN AMERICAN LEGISLATIVE CAUCUS ON PUBLIC SCHOOL FINANCE (SENATE BILL 1019)

May 29, 1989

By actions taken today, this legislature has once again abdicated its constitutional duty to "make suitable provisions for the support and maintenance of an efficient system" of education in this state.

The school finance legislation adopted by this body does not address the issues of adequacy or equity in funding the public school finance system in Texas. It fails to fund adequately the system by appropriating only $450 million of new money. This represents less than 10 percent of the funds the State Board of Education determined was necessary for an equitable and adequate system. It does not even cover the inflation experienced by our schools since 1984, when new monies were last put into the system. The bill perpetuates the severe shortages in needed facilities. It also fails to provide sufficient funds to appropriately compensate educators, and to supply crucial teaching tools to vast numbers of Texas students.

This legislation also fails to equitably distribute the newly allocated funds. It perpetuates the disparities between the wealthy districts and the poor districts by appropriating funds based on a formula benefitting districts that do not need them. It ignores the gross inequities which exist between those districts with large property tax bases and those with very little property wealth.

This legislation perpetuates an inadequate, inequitable, and inefficient school finance system. It fails to address the long term needs of our children; it leaves the future of our children in the hands of the Texas Supreme Court.

URIBE
TRUAN
TEJEDA
SANTIESTEBAN

(Senator Caperton in Chair)

BILL SIGNED

The Presiding Officer announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 222 (Signed subject to Art. III, Sec. 49a of the Constitution)

(President in Chair)

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Green and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2252**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2252 ADOPTED

Senator Green called from the President's table the Conference Committee Report on **H.B. 2252**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Green, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 1614**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1614 ADOPTED

Senator Santiesteban called from the President's table the Conference Committee Report on **H.B. 1614**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Santiesteban, the Conference Committee Report was adopted viva voce vote.

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Glasgow and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 2541**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2541 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 2541**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Glasgow, the Conference Committee Report was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 non-record votes:

S.B. 1564	**H.B. 1868**
S.B. 457	**H.B. 1594**
H.B. 863	**H.B. 1582**
H.B. 2629	**H.B. 1458**
H.B. 1860	**H.B. 1425**

H.B. 2064 **H.B. 721**
H.B. 1976 **H.B. 2816**

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

GUESTS PRESENTED

Upon recognition, Senator Parker introduced his wife, Beverly; his daughter, Chris, and his daughter Valerie's newly acquired in-laws, Hanna and Heinz Hintzen of Minneapolis, Minnesota.

These guests, seated in the Senate Gallery, were welcomed by the Senate.

GUEST PRESENTED

The President recognized the presence in the Senate Chamber of the Honorable Oscar Mauzy, Justice, Texas Supreme Court.

The Senate welcomed this former colleague.

(Senator Whitmire in Chair)

CONFERENCE COMMITTEE REPORT
HOUSE BILL 3016

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 3016** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	TALLAS
LEEDOM	R. LEWIS
HALEY	TAYLOR
	PIERCE
	CAIN
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 RULE 12.09(a) SUSPENDED

On motion of Senator Brown and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 3016**.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3016 ADOPTED

Senator Brown called from the President's table the Conference Committee Report on **H.B. 3016**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Brown, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

(President in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 8

Senator Whitmire called from the President's table the Conference Committee Report on **H.B. 8**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

Senator Whitmire moved to adopt the Conference Committee Report.

On motion of Senator Whitmire and by unanimous consent, the motion to adopt the Conference Committee Report on **H.B. 8** was withdrawn and placed on the President's table subject to call.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 non-record votes:

S.B. 255	**H.B. 1434**	**H.B. 879**	**S.B. 307**
H.B. 8	**H.B. 2494**	**H.B. 2485**	**S.B. 1205**
H.B. 3187	**H.B. 2608**	**H.B. 2252**	**H.B. 911**
H.B. 1546	**H.B. 1614**	**H.B. 791**	
H.B. 646	**H.B. 1671**	**H.B. 3164**	

The House has adopted the Conference Committee Report on **H.B. 2260** by a record vote of 142 Ayes, 3 Nays, 1 Present-not voting.

The House has adopted the Conference Committee Report on **S.B. 895** by a record vote of 95 Ayes, 51 Nays, 3 Present-not voting and 1 absent.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT
SENATE BILL 959

Senator Brooks submitted the following Conference Committee Report:

Austin, Texas
May 29, 1989

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. 959** 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
WASHINGTON	McKINNEY
JOHNSON	WRIGHT
McFARLAND	CLEMONS
URIBE	J. HARRIS
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to education, testing, counseling, policies, medical records, disclosure of information, prevention, control, and treatment concerning acquired immune deficiency syndrome, human immunodeficiency virus infection, and other communicable diseases; providing penalties.

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

SECTION 1. The Human Immunodeficiency Virus Services Act is enacted to read as follows:

ARTICLE 1

Sec. 1.01. SHORT TITLE. This Act may be cited as the Human Immunodeficiency Virus Services Act.

Sec. 1.02. DEFINITIONS. In this Act:

(1) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

(2) "Board" means the Texas Board of Health.

(3) "Communicable disease" has the meaning assigned that term by the Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes).

(4) "Department" means the Texas Department of Health.

(5) "HIV" means human immunodeficiency virus.

(6) "Person" means any legal entity.

(7) "Pretest counseling" means counseling conducted before HIV testing to help a person understand the nature and purpose of an HIV test, the significance of HIV test results, and the potential need for confirmatory testing.

(8) "Posttest counseling" means counseling following a positive HIV test to increase a person's understanding of HIV infection, explain the potential need for confirmatory testing, explain ways to change behavior conducive to HIV transmission, encourage the person to seek appropriate medical care, and encourage the person to notify individuals with whom there has been contact capable of transmitting HIV.

(9) "State agency" means:

(A) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the Texas Constitution or a state statute and includes an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; and

(C) the supreme court, the court of criminal appeals, a court of appeals, the State Bar of Texas, or another state judicial agency.

(10) "Testing program" means a medical program to test for AIDS, HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS.

(11) "Contact tracing" means identifying all persons who may have been exposed to an infected person and notifying them that they have been exposed, should be tested, and should seek treatment.

Sec. 1.03. EDUCATION PROGRAMS AND MATERIALS. (a) The department is the primary resource for HIV education, prevention, risk reduction materials, policies, and information in this state.

(b) The department shall develop model education programs to be available to educate the public about AIDS and HIV infection. As part of the program, the department shall develop a model educational pamphlet about methods of transmission and methods of prevention of HIV infection and about state laws relating to the transmission and to conduct that may result in the transmission of HIV.

(c) The department shall include in the programs special components designed to reach:

(1) people with behavior conducive to HIV transmission;

(2) people under 18 years of age; and

(3) minority groups.

In designing HIV education programs for ethnic minorities and in assisting local community organizations in developing HIV education programs for minority groups, the department shall ensure that the programs reflect the nature and spread of HIV infection in minorities in this state.

(d) The department shall develop and promote HIV education and prevention programs specifically designed to address the concerns of persons with physical or mental disabilities. In designing those programs, the department shall consult with persons with disabilities or with experts in the appropriate professional disciplines. To the maximum extent possible, state-funded HIV education and prevention programs shall be accessible to persons with physical disabilities.

(e) The department shall determine where HIV education efforts are needed in this state and shall initiate programs in those areas by identifying local resources. The department shall assist communities, especially those in rural areas, in establishing self-sustaining education programs, using public and private resources.

(f) The education programs shall be scientifically accurate and factually correct and shall be designed to:

(1) communicate to the public knowledge about methods of transmission and methods of prevention of HIV infection;

(2) educate the public about transmission risks in social, employment, and educational situations;

(3) educate health care workers and health facility employees about methods of transmission and prevention in their particular workplace environments; and

(4) educate the public about state laws relating to the transmission and conduct that may result in the transmission of HIV.

(g) The department shall give priority to developing model education programs for persons under 18 years of age.

(h) The department may contract with any person for the design, development, and distribution of education programs provided for under this section except a person who advocates or promotes conduct that violates state law. This subsection does not restrict an education program from providing accurate information about different ways to reduce the risk of exposure to or the transmission of HIV.

(i) The department shall make the education programs available to local governments and private businesses on request.

(j) All materials in the education programs intended for persons under 18 years of age shall emphasize sexual abstinence before marriage and fidelity in marriage as the expected standard in terms of public health and the most effective ways to prevent HIV infection, sexually transmitted diseases, and unwanted pregnancies and shall state that homosexual conduct is not an acceptable lifestyle and is a criminal offense under Section 21.06 of the Penal Code.

Sec. 1.04. MODEL WORKPLACE GUIDELINES. (a) To ensure consistent public policy, the department, in consultation with appropriate state and local agencies and private entities, shall develop model workplace guidelines concerning persons with HIV infection and related conditions.

(b) The model workplace guidelines shall include provisions stating that:

(1) all employees will receive some education about methods of transmission and methods of prevention of HIV infection and related conditions;

(2) accommodations will be made to keep persons with HIV infection employed and productive for as long as possible;

(3) the confidentiality of employee medical records will be protected;

(4) HIV-related policies will be consistent with current information from public health authorities, such as the Centers for Disease Control of the United States Public Health Service, and with state and federal law and regulations;

(5) persons with HIV infection are entitled to the same rights and opportunities as persons with other communicable diseases; and

(6) employers and employees should not engage in discrimination against persons with HIV infection unless based on accurate scientific information.

(c) The department shall develop more specific model workplace guidelines for employers in businesses with educational, correctional, health, or social service responsibilities.

(d) The department shall make the model workplace guidelines available on request.

(e) Employers should be encouraged to adopt HIV-related workplace guidelines that incorporate, at a minimum, the guidelines established by the board under this section.

(f) No new cause of action is created in this Act for violation of workplace guidelines.

Sec. 1.05. FUNDING INFORMATION. (a) The department shall:

(1) maintain current information on public and private sources of funding for HIV-related prevention, education, treatment, and social support services; and

(2) maintain information on the type, amount, and sources of funding for HIV-related prevention, education, treatment, and social support services being provided throughout the state.

(b) To encourage and maximize the use of federal and private funds, the department shall forward the information as soon as possible after receipt to public and nonprofit agencies that may be eligible for funding and shall make the information available to public and private entities on request.

(c) The department may seek, accept, and spend funds from state, federal, local, and private entities to carry out this section.

(d) The department may contract with an entity to provide the services required by this Act if:

(1) the contract would minimize duplication of effort and would deliver services cost-effectively; and

(2) the contracting entity does not advocate or promote conduct that violates state law.

(e) Subdivision (2) of Subsection (d) of this section does not restrict an education program from providing accurate information about ways to reduce the risk of exposure to or transmission of HIV.

(f) The department may audit an entity contracting with the department under Subsection (d) of this section.

Sec. 1.06. TECHNICAL ASSISTANCE TO COMMUNITY ORGANIZATIONS. (a) The department shall provide technical assistance to nonprofit community organizations in order to maximize the use of limited resources and volunteer efforts and to expand the availability of health care, education, prevention, and social support services needed to address the HIV epidemic.

(b) The department shall provide technical assistance in:

(1) recruiting, training, and effectively using volunteers in the delivery of HIV-related services;

(2) identifying funding opportunities and sources, including information on developing sound grant proposals; and

(3) developing and implementing effective service delivery approaches for community-based health care, education, prevention, and social support services pertaining to HIV.

Sec. 1.07. RULES. The board may adopt rules necessary to implement this Act.

Sec. 1.08. DEVELOPMENT OF PROGRAMS. The department shall develop the model education programs and the model workplace guidelines required by this article not later than 90 days after the effective date of this Act.

Sec. 1.09. TERM OF CONTRACTS. A contract entered into by the department under this article may not be for a term of more than one year, except that a contract may be renewed without a public hearing.

ARTICLE 2

Sec. 2.01. STATE GRANT PROGRAM TO COMMUNITY ORGANIZATIONS. The department shall establish and administer a state grant program to nonprofit community organizations for:

(1) HIV education, prevention, and risk reduction programs; and

(2) treatment, health, and social service programs for persons with HIV infection.

Sec. 2.02. APPLICATION PROCEDURES AND INFORMATION. (a) The department shall establish application procedures and eligibility guidelines for the state grants. Those procedures must include regional public hearings after reasonable notice in the region in which the community organization is based before awarding an initial grant or grants totalling in excess of $25,000 annually. At least 10 days before the public hearing, notice shall be given to each state representative and state senator who represents any part of the region in which any part of the grant will be expended.

(b) An applicant for a state grant under this article shall submit to the department for approval:

(1) a description of the objectives established by the applicant for the conduct of the program;

(2) documentation that the applicant has consulted with appropriate local officials, community groups, and individuals with expertise in HIV education and treatment and knowledge of the needs of the population to be served;

(3) a description of the methods the applicant will use to evaluate the activities conducted under the program to determine if the objectives are met; and

(4) any other information requested by the department.

Sec. 2.03. RULES; PROGRAM STRUCTURE. (a) The board may adopt rules relating to:

(1) the services that may be furnished under the program;

(2) a system of priorities regarding the types of services provided, geographic areas covered, or classes of individuals or communities targeted for services under the program; and

(3) a process for resolving conflicts between the department and a program receiving money under this article.

(b) Board or department actions relating to service, geographic, and other priorities shall be based on the set of priorities and guidelines established under this section.

(c) In structuring the program and adopting rules, the department and the board shall attempt to:

(1) coordinate the use of federal, local, and private funds;

(2) encourage community-based service provision;

(3) address needs that are not met by other sources of funding;

(4) provide funding as extensively as possible across the regions of the state in amounts that reflect regional needs; and

(5) encourage cooperation among local service providers.

(d) In awarding grants for education programs under this article, the department shall give special consideration to nonprofit community organizations whose primary purpose is serving persons under 18 years of age.

(e) In awarding grants for treatment, health, and social services, the department shall endeavor to distribute grants in a manner that prevents unnecessary duplication of services within a community.

(f) In awarding grants for education programs, the department shall endeavor to complement existing education programs in a community, to prevent unnecessary duplication of services within a community, to provide HIV education programs for populations engaging in behaviors conducive to HIV transmission, to initiate needed HIV education programs where none exist, and to promote early intervention and treatment of persons with HIV infection.

(g) Not more than one-third of the funds available under this article may be used for HIV education, prevention, and risk reduction.

(h) Grants may not be awarded to an entity or community organization that advocates or promotes conduct that violates state law. This subsection does not prohibit the award of a grant to an entity or community organization that provides accurate information about ways to reduce the risk of exposure to or transmission of HIV.

Sec. 2.04. INFORMATION PROVIDED BY FUNDED PROGRAM. (a) A program funded with a grant under this article shall provide information and educational materials that are accurate, comprehensive, and consistent with current findings of the United States Public Health Service.

(b) Information and educational materials developed with a grant awarded under this article must contain materials and be presented in a manner that is specifically directed to the group for which the materials are intended.

Sec. 2.05. ADMINISTRATIVE EXPENSES. The department may not use more than five percent of the funds appropriated for the grant program to employ sufficient staff to review and process grant applications, monitor and evaluate the effectiveness of funded programs, and provide technical assistance to grantees.

Sec. 2.06. EVALUATION OF FUNDED PROGRAMS. (a) The department shall develop evaluation criteria to document effectiveness, unit-of-service costs, and number of volunteers used in programs funded with grants under this article.

(b) An organization that receives funding under the program shall:

(1) collect and maintain relevant data as required by the department; and

(2) submit to the department copies of all material the organization has printed or distributed relating to HIV infection.

(c) The department shall provide prompt assistance to grantees in obtaining materials and skills necessary to collect and report the data required under this section.

Sec. 2.07. ADMINISTRATION AND PROGRAM REVIEW. To prevent unnecessary duplication of services, the board and the department shall seek to coordinate the services provided by eligible programs under this Act with existing federal, state, and local programs. The department shall consult with the Texas Department of Human Services to ensure that programs funded under this article complement and do not unnecessarily duplicate services provided through the Texas Department of Human Services.

Sec. 2.08. RECORDS. (a) The department shall require each program receiving a grant under this article to maintain records and information specified by the department.

(b) The department may adopt rules relating to the information a program is required to report to the department and shall adopt procedures and forms for reporting the information to prevent unnecessary and duplicative reporting of data.

(c) The department shall review records, information, and reports prepared by programs funded under this article. Before December 1 of each year, the department shall prepare a report that is available to the public and that summarizes data regarding the type, level, quality, and cost-effectiveness of services provided under this article.

Sec. 2.09. FINANCIAL RECORDS. (a) The department shall review periodically the financial records of a program funded with a grant under this article.

(b) As a condition of accepting a grant under this article, a community organization shall allow the department to periodically review the financial records of that organization.

Sec. 2.10. DUE PROCESS. The department may provide a due process hearing procedure for the resolution of conflicts between the department and a program funded with a state grant under this article.

Sec. 2.11. ADVISORY COMMITTEE. The board may appoint an advisory committee to assist in the development of procedures and guidelines required by this article.

ARTICLE 3

Sec. 3.01. HIV MEDICATION PROGRAM. (a) The Texas HIV medication program is established in the department.

(b) The program shall assist hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV-infected individuals in the purchase of medications approved by the board that have been shown to be effective in reducing hospitalizations due to HIV-related conditions.

(c) Funds appropriated in the General Appropriations Act may not be transferred from other line items for this program.

Sec. 3.02. ELIGIBILITY. (a) To be eligible for the program, an individual:

(1) must not be eligible for Medicaid benefits;

(2) must meet financial eligibility criteria set by board rule;

(3) must not qualify for any other state or federal program available for financing the purchase of the prescribed medication; and

(4) must be diagnosed by a licensed physician as having AIDS or an HIV-related condition or illness of at least the minimal severity set by the board.

(b) The department shall give priority to participation in the program to eligible individuals under 18 years of age.

Sec. 3.03. PROCEDURES AND ELIGIBILITY GUIDELINES. The board by rule shall establish:

(1) application and distribution procedures;

(2) eligibility guidelines to ensure the most appropriate distribution of funds available each year; and

(3) appellate procedures to resolve any eligibility or funding conflicts.

Sec. 3.04. FUNDING. (a) The department may accept and use local, state, and federal funds and private donations to fund the program.

(b) State, local, and private funds may be used to qualify for federal matching funds if federal funding becomes available.

(c) A hospital district, local health department, public or nonprofit hospital and clinic, or nonprofit community organization may participate in the program by sending funds to the department for the purpose of providing assistance to clients for the purchase of HIV medication. A hospital district may send funds obtained from any source, including taxes levied by the district.

(d) The department shall deposit money received under this section in the state treasury to the credit of the HIV medication fund and to the credit of a special account in that fund that shall be established for each entity sending funds under this section.

(e) Funds received from a hospital district, local health department, public or nonprofit hospital and clinic, or nonprofit community organization under this section may be used only to provide assistance to clients of that entity. The funds may be supplemented with other funds available for the purpose of the program.

(f) The department may institute a sliding fee scale to help eligible HIV-infected individuals purchase medications under this program.

Sec. 3.05. ADVISORY COMMITTEE. The board may appoint an advisory committee to assist in the development of procedures and guidelines required by this article.

ARTICLE 4

Sec. 4.01. COUNSELING AND TESTING. (a) A test result indicating the presence of HIV infection may not be revealed to the person tested without giving that person the immediate opportunity for individual, face-to-face posttest counseling.

(b) Subsection (a) of this section does not apply:

(1) if a report of a test result is used for statistical or research purposes only and any information that could identify the person is removed from the report; or

(2) if the test is conducted for the sole purpose of screening blood, blood products, bodily fluids, organs, or tissues to determine suitability for donation.

(c) A person who is injured by an intentional violation of this section may bring a civil action for damages and may recover for each violation from a person who violates this section:

(1) $1,000 or actual damages, whichever is greater; and

(2) reasonable attorney's fees.

(d) A person performing a test to show HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS is not liable under Subsection (c) of this section for failing to provide posttest counseling if the person tested does not appear for the counseling.

Sec. 4.02. DEPARTMENT VOLUNTARY TESTING PROGRAMS. (a) The department shall establish voluntary HIV testing programs in each public health region to make counseling and testing available on a confidential basis. The department shall complete contact tracing after a confirmed positive test.

(b) The department may contract with public and private entities to perform the testing as necessary according to local circumstances.

(c) The results of a test conducted by a testing program or department program under this section may not be used for insurance purposes, to screen or determine suitability for employment, or to discharge a person from employment. A person who is injured by an intentional violation of this subsection may bring a civil action for damages and may recover for each violation from a person who violates this subsection:

(1) $1,000 or actual damages, whichever is greater; and

(2) reasonable attorney's fees.

(d) In addition to the remedies provided by Subsection (c) of this section, the person may bring an action to restrain a violation or threatened violation of that subsection.

Sec. 4.03. STATE-FUNDED HEALTH CLINICS. (a) State-funded primary health, women's reproductive health, and sexually transmitted disease clinics shall:

(1) make available to patients and clients information and educational materials concerning the prevention of HIV infection; and

(2) provide voluntary, anonymous, and affordable counseling and testing programs concerning HIV infection, or provide referrals to those programs.

(b) Information provided under Subdivision (1) of Subsection (a) of this section shall be routinely incorporated into patient education and counseling in clinics specializing in sexually transmitted diseases and women's reproductive health.

Sec. 4.04. TRAINING OF COUNSELORS. (a) The department shall develop and offer a training course for persons providing HIV counseling. The training course shall include information relating to the special needs of persons with positive HIV test results, including the importance of early intervention and treatment and recognition of psychosocial needs.

(b) The department shall maintain a registry of persons who successfully complete the training course.

(c) The department may charge a fee for the course to persons other than employees of entities receiving state or federal funds for HIV counseling and testing programs through a contract with the department.

(d) The board shall set the fee in an amount that is reasonable and necessary to cover the costs of providing the course.

(e) The department may contract for training of counselors.

Sec. 4.05. MODEL PROTOCOLS FOR COUNSELING AND TESTING. (a) The department shall develop model protocols for counseling and testing related to HIV infection. The protocols shall be available to health care providers on request.

(b) A testing program shall adopt and comply with the model protocols developed by the department under Subsection (a) of this section.

Sec. 4.06. REGISTRATION OF TESTING PROGRAM. (a) A person may not advertise or represent to the public that the person conducts a testing program for AIDS, HIV infection, or related conditions without registering with the department.

(b) A hospital licensed under the Texas Hospital Licensing Law (Article 4437f, Vernon's Texas Civil Statutes) or a physician licensed under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is not required to be registered under this section unless the hospital or physician advertises or represents to the public that the hospital or physician conducts or specializes in testing programs for AIDS, HIV infection, or related conditions.

(c) A person who violates Subsection (a) of this section is liable for a civil penalty of $1,000 for each day of a continuing violation.

Sec. 4.07. PHYSICIAN SUPERVISION OF MEDICAL CARE. A licensed physician shall supervise any medical care or procedure provided under the testing program.

Sec. 4.08. FOR-PROFIT TESTING PROGRAM. A testing program that operates for profit, that advertises or represents to the public that it conducts or specializes in testing programs, and that is required to register under Section 4.06 of this article shall:

(1) obtain the informed consent of the person to be tested before conducting the test; and

(2) provide an itemized statement of charges to the person tested or counseled.

Sec. 4.09. DISCIPLINARY ACTION. This article does not prohibit disciplinary proceedings from being conducted by the appropriate licensing authorities for a violation of this article by a health care provider.

Sec. 4.10. REPORTS. A testing program shall report test results for HIV infection in the manner provided by the Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes).

ARTICLE 5

Sec. 5.01. EDUCATION OF STATE EMPLOYEES. (a) Annually, each state agency shall provide to each state employee an educational pamphlet about methods of transmission and methods of prevention of HIV infection and about state laws relating to the transmission and to conduct that may result in the transmission of HIV infection. The pamphlet shall be provided to a newly hired state employee on the first day of employment.

(b) The educational pamphlet shall be based on the model developed by the department and shall include the workplace guidelines adopted by the state agency.

(c) The department shall prepare and distribute to each state agency a model informational pamphlet that can be reproduced by each state agency to meet the requirements of this section.

Sec. 5.02. EDUCATION OF CLIENTS, PATIENTS, AND RESIDENTS. Each state agency listed in Subsection (b) of Section 5.03 of this article shall routinely make available HIV education for clients, inmates, patients, and residents of treatment, educational, correctional, or residential facilities under the agency's jurisdiction. Education available under this section shall be based on the model education program developed by the department and tailored to the cultural, educational, language, and developmental needs of the clients, inmates, patients, or residents, including the use of Braille or telecommunication devices for the deaf.

Sec. 5.03. WORKPLACE GUIDELINES; STATE AGENCIES AND CONTRACTORS. (a) Each state agency shall adopt and implement workplace guidelines concerning persons with AIDS and HIV infection. The workplace guidelines shall at a minimum incorporate the model workplace guidelines developed by the department.

(b) An entity that contracts with or is funded by any of the following state agencies to operate a program involving direct client contact shall adopt and implement workplace guidelines similar to the guidelines adopted by the agency that funds or contracts with the entity:

(1) the Texas Commission on Alcohol and Drug Abuse;

(2) the Texas Commission for the Blind;

(3) the Texas Commission for the Deaf;

(4) the Texas Adult Probation Commission;

(5) the Texas Juvenile Probation Commission;

(6) the Texas Department of Corrections;

(7) the Texas Youth Commission;

(8) the Board of Pardons and Paroles;

(9) the department;

(10) the Texas Department of Human Services;

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

(12) the Texas Rehabilitation Commission.

Sec. 5.04. CONFIDENTIALITY GUIDELINES; STATE AGENCIES AND STATE CONTRACTORS. (a) Each state agency shall develop and implement guidelines regarding confidentiality of AIDS and HIV-related medical information for employees of the agency and for clients, inmates, patients, and residents served by the agency. The policies shall be consistent with guidelines published by the department and with state and federal law and regulations.

(b) Each entity that receives funds from a state agency for residential or direct client services or programs shall develop and implement guidelines regarding confidentiality of AIDS and HIV-related medical information for employees of the entity and for clients, inmates, patients, and residents served by the entity. The policies shall be consistent with guidelines published by the department and with state and federal law and regulations. An entity that does not adopt confidentiality guidelines as required by this subsection is not eligible to receive state funds until the guidelines are developed and implemented.

Sec. 5.05. TESTING AND COUNSELING FOR STATE EMPLOYEES EXPOSED ON THE JOB. (a) On an employee's request, a state agency shall pay the costs of testing and counseling an employee of that agency concerning HIV infection if:

(1) the employee documents to the agency's satisfaction that the employee may have been exposed to HIV while performing duties of employment with that agency; and

(2) the employee was exposed to HIV in a manner that the United States Public Health Service has determined is capable of transmitting HIV.

(b) The Texas Board of Health by rule shall prescribe the criteria that constitute possible exposure to HIV under this section. The criteria must be based on activities the United States Public Health Service determines pose a risk of HIV infection.

(c) For the purpose of qualifying for workers' compensation or any other similar benefits or compensation, an employee who claims a possible work-related exposure to HIV infection must provide the employer with a written statement of the date and circumstances of the exposure and document that within 10 days after the exposure the employee had a test result that indicated an absence of HIV infection.

(d) The cost of a state employee's testing and counseling shall be paid from funds appropriated for payment of workers' compensation benefits to state employees. The director of the workers' compensation division of the attorney general's office shall adopt rules necessary to administer this subsection.

(e) Counseling or a test conducted under this section must conform to the model protocol on HIV counseling and testing prescribed by the department.

(f) A state employee who may have been exposed to HIV while performing duties of state employment may not be required to be tested.

Sec. 5.06. ADOPTION AND IMPLEMENTATION OF WORKPLACE GUIDELINES AND PROVISION OF EDUCATIONAL PAMPHLET. (a) Each state agency shall adopt and implement the workplace and confidentiality guidelines required by Sections 5.03 and 5.04 of this article and provide the educational pamphlet developed under Section 1.03 of this Act to each state employee not later than 180 days after the effective date of this Act.

(b) Each entity that contracts with or is funded by a state agency listed in Subsection (b) of Section 5.03 of this article shall adopt and implement the workplace and confidentiality guidelines required by Sections 5.03 and 5.04 of this article not later than 180 days after the effective date of this Act.

Sec 5.07. HIV EDUCATIONAL COURSE FOR EMPLOYEES AND CLIENTS OF HEALTH CARE FACILITIES. (a) This section applies to health care

facilities licensed by the department, the Texas Department of Mental Health and Mental Retardation, or the Texas Department of Human Services.

(b) A health care facility covered by this section shall require its employees to complete an educational course about human immunodeficiency virus infection based on the model education program developed by the department.

ARTICLE 6

Sec. 6.01. NURSING CARE. To ensure a continuum of nursing care for persons with AIDS or HIV infection and related conditions who require long-term nursing care but do not require hospitalization except for acute exacerbations of their condition, the Texas Department of Human Services shall develop one or more demonstration projects to research the cost and need for services that are appropriate to provide the special care necessary for those persons and for the specific medical complications resulting from AIDS or HIV infection.

Sec. 6.02. DEMONSTRATION PROJECTS. (a) The Texas Department of Human Services shall establish one or more demonstration projects in nursing facilities to:

(1) assist the Texas Department of Human Services in analyzing the cost of providing care for persons with AIDS or HIV infection and related conditions authorized by this article;

(2) provide test sites in designated nursing facilities to study the costs and requirements of the operation of those facilities and the provision of appropriate nursing care and other related programs and services;

(3) demonstrate the extent of the need for facilities that can provide the long-term nursing care that is required by a person with AIDS or HIV infection and related conditions when those persons are not in need of hospitalization for an acute exacerbated condition;

(4) determine the extent of the individualized nursing care required to adequately meet the specific needs of persons with AIDS or HIV infection and related conditions without imposing the costs of providing those programs and services on all facilities that currently provide nursing care to persons whose needs are different than the needs of persons with AIDS or HIV infection and related conditions; and

(5) provide one or more teaching and demonstration models for caring for persons with AIDS or HIV infection and related conditions.

(b) Participants in the demonstration project shall be reimbursed at a special rate that covers all the cost of the care provided.

SECTION 2. Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon's Texas Civil Statutes), is amended by adding Sections 17 and 18 to read as follows:

Sec. 17. EDUCATION CONCERNING HIV INFECTION. (a) A treatment facility licensed under this Act shall provide to employees of the facility education about methods of transmission and methods of prevention of human immunodeficiency virus infection based on the model education program developed by the Texas Department of Health and shall make the education available to clients of the facility.

(b) Employees of the facility who counsel clients shall provide counseling in accordance with the model protocol for counseling related to HIV infection developed by the Texas Department of Health.

Sec. 18. TESTING AND COUNSELING CONCERNING HIV INFECTION. A treatment facility licensed under this Act shall make available or make referrals to voluntary, anonymous, and affordable counseling and testing services concerning human immunodeficiency virus infection.

SECTION 3. (a) Section 1.07, Family Code, is amended by adding Subsection (e) to read as follows:

(e) At the time the clerk issues a marriage license, the clerk shall distribute to each applicant printed materials about acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV). The clerk shall note on the license that the distribution was made. The materials shall be prepared and provided to the clerk by the Texas Department of Health and shall be designed to inform the applicants about:

(1) the incidence and mode of transmission of AIDS and HIV;

(2) the local availability of medical procedures, including voluntary testing, designed to show or help show whether a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(3) available and appropriate counseling services regarding AIDS and HIV infection.

(b) The Texas Department of Health shall prepare and distribute to county clerks the informational materials described by this Act as soon as possible after the effective date of this Act, but not later than January 1, 1990. A county clerk is not required to make the notations on marriage licenses described by Subsection (e), Section 1.07, Family Code, as added by this Act, before January 1, 1990.

SECTION 4. (a) Section 1.94, Family Code, is amended by adding Subsection (e) to read as follows:

(e) At the time the parties execute the declaration, the clerk shall distribute to each party printed materials about acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV). The clerk shall note on the declaration that the distribution was made. The materials shall be prepared and provided to the clerk by the Texas Department of Health and shall be designed to inform the parties about:

(1) the incidence and mode of transmission of AIDS and HIV;

(2) the local availability of medical procedures, including voluntary testing, designed to show or help show whether a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(3) available and appropriate counseling services regarding AIDS and HIV infection.

(b) The Texas Department of Health shall prepare and distribute to county clerks the informational materials described by this Act as soon as possible after the effective date of this Act, but not later than January 1, 1990. A county clerk is not required to make the notations on declarations of informal marriage described by Subsection (e), Section 1.94, Family Code, as added by this Act, before January 1, 1990.

SECTION 5. Subsection (e), Section 9.02, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is repealed.

SECTION 6. Title 1, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended by adding Section 1.16 to read as follows:

Sec. 1.16. OUTREACH PROGRAMS FOR INTRAVENOUS DRUG USERS. (a) The commission may fund community outreach programs that have direct contact with intravenous drug users.

(b) An outreach program funded by the commission shall:

(1) provide education on HIV infection based on the model education program developed by the Texas Department of Health;

(2) encourage behavior changes to reduce the possibility of HIV transmission;

(3) promote other HIV risk reduction activities; and

(4) encourage behavior consistent with state criminal laws.

(c) In this section, "HIV" means human immunodeficiency virus.

SECTION 7. Article 6203c-12, Revised Statutes, as added by Chapter 543, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

Art. 6203c-12. AIDS AND HIV EDUCATION; TESTING [~~FOR COMMUNICABLE DISEASES~~].

Sec. 1. In this article, "AIDS," "HIV," and "test result" have the meanings assigned by Section 9.01, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes).

Sec. 2. (a) The Texas Department of Corrections, in consultation with the Texas Department of Health, shall establish education programs to educate inmates and employees of the Texas Department of Corrections about AIDS and HIV. In establishing the programs for inmates, the department shall design a program that deals with issues related to AIDS and HIV that are relevant to inmates while confined and a program that deals with issues related to AIDS and HIV that will be relevant to inmates after the inmates are released from the department. The department shall design the programs to take into account relevant cultural and other differences among inmates. The Texas Department of Corrections shall require each inmate in the department to participate in education programs established under this subsection.

(b) The director of the department shall require each employee of the department to participate in programs established under this section at least once during each calendar year.

(c) The director of the department shall ensure that education programs for employees include information and training relating to infection control procedures. The director shall also ensure that employees have infection control supplies and equipment readily available.

(d) The Texas Department of Corrections, in consultation with the Texas Department of Health, shall periodically revise education programs established under this section so that the programs reflect the latest medical information available on AIDS and HIV.

Sec. 3. (a) The department shall adopt a policy for handling persons with AIDS or HIV infection who are in the department's custody or under the department's supervision. The policy must be substantially similar to a model policy developed by the Texas Department of Health under Article 4419b-3, Revised Statutes.

(b) The department shall maintain the confidentiality of test results of an inmate indicating HIV infection after the inmate's discharge or release on parole or mandatory supervision and may not honor the request of an agency of the state or any person who requests a test result as a condition of housing or supervising the inmate while the inmate is on parole or mandatory supervision, unless honoring the request would improve the ability of the inmate to obtain essential health and social services.

Sec. 4. The department shall report to the legislature not later than January 15 of each odd-numbered year concerning the implementation of this article and the participation of inmates and employees of the department in education programs established under this article.

Sec. 5. The Texas Department of Corrections is authorized to test inmates of correctional facilities for human immunodeficiency virus. If the department determines that an inmate has a positive test result, the inmate may be segregated from other inmates.

SECTION 8. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.42 to read as follows:

Art. 17.42. CONDITIONS REQUIRING AIDS AND HIV INSTRUCTION. A magistrate may require as a condition of bond that a defendant

charged with an offense under Section 43.02, Penal Code, receive counseling or education, or both, relating to acquired immune deficiency syndrome or human immunodeficiency virus.

SECTION 9. Section 6, Article 42.12, Code of Criminal Procedure, is amended by amending Subsection (f) and by adding Subsections (g) and (h) to read as follows:

(f) If the court grants probation to a person convicted of an offense under Section 21.11, 22.011, 22.021, or 22.04, Penal Code, the court may, on a finding that the probationer is financially able to make payment, require the probationer to pay all or a part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense[~~, upon a finding that the probationer is financially able to make payment~~]. Any payments ordered under this subsection may not extend past one year from the date of the order.

(g) If the court grants probation to a person convicted of an offense under Section 21.11, 22.011, 22.021, or 43.02, Penal Code, the court may require the probationer to receive counseling or education, or both, relating to acquired immune deficiency syndrome or human immunodeficiency virus.

(h) If the court grants probation to a person convicted of an offense under the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), the court may require the probationer to receive counseling or education, or both, relating to acquired immune deficiency syndrome or human immunodeficiency virus. The court shall order that a report be made under Section 4 of this article to determine if the probationer should receive the counseling and education.

SECTION 10. Subsection (a), Section 8, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause a defendant convicted under Section 43.02, Penal Code, or under the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes), to be subject to the control measures of Section 4.02, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), and to the court-ordered-management provisions of Article 8 of the Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes). At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest may arrest such defendant without a warrant upon the order of the judge of such court to be noted on the docket of the court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such officer shall forthwith report such arrest and detention to such court. If the defendant has not been released on bail, on motion by the defendant the court shall cause the defendant to be brought before it for a hearing within 20 days of filing of said motion, and after a hearing without a jury, may either continue, modify, or revoke the probation. If the court decides to continue or modify the probation of a felony defendant after determining that the defendant violated administrative provisions of probation or committed a misdemeanor offense while on probation, the court may order that the defendant be confined in the county jail for a period not to exceed 30 days. In a felony case, the state may amend the motion to revoke probation any time up to seven days before the date of the revocation hearing, after which time the motion may not be amended except for good cause shown, and in no event may the state amend the motion after the commencement of taking evidence at the hearing. The court may continue the hearing for good cause shown

by either the defendant or the state. If probation is revoked, the court may proceed to dispose of the case as if there had been no probation, or if it determines that the best interests of society and the probationer would be served by a shorter term of imprisonment, reduce the term of imprisonment originally assessed to any term of imprisonment not less than the minimum prescribed for the offense of which the probationer was convicted. Instead of revoking probation in a felony case, the court may order a probationer to serve a term in a community rehabilitation center if the probationer would have been eligible for sentencing to the center on conviction of the offense for which the probationer received probation.

SECTION 11. Title 71, Revised Statutes, is amended by adding Article 4419b-3 to read as follows:

Art. 4419b-3. POLICIES REGARDING AIDS OR HIV INFECTION. (a) In this article, "AIDS" and "HIV" have the meanings assigned by Section 9.01, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes).

(b) The Texas Department of Health, in consultation with appropriate correctional and law enforcement agencies, fire departments, and emergency medical services providers, shall develop model policies regarding the handling, care, and treatment of persons with AIDS or HIV infection who are in the custody of the Texas Department of Corrections, local law enforcement agencies, municipal and county correctional facilities, and district probation departments.

(c) Each state and local law enforcement agency, fire department, emergency medical services provider, municipal and county correctional facility, and district probation department shall adopt a policy for handling persons with AIDS or HIV infection who are in their custody or under their supervision. The policy must be substantially similar to a model policy developed by the Texas Department of Health under Subsection (b) of this article.

(d) A policy adopted under this article applies to persons who contract or subcontract with an entity required to adopt policies under Subsection (b) of this article.

(e) A policy adopted under this article shall provide for periodic education of employees, inmates, and probationers concerning HIV education. The policy must also ensure that education programs for employees include information and training relating to infection control procedures and that employees have infection control supplies and equipment readily available.

(f) A policy adopted under this article shall ensure access to appropriate services and protect the confidentiality of medical records relating to HIV infection.

SECTION 12. Article 9, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 9.07 to read as follows:

Sec. 9.07. CONSENT TO TEST; CONFIDENTIALITY. In cases of accidental exposure to blood or bodily fluid under Subdivision (5) of Subsection (a) of Section 9.02 of this Act, the health care agency or facility may test an individual who may have exposed the health care worker to HIV without the individual's specific consent to the test, provided that it is done according to protocols established pursuant to Subsection (d) of Section 9.02 of this Act and that such protocols ensure that any identifying information concerning the individual tested will be destroyed as soon as the testing is complete and the person who may have been exposed is notified of the result. All test results under this section are subject to the confidentiality provisions of this Act.

SECTION 13. The Code of Criminal Procedure is amended by adding Chapter 46A to read as follows:

CHAPTER 46A. AIDS AND HIV TESTING IN COUNTY AND MUNICIPAL JAILS

Art. 46A.01. TESTING; SEGREGATION; DISCLOSURE. (a) In this article "AIDS" and "HIV" have the meanings assigned those terms by Section 9.01, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes).

(b) A county or municipality may test an inmate confined in the county or municipal jail or in a contract facility authorized by Article 5115d, Revised Statutes, or Article 5115e, Revised Statutes, to determine the proper medical treatment of the inmate or the proper social management of the inmate or other inmates in the jail or facility.

(c) If the county or municipality determines that an inmate has a positive test result for AIDS or HIV, the county or municipality may segregate the inmate from other inmates in the jail or facility.

(d) This article does not provide a duty to test for AIDS or HIV, and a cause of action does not arise under this article from a failure to test for AIDS or HIV.

SECTION 14. Chapter 22, Penal Code, is amended by adding Section 22.012 to read as follows:

Sec. 22.012. INTENTIONALLY EXPOSING ANOTHER TO AIDS OR HIV. (a) A person commits an offense if the person, knowing that he or she has AIDS or is a carrier of HIV and with intent to cause serious bodily injury or death, intentionally engages in conduct reasonably likely to result in the transfer of the actor's own blood, bodily fluids containing visible blood, semen, or vaginal secretions into the bloodstream of another, or through the other person's skin or other membrane, except during in utero transmission of blood or bodily fluids, and:

(1) the other person did not consent to the transfer of blood, bodily fluids containing blood, semen, or vaginal secretions; or

(2) the other person consented to the transfer but at the time of giving consent had not been informed by the actor that the actor had AIDS or was a carrier of HIV.

(b) In this section, "AIDS" and "HIV" have the meanings assigned by Section 9.01, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes).

(c) An offense under this section is a felony of the third degree.

SECTION 15. (a) Section 11.207, Education Code, as added by Chapter 848, Acts of the 70th Legislature, Regular Session, 1987, is redesignated as Section 11.208, Education Code, and amended to read as follows:

Sec. 11.208 [~~11.207~~]. INSERVICE TRAINING AND PREPARATION. (a) As a part of the teacher inservice training and preparation required under Section 16.052 of this code, for each school year the State Board of Education by rule shall require instruction in subject areas that the board considers appropriate. The subject areas may include but are not limited to:

(1) special education;

(2) recognition of and response to signs of abuse or neglect in students;

(3) recognition of dyslexia and related disorders in students and teaching strategies for those students;

(4) discipline management training; and

(5) teacher appraisal.

(b) The State Board of Education by rule shall encourage inservice training for all school employees and volunteers regarding HIV infection. The board shall require more intensive HIV inservice training for teachers, counselors, and other persons employed in programs related to comprehensive health education, substance abuse prevention, or prevention of sexually transmissible diseases, HIV,

and AIDS than for other school employees. The training for all employees and volunteers shall include information related to:

(1) methods of transmission and methods of prevention of HIV infection;

(2) relevant federal, state, and local laws and school district regulations, including those related to the release of medical information, to the confidentiality of test results, and to discrimination against persons infected with HIV;

(3) state laws relating to the transmission and to conduct that may result in the transmission of HIV; and

(4) community resources providing HIV education and services.

(c) The Central Education Agency in consultation with the Texas Department of Health shall prepare and disseminate an information guide to all school administrators, teachers, and other personnel that is updated periodically and includes current, accurate facts on:

(1) relevant state and federal laws, rules, and regulations;

(2) methods of transmission and methods of prevention of HIV infection; and

(3) state laws relating to the transmission and to conduct that may result in the transmission of HIV.

(d) In this section:

(1) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

(2) "HIV" means human immunodeficiency virus.

(b) The Central Education Agency may conduct a survey of all school districts in the state to assess the extent and educational content of instruction relating to human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) as defined by the Centers for Disease Control of the United States Public Health Service and of the level of training of the instructors. The agency shall report the results of the survey to the 72nd Legislature not later than February 1, 1991.

SECTION 16. Subchapter Z, Chapter 21, Education Code, is amended by adding Section 21.928 to read as follows:

Sec. 21.928. ACCESS TO MEDICAL RECORDS. (a) A school administrator or teacher is entitled to access to a student's medical records maintained by the school district only if the administrator or teacher has completed the inservice training required under Section 11.208(b) of this code.

(b) A school administrator or teacher who views medical records under this section shall maintain the confidentiality of those medical records.

(c) This section does not authorize a school administrator or teacher to require a student to be tested to determine the student's medical condition or status.

SECTION 17. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.917 to read as follows:

Sec. 51.917. HIV AND AIDS POLICY; INFORMATION DISSEMINATION. (a) In this section:

(1) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

(2) "HIV" means human immunodeficiency virus.

(3) "Institution of higher education" has the meaning assigned by Section 61.003 of this code.

(b) Each institution of higher education shall make available the institution's policy on HIV infection and AIDS to students, faculty, and staff members by including the policy in the student handbook and personnel handbook if practicable or by any other method.

(c) Each institution of higher education shall make available to students, on request, the educational pamphlet on HIV infection developed by the Texas

Department of Health and shall include in the student handbook a statement that the pamphlet is available from the institution.

(d) The student health center of each institution of higher education shall provide clear, accurate information on how to prevent the transmission of HIV infection, including:

(1) the value of abstinence and long-term mutual monogamy;

(2) information on the efficacy and use of condoms;

(3) offering of or referring students, faculty, or staff members to anonymous HIV counseling and testing services; and

(4) state laws relating to the transmission and to conduct that may result in the transmission of HIV.

(c) The curricula of medical, dental, nursing, allied health, counseling, and social work degree programs of institutions of higher education shall:

(1) include information about:

(A) methods of transmission and methods of prevention of HIV infection; and

(B) federal and state laws, rules, and regulations concerning HIV infection and AIDS; and

(2) give special attention to the physical, emotional, and psychological stress associated with the care of patients with terminal illnesses.

SECTION 18 Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.078 to read as follows:

Sec. 61.078. RESEARCH. (a) The board shall:

(1) encourage institutions of higher education and the faculty of those institutions to individually or through collaborative effort conduct human immunodeficiency virus (HIV) related research; and

(2) recognize achievements in basic and applied HIV-related research.

(b) The board shall encourage and fund applied and basic HIV-related research through its ongoing research programs, including the Advanced Technology and Advanced Research Programs.

SECTION 19. Article 3, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 3.09 to read as follows:

Sec. 3.09. REPORTS AND ANALYSES CONCERNING AIDS AND HIV INFECTION. (a) The department shall ensure timely and accurate reporting under this Act of information relating to acquired immune deficiency syndrome and human immunodeficiency virus infection.

(b) The department shall routinely analyze and determine trends in incidence and prevalence of AIDS and HIV infection by region, age, gender, race, ethnicity, transmission category, and other factors as appropriate.

(c) The department shall annually project the number of AIDS cases expected in this state based on the reports.

(d) The department shall make available epidemiologic projections and other analyses, including comparisons of Texas and national trends, to state and local agencies for use in planning, developing, and evaluating AIDS and HIV-related programs and services.

SECTION 20. Article 3, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 3.10 to read as follows:

Sec. 3.10. PARTNER NOTIFICATION PROGRAMS; HIV INFECTION. (a) The department shall establish programs for partner notification and referral services.

(b) The partner notification services offered by health care providers participating in a program shall be made available and easily accessible to all persons with clinically validated HIV seropositive status.

(c) If a person with HIV infection voluntarily discloses the name of a partner, that information is confidential. Partner names may be used only for field investigation and notification.

(d) An employee of a partner notification program shall make the notification. The employee shall inform the person who is named as a partner of:

(1) the methods of transmission and methods of prevention of HIV infection;

(2) the telephone numbers and addresses of HIV antibody testing sites; and

(3) the existence of local HIV support groups, mental health services, and medical facilities.

(e) The employee may not disclose:

(1) the name of or other identifying information concerning the identity of the person who gave the partner's name; or

(2) the date or period of the partner's exposure.

(f) If the person with HIV infection also makes the notification, the person should provide the information listed in Subsection (d) of this section.

(g) A partner notification program shall provide counseling, testing, or referral services to a person with HIV infection regardless of whether the person discloses the names of any partners.

(h) A partner notification program shall routinely evaluate the performance of counselors and other program personnel to ensure that high quality services are being delivered. A program shall adopt quality assurance and training guidelines according to recommendations of the Centers for Disease Control of the United States Public Health Service for professionals participating in the program.

SECTION 21. Article 3, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 3.11 to read as follows:

Sec. 3.11. TESTING BY HOSPITALS. A hospital shall perform a medical procedure or test on a person if a court orders the hospital to perform the procedure or test on a person whom the court orders to undergo the test or procedure under Article 21.31, Code of Criminal Procedure. The procedure or test is a cost of court.

SECTION 22. Article 3, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 3.12 to read as follows:

Sec. 3.12. MANDATORY TESTING OF PERSONS SUSPECTED OF EXPOSING CERTAIN OTHER PERSONS TO REPORTABLE DISEASES, INCLUDING HIV INFECTION. (a) The board by rule shall prescribe the criteria that constitute exposure to reportable diseases, including HIV infection. The criteria must be based on activities that the United States Public Health Service determines pose a risk of infection.

(b) A person whose occupation or whose volunteer service is included in one or more of the following categories may request the department or a health authority to order testing of another person who may have exposed the person to a reportable disease, including HIV infection:

(1) a law enforcement officer;

(2) a fire fighter;

(3) an emergency medical service employee or paramedic; or

(4) a correctional officer.

(c) A request under this section may be made only if the person:

(1) has experienced the exposure in the course of the person's employment or volunteer service;

(2) believes that the exposure places the person at risk of a reportable disease, including HIV infection; and

(3) presents to the department or health authority a sworn affidavit that delineates the reasons for the request.

(d) The department or the department's designee who meets the minimum training requirements prescribed by board rule shall review the person's request and inform the person whether the request meets the criteria establishing risk of infection with a reportable disease, including HIV infection.

(e) The department or the department's designee shall give the person who is subject to the order prompt and confidential written notice of the order. The order shall:

(1) state the grounds and provisions of the order, including the factual basis for its issuance;

(2) refer the person to appropriate health care facilities where the person can be tested for reportable diseases, including HIV infection; and

(3) inform the person who is the subject of the order of his or her right to refuse to be tested and the authority of the department of health authority to ask for a court order requiring the test.

(f) If the person who is subject to the order refuses to comply, the prosecuting attorney who represents the state in district court, on request of the department or the department's designee, shall petition the district court for a hearing on the order. The person who is subject to the order has the right to an attorney at the hearing, and the court shall appoint an attorney for a person who cannot afford legal representation. The person may not waive the right to an attorney unless the individual has consulted with an attorney.

(g) In reviewing the order, the court shall determine whether exposure occurred and whether that exposure presents a possible risk of infection as defined in the board's rules. The attorney for the state and the attorney for the person subject to the order may introduce evidence at the hearing in support of or opposition to the testing of the person. On conclusion of the hearing, the court shall either issue an appropriate order requiring counseling and testing of the person for reportable diseases, including HIV infection, or refuse to issue the order if the court has determined that the counseling and testing of the person is unnecessary. If the court finds that there was not reasonable cause for the person to have requested the test, the court may assess court costs against the person who made the request.

(h) The department or the department's designee shall inform the person who requested the order of the results of the test. If the person who was the subject of the court order is found to have one of the reportable diseases, the department or the department's designee shall inform that person and the person who requested the order of the need for medical follow-up and counseling services. The department or the department's designee shall develop protocols for coding test specimens to ensure that any identifying information concerning the person tested will be destroyed as soon as the testing is complete. (i) HIV counseling and testing conducted under this section must conform to the model protocol on HIV counseling and testing prescribed by the department.

(j) For the purpose of qualifying for workers' compensation or any other similar benefits for compensation, an employee who claims a possible work-related exposure to a reportable disease, including HIV infection, must provide the employer with a sworn affidavit of the date and circumstances of the exposure and document that within 10 days after the exposure the employee had a test result that indicated an absence of the reportable disease, including HIV infection.

(k) A person subject to this section, who may have been exposed to a reportable disease, including HIV infection, may not be required to be tested.

(l) In this section "HIV" and "test result" have the meaning assigned by Section 9.01 of this Act.

SECTION 23. Subsection (c), Section 4.01, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) As used in this section, the term "control measures" includes, but is not limited to:

(1) immunization;
(2) detention;
(3) restriction;
(4) disinfection;
(5) decontamination;
(6) isolation;
(7) quarantine;
(8) disinfestation;
(9) chemoprophylaxis; [~~and~~]
(10) preventive therapy;
(11) prevention; and
(12) education.

SECTION 24. Article 5, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 5.04 to read as follows:

Sec. 5.04. APPLICATION TO PERSON CONVICTED OF CERTAIN CRIMES. A court may direct a person convicted of an offense under Section 43.02, Penal Code, or under the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) to be subject to the control measures of Section 4.02 of this Act and to the court-ordered management provisions of Article 8 of this Act. The court shall order that a presentencing report be prepared under Section 4, Article 42.12, Code of Criminal Procedure, to determine if a person convicted of an offense under the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes) should be subject to the provisions of Section 4.02 and Article 8 of this Act. On the request of a prosecutor who is prosecuting a person under Section 22.012, Penal Code, the court shall release to the prosecutor the presentencing report and a statement as to whether the court directed the person to be subject to control measures and court-ordered management for HIV infection or AIDS.

SECTION 25. (a) The Texas Department of Health shall develop a model public health education program suitable for school-age children and make it available to any person or governmental agency upon request. The program should emphasize:

(1) that abstinence from sexual intercourse is the most effective protection against unwanted teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome (AIDS) when transmitted sexually;

(2) that abstinence from sexual intercourse outside of lawful marriage is the expected societal standard for school-age unmarried persons; and

(3) the physical, emotional, and psychological dangers of substance abuse, including the risk of acquired immune deficiency syndrome (AIDS) through the sharing of needles during intravenous drug usage.

(b) Course materials and instruction that relate to sexual education or sexually transmitted diseases should be age appropriate.

(c) Course materials and instruction that relate to sexual education or sexually transmitted diseases should include the following elements:

(1) an emphasis on sexual abstinence as the only completely reliable method of avoiding unwanted teenage pregnancy and sexually transmitted diseases;

(2) an emphasis on the importance of self-control, responsibility, and ethical conduct in making decisions pertaining to sexual behavior;

(3) statistics based on the latest medical information that indicate the efficacy of the various forms of contraception;

(4) information concerning the laws relating to the financial responsibilities associated with pregnancy, childbirth, and child rearing;

(5) information concerning the laws prohibiting sexual abuse and the legal and counseling options available to victims of sexual abuse;

(6) information on how to cope with and rebuff unwanted physical and verbal sexual advances, as well as the importance of avoiding the sexual exploitation of other persons;

(7) psychologically sound methods of resisting unwanted peer pressure; and

(8) emphasis in a factual manner and from a public health perspective that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under Section 21.06 of the Penal Code.

SECTION 26. Section 8.42, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8.42. CARE AND TREATMENT. The head of an in-patient health care facility shall provide adequate medical care and treatment for each patient in accordance with [~~the highest standards~~] accepted standards of [~~in~~] medical practice. The head of an in-patient health care facility shall be responsible for the detention of the patient and for providing suitable security to prevent the patient from transmitting the disease.

SECTION 27. (a) Subsection (a), Section 9.02, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person or entity may not require another person to undergo any medical procedure or test designed to show or help show whether a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS unless required under Subsection (c) or (g) of this section or under Article 21.31, Code of Criminal Procedure, or unless the medical procedure or test is necessary:

(1) as a bona fide occupational qualification and there exists no less discriminatory means of satisfying the occupational qualification;

(2) to screen blood, blood products, bodily fluids, organs, or tissues for the purpose of determining suitability for donation;

(3) in relation to a particular person under this Act;

(4) to test residents and clients of residential facilities of the Texas Department of Mental Health and Mental Retardation, but only if:

(A) the test result would change the medical or social management of the person tested or others who associated with that person; and

(B) the test is conducted in accordance with guidelines that have been adopted by the residential facility or the Texas Department of Mental Health and Mental Retardation, and approved by the department; [~~or~~]

(5) to manage accidental exposure to blood or other bodily fluids but only if the test is conducted in accordance with written infectious disease control protocols adopted by the health care agency or facility and is conducted in accordance with Subsection (d) of this section;

(6) under Section 3.12 of this Act; or

(7) to test residents and clients of residential facilities of the Texas Youth Commission, but only if:

(A) the test result would change the medical or social management of the person tested or others who associate with that person; and

(B) the test is conducted in accordance with guidelines adopted by the commission.

SECTION 28. Subsection (b), Section 9.03, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A test result may be released only to:

(1) the department under this Act;

(2) a local health authority if reporting is required under this Act;

(3) the Centers for Disease Control of the United States Public Health Service if reporting is required by federal law or regulation;

(4) the physician or other person authorized by law who ordered the test;

(5) a physician, nurse, or other health care personnel who have a legitimate need to know the test result in order to provide for their protection and to provide for the patient's health and welfare;

(6) the person tested or a person legally authorized to consent to the test on the person's behalf;

(7) the spouse of the person tested if the person tests positive for AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; [~~and the physician who ordered the test makes the notification. This subdivision does not provide a duty to notify the spouse, and a cause of action does not arise under this subdivision for the failure to make that notification; and~~]

(8) if the person is tested as required or authorized by Article 21.31, Code of Criminal Procedure, a person authorized to receive test results under that article [~~the victim of an alleged offense listed in that article committed by the person tested~~]. The court shall notify persons receiving test results [~~the victim of the alleged offense~~] of the requirements of this Act under this section; and

(9) a person exposed to HIV infection as provided by Section 3.12 of this Act.

SECTION 29. Article 9, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 9.08 to read as follows:

Sec. 9.08. INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY. (a) Except as otherwise provided by law, a person or entity may not perform a test designed to identify the human immunodeficiency virus or its antigen or antibody without first obtaining the informed consent of the person to be tested. Consent need not be written if there is documentation in the medical record that the test has been explained and the consent has been obtained.

(b) A positive test result may not be revealed to the person tested without giving that person the immediate opportunity for individual, face-to-face counseling about:

(1) the meaning of the test result;

(2) the possible need for additional testing;

(3) measures to prevent the transmission of the human immunodeficiency virus;

(4) the availability of appropriate health care services, including mental health care, and appropriate social and support services in the geographic area of the person's residence;

(5) the benefits of partner notification; and

(6) the availability of partner notification programs.

SECTION 30. Article 9, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), is amended by adding Section 9.09 to read as follows:

Sec. 9.09. GENERAL CONSENT FOR TESTS FOR HIV INFECTION. A person who has signed a general consent form for the performance of medical tests or procedures is not required to also sign or be presented with a specific consent

form relating to medical tests or procedures to determine HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS that will be performed on the person during the time in which the general consent form is in effect. Except as otherwise provided by this Act, the result of a test or procedure to determine HIV infection, antibodies to HIV, or infection with any probable causative agent of AIDS performed under the authorization of a general consent form in accordance with this section shall be used only for diagnostic or other purposes directly related to medical treatment.

SECTION 31. Subsection (a), Section 2, Chronically Ill and Disabled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended by amending Subdivision (1) and adding Subdivision (17) to read as follows:

(1) "Chronically ill and disabled child" means a person whose physical function, condition, movement, or sense of hearing is impaired to the extent that the person is or may be expected to be partially or totally incapacitated for educational purposes or for acquiring remunerative occupation and who:

(A) is under 21 years of age and has:

(i) a joint, bone, ossicular chain, muscle, or neurological defect or deformity, including craniofacial anomaly, neurofibromatosis, and spina bifida;

(ii) cancer; [or]

(iii) a disease or condition specified by a rule adopted by the board under Section 8 of this Act; or

(iv) AIDS or HIV infection; or

(B) has cystic fibrosis, regardless of the person's age.

(17) "AIDS" and "HIV" have the meanings assigned by Section 9.01, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes).

SECTION 32. Subsection (a), Section 3, Chronically Ill and Disabled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A program is created in the department to provide services to chronically ill and disabled children who are eligible for the services. The program shall provide:

(1) early identification of chronically ill and disabled children;

(2) diagnosis and evaluation of chronically ill and disabled children;

(3) rehabilitation services to chronically ill and disabled children;

(4) development and improvement of standards and services for chronically ill and disabled children; and

(5) case management services, including:

(A) coordination of medical services, marshalling of available assistance, serving as liaison between the child and the child's family and caregivers, institutional services, insurance services, and other services needed to improve the well-being of the child and the child's family; and

(B) counseling for the child and the child's family about measures to prevent the transmission of AIDS or HIV and the availability in the geographic area of any appropriate health care services, such as mental health care, psychological health care, and social and support services.

SECTION 33. Section 3, Texas Food, Drug and Cosmetic Act (Article 4476-5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. UNLAWFUL AND PROHIBITED ACTS. The following acts and the causing thereof within the State of Texas are hereby declared unlawful and prohibited:

(a) the introduction or delivery for introduction into commerce of any food, drug, device, or cosmetic that is adulterated or misbranded;

(b) the adulteration or misbranding of any food, drug, device, or cosmetic in commerce;

(c) the receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(d) the distribution in commerce of a consumer commodity, as defined in this Act, if such commodity is contained in a package, or if there is affixed to that commodity a label that does not conform to the provisions of this Act and of rules adopted under authority of this Act; provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons:

(1) are engaged in the packaging or labeling of such commodities; or

(2) prescribe or specify by any means the manner in which such commodities are packaged or labeled;

(e) the introduction or delivery for introduction into commerce of any article in violation of Section 12, 18, or 19 of this Act;

(f) the dissemination of any false advertisement;

(g) the refusal to permit entry or inspection, or to permit the taking of a sample or to permit access to or copying of any record as authorized by Section 25; or the failure to establish or maintain any record or make any report required under Section 512(j), (l), or (m) of the Federal Act, or the refusal to permit access to or verification or copying of any such required record;

(h) the manufacture within the State of Texas of any food, drug, device, or cosmetic that is adulterated or misbranded;

(i) the giving of a guaranty or undertaking referred to in Section 5 of this Act, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State of Texas from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in Section 5 of this Act, which guaranty or undertaking is false;

(j) the removal or disposal of a detained or embargoed article in violation of Section 6 of this Act;

(k) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale after shipment in commerce and results in such article being adulterated or misbranded;

(l)(1) forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under this Act or the regulations promulgated under the provisions of the Federal Act;

(2) making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing on any drug or container or labeling thereof so as to render such drug a counterfeit drug;

(3) the doing of any act that causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug;

(m) the using by any person to his own advantage, or revealing, other than to the commissioner, an authorized agent, a health authority or to the courts when relevant in any judicial proceeding under this Act, of any information acquired under authority of this Act concerning any method or process which as a trade secret is entitled to protection;

(n) the using, on the labeling of any drug or device or in any advertising relating to such drug or device, of any representation or suggestion that approval of an

application with respect to such drug or device is in effect under Section 18 of this Act or Section 505, 515, or 520(g) of the Federal Act, as the case may be, or that such drug or device complies with the provisions of such sections;

(o) the using, in labeling, advertising or other sales promotion of any reference to any report or analysis furnished in compliance with Section 25 of this Act or Section 704 of the Federal Act;

(p) in the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter that is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this subsection shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this Act;

(q)(1) placing or causing to be placed on any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing;

(2) selling, dispensing, disposing of or causing to be sold, dispensed, or disposed of, or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug, device, or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by Subdivision (1) of this subsection; or

(3) making, selling, disposing of, causing to be made, sold, or disposed of, keeping in possession, control, or custody, or concealing with intent to defraud any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing on any drug or container or labeling thereof so as to render such drug a counterfeit drug;

(r) dispensing or causing to be dispensed a different drug in place of the drug ordered or prescribed without the express permission in each case of the person ordering or prescribing;

(s) the failure to register in accordance with Section 510 of the Federal Act, the failure to provide any information required by Section 510(j) or (k) of the Federal Act, or the failure to provide a notice required by Section 510(j)(2) of the Federal Act;

(t)(1) the failure or refusal to:

(A) comply with any requirement prescribed under Section 518 or 520(g) of the Federal Act; or

(B) furnish any notification or other material or information required by or under Section 519 or 520(g) of the Federal Act;

(2) with respect to any device, the submission of any report that is required by or under this Act that is false or misleading in any material respect;

(u) the movement of a device in violation of an order under Section 304(g) of the Federal Act or the removal or alteration of any mark or label required by the order to identify the device as detained;

(v) the failure to provide the notice required by Section 412(b) or 412(c), the failure to make the reports required by Section 412(d)(1)(B), or the failure to meet the requirements prescribed under Section 412(d)(2) of the Federal Act;

(w) the sale, delivery, holding, or offering for sale of any self-testing kits designed to tell persons their status concerning human immunodeficiency virus infection, acquired immune deficiency syndrome, or related disorders or conditions.

SECTION 34. (a) Section 5, Texas Unemployment Compensation Act (Article 5221b-3, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. DISQUALIFICATION FOR BENEFITS. An individual shall be disqualified for benefits:

(a) If the Commission finds that he has left his last work voluntarily without good cause connected with his work. The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times his weekly benefit amount, unless the individual left work to move with a spouse from the area in which the individual worked. In that case, the disqualification shall be for not less than six (6) nor more than twenty-five (25) benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case. Provided no claimant shall be disqualified because of his or her leaving due to medically verified illness, injury, disability, or pregnancy and is still available for work. Military personnel who do not reenlist may not be considered to have left work voluntarily without good cause connected with work.

(b) If the Commission finds he has been discharged for misconduct connected with his last work. The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times his weekly benefit amount.

(c) If the Commission finds that during his current benefit year he has failed, without good cause, either to apply for available, suitable work when so directed by the Commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commission. The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times his weekly benefit amount.

(1) In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals at the place of performance of his work, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any benefit period with respect to which the Commission finds that his total or partial unemployment is (i) due to the claimant's stoppage of work because of a labor dispute at the factory, establishment, or other premises (including a vessel) at which he is or was last employed, or (ii) because of a labor dispute at another place, either within or without this State, which is owned or operated by the same employing unit which owns or operates the premises at which he is or was last employed, and supplies materials or services necessary to the continued and usual operation of the premises at which he is or was last employed; provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute; provided, however, that failure or refusal to cross a picket line or refusal for any reason during the continuance of such labor dispute to accept and perform his available and customary work at the factory, establishment, or other

premises (including a vessel) where he is or was last employed shall be considered as participation and interest in the labor dispute; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises (including a vessel) at which the labor dispute occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises; and where a disqualification arises from the employee's failure to meet the requirements of this paragraph (2) of this subsection (d) his disqualification shall cease if he shall show that he is not, and at the time of the labor dispute was not, a member of a labor organization which is the same as, represented by, or directly affiliated with, or that he, or such organization of which he is a member, if any, is not acting in concert or in sympathy with a labor organization involved in the labor dispute at the premises at which the labor dispute occurred, and he has made an unconditional offer to return to work at the premises at which he is or was last employed.

(e) For any benefit period with respect to which he is receiving or has received remuneration in the form of:

(1) Wages in lieu of notice;

(2) Compensation for temporary partial disability, temporary total disability or total and permanent disability under the Workmen's Compensation Law of any State or under a similar law of the United States;

(3) Old Age Benefits under Title II of the Social Security Act as amended, or similar payments under any Act of Congress, or a State Legislature; provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall be entitled to receive for such benefit period, if otherwise eligible, benefits reduced by the amount of such remuneration. If any such benefits, payable under this subsection, after being reduced by the amount of such remuneration, are not an even multiple of One Dollar ($1), they shall be adjusted to the next higher multiple of One Dollar ($1).

(f) For a benefit period occurring from the date of the sale of a business until the date that an individual is employed and is eligible for benefits based on the wage credits received through the new employment, if:

(1) the business is a corporation and the individual is:

(A) an officer of the corporation;

(B) a majority or controlling shareholder in the corporation; and

(C) involved in the sale of the corporation;

(2) the business is a limited or general partnership and the individual is a limited or general partner who is involved in the sale of the partnership; or

(3) the business is a sole proprietorship and the individual is the proprietor who sells the business.

(g) For the duration of any period of unemployment with respect to which the Commission finds that such individual has left his most recent work for the purpose of attending an established educational institution; provided, that this subsection shall not apply during a period in which an individual is in training with the approval of the Commission.

(h) For weeks of unemployment beginning after March 31, 1980, for any benefit period with respect to which the individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of the individual and which is

reasonably attributable to that benefit period; provided that if the remuneration is less than the benefits which would otherwise be due under this Act, the individual shall be entitled to receive for that benefit period, if otherwise eligible, benefits reduced by the amount of the remuneration. If those benefits payable under this subsection, after being reduced by the amount of the remuneration, are not an even multiple of One Dollar ($1), they shall be adjusted to the next higher multiple of One Dollar ($1).

The Legislature declares that the preceding paragraph is enacted because Section 3304(a)(15) of the Federal Unemployment Tax Act as provided in Public Law 94-566 requires this provision in State law as of January 1, 1978, as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act; and it further declares that if Section 3304(a)(15) is amended to provide modifications of these requirements, the modified requirements, to the extent that they are required for full tax credit, shall be considered applicable under the provisions of this Section rather than the provision stated in the preceding paragraph.

(i) This Section does not disqualify a claimant whose work-related reason for separation from employment was urgent, compelling, and of a necessitous nature so as to make separation involuntary.

(j) If the Commission finds that he has left his last work voluntarily rather than provide services included within the course and scope of his employment to an individual infected with a communicable disease. The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times the claimant's weekly benefit amount. A claimant is not disqualified under this subsection unless the individual or organization for whom the claimant last worked made available to the claimant the facilities, equipment, training, and supplies necessary to permit the claimant to take reasonable precautions to preclude the infection of the claimant with the communicable disease.

(k) If the Commission finds that he has been discharged from his last work based on a refusal by him to provide services included within the course and scope of his employment to an individual infected with a communicable disease. The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times the claimant's weekly benefit amount. A claimant is not disqualified under this subsection unless the individual or organization for whom the claimant last worked made available to the claimant the facilities, equipment, training, and supplies necessary to preclude the infection of the claimant with the communicable disease.

(b) Paragraph (A), Subdivision (2), Subsection (c), Section 7, Texas Unemployment Compensation Act (Article 5521b-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(A) With respect to any benefit year, the amount of benefit payments paid to a claimant shall be charged to the account of the claimant's base period employer or employers. When a benefit payment is made to a claimant who has two or more employers in his base period the chargeback to each employer shall be allocated in direct proportion to the percentage of the claimant's total benefit wage credits paid by such employer. This process may be designated as charging benefits to an employer's account, and benefits thus charged may be designated as chargebacks.

The chargebacks of each employer for a given calendar quarter shall be the benefits paid to all of his employees or former employees during such quarter; provided, that the chargebacks of an employer shall not include benefit payments which are based on wage credits of an employee or former employee, if the Commission finds that the employee's last separation from such employer's

employment, prior to the benefit year in conjunction with which such base period was established, was (i) a separation required by a Federal or a Texas statute or a Texas municipal ordinance; or (ii) a separation for which a disqualification under Subsection (a), (b), (j), or (k) of Section 5 [~~subsections 5(a) or 5(b)~~] of this Act would have been imposed if such employer's employment of the employee or former employee had been the employee's last work; or (iii) a separation with respect to which a disqualification was imposed under Subsection (a), (b), (j), or (k) of Section 5 [~~subsection 5(a) or 5(b)~~] of this Act; or (iv) a separation caused by a medically verifiable illness; and provided further that for the purpose of this paragraph the term "last separation" shall, with respect to an employee whose initial determination disqualified him for benefits under subsection 5(d) of this Act, mean his next later separation from such employer's employment.

(c) Subsection (a) of this section applies only to a claim for unemployment compensation benefits that is filed with the Texas Employment Commission on or after September 1, 1989.

SECTION 35. TRANSITION. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

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

SECTION 36. EFFECTIVE DATE. This Act takes effect September 1, 1989.

SECTION 37. 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.

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

SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **S.B. 959**.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 959 ADOPTED

Senator Brooks called from the President's table the Conference Committee Report on **S.B. 959**. (The Conference Committee Report having been filed with the Senate and read on Monday, May 29, 1989.)

On motion of Senator Brooks, the Conference Committee Report was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 29, 1989

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 concurred in Senate amendments to the following House bills and resolution by non-record votes:

H.B. 180	**H.B. 603**
H.B. 1174	**H.B. 1230**
H.B. 1450	**H.B. 1806**
H.B. 1834	**H.B. 2126**
H.B. 2312	**H.B. 2706**
H.B. 2509	**H.B. 2968**
H.B. 2796	**H.C.R. 107**

The House concurred in Senate amendments to **H.B. 2091** by a record vote of 113 Ayes, 20 Nays, 2 Present-not voting.

The House concurred in Senate amendments to **H.C.R. 29** by a record vote of 143 Ayes, 0 Nays, 1 Present-not voting.

The House concurred in Senate amendments to **H.J.R. 51** by a record vote of 140 Ayes, 2 Nays, 1 Present-not voting.

The House concurred in Senate amendments to **H.J.R. 102** by a record vote of 102 Ayes, 22 Nays, 0 Present-not voting.

The House has adopted the Conference Committee Reports on the following bills by non-record votes:

S.B. 1212
S.B. 1484
H.B. 2988
H.B. 1884
H.B. 3016
H.B. 1517

The House has adopted the Conference Committee Report on **S.B. 959** by a record vote of 138 Ayes, 5 Nays, 2 Present-not voting.

The House has adopted the Conference Committee Report on **S.B. 1019** by a record vote of 129 Ayes, 21 Nays, 0 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

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 Krier, Bivins, Sims, Santiesteban and Ratliff.

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 Haley, Carriker, Johnson, Parker and Tejeda.

TRIBUTE TO THE PRESIDENT

Following remarks of praise to the President for his leadership in the past and for this 71st Legislative Session, the President received a lengthy standing ovation from the Members, staff and gallery.

Mrs. Diane Hobby joined her husband at the President's Rostrum during this demonstration of appreciation.

MOTION TO ADJOURN SINE DIE

At 12:00 midnight Senator Brooks moved that the Senate of the Seventy-First Legislature, Regular Session, adjourn sine die, upon the completion of administrative duties, in honor of the Honorable William P. Hobby, President Emeritus of the Texas Senate.

The motion prevailed.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions:

S.C.R. 61	S.B. 310	S.B. 788	S.B. 1204
S.C.R. 165	S.B. 314	S.B. 826	S.B. 1205
S.C.R. 178	S.B. 318	S.B. 832	S.B. 1207
S.C.R. 186	S.B. 329	S.B. 876	S.B. 1212
S.C.R. 188	S.B. 332	S.B. 895	S.B. 1232
S.C.R. 189	S.B. 356	S.B. 931	S.B. 1256
S.C.R. 190	S.B. 410	S.B. 959	S.B. 1272
S.C.R. 191	S.B. 417	S.B. 962	S.B. 1341
S.B. 2	S.B. 427	S.B. 973	S.B. 1342
S.B. 24	S.B. 437	S.B. 992	S.B. 1386
S.B. 55	S.B. 452	S.B. 1000	S.B. 1405
S.B. 61	S.B. 457	S.B. 1012	S.B. 1481
S.B. 95	S.B. 479	S.B. 1019	S.B. 1484
S.B. 156	S.B. 487	S.B. 1046	S.B. 1507
S.B. 170	S.B. 489	S.B. 1067	S.B. 1516
S.B. 171	S.B. 498	S.B. 1084	S.B. 1517
S.B. 187	S.B. 531	S.B. 1085	S.B. 1533
S.B. 191	S.B. 538	S.B. 1090	S.B. 1564
S.B. 208	S.B. 542	S.B. 1103	S.B. 1646
S.B. 237	S.B. 558	S.B. 1105	S.B. 1647
S.B. 253	S.B. 600	S.B. 1117	S.B. 1648

S.B. 255	S.B. 668	S.B. 1154	S.B. 1694	
S.B. 265	S.B. 740	S.B. 1172	S.B. 1715	
S.B. 268	S.B. 743	S.B. 1183	S.B. 1718	
S.B. 307	S.B. 783	S.B. 1197	S.B. 1813	
	S.B. 112 (Signed subject to Art. III, Sec. 49a of the Constitution)			
	S.B. 1351 (Signed subject to Art. III, Sec. 49a of the Constitution)			
H.J.R. 19	H.B. 430	H.B. 1594	H.B. 2301	H.B. 2799
H.J.R. 32	H.B. 432	H.B. 1614	H.B. 2303	H.B. 2803
H.J.R. 33	H.B. 457	H.B. 1626	H.B. 2312	H.B. 2805
H.J.R. 40	H.B. 460	H.B. 1654	H.B. 2321	H.B. 2819
H.J.R. 101	H.B. 464	H.B. 1671	H.B. 2322	H.B. 2840
H.C.R. 29	H.B. 524	H.B. 1687	H.B. 2332	H.B. 2885
H.C.R. 40	H.B. 526	H.B. 1689	H.B. 2341	H.B. 2887
H.C.R. 115	H.B. 635	H.B. 1711	H.B. 2355	H.B. 2912
H.C.R. 133	H.B. 669	H.B. 1728	H.B. 2423	H.B. 2936
H.C.R. 194	H.B. 696	H.B. 1777	H.B. 2434	H.B. 2939
H.C.R. 228	H.B. 707	H.B. 1787	H.B. 2435	H.B. 2945
H.C.R. 236	H.B. 721	H.B. 1801	H.B. 2437	H.B. 2968
H.C.R. 238	H.B. 737	H.B. 1827	H.B. 2441	H.B. 2974
H.C.R. 240	H.B. 828	H.B. 1831	H.B. 2475	H.B. 2988
H.C.R. 246	H.B. 850	H.B. 1834	H.B. 2476	H.B. 3085
H.C.R. 265	H.B. 878	H.B. 1849	H.B. 2478	H.B. 3088
H.C.R. 266	H.B. 910	H.B. 1868	H.B. 2484	H.B. 3097
H.C.R. 267	H.B. 969	H.B. 1870	H.B. 2489	H.B. 3100
H.C.R. 284	H.B. 976	H.B. 1884	H.B. 2505	H.B. 3104
H.C.R. 290	H.B. 980	H.B. 1890	H.B. 2509	H.B. 3105
H.C.R. 291	H.B. 1174	H.B. 1947	H.B. 2514	H.B. 3122
H.C.R. 292	H.B. 1182	H.B. 1948	H.B. 2519	H.B. 3123
H.C.R. 293	H.B. 1211	H.B. 1953	H.B. 2524	H.B. 3126
H.C.R. 294	H.B. 1215	H.B. 1954	H.B. 2542	H.B. 3127
H.C.R. 295	H.B. 1217	H.B. 1992	H.B. 2586	H.B. 3128
H.C.R. 297	H.B. 1231	H.B. 2043	H.B. 2588	H.B. 3133
H.C.R. 298	H.B. 1237	H.B. 2046	H.B. 2600	H.B. 3144
H.C.R. 299	H.B. 1258	H.B. 2082	H.B. 2603	H.B. 3146
H.C.R. 302	H.B. 1263	H.B. 2094	H.B. 2606	H.B. 3153
H.B. 24	H.B. 1266	H.B. 2098	H.B. 2609	H.B. 3164
H.B. 44	H.B. 1269	H.B. 2121	H.B. 2620	H.B. 3167
H.B. 59	H.B. 1292	H.B. 2126	H.B. 2624	H.B. 3168
H.B. 141	H.B. 1332	H.B. 2171	H.B. 2625	H.B. 3171
H.B. 151	H.B. 1383	H.B. 2181	H.B. 2627	H.B. 3172
H.B. 180	H.B. 1396	H.B. 2201	H.B. 2634	H.B. 3173
H.B. 182	H.B. 1423	H.B. 2211	H.B. 2644	H.B. 3174
H.B. 186	H.B. 1498	H.B. 2240	H.B. 2683	H.B. 3178
H.B. 188	H.B. 1502	H.B. 2247	H.B. 2721	H.B. 3179
H.B. 198	H.B. 1533	H.B. 2262	H.B. 2736	H.B. 3182
H.B. 221	H.B. 1546	H.B. 2263	H.B. 2745	H.B. 3192
H.B. 312	H.B. 1547	H.B. 2293	H.B. 2753	H.B. 3198
H.B. 319	H.B. 1569	H.B. 2295	H.B. 2777	H.B. 3201
H.B. 370	H.B. 1588	H.B. 2297	H.B. 2791	H.B. 3204
		H.B. 3206	H.B. 3207	H.B. 3209
H.J.R. 51	H.B. 863	H.B. 1494	H.B. 2060	H.B. 2619
H.J.R. 102	H.B. 879	H.B. 1517	H.B. 2064	H.B. 2629

H.B. 5	H.B. 884	H.B. 1520	H.B. 2091	H.B. 2706
H.B. 9	H.B. 911	H.B. 1531	H.B. 2116	H.B. 2728
H.B. 18	H.B. 983	H.B. 1576	H.B. 2117	H.B. 2796
H.B. 100	H.B. 1023	H.B. 1582	H.B. 2136	H.B. 2816
H.B. 174	H.B. 1059	H.B. 1600	H.B. 2179	H.B. 2959
H.B. 183	H.B. 1078	H.B. 1738	H.B. 2215	H.B. 2970
H.B. 240	H.B. 1099	H.B. 1779	H.B. 2248	H.B. 3012
H.B. 241	H.B. 1111	H.B. 1786	H.B. 2252	H.B. 3016
H.B. 377	H.B. 1193	H.B. 1803	H.B. 2260	H.B. 3039
H.B. 427	H.B. 1225	H.B. 1806	H.B. 2286	H.B. 3042
H.B. 472	H.B. 1230	H.B. 1808	H.B. 2335	H.B. 3043
H.B. 504	H.B. 1270	H.B. 1822	H.B. 2352	H.B. 3065
H.B. 535	H.B. 1285	H.B. 1860	H.B. 2356	H.B. 3072
H.B. 563	H.B. 1302	H.B. 1922	H.B. 2409	H.B. 3099
H.B. 579	H.B. 1344	H.B. 1929	H.B. 2420	H.B. 3108
H.B. 638	H.B. 1345	H.B. 1935	H.B. 2473	H.B. 3109
H.B. 646	H.B. 1405	H.B. 1963	H.B. 2485	H.B. 3143
H.B. 708	H.B. 1425	H.B. 1967	H.B. 2494	H.B. 3160
H.B. 731	H.B. 1434	H.B. 1976	H.B. 2498	H.B. 3175
H.B. 791	H.B. 1450	H.B. 1978	H.B. 2566	H.B. 3183
H.B. 843	H.B. 1458	H.B. 2017	H.B. 2608	H.B. 3187

MEMORIAL RESOLUTIONS

H.C.R. 267 - (Barrientos): In memory of Ronald P. Rossberg, Jr.

H.C.R. 284 - (McFarland): In memory of Jerry Allen Rheudasil.

S.R. 797 - By Dickson: In memory of General Edward Burleson and proclaiming May 29, 1989, General Burleson Day in Texas.

S.R. 799 - By Krier: In memory of Sergeant William John Kuhnle, Jr.

S.R. 800 - By Krier: In memory of Trooper Ralph George Zerda.

S.B. 863 - By Truan: In memory of Luis F. Fuentes of Kingsville.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 133 - (Lyon): Commending the members of Top Ladies of Distinction, Inc., for their humanitarian service.

H.C.R. 290 - (Brooks): Commending and endorsing the campaign of Make A Responsible Kommitment (M.A.R.K.) to promote resolute action at the federal level to combat drug abuse.

H.C.R. 291 - (Carriker, Glasgow): Commending Ben J. Taylor for his numerous achievements.

H.C.R. 292 - (Carriker, Glasgow): Commending Andy Turner on being selected as the Muscular Dystrophy Association Poster Child for Northeast Texas.

H.C.R. 293 - (Carriker, Glasgow): Commending John Clifford Johnson III on his Texas citizenship and extending congratulations to his parents, Nita and Cliff Johnson, on the occasion of his birth.

H.C.R. 294 - (Caperton): Commemorating the 50th anniversary of the U.S. Supreme Court's 1939 decision in the case of Coleman v. Miller.

H.C.R. 295 - (Caperton): Commemorating the 200th anniversary of the drafting of the Bill of Rights.

H.C.R. 297 - (Barrientos): Honoring Robert A. Huttash for his exceptional achievements as a civic leader and public servant.

H.C.R. 298 - (Glasgow): Commending Ken Boesch for his many years of outstanding service and extending best wishes for success in all future pursuits.

H.C.R. 299 - (Glasgow): Commending the Texas Nature Conservancy for its outstanding contributions in preserving the natural beauty of our environment and extending congratulations on the occasion of the State organization's 25th anniversary.

H.C.R. 302 - (Sims): Declaring November 3, 1989, "German-American Day in Texas" in honor of the many contributions of German-American culture to this State and nation.

S.R. 795 - By Dickson: Extending congratulations to the Maddox family for their innovative approach to sustainable agriculture.

S.R. 796 - By Dickson: Extending congratulations to the Sweetwater Independent School District for receiving richly deserved recognition for its exceptional gifted educational program.

S.R. 798 - By Dickson: Extending congratulations to Gaylon Ohlhausen for winning first place in the Computer Specialist II contest.

S.R. 802 - By Truan: Commending Herman Gutierrez for his superb contributions to the educational system of Texas and extending best wishes to him for a rich and rewarding retirement.

S.R. 803 - By Truan: Extending congratulations to the City of Corpus Christi on its splendid Independence Day celebration.

S.R. 804 - By Truan: Extending best wishes to the City of Corpus Christi for a most successful first Fiesta de Corpus Christi.

S.R. 805 - By Uribe: Commending the president of Pan American University in Edinburg for his dedication to the excellence of the university.

S.R. 806 - By Uribe: Commending the members of the Pan American University Board of Regents for their dedication to the excellence of the university.

S.R. 808 - By Washington, Barrientos, Johnson: Extending congratulations to Jack and Jill of America, Incorporated, on their 35th annual conference.

S.R. 809 - By Dickson: Extending congratulations to Steven Bridges on his 1989 Texas State Class AA pole vault record and championship.

S.R. 810 - By Barrientos: Commending the career of service to his fellowman to which Dr. James C. Sharp, Jr., has dedicated himself.

S.R. 811 - By Edwards: Extending congratulations to Miss Denise Hill for capturing the title of Miss Texas Junior America.

S.R. 812 - By Edwards: Honoring Harley Hugh Spoon for his many contributions to his community, his state and his country.

S.R. 813 - By Edwards: Extending congratulations to Mr. and Mrs. James Bigham of Woodbury on their 65th wedding anniversary.

S.R. 814 - By Edwards: Extending congratulations to Mr. and Mrs. J. B. Sutherlin of Bradford on their 60th wedding anniversary.

S.R. 815 - By Edwards: Extending congratulations to Mr. and Mrs. R. M. Bowden, Sr., on their 60th wedding anniversary.

S.R. 816 - By Edwards: Extending congratulations to Mr. and Mrs. Leon Hennig on their 50th wedding anniversary.

S.R. 817 - By Edwards: Extending congratulations to Mr. and Mrs. Ashley Sanders of Fairfield on their 50th wedding anniversary.

S.R. 818 - By Edwards: Extending congratulations to Mr. and Mrs. Edgar Lynch of Mabank on their 50th wedding anniversary.

S.R. 819 - By Edwards: Extending congratulations to Mr. and Mrs. Allen Ledbetter on their 50th wedding anniversary.

S.R. 820 - By Edwards: Extending congratulations to Mr. and Mrs. H. A. Britton of China Spring on their 50th wedding anniversary.

S.R. 821 - By Edwards: Extending congratulations to Mr. and Mrs. Rush Adair of Ellis County on their 50th wedding anniversary.

S.R. 822 - By Edwards: Extending congratulations to Mr. and Mrs. Leroy Gragg of Malakoff on their 50th wedding anniversary.

S.R. 823 - By Edwards: Extending congratulations to Mr. and Mrs. Marvin E. Lewis of Waco on their 60th wedding anniversary.

S.R. 824 - By Edwards: Extending congratulations to Mr. and Mrs. Clifford Ross of Waco on their 50th wedding anniversary.

S.R. 825 - By Edwards: Extending congratulations to Mr. and Mrs. J. E. Duggan of Cedar Creek Lake on their 50th wedding anniversary.

S.R. 826 - By Edwards: Extending congratulations to Mr. and Mrs. Joe Schmid, Jr., of Waco on their 50th wedding anniversary.

S.R. 827 - By Edwards: Extending congratulations to Todd Barton on receiving two meritorious awards.

S.R. 828 - By Edwards: Extending congratulations to Mr. and Mrs. Jack Moffett of Trinidad on their 50th wedding anniversary.

S.R. 829 - By Edwards: Extending congratulations to Mr. and Mrs. Carl Vaughn of Waxahachie on their 50th wedding anniversary.

S.R. 830 - By Edwards: Extending congratulations to Michael Patzig for his remarkable feats of strength.

S.R. 831 - By Edwards: Extending congratulations to the Corsicana Lady Tigers on their 1989 State Class AAAA Track and Field Championship.

S.R. 832 - By Edwards: Extending congratulations to Shenell Searcy of Ellis County on winning the State Class AAAA high-jump championship.

S.R. 833 - By Edwards: Extending congratulations to Vanold Dawson of Trinidad on winning the 1989 State Class A long-jump championship.

S.R. 834 - By Edwards: Extending congratulations to John McRae of Frost on winning the 1989 State Class A discus championship.

S.R. 835 - By Krier: Declaring the week of February 4 to 11, 1990, "Texas Community Property Law Week."

S.R. 836 - By Glasgow: Extending welcome to James Hunter and his son, Tim, of Bridgeport.

S.R. 839 - By Barrientos: Expressing appreciation to Tom Godfrey for his diligence and loyalty during the years of faithful service he has given the Senate.

S.R. 840 - By Barrientos: Commending the splendid and courageous first lady of San Miguel de Allende, Mrs. Peggy Zavala, for her important work in alleviating the plight of the poor in her community.

S.R. 841 - By Brooks: Expressing appreciation to Albert Alkek for his contributions to improving the quality of life for his fellowman.

S.R. 842 - By Brooks: Expressing appreciation to the Reverend William A. Lawson for his contributions to improving the quality of life for his fellowman.

S.R. 843 - By Brooks: Expressing appreciation to Jack S. Blanton for his contributions to improving the quality of life for his fellowman.

S.R. 844 - By Brooks: Expressing appreciation to V. H. "Pete" Van Horn for his contributions to improving the quality of life for his fellowman.

S.R. 845 - By Brooks: Expressing appreciation to George Mitchell for his contributions to improving the quality of life for his fellowman.

S.R. 846 - By Brooks: Expressing appreciation to Louisa Stude Sarofim of Houston for her contributions to improving the quality of life for her fellowman.

S.R. 847 - By Glasgow: Commending Dr. Don Worcester for his invaluable research, teaching and writing to preserve the history of our region for future generations to explore and enjoy.

S.R. 848 - By Santiesteban: Commending Matthew "Teo" Martin for his superb academic and personal achievement.

S.R. 849 - By Dickson: Commending Watt Matthews for being awarded an honorary doctor of humanities degree.

S.R. 850 - By Dickson: Commending Dr. Virginia B. Connally for being awarded an honorary doctor of humanities degree.

S.R. 851 - By Edwards: Extending congratulations to Teresa Stephens on winning first place in the national food marketing event of the 1989 Distributive Education Clubs of America competition.

S.R. 852 - By McFarland: Commending the W. I. Fleetwood Memorial Foundation for the aid they provide to committed and courageous men and women who protect our safety.

S.R. 853 - By McFarland: Commending Ben E. Keith Foods Company of Fort Worth for winning the Great Distributor Organization Award.

S.R. 854 - By Edwards: Extending congratulations to Mr. and Mrs. Loyd English of Kennard on their 50th wedding anniversary.

S.R. 856 - By Edwards: Joining Central Texas and Waco citizens in reiterating its gratitude to the officers and men of the 143rd Infantry Regiment.

S.R. 857 - By Edwards: Extending congratulations to Mr. and Mrs. Bobby Glenn Jones on their 50th wedding anniversary.

S.R. 858 - By Edwards: Extending congratulations to Henry Barton on winning a national certificate in the national entrepreneur event of the 1989 Distributive Education Clubs of America competition.

S.R. 859 - By Edwards: Extending congratulations to Pat Patterson for his faithful and dedicated service to Central Freight Lines, Incorporated.

S.R. 860 - By Edwards: Extending congratulations to Cindy Brown on winning the 1989 State Academic University Interscholastic League spelling championship.

S.R. 861 - By Edwards: Extending congratulations to Billy Frosch on being named a United States National Award winner.

S.R. 862 - By Edwards: Extending congratulations to Bart Beasley for being named 1989 State Class 2A Basketball Player of the Year.

S.R. 865 - By Tejeda: Extending congratulations to Alpha Phi Alpha Fraternity, Incorporated, for its long and productive existence.

S.R. 866 - By Tejeda, Johnson: Extending congratulations to the Sam Houston High School Cherokees of San Antonio.

S.R. 867 - By Tejeda: Extending sincere appreciation to Donald McClure for his outstanding contributions to the people of Texas.

S.R. 868 - By Tejeda: Commending the veterans of Manuel Alvarado Veterans of Foreign Wars Post #9186.

S.R. 869 - By Henderson: Extending congratulations to Nathan Mickle on achieving the rank of Eagle Scout.

S.R. 870 - By Henderson: Extending congratulations to Davis Rumsey on achieving the rank of Eagle Scout.

S.R. 871 - By Henderson: Extending congratulations to Michael Young of Houston on achieving the rank of Eagle Scout.

S.R. 872 - By Henderson: Extending congratulations to Kreg Gotschall on achieving the rank of Eagle Scout.

S.R. 873 - By Henderson: Extending congratulations to John Bowman of Houston on achieving the rank of Eagle Scout.

ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the Regular Session of the Seventy-first Legislature had arrived and, in accordance with a motion previously adopted, declared the Regular Session of the Seventy-first Legislature adjourned sine die at 5:57 p.m. on May 31, 1989.

APPENDIX

Filed with the Secretary of State
(May 29, 1989)

S.J.R. 71
S.J.R. 74
H.J.R. 6

(May 30, 1989)

H.C.R. 107
H.C.R. 116
H.J.R. 13

(June 1, 1989)

H.J.R. 19
H.J.R. 32
H.J.R. 33
H.J.R. 40
H.J.R. 51

H.J.R. 101
H.J.R. 102
H.C.R. 238
H.C.R. 240

Sent to Governor
(May 29, 1989)

S.C.R. 2
S.C.R. 48
S.C.R. 49
S.C.R. 73
S.C.R. 78
S.C.R. 83
S.C.R. 100
S.C.R. 106
S.B. 60
S.B. 125
S.B. 133
S.B. 144
S.B. 151
S.B. 193
S.B. 196
S.B. 264
S.B. 294
S.B. 297
S.B. 298
S.B. 344
S.B. 358
S.B. 359
S.B. 374
S.B. 442
S.B. 463
S.B. 520
S.B. 539
S.B. 545
S.B. 657
S.B. 733
S.B. 804
S.B. 806
S.B. 856
S.B. 908
S.B. 911
S.B. 924
S.B. 954
S.B. 985
S.B. 993
S.B. 1030
S.B. 1033
S.B. 1043
S.B. 1133
S.B. 1163
S.B. 1237
S.B. 1270
S.B. 1280
S.B. 1290
S.B. 1363
S.B. 1451
S.B. 1479
S.B. 1480
S.B. 1509
S.B. 1511
S.B. 1544
S.B. 1575
S.B. 1629
S.B. 1651
S.B. 1711
S.B. 1727
S.B. 1735
S.B. 1742
S.B. 1777
S.B. 1779
S.B. 1785
S.B. 1796

Signed by Governor
(May 29, 1989)

S.C.R. 66
S.C.R. 70
S.C.R. 140
H.C.R. 41
H.C.R. 68
H.C.R. 77
H.C.R. 108
H.C.R. 123
H.C.R. 201
H.C.R. 219
H.C.R. 222
H.C.R. 230
H.C.R. 242
H.C.R. 283
H.C.R. 287
H.C.R. 289
S.B. 169 (Effective August 28, 1989)

(May 30, 1989)

S.C.R. 118

(May 31, 1989)

H.B. 1588 (Effective immediately)

Sent to Governor
(May 31, 1989)

S.C.R. 47	S.C.R. 183	S.B. 607	S.B. 983	S.B. 1504
S.C.R. 50	S.B. 79	S.B. 619	S.B. 999	S.B. 1525
S.C.R. 57	S.B. 115	S.B. 638	S.B. 1001	S.B. 1531
S.C.R. 107	S.B. 147	S.B. 642	S.B. 1025	S.B. 1557
S.C.R. 108	S.B. 189	S.B. 650	S.B. 1035	S.B. 1571
S.C.R. 114	S.B. 246	S.B. 688	S.B. 1052	S.B. 1602
S.C.R. 117	S.B. 269	S.B. 748	S.B. 1066	S.B. 1607
S.C.R. 126	S.B. 312	S.B. 770	S.B. 1070	S.B. 1621
S.C.R. 139	S.B. 338	S.B. 820	S.B. 1071	S.B. 1634
S.C.R. 148	S.B. 340	S.B. 822	S.B. 1095	S.B. 1635
S.C.R. 152	S.B. 357	S.B. 823	S.B. 1190	S.B. 1636
S.C.R. 160	S.B. 388	S.B. 843	S.B. 1206	S.B. 1643
S.C.R. 163	S.B. 413	S.B. 870	S.B. 1271	S.B. 1674
S.C.R. 166	S.B. 424	S.B. 872	S.B. 1275	S.B. 1678
S.C.R. 168	S.B. 441	S.B. 881	S.B. 1288	S.B. 1690
S.C.R. 170	S.B. 488	S.B. 891	S.B. 1316	S.B. 1731
S.C.R. 174	S.B. 525	S.B. 913	S.B. 1362	S.B. 1761
S.C.R. 177	S.B. 570	S.B. 914	S.B. 1387	S.B. 1775
S.C.R. 179	S.B. 582	S.B. 935	S.B. 1397	S.B. 1794
S.C.R. 180	S.B. 596	S.B. 957	S.B. 1419	S.B. 1814
S.C.R. 182	S.B. 601	S.B. 971	S.B. 1502	S.B. 1840

Filed with the Secretary of State
(May 31, 1989)

S.J.R. 5
S.J.R. 24
S.J.R. 59

Sent to Comptroller
(May 31, 1989)

S.B. 222
S.B. 338

Sent to Comptroller
(June 1, 1989)

S.B. 489

Sent to Governor
(June 1, 1989)

S.B. 489
S.B. 895
S.B. 1481

Signed by Governor
(June 1, 1989)

S.B. 338 (Effective immediately)

Vetoed by Governor
(June 1, 1989)

S.B. 895

Sent to Governor
(June 2, 1989)

S.C.R. 186	**S.B. 307**	**S.B. 668**	**S.B. 1405**
S.C.R. 188	**S.B. 309**	**S.B. 677**	**S.B. 1507**
S.C.R. 190	**S.B. 314**	**S.B. 783**	**S.B. 1516**
S.B. 24	**S.B. 318**	**S.B. 788**	**S.B. 1519**
S.B. 40	**S.B. 356**	**S.B. 801**	**S.B. 1646**
S.B. 55	**S.B. 419**	**S.B. 931**	**S.B. 1647**
S.B. 95	**S.B. 427**	**S.B. 978**	**S.B. 1648**
S.B. 156	**S.B. 452**	**S.B. 1067**	**S.B. 1668**
S.B. 158	**S.B. 498**	**S.B. 1085**	**S.B. 1677**
S.B. 170	**S.B. 510**	**S.B. 1103**	**S.B. 1697**
S.B. 191	**S.B. 541**	**S.B. 1183**	**S.B. 1707**
S.B. 237	**S.B. 542**	**S.B. 1249**	**S.B. 1715**
S.B. 265	**S.B. 644**	**S.B. 1386**	**S.B. 1744**

Signed by Governor
(June 2, 1989)

S.B. 489 (Effective September 1, 1989)
S.B. 1481 (Effective August 28, 1989)
S.B. 1573 (Effective September 1, 1989)
H.B. 243 (Effective September 1, 1989)
H.B. 1356 (Effective immediately)
H.B. 1935 (Effective April 1, 1990)
H.B. 1954 (Effective immediately)
H.B. 2260 (Effective January 1, 1990)
H.B. 2945 (Effective October 1, 1989)
H.B. 1196 (Effective immediately)
H.B. 2575 (Effective immediately)
H.B. 2619 (Effective October 1, 1989)
H.C.R. 288

Sent to Comptroller
(June 5, 1989)

S.B. 112
S.B. 1272
S.B. 1351
S.B. 1379

Filed with the Secretary of State
(June 6, 1989)

S.J.R. 11
S.J.R. 16
S.J.R. 53

Sent to Governor
(June 6, 1989)

S.C.R. 61	**S.B. 255**	**S.B. 482**	**S.B. 1205**
S.C.R. 189	**S.B. 268**	**S.B. 558**	**S.B. 1232**

S.C.R. 191
S.B. 171
S.B. 187
S.B. 208
S.B. 224
S.B. 310
S.B. 332
S.B. 401
S.B. 410
S.B. 437
S.B. 600
S.B. 698
S.B. 743
S.B. 959
S.B. 1072
S.B. 1256
S.B. 1340
S.B. 1342
S.B. 1483
S.B. 1694
S.B. 1701

Sent to Governor
(June 8, 1989)

S.C.R. 178
S.B. 61
S.B. 112
S.B. 328
S.B. 365
S.B. 376
S.B. 417
S.B. 457
S.B. 740
S.B. 795
S.B. 826
S.B. 832
S.B. 838
S.B. 869
S.B. 992
S.B. 1019
S.B. 1075
S.B. 1084
S.B. 1090
S.B. 1105
S.B. 1197
S.B. 1212
S.B. 1272
S.B. 1351
S.B. 1379
S.B. 1426
S.B. 1517
S.B. 1527
S.B. 1770
S.B. 2
S.B. 75
S.B. 329
S.B. 479
S.B. 487
S.B. 531
S.B. 538
S.B. 622
S.B. 769
S.B. 835
S.B. 852
S.B. 876
S.B. 951
S.B. 962
S.B. 973
S.B. 980
S.B. 1000
S.B. 1012
S.B. 1046
S.B. 1117
S.B. 1154
S.B. 1172
S.B. 1204
S.B. 1207
S.B. 1312
S.B. 1321
S.B. 1322
S.B. 1325
S.B. 1341
S.B. 1484
S.B. 1533
S.B. 1564
S.B. 1669
S.B. 1698
S.B. 1718
S.B. 1807
S.B. 1813

Filed Without the Signature of Governor
(June 8, 1989)

S.C.R. 154
S.C.R. 167
S.C.R. 177
S.C.R. 179
S.C.R. 180
S.C.R. 183
S.C.R. 186
S.C.R. 188
S.C.R. 189
S.C.R. 191

Sent to Governor
(June 9, 1989)

S.B. 253
S.C.R. 165

Signed by Governor
(June 12, 1989)

H.B. 1421 (Effective immediately)

Sent to Governor
(June 13, 1989)

S.B. 222

Filed Without Signature of Governor
(June 13, 1989)

S.C.R. 178
S.C.R. 190

(June 16, 1989)

H.B. 2456 (Effective September 1, 1989)

(June 18, 1989)

H.B. 2796 (Effective September 1, 1989)

Signed by Governor
(June 14, 1989)

H.B. 151 (Effective September 1, 1989)
H.B. 183 (Effective September 1, 1989)
H.B. 524 (Effective September 1, 1989)
H.B. 2588 (Effective January 1, 1990)
H.B. 2597 (Effective immediately)
H.B. 2600 (Effective September 1, 1989)
H.B. 2601 (Effective September 1, 1989)
H.B. 2603 (Effective September 1, 1989)
H.B. 2606 (Effective August 28, 1989)
H.B. 2609 (Effective September 1, 1989)
H.B. 2612 (Effective August 28, 1989)
H.B. 2620 (Effective October 1, 1989)
H.B. 2622 (Effective July 31, 1989)
H.B. 2624 (Effective September 1, 1989)
H.B. 2625 (Effective September 1, 1989)
H.B. 2627 (Effective August 28, 1989)
H.B. 2631 (Effective immediately)
H.B. 2634 (Effective September 1, 1989)
H.B. 2644 (Effective September 1, 1989)
H.B. 2645 (Effective September 1, 1989)
H.B. 2647 (Effective immediately)
H.B. 2648 (Effective immediately)
H.B. 2650 (Effective September 1, 1989)
H.B. 2657 (Effective September 1, 1989)
H.B. 2674 (Effective immediately)
H.B. 2678 (Effective September 1, 1989)
H.B. 2681 (Effective August 28, 1989)
H.B. 2683 (Effective August 28, 1989)
H.B. 2698 (Effective September 1, 1989)
H.B. 2745 (Effective September 1, 1989)
H.B. 2753 (Effective August 28, 1989)
H.B. 2756 (Effective August 28, 1989)
H.B. 2774 (Effective September 1, 1989)
H.B. 2777 (Effective immediately)
H.B. 2780 (Effective immediately)
H.B. 2791 (Effective immediately)
H.B. 2795 (Effective immediately)
H.B. 2799 (Effective August 28, 1989)
H.B. 2803 (Effective September 1, 1989)
H.B. 2939 (Effective September 1, 1989)
H.B. 1101 (Effective August 28, 1989)
H.B. 1106 (Effective September 1, 1989)
H.B. 1108 (Effective August 28, 1989)
H.B. 1139 (Effective immediately)

H.B. 1153 (Effective immediately)
H.B. 1147 (Effective September 1, 1989)
H.B. 1159 (Effective September 1, 1989)
H.B. 2808 (Effective immediately)
H.B. 2885 (Effective immediately)
H.B. 2912 (Effective August 28, 1989)
H.B. 2920 (Effective immediately)
H.B. 3032 (Effective August 28, 1989)
H.B. 3039 (Effective August 28, 1989)
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H.B. 3097 (Effective immediately)
H.B. 3099 (Effective August 28, 1989)
H.B. 3100 (Effective immediately)
H.B. 3104 (Effective immediately)
H.B. 3108 (Effective August 28, 1989)
H.B. 3116 (Effective immediately)
H.B. 3122 (Effective immediately)
H.B. 3126 (Effective immediately)
H.B. 3128 (Effective immediately)
H.B. 3133 (Effective September 1, 1989)
H.B. 3167 (Effective September 1, 1989)
H.B. 3172 (Effective immediately)
H.B. 3178 (Effective immediately)
H.B. 3179 (Effective immediately)
H.B. 3182 (Effective August 28, 1989)
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H.B. 3207 (Effective immediately)
H.B. 1416 (Effective immediately)
H.B. 1626 (Effective immediately)
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H.B. 1745 (Effective immediately)
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H.B. 1827 (Effective August 28, 1989)
H.B. 1963 (Effective September 1, 1989)
H.B. 2046 (Effective immediately)
H.B. 2082 (Effective September 1, 1989)
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H.B. 2248 (Effective August 28, 1989)
H.B. 2263 (Effective immediately)
H.B. 2303 (Effective immediately)
H.B. 2322 (Effective immediately)
H.B. 2341 (Effective immediately)
H.B. 2355 (Effective September 1, 1989)
H.B. 2420 (Effective August 28, 1989)
H.B. 2437 (Effective September 1, 1989)
H.B. 2484 (Effective September 1, 1989)
H.B. 2489 (Effective September 1, 1989)
H.B. 2494 (Effective September 1, 1989)
H.B. 2519 (Effective September 1, 1989)

H.B. 2566 (Effective September 1, 1989)
H.B. 2974 (Effective September 1, 1989)
H.B. 3060 (Effective immediately)
H.B. 3088 (Effective immediately)
H.B. 3105 (Effective immediately)
H.B. 3113 (Effective immediately)
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H.B. 3115 (Effective immediately)
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H.B. 3127 (Effective September 1, 1989)
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H.B. 1505 (Effective immediately)
H.B. 1507 (Effective September 1, 1989)
H.B. 1517 (Effective August 28, 1989)
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H.B. 1547 (Effective September 1, 1989)
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H.B. 1561 (Effective immediately)
H.B. 1563 (Effective September 1, 1989)
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H.B. 1603 (Effective September 1, 1989)
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H.B. 1684 (Effective immediately)
H.B. 1687 (Effective January 1, 1990)
H.B. 1694 (Effective immediately)
H.B. 1711 (Effective August 28, 1989)
H.B. 1712 (Effective September 1, 1989)
H.B. 1728 (Effective September 1, 1989)
H.B. 1738 (Effective immediately)
H.B. 1742 (Effective September 1, 1989)
H.B. 1752 (Effective September 1, 1989)

H.B. 1768 (Effective immediately)
H.B. 1772 (Effective immediately)
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H.B. 1821 (Effective January 1, 1990)
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H.B. 1848 (Effective August 28, 1989)
H.B. 1852 (Effective immediately)
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H.B. 1865 (Effective September 1, 1989)
H.B. 1868 (Effective August 28, 1989)
H.B. 1870 (Effective August 28, 1989)
H.B. 1874 (Effective August 28, 1989)
H.B. 1877 (Effective immediately)
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H.B. 2032 (Effective September 1, 1989)
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H.B. 2040 (Effective immediately)
H.B. 2043 (Effective immediately)
H.B. 2059 (Effective September 1, 1989)
H.B. 2060 (Effective September 1, 1989)
H.B. 2064 (Effective August 28, 1989)
H.B. 2094 (Effective September 1, 1989)
H.B. 2098 (Effective immediately)
H.B. 2104 (Effective immediately)

H.B. 2117 (Effective September 1, 1989)
H.B. 2121 (Effective immediately)
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H.B. 2165 (Effective September 1, 1989)
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H.B. 2171 (Effective September 1, 1989)
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H.B. 2212 (Effective September 1, 1989)
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H.B. 2316 (Effective immediately)
H.B. 2317 (Effective immediately)
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H.B. 2332 (Effective immediately)
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H.B. 2481 (Effective immediately)
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H.B. 2509 (Effective August 28, 1989)

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H.B. 2520 (Effective September 1, 1989)
H.B. 2524 (Effective September 1, 1989)
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H.B. 2817 (Effective immediately)
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H.B. 2987 (Effective immediately)
H.B. 3042 (Effective August 28, 1989)
H.B. 3018 (Effective September 1, 1989)
H.B. 3069 (Effective immediately)
H.B. 3070 (Effective immediately)
H.B. 3072 (Effective immediately)
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H.B. 3134 (Effective August 28, 1989)
H.B. 3145 (Effective immediately)
H.B. 3150 (Effective immediately)
H.B. 3173 (Effective August 28, 1989)
H.B. 3174 (Effective immediately)
H.B. 3175 (Effective immediately)
H.B. 3190 (Effective immediately)
H.B. 3192 (Effective immediately)
H.B. 3198 (Effective immediately)
H.B. 3201 (Effective September 1, 1989)
H.B. 3204 (Effective August 28, 1989)
S.B. 2 (Effective September 1, 1989)
S.B. 1271 (Effective immediately)
S.B. 1275 (Effective September 1, 1989)
S.B. 1341 (Effective September 1, 1989)
S.B. 1342 (Effective August 28, 1989)
S.B. 1357 (Effective immediately)
S.B. 1359 (Effective immediately)
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S.B. 1379 (Effective September 1, 1989)
S.B. 1386 (Effective immediately)
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S.B. 1504 (Effective September 1, 1989)
S.B. 1507 (Effective September 1, 1989)
S.B. 1510 (Effective August 28, 1989)
S.B. 1511 (Effective September 1, 1989)

S.B. 1516 (Effective September 1, 1989)
S.B. 1517 (Effective September 1, 1989)
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S.B. 1632 (Effective immediately)
S.B. 1634 (Effective immediately)
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S.B. 1794 (Effective immediately)
S.B. 1796 (Effective September 1, 1989)
S.B. 1807 (Effective August 28, 1989)
H.B. 2136 (Effective September 1, 1989)
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S.B. 52 (Effective immediately)
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S.B. 147 (Effective September 1, 1989)
S.B. 149 (Effective September 1, 1989)
S.B. 158 (Effective September 1, 1989)
S.B. 170 (Effective September 1, 1989)
S.B. 171 (Effective September 1, 1989)

S.B. 177 (Effective September 1, 1989)
S.B. 187 (Effective September 1, 1989)
S.B. 188 (Effective September 1, 1989)
S.B. 189 (Effective September 1, 1989)
S.B. 191 (Effective September 1, 1989)
S.B. 196 (Effective Fall Semester, 1989)
S.B. 199 (Effective immediately)
S.B. 224 (Effective September 1, 1989)
S.B. 226 (Effective immediately)
S.B. 95 (Effective August 28, 1989)
S.B. 112 (Effective July 21, 1989)
S.B. 265 (Effective September 1, 1989)
S.B. 268 (Effective August 28, 1989)
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S.B. 510 (Effective September 1, 1989)
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S.B. 594 (Effective August 28, 1989)
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S.B. 826 (Effective September 1, 1989)
S.B. 835 (Effective Fall Semester, 1989)
S.B. 838 (Effective immediately)
S.B. 839 (Effective immediately)
S.B. 856 (Effective September 1, 1989)
S.B. 881 (Effective immediately)
S.B. 908 (Effective immediately)
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S.B. 924 (Effective September 1, 1989)
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S.B. 973 (Effective September 1, 1989)
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S.B. 1116 (Effective September 1, 1989)

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S.B. 1173 (Effective immediately)
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S.B. 277 (Effective October 1, 1989)
S.B. 294 (Effective September 1, 1989)
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S.B. 307 (Effective September 1, 1989)
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S.B. 413 (Effective September 1, 1989)

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S.B. 842 (Effective September 1, 1989)
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S.B. 865 (Effective September 1, 1989)
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S.B. 1143 (Effective August 28, 1989)
S.B. 1146 (Effective immediately)
S.B. 1154 (Effective September 1, 1989)
S.B. 1156 (Effective immediately)
S.B. 1159 (Effective immediately)
S.B. 1175 (Effective September 1, 1989)
S.B. 1191 (Effective September 1, 1989)
S.B. 1197 (Effective September 1, 1989)
S.B. 1237 (Effective September 1, 1989)
S.B. 1241 (Effective August 28, 1989)
S.B. 1248 (Effective September 1, 1989)
S.B. 1256 (Effective September 1, 1989)
S.B. 1259 (Effective July 1, 1989)
S.B. 1280 (Effective September 1, 1989)
S.B. 1284 (Effective September 1, 1989)
S.B. 1287 (Effective September 1, 1989)
S.B. 1288 (Effective September 1, 1989)
S.B. 1289 (Effective September 1, 1989)
S.B. 1290 (Effective September 1, 1989)
S.B. 1302 (Effective September 1, 1989)
S.B. 1316 (Effective September 1, 1989)
S.B. 1325 (Effective immediately)
S.B. 1340 (Effective August 28, 1989)
S.B. 1345 (Effective immediately)
S.B. 1363 (Effective immediately)
S.B. 1387 (Effective September 1, 1989)
S.B. 1431 (Effective September 1, 1989)
S.B. 1451 (Effective September 1, 1989)
S.B. 1453 (Effective immediately)
S.B. 1461 (Effective August 28, 1989)
S.B. 1479 (Effective August 28, 1989)
S.B. 1501 (Effective immediately)
S.B. 1502 (Effective September 1, 1989)
S.B. 1521 (Effective immediately)
S.B. 1522 (Effective immediately)
S.B. 1528 (Effective September 1, 1989)

S.B. 1547 (Effective September 1, 1989)
S.B. 1568 (Effective August 28, 1989)
S.B. 1588 (Effective January 1, 1990)
S.B. 1601 (Effective immediately)
S.B. 1628 (Effective September 1, 1989)
S.B. 1635 (Effective immediately)
S.B. 1665 (Effective August 28, 1989)
S.B. 1673 (Effective August 28, 1989)
S.B. 1675 (Effective immediately)
S.B. 1701 (Effective immediately)
S.B. 1728 (Effective September 1, 1989)
S.B. 1731 (Effective August 28, 1989)
S.B. 1750 (Effective immediately)
S.B. 1761 (Effective immediately)
S.B. 1774 (Effective immediately)
S.B. 1791 (Effective immediately)
S.B. 1800 (Effective immediately)
S.B. 1814 (Effective September 1, 1989)
S.B. 1840 (Effective September 1, 1989)
S.C.R. 2
S.C.R. 48
S.C.R. 49
S.C.R. 54
S.C.R. 73
S.C.R. 78
S.C.R. 83
S.C.R. 100
S.C.R. 106
S.C.R. 132
S.C.R. 160
S.C.R. 166
H.C.R. 16
H.C.R. 29
H.C.R. 40
H.C.R. 104
H.C.R. 115
H.C.R. 133

S.C.R. 47
S.C.R. 57
S.C.R. 107
S.C.R. 108
S.C.R. 114
S.C.R. 117
S.C.R. 126
S.C.R. 139
S.C.R. 148
S.C.R. 163
S.C.R. 168
S.C.R. 152
S.C.R. 174
H.C.R. 178
H.C.R. 188
H.C.R. 194

H.C.R. 216
H.C.R. 218
H.C.R. 221
H.C.R. 223
H.C.R. 228
H.C.R. 229
H.C.R. 236
H.C.R. 237
H.C.R. 246
H.C.R. 265
H.C.R. 266
H.C.R. 267
H.C.R. 270
H.C.R. 278
H.C.R. 279
H.C.R. 280
H.C.R. 284
H.C.R. 290
H.C.R. 291
H.C.R. 292
H.C.R. 293
H.C.R. 294
H.C.R. 295
H.C.R. 297
H.C.R. 298
H.C.R. 299
H.C.R. 300
H.C.R. 302

(June 15, 1989)

H.B. 4 (Effective August 28, 1989)
H.B. 9 (Effective September 1, 1989)
H.B. 108 (Effective September 1, 1989)
H.B. 115 (Effective immediately)
H.B. 121 (Effective January 1, 1990)
H.B. 137 (Effective September 1, 1989)
H.B. 153 (Effective September 1, 1989)
H.B. 155 (Effective September 1, 1989)
H.B. 165 (Effective August 28, 1989)
H.B. 180 (Effective September 1, 1989)
H.B. 182 (Effective September 1, 1989)
H.B. 186 (Effective September 1, 1989)
H.B. 188 (Effective September 1, 1989)
H.B. 200 (Effective September 1, 1989)
H.B. 214 (Effective immediately)
H.B. 216 (Effective immediately)
H.B. 220 (Effective September 1, 1989)
H.B. 221 (Effective immediately)
H.B. 228 (Effective immediately)
H.B. 240 (Effective January 1, 1990)
H.B. 241 (Effective September 1, 1989)
H.B. 248 (Effective immediately)
H.B. 254 (Effective August 28, 1989)
H.B. 260 (Effective September 1, 1989)

H.B. 302 (Effective September 1, 1989)
H.B. 310 (Effective immediately)
H.B. 319 (Effective September 1, 1989)
H.B. 333 (Effective August 28, 1989)
H.B. 346 (Effective immediately)
H.B. 353 (Effective September 1, 1989)
H.B. 377 (Effective September 1, 1989)
H.B. 383 (Effective immediately)
H.B. 405 (Effective immediately)
H.B. 411 (Effective September 1, 1989)
H.B. 414 (Effective September 1, 1989)
H.B. 421 (Effective September 1, 1989)
H.B. 427 (Effective August 28, 1989)
H.B. 428 (Effective January 1, 1990)
H.B. 432 (Effective immediately)
H.B. 450 (Effective September 1, 1989)
H.B. 457 (Effective September 1, 1989)
H.B. 464 (Effective immediately)
H.B. 468 (Effective September 1, 1989)
H.B. 472 (Effective August 28, 1989)
H.B. 488 (Effective September 1, 1989)
H.B. 526 (Effective September 1, 1989)
H.B. 528 (Effective immediately)
H.B. 558 (Effective August 28, 1989)
H.B. 568 (Effective September 1, 1989)
H.B. 579 (Effective September 1, 1989)
H.B. 581 (Effective immediately)
H.B. 582 (Effective August 28, 1989)
H.B. 590 (Effective October 1, 1989)
H.B. 600 (Effective September 1, 1989)
H.B. 603 (Effective September 1, 1989)
H.B. 606 (Effective immediately)
H.B. 608 (Effective August 28, 1989)
H.B. 624 (Effective August 28, 1989)
H.B. 627 (Effective August 28, 1989)
H.B. 635 (Effective September 1, 1989)
H.B. 638 (Effective September 1, 1989)
H.B. 642 (Effective September 1, 1989)
H.B. 646 (Effective August 28, 1989)
H.B. 647 (Effective August 28, 1989)
H.B. 648 (Effective August 28, 1989)
H.B. 669 (Effective September 1, 1989)
H.B. 691 (Effective August 28, 1989)
H.B. 696 (Effective August 28, 1989)
H.B. 708 (Effective January 1, 1990)
H.B. 713 (Effective immediately)
H.B. 715 (Effective September 1, 1989)
H.B. 731 (Effective September 1, 1989)
H.B. 737 (Effective September 1, 1989)
H.B. 755 (Effective September 1, 1989)
H.B. 780 (Effective immediately)
H.B. 781 (Effective immediately)
H.B. 791 (Effective August 28, 1989)

H.B. 799 (Effective immediately)
H.B. 808 (Effective September 1, 1989)
H.B. 820 (Effective September 1, 1989)
H.B. 822 (Effective September 1, 1989)
H.B. 828 (Effective September 1, 1989)
H.B. 832 (Effective August 28, 1989)
H.B. 841 (Effective September 1, 1989)
H.B. 842 (Effective August 28, 1989)
H.B. 857 (Effective September 1, 1989)
H.B. 860 (Effective August 28, 1989)
H.B. 862 (Effective September 1, 1989)
H.B. 878 (Effective September 1, 1989)
H.B. 879 (Effective August 28, 1989)
H.B. 884 (Effective September 1, 1989)
H.B. 953 (Effective September 1, 1989)
H.B. 960 (Effective September 1, 1989)
H.B. 972 (Effective September 1, 1989)
H.B. 980 (Effective September 1, 1989)
H.B. 983 (Effective 1990-1991 School Year)
H.B. 989 (Effective September 1, 1989)
H.B. 993 (Effective immediately)
H.B. 995 (Effective August 28, 1989)
H.B. 1022 (Effective August 28, 1989)
H.B. 1029 (Effective immediately)
H.B. 1031 (Effective August 28, 1989)
H.B. 1038 (Effective immediately)
H.B. 1050 (Effective September 1, 1989)
H.B. 1059 (Effective August 28, 1989)
H.B. 1065 (Effective September 1, 1989)
H.B. 1078 (Effective August 28, 1989)
H.B. 1083 (Effective August 28, 1989)
H.B. 1087 (Effective immediately)
H.B. 1094 (Effective immediately)
H.B. 1098 (Effective August 28, 1989)
H.B. 1099 (Effective immediately)
H.B. 1162 (Effective September 1, 1989)
H.B. 1171 (Effective August 28, 1989)
H.B. 1182 (Effective immediately)
H.B. 1189 (Effective September 1, 1989)
H.B. 1190 (Effective September 1, 1989)
H.B. 1191 (Effective September 1, 1989)
H.B. 1211 (Effective September 1, 1989)
H.B. 1213 (Effective September 1, 1989)
H.B. 1215 (Effective immediately)
H.B. 1217 (Effective immediately)
H.B. 1224 (Effective September 1, 1989)
H.B. 1225 (Effective August 28, 1989)
H.B. 1229 (Effective September 1, 1989)
H.B. 1230 (Effective September 1, 1989)
H.B. 1231 (Effective August 28, 1989)
H.B. 1234 (Effective immediately)
H.B. 1263 (Effective September 1, 1989)
H.B. 1265 (Effective August 28, 1989)
H.B. 1266 (Effective October 1, 1989)

H.B. 1269 (Effective September 1, 1989)
H.B. 1270 (Effective September 1, 1989)
H.B. 1272 (Effective September 1, 1989)
H.B. 1292 (Effective August 28, 1989)
H.B. 1293 (Effective September 1, 1989)
H.B. 1297 (Effective immediately)
H.B. 1299 (Effective immediately)
H.B. 1302 (Effective January 1, 1991)
H.B. 1312 (Effective September 1, 1989)
H.B. 1314 (Effective immediately)
H.B. 1318 (Effective September 1, 1989)
H.B. 1325 (Effective August 28, 1989)
H.B. 1332 (Effective September 1, 1989)
H.B. 1344 (Effective September 1, 1989)
H.B. 1350 (Effective September 1, 1989)
H.B. 1364 (Effective August 28, 1989)
H.B. 1379 (Effective August 28, 1989)
H.B. 1383 (Effective immediately)
H.B. 1408 (Effective immediately)
H.B. 1439 (Effective September 1, 1989)
H.B. 1441 (Effective immediately)
H.B. 1442 (Effective immediately)
H.B. 1450 (Effective September 1, 1989)
H.B. 1458 (Effective September 1, 1989)
H.B. 1464 (Effective August 28, 1989)
H.B. 1475 (Effective September 1, 1989)
H.B. 1476 (Effective September 1, 1989)
H.B. 1486 (Effective September 1, 1989)
H.B. 1495 (Effective immediately)
H.B. 1498 (Effective August 28, 1989)
H.B. 1878 (Effective August 28, 1989)
S.B. 29 (Effective September 1, 1989)
S.B. 55 (Effective September 1, 1989)
S.B. 104 (Effective September 1, 1989)
S.B. 318 (Effective September 1, 1989)
S.B. 607 (Effective September 1, 1989)
S.B. 985 (Effective September 1, 1989)
H.B. 5 (Effective September 1, 1989)
H.B. 366 (Effective September 1, 1989)
H.B. 1884 (Effective January 1, 1990)
H.B. 2335 (Effective September 1, 1989)
H.B. 2721 (Effective September 1, 1989)
H.B. 2728 (Effective September 1, 1989)
H.B. 2736 (Effective August 28, 1989)

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H.B. 3 (Effective August 28, 1989)
H.B. 24 (Effective September 1, 1989)
H.B. 25 (Effective August 28, 1989)
H.B. 174 (Effective September 1, 1989)
H.B. 306 (Effective August 28, 1989)
H.B. 312 (Effective August 28, 1989)
H.B. 329 (Effective September 1, 1989)

H.B. 340 (Effective October 1, 1989)
H.B. 460 (Effective September 1, 1989)
H.B. 462 (Effective August 28, 1989)
H.B. 487 (Effective immediately)
H.B. 507 (Effective September 1, 1989)
H.B. 549 (Effective August 28, 1989)
H.B. 596 (Effective August 28, 1989)
H.B. 827 (Effective September 1, 1989)
H.B. 910 (Effective September 1, 1989)
H.B. 911 (Effective August 28, 1989)
H.B. 946 (Effective immediately)
H.B. 959 (Effective August 28, 1989)
H.B. 969 (Effective immediately)
H.B. 976 (Effective August 28, 1989)
H.B. 1073 (Effective August 28, 1989)
H.B. 1118 (Effective August 28, 1989)
H.B. 1174 (Effective September 1, 1989)
H.B. 1237 (Effective September 1, 1989)
H.B. 1258 (Effective September 1, 1989)
H.B. 18 (Effective September 1, 1989)
H.B. 44 (Effective August 28, 1989)
H.B. 59 (Effective September 1, 1989)
H.B. 101 (Effective September 1, 1989)
H.B. 141 (Effective September 1, 1989)
H.B. 198 (Effective September 1, 1989)
H.B. 433 (Effective September 1, 1989)
H.B. 504 (Effective January 1, 1990)
H.B. 563 (Effective September 1, 1989)
H.B. 570 (Effective September 1, 1989)
H.B. 694 (Effective immediately)
H.B. 707 (Effective August 28, 1989)
H.B. 803 (Effective immediately)
H.B. 863 (Effective September 1, 1989)
H.B. 1779 (Effective August 28, 1989)
H.B. 2608 (Effective September 1, 1989)
H.B. 2629 (Effective August 28, 1989)
H.B. 2706 (Effective August 28, 1989)
H.B. 2802 (Effective September 1, 1989)
H.B. 2819 (Effective August 28, 1989)
H.B. 2887 (Effective immediately)
H.B. 2963 (Effective August 28, 1989)
H.B. 2968 (Effective August 28, 1989)
H.B. 2972 (Effective September 1, 1989)
H.B. 2988 (Effective August 28, 1989)
H.B. 3016 (Effective August 28, 1989)
H.B. 3043 (Effective September 1, 1989)
H.B. 3112 (Effective immediately)
H.B. 3136 (Effective September 1, 1989)
H.B. 3146 (Effective September 1, 1989)
H.B. 3160 (Effective August 28, 1989)
H.B. 3164 (Effective August 28, 1989)
H.B. 318 (Effective September 1, 1989)
H.B. 337 (Effective August 28, 1989)
H.B. 509 (Effective immediately)

H.B. 1023 (Effective October 1, 1989)
H.B. 1569 (Effective August 28, 1989)
H.B. 1582 (Effective August 28, 1989)
H.B. 1587 (Effective August 28, 1989)
H.B. 1594 (Effective September 1, 1989)
H.B. 1668 (Effective immediately)
H.B. 1724 (Effective upon passage of **H.J.R. 4**)
H.B. 1770 (Effective September 1, 1989)
H.B. 1787 (Effective September 1, 1989)
H.B. 2008 (Effective September 1, 1989)
H.B. 2050 (Effective September 1, 1989)
H.B. 2286 (Effective September 1, 1989)
H.B. 2295 (Effective September 2, 1989)
H.B. 2301 (Effective January 1, 1990)
H.B. 2321 (Effective immediately)
H.B. 2356 (Effective September 1, 1989)
H.B. 2435 (Effective August 28, 1989)
H.B. 2441 (Effective September 1, 1989)
H.B. 2487 (Effective immediately)
H.B. 2505 (Effective September 1, 1989)
H.B. 2552 (Effective immediately)
H.B. 2614 (Effective September 1, 1989)
H.B. 2626 (Effective August 28, 1989)
H.B. 3012 (Effective August 28, 1989)
H.B. 3040 (Effective September 1, 1989)
H.B. 3065 (Effective August 28, 1989)
H.B. 370 (Effective September 1, 1989)
H.B. 1333 (Effective August 28, 1989)
H.B. 1345 (Effective September 1, 1989)
H.B. 1347 (Effective September 1, 1989)
H.B. 1396 (Effective September 1, 1989)
H.B. 1405 (Effective September 1, 1989)
H.B. 1423 (Effective immediately)
H.B. 1440 (Effective September 1, 1989)
H.B. 1466 (Effective September 1, 1989)
H.B. 1469 (Effective immediately)
H.B. 1494 (Effective September 1, 1989)
H.B. 1506 (Effective immediately)
H.B. 1556 (Effective August 28, 1989)
H.B. 1567 (Effective August 28, 1989)
H.B. 1806 (Effective August 28, 1989)
H.B. 1849 (Effective August 28, 1989)
H.B. 1856 (Effective September 1, 1989)
H.B. 1922 (Effective August 28, 1989)
H.B. 1948 (Effective immediately)
H.B. 2016 (Effective August 28, 1989)
H.B. 2116 (Effective September 1, 1989)
H.B. 2181 (Effective August 28, 1989)
H.B. 2433 (Effective August 28, 1989)
H.B. 2473 (Effective September 1, 1989)
H.B. 2485 (Effective August 28, 1989)
H.B. 2884 (Effective August 28, 1989)
S.B. 8 (Effective immediately)

S.B. 24 (Effective August 28, 1989)
S.B. 40 (Effective August 28, 1989)
S.B. 61 (Effective upon passage of S.J.R. 5)
S.B. 151 (Effective September 1, 1989)
S.B. 179 (Effective immediately)
S.B. 208 (Effective September 1, 1989)
S.B. 247 (Effective immediately)
S.B. 262 (Effective September 1, 1989)
S.B. 264 (Effective August 28, 1989)
S.B. 419 (Effective immediately)
S.B. 519 (Effective immediately)
S.B. 820 (Effective September 1, 1989)
S.B. 1012 (Effective September 1, 1989)
S.B. 1035 (Effective September 1, 1989)
S.B. 1090 (Effective September 1, 1989)
S.B. 1537 (Effective September 1, 1989)
S.B. 1654 (Effective August 28, 1989)
S.B. 1692 (Effective immediately)
S.B. 1770 (Effective August 28, 1989)
S.B. 1779 (Effective immediately)
S.B. 49 (Effective September 1, 1989)
S.B. 75 (Effective January 1, 1990)
S.B. 255 (Effective September 1, 1989)
S.B. 328 (Effective August 28, 1989)
S.B. 457 (Effective September 1, 1989)
S.B. 487 (Effective September 1, 1989)
S.B. 508 (Effective September 1, 1989)
S.B. 520 (Effective September 1, 1989)
S.B. 606 (Effective September 1, 1989)
S.B. 698 (Effective immediately)
S.B. 737 (Effective September 1, 1989)
S.B. 795 (Effective September 1, 1989)
S.B. 806 (Effective immediately)
S.B. 823 (Effective immediately)
S.B. 832 (Effective September 1, 1989)
S.B. 891 (Effective September 1, 1989)
S.B. 896 (Effective September 1, 1989)
S.B. 911 (Effective January 1, 1990)
S.B. 969 (Effective August 28, 1989)
S.B. 94 (Effective immediately)
S.B. 134 (Effective September 1, 1989)
S.B. 246 (Section 1, Effective June 1, 1993, Section 2, Effective August 28, 1989)
S.B. 253 (Effective immediately)
S.B. 332 (Effective September 1, 1989)
S.B. 340 (Effective immediately)
S.B. 357 (Effective September 1, 1989)
S.B. 438 (Effective immediately)
S.B. 463 (Effective August 28, 1989)
S.B. 479 (Effective September 1, 1989)
S.B. 546 (Effective September 1, 1989)
S.B. 597 (Effective August 28, 1989)
S.B. 740 (Effective August 28, 1989)
S.B. 769 (Effective August 28, 1989)

S.B. 1033 (Effective January 1, 1991)
S.B. 1046 (Effective August 28, 1989)
S.B. 1076 (Effective August 28, 1989)
S.B. 1084 (Effective September 1, 1989)
S.B. 1117 (Effective September 1, 1989)
S.B. 1190 (Effective immediately)
S.B. 1204 (Effective August 28, 1989)
S.B. 1205 (Effective August 28, 1989)
S.B. 822 (Effective August 28, 1989)
S.B. 913 (Effective September 1, 1989)
S.B. 946 (Effective August 28, 1989)
S.B. 957 (Effective September 1, 1989)
S.B. 959 (Effective September 1, 1989)
S.B. 962 (Effective immediately)
S.B. 963 (Effective September 1, 1989)
S.B. 1000 (Effective January 1, 1990)
S.B. 1025 (Effective August 28, 1989)
S.B. 1071 (Effective immediately)
S.B. 1183 (Effective immediately)
S.B. 1206 (Effective August 28, 1989)
S.B. 1235 (Effective immediately)
S.B. 1270 (Effective January 1, 1990)
S.B. 1397 (Effective immediately)
S.B. 1405 (Effective August 28, 1989)
S.B. 1480 (Effective September 1, 1989)
S.B. 1509 (Effective September 1, 1989)
S.B. 1527 (Effective September 1, 1989)
S.B. 1602 (Effective August 28, 1989)
S.B. 1621 (Effective August 28, 1989)
S.B. 1646 (Effective August 28, 1989)
S.B. 1647 (Effective August 28, 1989)
S.B. 1648 (Effective August 28, 1989)
S.B. 1678 (Effective September 1, 1989)
S.B. 1698 (Effective September 1, 1989)
S.B. 1707 (Effective August 28, 1989)
S.B. 193 (Effective August 28, 1989)
S.B. 417 (Effective September 1, 1989)
S.B. 650 (Effective immediately)
S.B. 951 (Effective August 28, 1989)
S.B. 1019 (Effective September 1, 1989)
H.B. 362 (Effective September 1, 1989)
H.B. 369 (Effective September 1, 1989)
H.B. 438 (Effective August 28, 1989)
H.B. 613 (Effective September 1, 1989)
H.B. 850 (Effective September 1, 1989)
H.B. 3187 (Effective September 1, 1989)
S.B. 222 (General Appropriations Bill, Effective September 1, 1989)
S.B. 889 (Effective August 28, 1989)
S.B. 1813 (Effective immediately)
H.B. 535 (Effective September 1, 1989)
H.B. 684 (Effective immediately)
H.B. 1111 (Effective September 1, 1989)

H.B. 1285 (Effective September 1, 1989)
H.B. 1425 (Effective October 1, 1989)
H.B. 1434 (Effective September 1, 1989)
H.B. 1633 (Effective immediately)
H.B. 1654 (Effective August 28, 1989)
H.B. 1777 (Effective September 1, 1989)
H.B. 2211 (Effective September 1, 1989)
H.B. 2853 (Effective September 1, 1994)
H.B. 3084 (Effective immediately)
S.B. 1307 (Effective August 28, 1989)
S.B. 1312 (Effective August 28, 1989)
S.B. 1321 (Effective September 1, 1989)
S.B. 1322 (Effective September 1, 1989)
S.B. 1400 (Effective August 28, 1989)
S.B. 1426 (Effective immediately; Section 11, Effective September 1, 1989)
S.B. 1484 (Effective September 1, 1989)
S.B. 1519 (Effective September 1, 1989)
S.B. 1544 (Effective immediately)
S.B. 1571 (Effective September 1, 1989)
S.B. 1611 (Effective September 1, 1989)
S.B. 1667 (Effective immediately)
S.B. 1697 (Effective September 1, 1989)
S.B. 1715 (Effective August 28, 1989)
S.B. 1742 (Effective immediately)
S.B. 949 (Effective October 1, 1989)
H.B. 101 (Effective September 1, 1989)
S.C.R. 50
S.C.R. 61
S.C.R. 165
S.C.R. 170
S.C.R. 182

(June 18, 1989)

H.B. 187 (Effective immediately)
H.B. 301 (Effective immediately)
H.B. 2127 (Effective immediately)
S.B. 1351 (Effective immediately)

BILLS AND RESOLUTIONS VETOED BY THE GOVERNOR

The following bills and resolutions were vetoed by the Governor. Proclamations stating reasons for these vetoes follow.

H.B. 100
H.B. 344
H.B. 430
H.B. 721
H.B. 843
H.B. 869
H.B. 981
H.B. 1044
H.B. 1193
H.B. 1239
S.B. 144
S.B. 156
S.B. 269
S.B. 371
S.B. 427
S.B. 441
S.B. 452
S.B. 619
S.B. 626
S.B. 733

H.B. 1392	S.B. 804
H.B. 1462	S.B. 874
H.B. 1492	S.B. 876
H.B. 1673	S.B. 895
H.B. 1701	S.B. 914
H.B. 1834	S.B. 931
H.B. 1967	S.B. 993
H.B. 2037	S.B. 1030
H.B. 2091	S.B. 1232
H.B. 2280	S.B. 1272
H.B. 2340	S.B. 1285
H.B. 2434	S.B. 1483
H.B. 2816	S.B. 1533
H.B. 3109	S.B. 1575
H.B. 3148	S.C.R. 25
H.B. 3153	H.C.R. 119
H.B. 3155	
H.B. 3183	
H.B. 3209	

PROCLAMATIONS 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. 100** because of the following objections:

This bill would require that an animal shelter sterilize animals released for adoption or require new owners to sign agreements stating that they will have the animal sterilized by a specific date. Many cities in Texas already have such neutering requirements. This type of regulation is best left to local authorities and the imposition of state regulation in this area is unnecessary.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 344** because of the following objections:

This bill would change the term "absentee voting" to "extended voting." This change will be confusing to voters and serves no discernible purpose. It is inappropriate to cause confusion in an area as critical as voting.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 430** because of the following objections:

This bill would increase the penalty against public works contractors who fail to pay prevailing wages. The bill improperly imposes burdensome and costly administrative procedures without an equivalent public benefit.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 721** because of the following objections:

This bill would allow non-profit corporations to make arrangements to insulate directors, officers, and trustees from liability for actions taken while serving in those capacities. **S.B. 1025** addresses the same concerns as this bill and contains many similar provisions. This bill is, therefore, essentially duplicative and unnecessary.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 843** because of the following objections:

This bill would allow Texas insurance companies to remove their books and records from the state. Currently, those records must be maintained in Texas. There is insufficient justification for this change in the law, especially in view of the fact that it will increase regulatory costs to the State Board of Insurance out of Operating Fund #36.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 869** because of the following objections:

This bill would prevent a fire fighter or police officer in the City of Houston from being disciplined for a refusal to take a polygraph examination. This is a local issue. State government should not interfere in the employment policies of home-rule cities. Current law provides numerous adequate safeguards for the rights of these individuals. The use of this valuable investigative tool should be preserved.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 981** because of the following objections:

This bill would provide an exemption from the state sales and use tax for motion picture production companies, broadcasting stations, and lessors of motion pictures. The intent of the bill as introduced was to provide incentives for motion picture production within the State of Texas. It was targeted at companies in this industry, exempting the taxable items used by them in the production of motion pictures. Through the course of the legislative process, the bill was modified

to expand the sales tax exemptions to be much broader than necessary for the best interests of economic development.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1044** because of the following objections:

This bill would amend state law regulating food service workers to require a local health authority that administers food service training to accept any training course accredited by the Texas Department of Health as sufficient to fulfill that authority's requirements. This bill would eliminate a municipality's prerogative to establish more stringent standards for workers who handle food than those standards approved by the state. The state should not interfere with local matters of this nature.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1193** because of the following objections:

This bill prohibits municipalities, other than Houston, from adopting breed specific ordinances regulating vicious dogs. This is a local issue. The Legislature should not dictate how municipalities regulate animals.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1239** because of the following objections:

This bill would prohibit the Texas Air Control Board, the Texas Water Commission and the Texas Department of Health from issuing for a period of three years a permit to a facility owner or operator who in disregard of a law has constructed or operated a facility at a new site without the necessary permits. Under current law these agencies can take the prior actions of a prospective permittee into account in making decisions whether to issue new permits. There is no evidence that the agencies have not exercised this authority judiciously and in a manner that protects the interests of the public. This bill would eliminate the agencies' discretion in decision-making, which is neither appropriate nor desirable.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1392** because of the following objections:

This bill would make families headed by unemployed parents eligible for cash grants from the Texas Department of Human Services (DHS) under the Aid to Families with Dependent Children Program. The new federal Welfare Reform Act requires the state to make such cash grants available for six months. The Texas Legislature has included funding in the General Appropriations Act to meet this requirement. This bill, however, would significantly broaden state law and require DHS to provide such cash grants for periods as long as twelve months. The Legislature has not seen fit to provide funding for this expansion of the program.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1462** because of the following objections:

This bill would allow a nonprofit concessioner to sell alcoholic beverages in Galveston State Park. Currently, alcoholic beverages may not be sold in any Texas state park. This bill would set an inappropriate precedent for the Texas state park system.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1492** because of the following objections:

This bill would expand the jurisdiction of the statutory county court at law in Randall County to include the power to conduct non-jury trials and pretrial hearings in felony criminal matters and to accept guilty pleas of accused felons. General felony criminal jurisdiction has been vested by the Legislature in the district courts of this state and not in statutory county courts or constitutional county courts. This derives from the philosophy that individuals whose punishment can include incarceration within the state correctional system should be subject to state courts. As district courts are state-funded and vacancies are subject to the appointive powers of state officials, including the Texas Senate, all felony prosecutions should continue to fall solely and exclusively within the purview of these courts.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1673** because of the following objections:

This bill would create a statutory county court at law in Jasper County which would have concurrent jurisdiction with the district court over criminal matters, including felonies. General felony criminal jurisdiction has been vested by the Legislature in the district courts of this state and not in statutory county courts or constitutional county courts. This derives from the philosophy that individuals whose punishment can include incarceration within the state correctional system should be subject to state courts. As district courts are state-funded and vacancies

are subject to the appointive powers of state officials, including the Texas Senate, all felony prosecutions should continue to fall solely and exclusively within the purview of these courts.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1701** because of the following objections:

The bill would prohibit the disciplining of a peace officer or Texas Department of Corrections (TDC) employee who refuses to submit to a polygraph examination. These provisions of the bill are too broad. Under the agreement entered into by the state in the Ruiz litigation, the state has agreed to use polygraph examinations in investigating assaultive behavior within TDC. Use of a polygraph in these circumstances is not discretionary. This bill would therefore contravene the state's obligations in Ruiz.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1834** because of the following objections:

This bill would allow Garza County to zone the entire area that falls within approximately two miles of the Lake Cooper shoreline. This bill would permit governmental regulation in an area larger than necessary to ensure the orderly development around the lake.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 1967** because of the following objections:

This bill would create the Texas Board of Licensure for Professional Medical Physicists. Although some regulation of medical physicists may be appropriate, creation of a new, separate state agency for this purpose is not warranted. Oversight of medical physicists should be assumed by the Texas Department of Health or the Texas State Board of Medical Examiners.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2037** because of the following objections:

This bill would permit anyone, regardless of age, to take the high school equivalency examination. Currently, a person must be 17 years of age to take this exam. While not intended to do so, this bill might indirectly encourage some

people younger than age 17 to drop out of school because they could take the high school equivalency exam and receive the equivalent of a high school diploma without having finished high school. This is not in line with the efforts of the Texas Education Agency and local school districts to keep young people in school, and conflicts with new legislation requiring school attendance until age 17.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2091** because of the following objections:

This bill is duplicative of provisions in **S.B. 1813** and is therefore unnecessary.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2280** because of the following objections:

Current law allows prior acts of violence between parties to be introduced in criminal trials. This bill would dilute the discretion of courts and unnecessarily broaden the admissibility of expert testimony with regard to this subject.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2340** because of the following objections:

This bill would require that the judge of the county court-at-law be paid at least 90% of the salary paid to a state district judge, including supplements. Under current law, discretion is left with local officials in setting the salary of this judge. Mandating the salary of a county court-at-law judge and removing local officials' discretion over such a local issue is not appropriate.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2434** because of the following objections:

This bill would create new criminal offenses for various acts relating to burial sites. It would also create an advisory committee to assist the state archaeologists with disposition of human remains and burial objects. Current law provides sufficient regulation and protection against interference with burial sites. Furthermore, the advisory committee consists, in part, of members of the Indian Commission which was sunsetted by the 71st Legislature. The Indian Commission

is given a role in several aspects of this legislation and the Indian Commission was not continued in existence by the Legislature.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 2816** because of the following objections:

This bill did not receive an appropriation and is unnecessary because this legislation duplicates the programs established in the Education Excellence Program for Texas.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 3109** because of the following objections:

This bill would allow a sheriff or deputy sheriff to appear and plead as an attorney of record in any state court of record. It could be misinterpreted to allow the unauthorized practice of law. Additionally, it could result in severe conflicts of interest by allowing an arresting authority to serve as a prosecuting authority or assist in a prosecution.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 3148** because of the following objections:

This bill would expand the jurisdiction of the statutory county court at law in McLennan County to include jurisdiction over third-degree felonies and the power to conduct arraignments, pre-trial and probation hearings and accept guilty pleas in all felony criminal matters. General felony criminal jurisdiction has been vested by the Legislature in the district courts of this state and not in statutory county courts or constitutional county courts. This derives from the philosophy that individuals whose punishment can include incarceration within the state correctional system should be subject to state courts. As district courts are state-funded and vacancies are subject to the appointive powers of state officials, including the Texas Senate, all felony prosecutions should continue to fall solely and exclusively within the purview of these courts.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 3153** because of the following objections:

This bill would expand the jurisdiction of the statutory county court at law in Starr County to include the power to conduct arraignments and pre-trial hearings and accept guilty pleas in felony criminal matters. General felony criminal jurisdiction has been vested by the Legislature in the district courts of this state and not in statutory county courts or constitutional county courts. This derives from the philosophy that individuals whose punishment can include incarceration within the state correctional system should be subject to state courts. As district courts are state-funded and vacancies are subject to the appointive powers of state officials, including the Texas Senate, all felony prosecutions, including preliminary matters, should continue to fall solely and exclusively within the purview of these courts.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 3155** because of the following objections:

This bill would specify the qualifications for service as a director of the Smith County Water Control and Improvement District No. 1 (Owentown). The qualifications set forth in this bill would not be consistent with those imposed under current law on directors of water districts such as this. Any deviation from the standardized qualifications found in state law, without some compelling reason to do so, is inappropriate.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 3183** because of the following objections:

This bill would grant the Railroad Commission of Texas exclusive jurisdiction over naturally occurring radioactive materials related to the production of oil and gas. Currently the Bureau of Radiation Control within the Texas Department of Health has exclusive jurisdiction over all aspects of such radioactive materials, including their disposal. Shifting this responsibility to the Railroad Commission will require it to hire staff who have a background in the regulation of radioactive materials, duplicating the staff already at the Bureau of Radioactive Control. It would also fracture regulatory authority in this area and result in an unnecessary duplication of effort.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.B. 3209** because of the following objections:

This bill would create the Emerging Technologies Commercialization Corporation. This corporation would fulfill the same role as the new Product Development Advisory Board that will be established pursuant to **H.B. 362**, which I have signed. That board will assist in the evaluation and development of innovative technologies and products in an effort to enhance our state's economic

development. There is no need to establish two separate corporations that would have the same charter and facilitate the same goal.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **H.C.R. 119** because of the following objections:

This resolution requests that the governor direct the Board of Pardons and Paroles to investigate all cases in which an individual has been convicted of murder or a first degree felony when the crime was directly related to domestic violence. Because no specific classification currently exists in the records of the Texas criminal justice system to indicate when a crime has been related to domestic violence, this resolution would impose a massive, impractical and unreasonable administrative burden on the Board of Pardons and Paroles. It is recognized that a response to domestic violence can play a part in the commission of some crimes. The Board of Pardons and Paroles does and will continue to take note of domestic violence that is related to crimes when individuals come before the Board for consideration of a parole or pardon.

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 16th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 144** because of the following objections:

This bill would require the City of Houston to pay specialized peace officers (e.g., park police, airport police, and municipal marshals) the same benefits and compensation as regular peace officers. This is a local issue. While park police, airport police, and municipal marshals undoubtedly serve a very valuable function for the city, the legislature should not mandate what the City of Houston pays its peace officers.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 156** because of the following objections:

This bill would make exceptions to the rules of the Employees Retirement System of Texas for two individuals. This is not in keeping with the spirit of Article 3, Section 56 of the Texas Constitution.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 269** because of the following objections:

While college loans for prospective and current peace officers is a worthwhile concept, the program outlined in this bill more closely resembles a grant program than a loan program because peace officers will be entitled to cancellation of interest or principal and interest of their loans. Furthermore, prospective peace officers could apply for funds to offset living expenses, without consideration of financial need. This preferential treatment is not in keeping with the spirit of Article 3, Sections 44 and 56 of the Texas Constitution.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 371** because of the following objections:

This bill would restrict private industry councils' use of local funds by directing that priority be given to serving at-risk twelve and thirteen year olds with those funds. Private industry councils, which were established by the Job Training Partnership Act, are not providing service to these youth because federal law prohibits the expenditure of JTPA funds on youth under the age of fourteen. Private industry councils may currently choose to allocate their funds in this manner, and I encourage them to do so. It is, however, inappropriate for the state to mandate how best to address local communities' needs by legislation such as this.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 427** because of the following objections:

This bill would make non-substantive changes to the law relating to solicitations of funds for law enforcement personnel, without improving that law. Furthermore, one section of the bill is subject to misinterpretation, creating the possibility of increased problems for solicitors of funds for law enforcement agencies.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 441** because of the following objections:

This bill would make the Advisory Committee on Probation Department Management a permanent committee. It is currently scheduled to expire on September 1, 1989. The principal function of the Advisory Committee, assisting the Texas Adult Probation Commission in establishing guidelines for managing local probation departments, has already been fulfilled. This in combination with the merger of the criminal justice agencies argue against continuation of the Advisory Committee. The new Criminal Justice Board should be free to determine whether such a committee is necessary. If the Board makes that determination, it can request creation of such an advisory committee by executive order.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 452** because of the following objections:

This bill amends the Property Code to make a fundamental change in the manner in which a deficiency on debt incurred on real property is determined after a nonjudicial foreclosure sale. The bill would permit debtors to go to court to determine the fair market value of the property after the foreclosure sale. The deficiency owed would then be based on the subsequent definition of fair market value, rather than on the amount for which the property is sold at foreclosure.

Currently, the deficiency owed is the amount of the difference between the outstanding debt and the amount for which the property is sold at foreclosure, plus certain costs of the sale. By definition, fair market value should be that value which a property can bring on the day of the sale. The Property Code contains ample notice procedures and protections for debtors and creditors, as well as for prospective purchasers of foreclosed real property. In particular, there is ample notice of the day of sale to all parties concerned.

This change in the method of determining the amount of a deficiency is unwise and inappropriate. This bill has the potential to result in numerous lawsuits and further delay the collection of deficiency judgments. Such delays and further litigation are not in the State's best interests.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 619** because of the following objections:

This bill would require school districts to extend current teacher sick leave policies to non-teaching personnel. Non-teaching personnel serve a critical function in our schools. However, sick leave policy is a local issue. The legislature should not interfere with local school district business by mandating sick leave policy for non-teaching personnel.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 626** because of the following objections:

This bill would create new regulations for the mandatory licensing of elevators and elevator inspectors through the Texas Department of Labor and Standards. At least one city licenses and regulates elevator inspections now and its ordinance would be diluted by this bill. This bill does not allow the department to require insurance or bonding by the inspectors or the maintenance companies. Statewide proposals should allow local supervision to control if it promotes greater safety.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 733** because of the following objections:

Allowing TDC employees to carry accumulated leave time forward to the next fiscal year is unfairly preferential to TDC employees. The justification for this carry forward, the inability to take leave time due to TDC staffing requirements resulting from the Ruiz litigation, is a strong one. However, other state agencies undoubtedly have compelling reasons why their employees should be permitted to carry forward accumulated leave time, and if all state employees were permitted to carry forward accumulated leave time, the cost would be prohibitive.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 804** because of the following objections:

This bill would prevent a city from taking an applicant's familial relationship with a municipal employee into account when considering the applicant for a beginning position in the city's fire or police department. Allowing relatives to work together can often cause conflicts and problems that justify rules and guidelines relating to nepotism. Each city should have the flexibility to adopt its own rules and guidelines and state law should not mandate that nepotism be disregarded as a factor in employment decisions.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 874** because of the following objections:

This bill would give statutes which deal with the practice and procedures to be used in the civil courts of our state priority over rules that have been adopted by the Texas Supreme Court. The formulation and adoption of new rules or the modification of existing rules governing practice and procedures is a responsibility more appropriately left to the Supreme Court. There is no evidence that the Supreme Court has failed to perform this function responsibly and efficiently.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 876** because of the following objections:

This bill would limit regulation of agents dealing with college athletes to those involved in football and basketball only. Current law regulates agents who

recruit athletes in all sports. It is inappropriate to limit state regulation to only two sports.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 895** because of the following objections:

Senate Bill 895, providing for the reorganization of the University of Texas at Dallas as a four-year school was amended by the Senate to include two additional universities, the University of Texas at Brownsville and the University of Texas of the Permian Basin. I do not support the reorganization of these two additional universities.

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 1st day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 914** because of the following objections:

This bill would require that appraisal district board members also be members of a governing body that appoints members to the appraisal board or be elected officials of a taxing unit. There is no such requirement at present. The change is unnecessary because the current system is generally functioning well, and because that system provides a clear line of accountability in that the governing bodies which vote on appraisal board members are directly accountable to the voters. Furthermore, this bill will likely result in a loss of professional expertise on appraisal boards.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 931** because of the following objections:

This bill would make the state the payor of first resort if the state is liable for indemnification on a medical malpractice claim arising out of the provision of charitable care or services without regard to whether damages are recoverable under a contract of insurance or under a plan of self-insurance. Currently, the state is only liable, within statutorily defined dollar limits, to the extent that insurance or self-insurance does not cover the full amount of a damage award. The bill would also prohibit the comptroller from offsetting, against funds over which the comptroller has authority, amounts of indemnification paid by the state as result of medical malpractice claims. This would shift the cost of the malpractice claims to state general revenue. While this bill addresses significant concerns, there is insufficient justification for changing current 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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 993** because of the following objections:

This bill would create the Collin County Water Authority as a conservation and reclamation district. The authority would be given the power to issue bonds without approval of the voters of Collin County. Further, it would be given the authority to create subdistricts possessing water and sewer powers within Collin County. The review of bond issuances by water-related authorities and the authority to create such districts are generally recognized as state functions and are currently vested in the Texas Water Commission. Granting a local authority these powers, including supervisory powers, is not consistent with the necessity for strong state oversight of water-related 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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1030** because of the following objections:

This bill would create the Compact Exploration Council within the Texas Department of Commerce. The council would supplant the role of the governor in overseeing relations between Texas and Mexico. Further, there are significant questions of Mexican constitutional law regarding the ability of the legislatures or councils of the Mexican states to negotiate any type of compact with an official other than the governor of the State of Texas.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1232** because of the following objections:

This bill would allow a grant recipient under the agricultural grant program administered by the Texas Department of Agriculture to meet matching requirements through in-kind contributions approved by the Commissioner of Agriculture and the Agricultural Diversification Board. This kind of provision does not adequately safeguard against avoidance of matching requirements and is subject to abuse.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1272** because of the following objections:

This bill as originally filed would have made necessary and appropriate changes to the Alcoholic Beverage Code. As finally passed, however, the bill contains provisions which would require the assignment of certain territory to a beer distributor serving private clubs in a dry county when that county elects to permit the public sale of beer. This is an inappropriate change to the Alcoholic Beverage Code.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1285** because of the following objections:

While aggravated assault on a family member is a particularly distasteful crime, there is insufficient justification for eliminating deferred adjudication as an alternative for a defendant accused of such a crime when deferred adjudication is available for defendants accused of crimes such as aggravated assault against a person not a member of the defendant's family, rape, and murder.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1483** because of the following objections:

This bill would require the City of Houston to authorize assignment pay for bilingual personnel in its fire and police departments. This is a local issue. The legislature should not require local governments like the City of Houston to authorize supplemental compensation for bilingual personnel, particularly in view of the fact that supplemental pay for bomb squad personnel, dive team personnel, helicopter personnel, motorcycle personnel, and special weapons and tactics personnel is discretionary with the city.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1533** because of the following objections:

Senate Bill 1533 would require that the Texas Commission on Alcohol and Drug Abuse 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 remainder of the bill, relating to court commitment procedures for alcoholics and drug addicts, makes needed changes in the commitment process and is a good piece of legislation.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.B. 1575** because of the following objections:

This bill would expand the jurisdiction of the statutory county court at law in Cameron County to include the power to conduct arraignments and pre-trial hearings and accept guilty pleas in felony criminal matters. General felony

criminal jurisdiction has been vested by the Legislature in the district courts of this state and not in statutory county courts or constitutional county courts. This derives from the philosophy that individuals whose punishment can include incarceration within the state correctional system should be subject to state courts. As district courts are state-funded and vacancies are subject to the appointive powers of state officials, including the Texas Senate, all felony prosecutions, including preliminary matters, should continue to fall solely and exclusively within the purview of these courts.

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 18th day of June, 1989.

Pursuant to Article IV, Section 14 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby veto **S.C.R. 25** because of the following objections:

This resolution would direct the Legislative Budget Board to coordinate with the Job Training Partnership Act (JTPA) Monitoring Committee to ensure full use of JTPA funds and give priority to JTPA programs that have as their goal dropout prevention priority when targeting unexpended funds. The JTPA Monitoring Committee has a valid role to play in providing input regarding JTPA programs to the State Job Training Coordinating Council, the Texas Department of Commerce and the Office of the Governor, all of which are statutorily vested with elements of the oversight of the JTPA in Texas. That role is limited, however, and does not extend to ensuring full use of, developing priorities for, or targeting recipients of unexpended JTPA 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 16th day of June, 1989.

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

/s/Jack M. Rains
Jack M. Rains
Secretary of State