SEVENTY-EIGHTH DAY
(Thursday, May 27, 1993)

The Senate met at 10:30 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, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Sterling Lands II, Pastor, Greater Calvary Missionary Baptist Church, Austin, offered the invocation as follows:

> Our Father God, thank You for allowing us another chance to honor Your name through our actions. Please direct the Senate's deliberation such that they are rightly focused on the health, interest, needs, rights, and welfare of the people that they represent.
>
> Please endow them with vision, wisdom, knowledge, and understanding in every situation, that they may be able to do the right thing, the right way, for the right reason, expecting the right results to benefit mankind and glorify Your name according to Your word.
>
> In the name of our Lord Jesus Christ. Amen.

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

CO-AUTHOR OF SENATE BILL 13

On motion of Senator Brown and by unanimous consent, Senator Patterson will be shown as Co-author of **S.B. 13.**

SENATE RESOLUTIONS ON FIRST READING

The following resolutions were introduced, read first time, and referred to the committees indicated:

S.R. 1091 by Patterson — Administration
Requesting that the speaker of the house of representatives and the lieutenant governor create a joint interim committee to study home equity lending in the State of Texas.

S.R. 1096 by Bivins — Administration
Creating a Special Interim Committee on the National Pollutant Discharge Elimination System to study issues related to the efforts of the state to obtain NPDES delegation.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the conference committee report on **S.B. 5** by a record vote of 138 Ayes, 4 Nays, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 22** by a record vote of 140 Ayes, 0 Nays, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 2281** by a record vote of 101 Ayes, 25 Nays, 1 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1510** by a record vote of 128 Ayes, 7 Nays, 2 Present-not voting.

The House has granted the request of the Senate for the appointment of a conference committee on **S.J.R. 49**. The House conferees are: Representatives Stiles, Chair; Eckels, Holzheauser, Wilson, and Junell.

The House has granted the request of the Senate for the appointment of a conference committee on **S.J.R. 13**. The House conferees are: Representatives Counts, Chair; Rudd, Duncan, Swinford, and Danburg.

The House has refused to concur in Senate amendments to **H.B. 273** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Wolens, Chair; Siebert, Longoria, Crabb, and Shields.

The House has refused to concur in Senate amendments to **H.B. 458** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Puente, Chair; Martin, Marchant, Johnson, and Black.

The House has refused to concur in Senate amendments to **H.B. 546** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Schechter, Chair; Brady, Goodman, Thompson of Harris, and Alvarado.

The House has refused to concur in Senate amendments to **H.B. 578** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Danburg, Chair; Bomer, Alexander, Hightower, and Saunders.

The House has refused to concur in Senate amendments to **H.B. 706** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Oliveira, Chair; Bomer, Jackson, Saunders, and Craddick.

The House has refused to concur in Senate amendments to **H.B. 1185** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives McCall, Chair; Campbell, Hamric, Gutierrez, and Chisum.

The House has refused to concur in Senate amendments to **H.B. 1445** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Wilson, Chair; Cain, Campbell, Jones of Lubbock, and Yarbrough.

The House has refused to concur in Senate amendments to **H.B. 1479** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Cain, Chair; Rudd, Danburg, Berlanga, and Johnson.

The House has refused to concur in Senate amendments to **H.B. 1776** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Wilson, Chair; Oakley, Carter, Allen, and Edwards.

The House has refused to concur in Senate amendments to **H.B. 2049** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Saunders, Chair; Lewis, Jackson, Earley, and Chisum.

The House has refused to concur in Senate amendments to **H.B. 2711** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Johnson, Chair; Dear, Black, Marchant, and Patterson.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 954**. The House conferees are: Representatives Gallego, Chair; Delco, Rangel, Earley, and Kubiak.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 947**. The House conferees are: Representatives Gallego, Chair; Cuellar of Webb, Sadler, Puente, and Junell.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 1477**. The House conferees are: Representatives Lewis, Chair; Counts, Yost, Holzheauser, and Linebarger.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 702**. The House conferees are: Representatives Wolens, Chair; Eckels, Longoria, Conley, and Siebert.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 498**. The House conferees are: Representatives Cain, Chair; Seidlits, Wolens, T. Hunter, and Black.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 381**. The House conferees are: Representatives Eckels, Chair; Martin, Black, Wolens, and Seidlits.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 297**. The House conferees are: Representatives Berlanga, Chair; McCoulskey, Dear, West, and Hochberg.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 226**. The House conferees are: Representatives Dutton, Chair; Goodman, Danburg, Romo, and Jones of Lubbock.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 16**. The House conferees are: Representatives Hill, Chair; Place, De La Garza, Jones of Lubbock, and Bailey.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 13**. The House conferees are: Representatives Combs, Chair; Place, Bomer, Wilson, and McCall.

The House has refused to concur in Senate amendments to **H.B. 2073** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Dutton, Chair; Thompson of Harris, Martin, Goodman, and Denton.

The House has concurred in Senate amendments to **H.B. 1217** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 756** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1387** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2413** by vote of 126 Ayes, 0 Noes, 3 Present-not voting.

The House has concurred in Senate amendments to **H.B. 2820** by vote of 125 Ayes, 0 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 567** by vote of 126 Ayes, 0 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1772** by vote of 131 Ayes, 0 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 2332** by vote of 131 Ayes, 0 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 54** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 354** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1429** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1944** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1544** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1952** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2741** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2501** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2537** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2564** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2242** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2468** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2499** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1425** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 466** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 391** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 958** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 712** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1016** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 456** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1705** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1718** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1873** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1892** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1978** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2199** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2622** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2662** by a non-record vote.

The House has adopted the Conference Committee Report on **H.B. 1374** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 674** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 405** by a non-record vote.

S.B. 1, Relating to the implementation of a statewide administrative driver's license revocation program; providing penalties. (As amended)

S.B. 29, Relating to complaint investigations and data collection on quality improvement of convalescent and nursing homes and related institutions. (As amended)

S.B. 34, Relating to tuition paid by certain foreign students enrolled in a public technical institute. (As amended)

S.B. 57, Relating to the screening and treatment for tuberculosis of employees, volunteers, and inmates in county jails and other correctional facilities. (As amended)

S.B. 109, Relating to presentence investigation reports in certain criminal cases. (As amended)

S.B. 162, Relating to a requirement that an operator service make a live operator available.

S.B. 172, Relating to pipeline easements. (As amended)

S.B. 315, Relating to the application of the professional prosecutors law to certain district and county attorneys. (As amended)

S.B. 342, Relating to changes in plans, specifications, or proposals pertaining to contracts made by counties.

S.B. 367, Relating to the establishment of a workforce development initiative to improve the transition of the youth of this state from school to employment and the creation of certain pilot programs to implement that initiative. (As amended)

S.B. 396, Relating to the organization and regulation of state savings banks; providing penalties. (As amended)

S.B. 420, Relating to the requirement of a refund by gas utilities of illegal or unlawful rates collected by gas utilities. (As amended)

S.B. 473, Relating to training for persons licensed by the Commission on Law Enforcement Officer Standards and Education. (As amended)

S.B. 475, Relating to the availability to a defendant of certain materials obtained through a crime stoppers advisory program or a local crime stoppers program and to the certification of local crime stoppers programs to receive certain payments from defendants.

S.B. 512, Relating to familial relationships in cases of egg or embryo donation. (As amended)

S.B. 522, Relating to the definition of gambling device; providing an exclusion of contrivances that are designed for amusement purposes; creating an offense and providing a penalty. (As amended)

S.B. 599, Relating to the exoneration and forfeiture of bail.

S.B. 628, Relating to a late charge imposed by a creditor for the failure of a debtor to make a scheduled payment when due; providing penalties. (As amended)

S.B. 637, Relating to the collection of medical services fees by certain public institutions of higher education. (As amended)

S.B. 639, Relating to solid waste permits. (As substituted and amended)

S.B. 679, Relating to an extended year program for certain public school students. (As substituted and amended)

S.B. 705, Relating to curriculum mastery plans for public school students.

S.B. 812, Relating to regulation of the sale of plumbing fixtures, pipe, and pipe fitting containing lead for plumbing applications; providing penalties.

S.B. 818, Relating to the punishment as a capital offense of certain murders committed by individuals incarcerated in penal institutions.

S.B. 820, Relating to free transcripts of statement of facts for appeals in which an affidavit of inability to pay costs has been filed. (As amended)

S.B. 832, Relating to recreational facility fee at The University of Texas at San Antonio.

S.B. 834, Relating to treatment of chemically dependent persons. (As amended)

S.B. 906, Relating to exempting states that border Texas and the governmental units of those states from the state sales and use tax.

S.B. 959, Relating to state energy efficiency and conservation programs; granting the authority to issue revenue bonds. (As substituted and amended)

S.B. 962, Relating to the sale, lease, and development of state-owned oil, gas, and other minerals.

S.B. 963, Relating to municipal solid waste management. (As amended)

S.B. 964, Relating to the location, survey, sale, and lease of vacant and unsurveyed public school land and certain public boundaries and related fees. (As substituted and amended)

S.B. 966, Relating to notice given to landowners by a common carrier. (As substituted)

S.B. 1005, Relating to technical and substantive amendments to the laws relating to ethics of public servants, including laws governing the Texas Ethics Commission, communications to influence legislation or administrative action, the filing of personal financial statements, conflicts

of interest, the giving or acceptance of certain benefits, and political funds and political advertising; providing civil and criminal penalties. (As substituted and amended)

S.B. 1072, Relating to the conveyance by the General Land Office of the state's interest in certain real property previously conveyed by the state to the city of Port Arthur. (As amended)

S.B. 1117, Relating to payments for evaluators based on the number of candidates examined for interpreter certification.

S.B. 1118, Relating to examinations for interpreter certification conducted by the Board for Evaluation of Interpreters.

S.B. 1130, Relating to the Interagency Council on Sex Offender Treatment; creating an offense and providing a penalty. (As substituted)

S.B. 1225, Relating to setting state goals, standards, and fees for used oil and solid waste. (As substituted and amended)

S.B. 1227, Relating to the offenses of barratry, falsely holding oneself out as a lawyer, and the unauthorized practice of law and certain solicitations regarding professional employment; providing penalties. (As amended)

S.B. 1236, Relating to creation of the office of criminal district attorney of Waller County, to the abolition of the office of county attorney in Waller County, and to the abolition of the jurisdiction of the district attorney for the 9th Judicial District in Waller County.

S.B. 1311, Relating to the powers of certain cooperative associations.

S.B. 1329, Relating to the administration of county jails.

S.B. 1332, Relating to analyses of state budget proposals and programs and of the budgetary effects of proposed legislation. (As amended)

S.B. 1371, Relating to the regulation and operation of proprietary schools. (As amended)

S.B. 1372, Relating to purchases and contracts of the Jefferson County Drainage District No. 7 and the authority of the manager of the district to hire and terminate employees of the district.

S.B. 1380, Relating to performance of the duties of a county budget officer.

S.B. 1429, Relating to the rights, powers, privileges, authority, and functions of the Denton County Reclamation and Road District.

S.J.R. 9, Proposing a constitutional amendment authorizing the legislature to provide for the issuance of bonds for the state financing of start-up costs for historically underutilized businesses. (As substituted)

H.C.R. 141, Recognizing the Texas horned lizard as the State Reptile of Texas.

H.C.R. 146, Inviting Abia, Nigeria, to join with Texas in a sister state relationship.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)

On motion of Senator Haley and by unanimous consent, Senate Rule 5.14(a) was suspended in order that following bills may be placed on the Intent Calendar for today:

H.B. 2790
H.B. 1077

(Senator Haley in Chair)

COMMITTEE SUBSTITUTE
HOUSE BILL 1696 ON SECOND READING

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

C.S.H.B. 1696, Relating to the location of cemeteries in certain municipalities.

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

COMMITTEE SUBSTITUTE
HOUSE BILL 1696 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1696** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE
HOUSE BILL 2790 ON SECOND READING

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

C.S.H.B. 2790, Relating to county responsibility for indigent health care services.

The bill was read second time.

On motion of Senator Carriker and by unanimous consent, **C.S.H.B. 2790** was withdrawn and **H.B. 2790** was considered in lieu thereof.

On motion of Senator Carriker and by unanimous consent, further consideration of **H.B. 2790** was temporarily postponed.

Question—Shall the bill be passed to third reading?

CAPITOL PHYSICIAN

Senator Turner was recognized and presented Dr. Marcos Purvis of Brenham as the "Doctor for the Day."

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

HOUSE BILL 1608 ON SECOND READING

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

H.B. 1608, Relating to the investment of state funds, the liquidity of obligations issued by state agencies, and the availability of federal reserve services.

The bill was read second time.

(President in Chair)

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1608** as follows:

(1) In Section 404.024 of SECTION 3 of the committee report printing, on page 3, line 22, add a new Subsection (j) to read as follows:

(j) The treasurer may not use state funds to invest in or purchase obligations of a private corporation or other private business entity doing business in Northern Ireland unless the corporation or other entity:

(1) adheres to fair employment practices; and

(2) does not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(2) Reletter Subsection (j) of Section 404.024, as added by the bill, to Subsection (k).

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

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

(1) Amend **H.B. 1608** by adding the following appropriately numbered sections:

SECTION ____. Section 2, Public School Facilities Funding Act (Article 717t, Vernon's Texas Civil Statutes), is amended by amending Subdivision (3) and adding Subdivision (8) to read as follows:

(3) "Capital assets" means:

(A) permanent fixtures, including mechanical or electrical equipment, of an instructional facility; and

(B) other property that constitutes furnishings or equipment of an instructional facility.

(8) "Bonds" includes notes and other obligations.

SECTION ____. Sections 3 and 4, Public School Facilities Funding Act (Article 717t, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 3. FINDINGS. The legislature finds that it is appropriate to make loans to qualifying districts and to purchase bonds issued by qualifying districts for the purpose of aiding those districts in the acquisition, construction, renovation, major repair, remodeling, retrofitting, or improvement of qualifying instructional facilities and capital assets, and for the purpose of aiding qualifying districts in funding their cash-management programs or other short-term borrowing needs for maintenance expenses.

Sec. 4. PURPOSE. The purpose of this Act is to create funds to be administered by the state treasurer as directed by the board and funded by proceeds from the sale or refunding of bonds. The funds are to be used to determine the needs of qualifying [~~qualified~~] districts in acquiring, constructing, renovating, performing major repairs to, remodeling, retrofitting, or improving qualifying capital assets and instructional facilities and to provide loans and other aid for those purposes, for paying maintenance expenses, and to aid school districts in the bond issuance process. This Act shall be construed liberally to effect its purpose.

SECTION ____. Section 5(c), Public School Facilities Funding Act (Article 717t, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The board may also from time to time commission or enter into an interagency agreement to undertake a comprehensive study of the needs of school districts in all or part of the state for the acquisition, construction, renovation, major repair, remodeling, retrofitting, or improvement of capital assets and instructional facilities.

SECTION ____. Section 6, Public School Facilities Funding Act (Article 717t, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. CREATION OF SCHOOL FACILITIES AID FUND. (a) The school facilities aid fund is hereby created as a special revolving fund in the state treasury. The fund shall be administered by the state treasurer as directed by the board under this Act and rules adopted by the board. The fund shall be used to provide aid to qualifying districts for the purpose of aiding those districts in the acquisition, construction, renovation, major repair, remodeling, retrofitting, or improvement of capital assets and instructional facilities that meet the board's standards for qualification under this Act, to provide aid to qualifying districts to fund their cash-management programs or other short-term borrowing needs for maintenance purposes, and to aid school districts in the bond issuance process. The fund may also be used to pay the costs of a study of the needs of school districts in all or part of the state for the acquisition, construction, renovation, major repair, remodeling, retrofitting, or improvement of qualifying capital assets and instructional facilities or for

assistance in paying maintenance expenses. Money in the fund shall not be commingled or otherwise deposited to the credit of any other fund in the state treasury, except as provided by this Act.

(b) The board shall require to be deposited to the credit of the fund:

(1) the proceeds of bonds, exclusive of the costs of issuance, issued under this Act which are not required to be deposited into the reserve fund;

(2) any federal funds or private funds received and designated for the purposes of the fund;

(3) all repayments, interest, principal, or other amounts received in connection with aid provided under this Act;

(4) any investment securities or bonds purchased by the fund or otherwise held for the purposes of this Act, including interest or other earnings derived from the investment of the amounts described in Subdivisions (1), (2), and (3) of this subsection; and

(5) any amounts transferred for deposit into the fund.

(c) Except as otherwise provided by this Act, the fund shall be available only for:

(1) purchasing the bonds of qualifying districts or otherwise making loans to qualifying districts for expenses related to the acquisition, construction, renovation, major repair, remodeling, retrofitting, or improvement of qualifying capital assets and instructional facilities or for maintenance expenses;

(2) aiding districts in the issuance of bonds;

(3)[~~; for~~] administrative costs relating to the performance of any duties under this Act;

(4)[~~; for~~] payment of issuance costs, interest, premium, if any, and principal on bonds issued under this Act;[~~,~~] and

(5) [~~for~~] any transfers to the school facilities aid reserve fund required by resolution of the board.

(d) Except for aid for maintenance expenses or to the extent directly related to the acquisition, construction, renovation, major repair, remodeling, retrofitting, or improvement of qualifying capital assets and instructional facilities, the fund may not be used to pay the general administrative expenses of any school district nor to pay any part of the salary or benefits of an official or employee of any school district receiving aid under this Act.

(e) [~~(d)~~] The board may direct the state treasurer to create accounts within the fund as shall seem advisable. Such accounts shall be kept separate from other accounts within the fund and shall receive such amounts as the board shall transfer or dedicate to them. The board may in the resolution authorizing the issuance of bonds dedicate an account or accounts within the fund, including future amounts to be deposited within an account, to the payment of debt service on one or more series of bonds issued under this Act. The board may also direct the state treasurer to pledge such an account or accounts as security for bonds issued under this Act.

SECTION ____. Sections 11 and 12, Public School Facilities Funding Act (Article 717t, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 11. FORM OF AID. (a) The board may provide aid to a qualifying district by purchasing, at a price determined by the board:

(1) bonds of the district issued under Chapter 20, Education Code, including bonds guaranteed by the permanent school fund under Subchapter E of that chapter;

(2) other contractual obligations issued by the district under Subchapter A, Chapter 271, Local Government Code; or

(3) other bonds of the district issued [~~loan. A loan may be made~~] for the purpose of refunding current outstanding obligations of a qualifying district if the current outstanding obligations or the portion thereof refunded was used in a manner which would qualify for aid under this Act and application is made and approved in the same manner as provided for other aid under this Act.

(b) A qualifying district is authorized to borrow from the fund by selling its bonds to the board [~~in the form of a loan which is authorized and secured and subject to the same limitations as a bond issue by that district~~]. To be sold to the board, bonds of a qualifying district [~~Any loan made under this Act~~] must be authorized by the district in accordance with applicable law, including approval [~~approved~~] by the voters of the [~~a qualifying~~] district if voter approval is required by law [~~in the same manner as the issuance of bonds by that district~~].

(c) [~~(b)~~] The board may purchase all or part of an issue of a qualifying district's bonds, including refunding bonds, without the district complying with the requirement of Section 20.01, Education Code, that bonds be sold to the highest bidder [~~if the proceeds of those bonds are to be used in a manner which would qualify for aid under this Act or for providing funds for the acquisition, construction, renovation, or improvement of qualifying capital assets or instructional facilities, and application is made and approved in the same manner as provided for other aid under this Act~~]. Any school district may request from the board an advisory statement as to whether the board will consider purchasing the school district's bonds. Such a request shall contain whatever information shall be reasonably required by the board. Notwithstanding any provision of law to the contrary, the board may acquire bonds issued by a qualifying district in a public or private sale with or without competitive bidding as provided by resolution or order of the governing body of the district. The resolution or order may designate an officer or employee of the district to act on behalf of the district to set the price, interest rate, and date for the sale of the bonds.

(d) The board may require by rule that bonds of qualifying districts to be purchased by the board contain specified terms and provisions.

(e) [~~(c)~~] The board may establish by rule formulas which provide for loans or other aid for the acquisition, construction, renovation, major repair, remodeling, retrofitting, and improvement of capital assets and for cash management and short-term borrowing needs for maintenance expenses. The board shall consider the type of capital assets for which aid is requested and the needs of the district applying for aid in making its determination. The board may provide by rule for different classes of capital assets and establish different criteria for awarding aid to each class.

(f) [~~(d)~~] The board may establish by rule formulas which provide for loans or other aid for the acquisition, construction, renovation, major repair, remodeling, retrofitting, and improvement of instructional facilities. The board shall consider the type of facility acquisition, construction, renovation, major repair, remodeling, retrofitting, or improvement requested, the use to which the facility or improvement would be put, and the needs of the district applying for aid in making its determination. The board may provide by rule for different classes of facilities or improvements thereto and establish different criteria for awarding aid to each class.

(g) [~~(e)~~] The board may condition aid to a qualifying district on that district providing funds for the acquisition, construction, renovation, or improvement applied for in an amount set by the board.

(h) [~~(f)~~] The board shall require of all aid recipients that the aid provided and any independent funds required by the board to be provided by the district be spent exclusively on the project for which the aid was originally awarded. The board may by rule provide for a procedure by which an aid recipient may apply to the board for permission to use the aid provided and any required independent funds for a different purpose. The board may grant such permission if it finds that the alternative use proposed would have qualified for at least the same amount and type of aid. The Central Education Agency shall assist the board in monitoring the use of aid provided under this Act.

(i) [~~(g)~~] The board may by rule set limits on the amount of aid which any single qualifying district may receive in a specified number of years in a manner calculated to ensure that all qualifying districts are able to be considered for aid.

Sec. 12. REPAYMENT AND SECURITY. (a) A school district shall make payments of principal and interest on obligations purchased by the board directly to the state treasurer for deposit in the fund [~~The board shall provide for a loan or other repayment schedule at the time of granting aid to any qualifying district~~].

(b) If the state treasurer receives notification from a school district that it will not make a timely payment on a loan made under this Act or if a school district fails to make a timely payment of principal or interest due on a loan made [~~Should a school district be more than 15 days delinquent in any repayment due~~] under this Act, the state treasurer shall notify [~~certify that fact to~~] the board and [~~to~~] the commissioner of education and shall notify the local district in writing by certified mail. Except as provided by Subsection (c) of this section, the [~~The~~] Central Education Agency shall deduct the total amount due to the board or fund, including interest and any applicable late payment charges as of the date of notification [~~certification~~], from the foundation school fund payment next due to that school district, including any allocations to that district under Chapter 16, [~~of the~~] Education Code, and shall continue making the deductions from subsequent foundation school fund payments until the total amount then due has been deducted. The Central Education Agency shall credit the full amount of a foundation school fund entitlement to a school

district prior to making the deduction. The amount of such a deduction shall then be paid to the fund or to an account within the fund as the board may direct, on behalf of the district. Should the board determine that a deduction or any part thereof which was deposited in the fund was made erroneously, it may authorize payment from the fund of that amount directly to a district against which a deduction was made.

(c) If a school district is delinquent in making payments on bonds guaranteed by the permanent school fund under Subchapter E, Chapter 20, Education Code, the amount of the delinquency shall be immediately transferred from the appropriate account in the permanent school fund to the school facilities loan fund.

(2) Renumber subsequent sections accordingly.

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

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 3

Amend **H.B. 1608** as follows: Add new Section 4 of the bill and renumber subsequent sections appropriately.

SECTION 4. Section 404.0245, Government Code, is amended to read as follows:

Sec. 404.0245. CRUDE OIL AND NATURAL GAS FUTURES CONTRACTS.

(a) In this section, "hedging" means the buying and selling of crude oil and natural gas commodity futures or [~~the buying of~~] options on crude oil and natural gas commodity futures as a protection against loss due to price fluctuations. Hedging at all times shall comply with Commodity Futures Trading Commission regulations.

(b) Subject to the limitations of Subsection (c), the board may determine and designate the amount of state funds that shall be invested by the treasurer in hedging transactions in crude oil and natural gas futures contracts and options on crude oil and natural gas futures contracts that are traded on an established exchange regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(c) The principal amount of state funds invested and outstanding in hedging transactions on any one day may not exceed $500,000 with a maximum risk of loss of $5,000,000 [~~$2,500,000~~]. The total principal amount of state funds that may be invested by the state treasurer in hedging transactions during any one biennium may not exceed the amount of money credited to the unclaimed money fund for that biennium and attributable to the remittance of mineral proceeds under Chapter 75, Property Code. Any premium incurred in connection with hedging transactions may be paid only from funds appropriated for that purpose.

(d) The board by rule shall regulate the investment of state funds in crude oil and natural gas futures contracts or options on crude oil and natural gas futures contracts. The rules shall provide restrictions and procedures for making the investments that persons of ordinary prudence,

discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, would follow in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The investments may be made only for hedging purposes.

(e) This section expires [~~September 1, 1993 or~~] if the total cumulative losses exceed $5,000,000 [~~$2,500,000, whichever comes first~~].

(f) Any appropriation made for this program contingent upon S.B. 736 becoming law is available for purposes of this program under this Act.

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

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

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

HOUSE BILL 1608 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1608** be placed on its third reading and final passage.

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

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

HOUSE BILL 1639 ON SECOND READING

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

H.B. 1639, Relating to the termination of the parent-child relationship.

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

HOUSE BILL 1639 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1639** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 2178 ON SECOND READING

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

C.S.H.B. 2178, Relating to compensation of victims of certain crimes.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2178 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2178** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 799 ON SECOND READING

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

C.S.H.B. 799, Relating to requirements for and a study concerning the land application of Class B domestic sludge.

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

COMMITTEE SUBSTITUTE HOUSE BILL 799 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 799** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Parker.

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

RECORD OF VOTE

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

COMMITTEE SUBSTITUTE HOUSE BILL 2318 ON SECOND READING

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

C.S.H.B. 2318, Relating to the Texas Low-Level Radioactive Waste Disposal Authority.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Amend **C.S.H.B. 2318**, on page 8, line 30, by inserting a new Section 23 as follows and renumber the remaining section:

SECTION 23. Section 401.052, Health and Safety Code, is amended to read as follows:

Sec. 401.052. RULES [~~AND GUIDELINES~~] FOR TRANSPORTATION AND ROUTING. (a) The board shall adopt rules [~~and guidelines~~] that provide for transportation and routing of radioactive material and waste in this state.

(b) Rules adopted under this section for radioactive waste shall:

(1) to the extent practicable, be compatible with United States Department of Transportation and United States Nuclear Regulatory Commission regulations relating to the transportation of radioactive waste;

(2) require each shipper and transporter of radioactive waste to adopt an emergency plan approved by the department for responding to transportation accidents;

(3) require the notification and reporting of accidents to the department and to local emergency planning committees in the county where the accident occurs;

(4) require each shipper to adopt a quality control program approved by the department to verify that shipping containers are suitable for shipment to a licensed disposal facility; and

(5) assess a fee on shippers for shipments to a Texas low-level radioactive waste disposal facility of radioactive waste originating in Texas or out-of-state.

(c) In promulgating rules under this section, the board shall consult with the advisory board and the Texas Natural Resource Conservation Commission.

(d) (1) Fees assessed under this section shall:

(A) not exceed $10 per cubic foot of shipped radioactive waste;

(B) be collected by the authority and deposited to the credit of the radiation and perpetual care fund; and

(C) be used exclusively by the department for emergency planning for and response to transportation accidents involving radioactive waste.

(2) Fee assessments under this section shall be suspended when the amount of fees collected reaches $500,000, except that if the balance of fees collected is reduced to $350,000 or less, the assessments shall be reinstituted to bring the balance of fees collected to $500,000.

(e) Money expended from the radiation and perpetual care fund to respond to accidents involving radioactive waste must be reimbursed to the radiation and perpetual care fund by the responsible shipper or transporter according to rules adopted by the board.

(f) In this section:

(1) "Shipper" means a person who generates low-level radioactive waste and ships or arranges with others to ship the waste to a disposal site.

(2) "Authority" means the Texas Low-level Radioactive Waste Disposal Authority.

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

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 2318 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2318** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1993

Mr. President: 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. 2067** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Coleman, Chair; Hernandez, Giddings, Krusee, and Gallego.

The House has refused to concur in Senate amendments to **H.B. 2740** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Rodriguez, Chair; Hernandez, Shields, Naishtat, and Bailey.

The House has refused to concur in Senate amendments to **H.B. 680** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Kubiak, Chair; Yarbrough, Patterson, Johnson, and Rodriguez.

The House has refused to concur in Senate amendments to **H.B. 2714** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Bailey, Chair; Bosse, De La Garza, Eckels, and Yarbrough.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 1061**. The House conferees are: Representatives Counts, Chair; McCall, Seidlits, Park, and Glaze.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 1049**. The House conferees are: Representatives Berlanga, Chair; Earley, Cook, Gray, Ramsay.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 210**. The House conferees are: Representatives Vowell, Chair; Naishtat, Cook, Delisi, and McDonald.

The House has refused to concur in Senate amendments to **H.B. 284** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Maxey, Chair; Greenberg, Delco, Naishtat, and Parra.

The House has concurred in Senate amendments to **H.B. 1551** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2177** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 2389** by a non-record vote.

The House has adopted the conference committee report on **S.B. 510** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 245** by a vote of 137 yeas, 0 nays, 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 2790 ON SECOND READING

The Senate resumed consideration of **H.B. 2790** on its passage to third reading, further consideration having been temporarily postponed earlier today.

H.B. 2790, Relating to county responsibility for indigent health care services.

Question—Shall the bill be passed to third reading?

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

HOUSE BILL 2790 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2790** be placed on its third reading and final passage.

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

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

HOUSE JOINT RESOLUTION 22 ON SECOND READING

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

H.J.R. 22, Proposing a constitutional amendment to abolish the office of county surveyor in McLennan County.

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

HOUSE JOINT RESOLUTION 22 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.J.R. 22** be placed on its third reading and final passage.

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

The resolution was read third time and was passed 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 **S.J.R. 49.**

CONFERENCE COMMITTEE REPORT ON SENATE JOINT RESOLUTION 49 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.J.R. 49.** The Conference Committee Report was filed with the Senate on Thursday, May 27, 1993.

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Moncrief, Montford, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Luna.

Present-not voting: Nelson.

Absent: Madla.

REASON FOR VOTE

Senator Nelson submitted the following reason for vote:

I strongly support any constitutional amendment that prohibits a personal income tax. However, it is my opinion that **S.J.R. 49** creates a false impression that it allows for a ban on a state income tax when it does not. Deceiving the voters on issues of taxation and revenue is a practice which needs to be stopped. For example, two years ago Governor Richards sold Texans on a new franchise tax, only to later learn that it was in fact a new corporate income tax. Taxes and legislative chicanery are like oil and water—they don't mix.

Texans should not be forced into a corner in making the Hobson's choice which **S.J.R. 49** represents. (Webster's Dictionary defines Hobson's choice as an apparently free choice when there is no real alternative.)

While I support the amendments the House added to **S.J.R. 49** to dedicate revenue from the income tax for school property tax relief, I cannot consciously support legislation that would allow the public to be misled on the overall issue of **S.J.R. 49.**

Because of the deception surrounding the state's new franchise tax, and because **S.J.R. 49** potentially sets up a scenario in which an income tax can be sold, not banned, I will remain committed to my legislation, **S.J.R. 20**, and will abstain from voting on **S.J.R. 49.**

NELSON

REPORT OF COMMITTEE ON NOMINATIONS

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

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

To be a Member of the TEXAS STATE BOARD OF CHIROPRACTIC EXAMINERS: Dr. Carroll Vandine Guice, Gregg County.

To be Members of the STEPHEN F. AUSTIN STATE UNIVERSITY BOARD OF REGENTS: Ron Adkison, Rusk County; Simon Lynn Montes, Angelina County; Murray Shaw, Travis County.

To be a Member of the PUBLIC SAFETY COMMISSION: Ronald D. Krist, Harris County.

To be Members of the STATE BOARD OF DENTAL EXAMINERS: Elizabeth Hernandez, Harris County; Glenna H. Johns, Collin County; Dr. Romeo H. Lewis, Jr., Dallas County; Dr. Glenda F. Smith, Travis County; Nancy Ann Tibbets, Johnson County; Dr. Thomas R. Uribe, Bexar County; Dr. Wilfred D. Whiteside, Nueces County.

To be a Member of the TEXAS STATE BOARD OF CHIROPRACTIC EXAMINERS: Nancy D. Brannon, Cooke County.

To be Members of the TEXAS BOARD OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING AIDS: Joycie L. Burns, Freestone County; Jane Wofford Porter, Dallas County; Diane Cecile Shaffer, Jefferson County; Dr. Richard W. Stream, Denton County.

To be Members of the TEXAS STATE BOARD OF PHARMACY: Charlie Bellinger Bethea, Harris County; Jeanette H. Coffield, Jasper County; Marina P. Sifuentes, Travis County.

To be Members of the TEXAS STATE BOARD OF PODIATRY EXAMINERS: Dr. Thomas S. Garrison, Harris County; Ana Maria Laborde, Bexar County; Dr. J. Michael Valenza, Travis County.

To be a Member of the SCHOOL LAND BOARD (Appointed by the Attorney General of Texas): William F. Warnick, Lubbock County.

To be Members of the STATE COMMITTEE OF EXAMINERS FOR SPEECH LANGUAGE PATHOLOGY AND AUDIOLOGY: Charles K. Kuratko, Lubbock County; Teri Mata-Pistokache, Hidalgo County; Jane Dean McConnell, Dallas County.

To be Members of the STATE BOARD OF VETERINARY MEDICAL EXAMINERS: Dr. James N. Gomez, Cameron County; Joyce G. Schiff, Dallas County; Dr. John A. Wood, Angelina County.

NOTICE OF CONSIDERATION OF NOMINATIONS

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

COMMITTEE SUBSTITUTE HOUSE BILL 570 ON SECOND READING

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

C.S.H.B. 570, Relating to the determination of value in condemnation proceedings.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 570** as follows:

Strike SECTION 2 and add a new SECTION 2 as follows:

SECTION 2. This Act and **H.B. 2297**, Acts of the 73rd Legislature, Regular Session, 1993, do not affect:

(a) a matter involved in litigation that is pending on the effective date of this Act; or,

(b) a dispute in relation to property that is the subject of an eminent domain proceeding on the effective date of this Act; or,

(c) a condemnation proceeding pending before the effective date of this Act.

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

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 570** as follows:

On page 1, line 13, insert a new Subsection (f) to read as follows:

(f) If a condemning entity publicly manifests an intention to condemn a tract or parcel of real property in whole or in part and then unreasonably delays the institution of actual statutory condemnation proceedings, the property owner may recover damages suffered during the period of unreasonable delay in addition to the property owner's other damages authorized by this chapter.

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

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 570 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 570** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Barrientos.

HOUSE JOINT RESOLUTION 21 ON SECOND READING

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

H.J.R. 21, Proposing a constitutional amendment to abolish the office of county surveyor in Jackson County.

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

HOUSE JOINT RESOLUTION 21 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.J.R. 21** be placed on its third reading and final passage.

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

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

(Senator Henderson in Chair)

(President in Chair)

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 **S.B. 7.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 7 ADOPTED

On motion of Senator Ratliff and by unanimous consent, all necessary rules were suspended to take up and consider the Conference Committee Report on **S.B. 7.**

Senator Ratliff called from the President's table the Conference Committee Report on **S.B. 7.** The Conference Committee Report was filed with the Senate on Thursday, May 27, 1993.

On motion of Senator Ratliff, the Conference Committee Report was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Lucio, Luna, Madla, Moncrief, Montford, Parker, Ratliff, Rosson, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris of Dallas, Henderson, Leedom, Nelson, Patterson, Shapiro.

PRESENTATIONS

Senator Ratliff was recognized and, from the President's rostrum, briefly addressed the Senate. Senator Ratliff then made presentations to

the President, Bruce Gibson, David Anderson, Rey Garcia, and John O'Brien, expressing his appreciation and thanks for their hard work and dedication on **S.B. 7.**

(Senator Ratliff in Chair)

SENATE RESOLUTION 1098

Senator Montford offered the following resolution:

S.R. 1098, BE IT RESOLVED by the Senate of the State of Texas, that Senate Rule 12.03 and 12.04 be suspended in part as provided by Senate Rule 12.08 to enable consideration of, and action on, the specific matters which may be contained in the Conference Committee Report on **S.B. 5.** (See page 3914 of the House Journal, Eighty-First Day Continued, May 27, 1993, for complete text of resolution. **H.R. 796** is identical to **S.R. 1098.**)

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

SENATE RULE 11.11 SUSPENDED
(Posting Rule)

On motion of Senator Barrientos and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Nominations might meet today.

FLOOR PRIVILEGES GRANTED

On motion of Senator Montford and by unanimous consent, floor privileges were granted to David Opperman and Sheila Beckett during deliberations on the Conference Committee Report on **S.B. 5.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 5 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on **S.B. 5.** The Conference Committee Report was filed with the Senate on Tuesday, May 25, 1993.

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Lucio, Luna, Madla, Moncrief, Montford, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Leedom, Nelson.

BILLS AND RESOLUTIONS SIGNED

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

H.B. 85	**H.B. 997**
H.B. 161	**H.B. 1815**
H.B. 259	**H.C.R. 111**

H.B. 630 **H.C.R. 140**
H.B. 653 **H.J.R. 37**
H.B. 957

SENATE RESOLUTION 1100

Senator Whitmire offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 73rd Legislature, Regular Session, 1993, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **S.B. 1067**, to consider and take action on the following specific matters:

1. Senate Rule 12.03(1) is suspended to permit the committee to amend Section 22.04, Penal Code (Injury to a Child, Elderly Individual, or Invalid Individual), by striking the term "invalid individual" and substituting "disabled individual" throughout that section.

This change is necessary to update the description of an individual who is disabled.

2. Senate Rule 12.03(1) is suspended to permit the committee to amend Sections 25.05(f) and (g), Penal Code (Criminal Nonsupport), to read as follows:

(f) [~~Except as provided in Subsection (g) of this section, an offense under this section is a Class A misdemeanor.~~

[~~(g)~~] An offense under this section is a state jail felony [~~of the third degree if the actor:~~

[~~(1) has been convicted one or more times under this section; or~~

[~~(2) commits the offense while residing in another state~~].

This change is necessary to eliminate the enhancement of punishment under that section for a person who commits the offense and leaves the state to reside in another state.

3. Senate Rule 12.03(2) is suspended to permit the committee to amend Section 31.01, Penal Code (Definitions for Theft Offenses), by striking the terms "cable television" and "subscription television" from the definition of "service" to read as follows:

(6) [~~(7)~~] "Service" includes:

(A) labor and professional service;

(B) telecommunication, public utility, or [~~and~~] transportation service;

(C) lodging, restaurant service, and entertainment; and

(D) the supply of a motor vehicle or other property for use.

This change is necessary to eliminate the distinction between cable or subscription television service and other types of service for purposes of the offense of theft.

4. Senate Rule 12.03(2) is suspended to permit the committee to omit language from Section 31.08(c), Penal Code, in order to amend that section to read as follows:

(c) If property or service has value that cannot be reasonably ascertained by the criteria set forth in Subsections (a) and (b) [~~of this~~

~~section~~], the property or service is deemed to have a value of $500 or more [~~than $200~~] but less than $1,500 [~~$750~~].

This change is necessary to eliminate the presumption of the value of cable television service or subscription television service for purposes of the offense of theft.

5. Senate Rule 12.03(2) is suspended to permit the committee to omit Section 42.10(c), Penal Code (Dog Fighting).

This change is necessary to eliminate the provision that allows the state to require a party to the offense to furnish evidence or testify about the offense and provide immunity from prosecution for the party if the party furnishes evidence or testifies.

6. Senate Rule 12.03(4) is suspended to permit the committee to amend Article 13 of the bill by adding Section 13.02 to read as follows:

SECTION 13.02. (a) Except as provided by Subsection (c) of this section, an amendment to any provision of the Penal Code made by another Act of the 73rd Legislature, Regular Session, 1993, an amendment in another Act to a provision of Article 6701l-1, Revised Statutes, or an amendment in another Act to a provision of the Health and Safety Code also amended by this Act, applies only to an offense committed under the provision on or after the effective date of the other Act and before September 1, 1994. The amendment made by the other Act continues in effect only for the limited purpose of the prosecution of an offense committed before September 1, 1994.

(b) For purposes of this section, an offense is committed before September 1, 1994, if all elements of the offense occur before that date.

(c) If **H.B. 354**, 73rd Legislature, Regular Session, 1993, is enacted and becomes law, the amendments made to the Penal Code by that Act continue in effect on and after September 1, 1994. If **S.B. 456**, 73rd Legislature, Regular Session, 1993, is enacted and becomes law, the amendments made to the Penal Code by that Act continue in effect on and after September 1, 1994.

This change is necessary to continue in effect amendments made by other Acts of the 73rd Legislature, Regular Session, 1993, to the Penal Code, certain provisions of the Health and Safety Code, and Article 6701l-1, Revised Statutes, for the purpose of prosecution of offenses committed under those amendments and to continue in effect after September 1, 1994, **H.B. 354** and **S.B. 456**, Acts of the 73rd Legislature, Regular Session, 1993, if enacted.

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

SENATE RULE 7.12(a) SUSPENDED
(Printing Rule)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 7.12(a) was suspended for **S.B. 1067.**

(Senator Haley in Chair)

HOUSE BILL 1077 ON SECOND READING

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

H.B. 1077, Relating to the use of corporate revenue of certain industrial development corporations for promotional purposes.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1077** by striking SECTION 1 and inserting in lieu thereof the following:

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

(b)(1) A city may create a corporation under this Act governed by this section. The corporation has the powers and is subject to the limitations of a corporation created under other provisions of this Act. To the extent of a conflict between this section and another provision of this Act, this section prevails. The articles of incorporation of a corporation under this section must state that the corporation is governed by this section. A corporation created under this section may spend no more than 10 percent of the corporate revenues for promotional purposes and may contract with other existing private corporations to carry out industrial development programs consistent with the purposes and duties as set out in this Act.

(2) Notwithstanding Subdivision (1), a corporation created under this section may spend no more than 25 percent of the corporate revenues for promotional purposes if the corporation was created by a city:

(i) the municipal limits of which include two counties;

(ii) that has less than 24,250 population according to the 1990 federal census; and

(iii) any part of which is located within ten miles of a federal military reservation.

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

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 1077** as follows:

Add a new SECTION 2 to read as follows and renumber existing SECTION 2 as SECTION 3 and existing SECTION 3 as SECTION 4:

SECTION 2. This Act and **H.B. 2297**, Acts of the 73rd Legislature, Regular Session, 1993, do not affect:

(a) a matter involved in litigation that is pending on the effective date of this Act; or

(b) a dispute in relation to property that is the subject of an eminent domain proceeding on the effective date of this Act.

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

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

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

HOUSE BILL 1077 ON THIRD READING

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1077** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Ratliff.

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

RECORD OF VOTE

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

RECESS

On motion of Senator Harris of Dallas, the Senate at 1:39 p.m. took recess until 3:00 p.m. today.

AFTER RECESS

The Senate met at 3:00 p.m. and was called to order by the President.

COMMITTEE SUBSTITUTE HOUSE BILL 2134 ON THIRD READING

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

C.S.H.B. 2134, Relating to payroll deductions for employees of state agencies; making an appropriation.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2271 ON SECOND READING

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

C.S.H.B. 2271, Relating to the ability of the Texas Water Development Board to obtain liability insurance, and exempting Texas Water Development Board members and employees from personal liability relating to board business, and declaring an emergency.

The bill was read second time.

On motion of Senator Parker and by unanimous consent, **C.S.H.B. 2271** was withdrawn and **H.B. 2271** was considered in lieu thereof.

H.B. 2271 was passed to third reading by a viva voce vote.

HOUSE BILL 2271 ON THIRD READING

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2271** be placed on its third reading and final passage:

H.B. 2271, Relating to the ability of the Texas Water Development Board to obtain insurance and exempting Texas Water Development Board members and employees from personal liability relating to board business.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

CONFERENCE COMMITTEE ON HOUSE BILL 706

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. 706** 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. 706** 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, Chair; Turner, Sibley, Moncrief, and Haley.

SENATE BILL 1051 WITH HOUSE AMENDMENTS

Senator Parker called **S.B. 1051** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **S.B. 1051** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the reduction of solid waste by creating markets for recycled materials and otherwise promoting recycling and the use of recycled materials and by municipal solid waste management.

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

ARTICLE 1. RECYCLING

SECTION 1.01. Chapter 481, Government Code, is amended by adding Subchapter AA to read as follows:

SUBCHAPTER AA. RECYCLING MARKET DEVELOPMENT

Sec. 481.371. PURPOSE. The purpose of this subchapter is to develop and diversify the economy of this state and develop and expand commerce in this state through sustaining and promoting recycling enterprises.

Sec. 481.372. DEFINITIONS. In this subchapter, "enterprise zone" and "governing body" have the meanings assigned by the Texas Enterprise Zone Act (Article 5190.7, Vernon's Texas Civil Statutes).

Sec. 481.373. DESIGNATION AS RECYCLING MARKET DEVELOPMENT ZONE. On application by the governing body of an enterprise zone, the department may designate the enterprise zone as a recycling market development zone for the development of local business and industry in the zone to recycle materials that have served their intended use or that are scrapped, discarded, used, surplus, or obsolete by collecting, separating, or processing the materials for use in the production of new products.

Sec. 481.374. RECYCLING MARKET DEVELOPMENT LOANS AND GRANTS. (a) The department may make a loan or grant to the governing body of an enterprise zone designated as a recycling market development zone to fund an activity that sustains or increases recycling efforts.

(b) A grant recipient under this section must match the amount of the state grant with an equal amount of money from another source.

(c) A grant under this section may not exceed $30,000.

(d) The department may make loans or grants from appropriated funds or from any special fund.

Sec. 481.375. RULEMAKING. The department shall adopt necessary rules to implement and administer this subchapter in accordance with the purposes of this subchapter, including rules on:

(1) criteria for designating a recycling market development zone;

(2) designation applications, loan applications, and grant applications;

(3) the minimum and maximum amount of a loan made under this subchapter;

(4) application fees; and

(5) operational guidelines for loan and grant disbursement.

SECTION 1.02. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.33 to read as follows:

Sec. 3.33. STATE AGENCY EXPENDITURES FOR RECYCLED MATERIALS. A state agency shall expend a minimum of five percent of its consumable procurement budget in fiscal year 1994 and eight percent of its consumable procurement budget for each fiscal year thereafter for materials, supplies, and equipment that have recycled material content or are remanufactured or environmentally sensitive, as those terms are defined by the commission. A report of the total expenditures in these areas and the amount expended in each category for the previous fiscal year shall be delivered to the governor, the Legislative Budget Board, the lieutenant governor, and the speaker of the house of representatives not later than January 1 of each year.

SECTION 1.03. Article 11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 11.07 to read as follows:

Sec. 11.07. INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS FOR PROCUREMENT OF RECYCLED PRODUCTS. The commission shall enter into compacts and cooperative agreements with other states and government entities for the procurement of products made of recycled materials.

SECTION 1.04. Section 382.002, Local Government Code, is amended to read as follows:

Sec. 382.002. PURPOSE. The primary purpose of this chapter is to create county research and development authorities to promote scientific research and development and commercialization of research in affiliation with public and private institutions of research, higher education, or health science centers. Research to be promoted, developed, and commercialized includes research in recycling processes and recyclable materials.

SECTION 1.05. Section 481.078(a), Government Code, is amended to read as follows:

(a) The department may develop and plan programs for the purpose of promoting and encouraging the location and expansion of major industrial, [~~and~~] manufacturing, and recycling enterprises within this state and may coordinate, with the consent of local governments, the activities of the local governments related to the programs, including financing options available under existing law and this section for that purpose.

SECTION 1.06. Section 2(10), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(10) "Project" shall mean the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, small warehouse facilities capable of serving as decentralized storage and distribution centers, and facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the department, irrespective of whether in existence or required to be identified, acquired, or constructed thereafter. As used in this Act, the term "development areas" shall mean any area or areas of a city that the city finds and determines, after a public hearing, should be developed in order to meet the development objectives of the city. In addition, in blighted or economically depressed areas, development areas or federally assisted new communities located within a home-rule city or a federally designated economically depressed county of less than 50,000 persons according to the last federal decennial census, a project may include the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of commercial development and expansion and in furtherance of the public purposes of this Act, or for use by commercial enterprises, all as defined in the rules of the department, irrespective of whether in existence or required to be acquired or constructed thereafter. As used in this Act, the term blighted or economically depressed areas shall mean those areas and areas immediately adjacent thereto within a city which by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures, or which suffer from a high relative rate of unemployment, or which have been designated and included in a tax

incremental district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes), or any combination of the foregoing, the city finds and determines, after a hearing, substantially impair or arrest the sound growth of the city, or constitute an economic or social liability and are a menace to the public health, safety, or welfare in their present condition and use. The department shall adopt guidelines that describe the kinds of areas that may be considered to be blighted or economically depressed. The city shall consider these guidelines in making its findings and determinations. Notice of the hearing at which the city considers establishment of a development area or an economically depressed or blighted area shall be posted at the city hall before the hearing.

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

SECTION 1.07. Section 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) "Project" means land, buildings, equipment, facilities, and improvements included in the definition of that term under Section 2 of this Act, including recycling facilities, and land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, learning centers, parks and park facilities, open space improvements, municipal buildings, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of those items.

SECTION 1.08. Section 361.013, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Except as provided by Subsection (e), the department shall charge a fee on solid waste that is disposed of within this state. The fee is $1.25 [~~the greater of 50 cents~~] per ton received for disposal at a landfill if the solid waste is measured by weight. If the solid waste is measured by volume, the fee [~~or,~~] for compacted solid waste is 40[~~, 50~~] cents per cubic yard or, for uncompacted solid waste, 25 [~~10~~] cents per cubic yard received for disposal at a landfill. The department shall set the fee for sludge or similar waste applied to the land for beneficial use on a dry weight basis and for solid waste received at an incinerator or a shredding and composting facility at half the fee set for solid waste received for disposal at a landfill. The department may charge comparable fees for other means of solid waste disposal that are used.

(f) The department may not charge a fee under Subsection (a) for source separated yard waste materials that are composted at a composting

facility, including a composting facility located at a permitted landfill site. The department shall credit any fee payment due under Subsection (a) for any material received and converted to compost or product for composting through a composting process. Any compost or product for composting that is not used as compost and is deposited in a landfill is not exempt from the fee.

SECTION 1.09. Subchapter B, Chapter 361, Health and Safety Code, is amended by adding Section 361.0135 to read as follows:

Sec. 361.0135. COMPOSTING REFUND. (a) The operator of a public or privately owned municipal solid waste facility is entitled to a refund of 15 percent of the solid waste fees collected by the facility under Section 361.013(a) if:

(1) the refunds are used to lease or purchase and operate equipment necessary to compost yard waste;

(2) composting operations are actually performed; and

(3) the finished compost material produced by the facility is returned to beneficial reuse.

(b) The amount of the refund authorized by this section increases to 20 percent of the solid waste fees collected by the facility if, in addition to composting the yard waste, the operator of the facility voluntarily bans the disposal of yard waste at the facility.

(c) In order to receive a refund authorized by this section, the operator of the facility must submit a composting plan to the commission. The commission by rule may set a fee for reviewing a composting plan in an amount not to exceed the costs of review.

(d) The operator is entitled to a refund of fees collected by the facility under Section 361.013(a) on or after the date on which the commission approves the composting plan. The refund is collectable beginning on the date that the first composting operations occur in accordance with the approved plan. The commission may allow the refund to be applied as a credit against fees required to be collected by the facility under Section 361.013(a).

(e) In this section, the terms "compost," "composting," and "yard waste" have the meanings assigned by Section 361.421.

(f) This section expires September 1, 1999, if the commission on or before that date determines that a market in composting materials has developed sufficiently to ensure that composting activities will continue without the incentives provided by this section.

SECTION 1.10. Section 361.014, Health and Safety Code, is amended to read as follows:

Sec. 361.014. USE OF SOLID WASTE FEE REVENUE. Revenue received by the commission [~~department~~] under Section 361.013 shall be deposited in the state treasury to the credit of the commission [~~department~~]. At least half the revenue is dedicated to the commission's [~~department's~~] municipal solid waste permitting and enforcement programs and related support activities, and the balance of the revenue is dedicated to pay for activities that will enhance the state's solid waste management program, including:

(1) provision of funds for the municipal solid waste management planning fund and the municipal solid waste resource recovery applied

research and technical assistance fund established by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Chapter 363);

(2) conduct of demonstration projects and studies to help local governments of various populations and the private sector to convert to accounting systems and set rates that reflect the full costs of providing waste management services and are proportionate to the amount of waste generated;

(3) provision of technical assistance to local governments concerning solid waste management;

(4) [~~(3)~~] establishment of a solid waste resource center in the department and an office of waste minimization and recycling;

(5) [~~(4)~~] provision of supplemental funding to local governments for the enforcement of this chapter, the Texas Litter Abatement Act (Chapter 365), and Chapter 741, Acts of the 67th Legislature, Regular Session, 1981 (Article 4477-9a, Vernon's Texas Civil Statutes);

(6) [~~(5)~~] conduct of a statewide public awareness program concerning solid waste management;

(7) [~~(6)~~] provision of supplemental funds for other state agencies with responsibilities concerning solid waste management, recycling, and other initiatives with the purpose of diverting recyclable waste from landfills;

(8) [~~(7)~~] conduct of research to promote the development and stimulation of markets for recycled waste products;

(9) [~~(8)~~] creation of a state municipal solid waste superfund for:

(A) the cleanup of unauthorized tire dumps and solid waste dumps for which a responsible party cannot be located or is not immediately financially able to provide the cleanup; and

(B) the cleanup or proper closure of abandoned or contaminated municipal solid waste sites for which a responsible party is not immediately financially able to provide the cleanup; [~~and~~]

(10) provision of funds to mitigate the economic and environmental impacts of lead-acid battery recycling on local governments;

(11) provision of funds for the conduct of research by a public or private entity to assist the state in developing new technologies and methods to reduce the amount of municipal waste disposed of in landfills; and

(12) [~~(9)~~] provision of funds for other programs that the commission [~~board of health~~] may consider appropriate to further the purposes of this chapter.

SECTION 1.11. Section 361.422, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) Before January 1, 1994, the commission shall determine whether the goal established in Subsection (a) is being achieved. If the commission finds that the goal is not being achieved, it shall convene an advisory task force consisting of representatives of the commission, the General Land Office, local governments, the Municipal Solid Waste Management and Resource Recovery Advisory Council, and the commercial solid waste

disposal industry and may recommend to the legislature a phased-in ban on the disposal of yard waste in a landfill. The task force may recommend a plan to the legislature for implementing the ban after considering how the ban will:

(1) affect the state's disposal capacity;

(2) affect the economy of the state;

(3) affect local governments; and

(4) be accepted and adhered to by the citizens of the state.

SECTION 1.12. Section 361.423, Health and Safety Code, is amended to read as follows:

Sec. 361.423. RECYCLING MARKET DEVELOPMENT BOARD [~~STUDY~~] AND IMPLEMENTATION PROGRAM. (a) The commissioner of the General Land Office[~~, in cooperation with the department~~], the chairman of the Texas Water Commission, the executive director of the General Services [~~Railroad~~] Commission [~~of Texas~~], and the executive director of the Texas Department of Commerce[~~,~~] shall constitute the Recycling Market Development Board. The commissioner of the General Land Office serves as presiding officer of the Recycling Market Development Board for the first year, and after that year the members of the Recycling Market Development Board shall, in the order listed in this subsection, rotate as the presiding officer for terms of one year. The Recycling Market Development Board may designate chief executives of additional agencies as members of the board if it identifies the agencies as agencies needed to assist the board in performing its duties as outlined in Subsection (b). The Recycling Market Development Board shall provide support to and coordinate the recycling activities of member agencies and shall pursue [~~initiate, coordinate, and conduct a comprehensive market development study that quantifies the potential benefits and costs of recycling in order to provide the groundwork for~~] an economic development strategy that focuses on the state's waste management priorities established by Section 361.022 and that includes development of recycling industries and markets as an integrated component.

(b) The Recycling Market Development Board, on an ongoing basis, [~~study~~] shall:

(1) identify existing economic and regulatory incentives and disincentives for creating an optimal market development strategy;

(2) analyze the market development implications of:

(A) the state's waste management policies and regulations;

(B) existing and potential markets for plastic, glass, paper, lead-acid batteries, tires, compost, scrap gypsum, coal combustion byproducts, and other recyclable materials; and

(C) the state's tax structure and overall economic base;

(3) examine and make policy recommendations regarding the need for changes in or the development of:

(A) economic policies that affect transportation, such as those embodied in freight rate schedules;

(B) tax incentives and disincentives;

(C) the availability of financial capital including grants, loans, and venture capital;

(D) enterprise zones;

(E) managerial and technical assistance;

(F) job-training programs;

(G) strategies for matching market supply and market demand for recyclable materials, including intrastate and interstate coordination;

(H) the state recycling goal;

(I) public-private partnerships;

(J) research and development;

(K) government procurement policies;

(L) educational programs for the public, corporate and regulated communities, and government entities; and

(M) public health and safety regulatory policies; [~~and~~]

(4) establish a comprehensive statewide strategy to expand markets for recycled products in Texas;

(5) provide information and technical assistance to small and disadvantaged businesses, business development centers, chambers of commerce, educational institutions, and nonprofit associations on market opportunities in the area of recycling; and

(6) with the cooperation of the Office of State-Federal Relations, assist communities and private entities in identifying state and federal grants pertaining to recycling and solid waste management.

(c) In carrying out this section [~~preparing the study~~], the responsible agencies may obtain research and development and technical assistance from the Hazardous Waste Research Center at Lamar University at Beaumont or other similar institutions.

(d) The General Land Office shall provide ongoing research and assistance to the Recycling Market Development Board in carrying out its responsibilities [~~develop and carry out a program designed to implement the comprehensive statewide strategy established pursuant to Subsection (b)(4)~~].

SECTION 1.13. Section 361.428, Health and Safety Code, is amended to read as follows:

Sec. 361.428. COMPOSTING PROGRAM. (a) [~~The Municipal Solid Waste Management and Resource Recovery Advisory Council of the department shall develop recommendations for the 73rd Legislature regarding the development of a state composting program. In developing these recommendations, the council shall, at a minimum, consider:~~

[~~(1) the development of local yard waste separation programs;~~

[~~(2) the commercial application of composting activities;~~

[~~(3) the potential beneficial uses of compost; and~~

[~~(4) the necessary changes to existing law and regulations required to facilitate conversion of yard waste to compost.~~

[~~(b)~~] The commission [~~department~~] shall put in place incentives for a composting program that is capable of achieving at least a 15 percent reduction in the amount of the municipal solid waste stream that is disposed of in landfills by January 1, 1994.

(b) The commission shall adopt rules establishing minimum standards and guidelines for the issuance of permits for processes or facilities that

produce compost that is the product of material from the typical mixed solid waste stream generated by residential, institutional, commercial, or industrial sources. A reduction in the mixed solid waste stream that occurs as a result of the beneficial reuse of compost produced by a facility permitted under this subsection shall be used in achieving the goal established under Section 361.422. The minimum standards must include end-product standards and a definition of beneficial reuse. The commission shall consider regulations issued by the United States Environmental Protection Agency in developing minimum standards. Beneficial reuse does not include landfilling or the use of compost as daily landfill cover.

(c) A composting facility may not accept mixed municipal solid waste from a governmental unit for composting purposes at that facility unless household hazardous waste collection and source-separated recycling programs are available in the area for use by the residents. The commission shall establish standards for household hazardous waste collection programs and source-separated recycling programs that qualify under this section.

SECTION 1.14. Section 361.452, Health and Safety Code, is amended to read as follows:

Sec. 361.452. COLLECTION FOR RECYCLING. A person selling lead-acid batteries at retail or offering lead-acid batteries for retail sale in this state shall:

(1) accept [~~from customers~~], if offered, at least one but not more than three [~~the point of transfer, used~~] lead-acid batteries for recycling [~~of the type and in a quantity at least equal to the number of new batteries purchased~~]; and

(2) post written notice, which must be at least 8-1/2 inches by 11 inches in size, containing the universal recycling symbol and the following language:

(A) "It is illegal to discard or improperly dispose of a motor-vehicle battery or other lead-acid battery.";

(B) "Recycle your used batteries."; and

(C) "State law requires us to accept used motor-vehicle batteries or other lead-acid batteries for recycling [~~in exchange for new batteries purchased~~]."

SECTION 1.15. Section 361.454, Health and Safety Code, is amended to read as follows:

Sec. 361.454. LEAD-ACID BATTERY WHOLESALERS. Any person selling new lead-acid batteries at wholesale shall accept from customers, at the point of transfer, used lead-acid batteries for recycling [~~of the type and in a quantity at least equal to the number of new batteries purchased~~], if offered by customers. A person accepting batteries in transfer from a battery retailer shall remove batteries from the retail point of collection within 90 days after acceptance.

SECTION 1.16. Section 63.071, Agriculture Code, is amended by adding Subsection (h) to read as follows:

(h) A person is not required to pay an inspection fee on compost as defined by Section 361.421, Health and Safety Code.

SECTION 1.17. Section 481.295, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The department and the advisory board may make a loan or a loan guarantee to the governing body of an enterprise zone designated as a recycling market development zone under Subchapter AA to fund an activity that sustains or increases recycling efforts.

SECTION 1.18. The Texas Natural Resource Conservation Commission shall adopt the rules required by Section 361.428(b), Health and Safety Code, as added by this article, not later than six months after the effective date of this Act.

ARTICLE 2. MUNICIPAL SOLID WASTE MANAGEMENT

SECTION 2.01. The legislature finds that:

(1) the reduction of municipal solid waste by encouraging affordable alternatives to disposal is an important strategy in state-local waste management policy;

(2) improving all the municipal solid waste management techniques is necessary to achieve the goal of reducing the municipal solid waste stream;

(3) waste reduction efforts should focus on waste stream components that are highest in volume;

(4) a municipal solid waste infrastructure that encourages the reduction of waste through environmentally and economically sound waste management incentives and the use of source reduction, reuse, recycling, composting, and resource recovery processes should be developed;

(5) flexible and effective means of implementing and enforcing municipal solid waste laws should be provided;

(6) incentives for businesses to use recycled materials should be created; and

(7) the actual cost of municipal solid waste disposal should be imposed by municipalities on those that place municipal solid waste in the solid waste stream in order to pay for infrastructure development and to encourage waste reduction from landfills.

SECTION 2.02. Sections 361.020(a), (b), (d), (e), and (f), Health and Safety Code, are amended to read as follows:

(a) The commission [~~department~~] shall develop a strategic state solid waste plan for all solid waste under its jurisdiction. The commission shall develop a strategic [~~state solid waste~~] plan for the reduction of solid waste [~~under its jurisdiction. The state agencies shall coordinate the solid waste plans developed~~].

(b) A strategic plan shall[~~, for the kinds of waste under the jurisdiction of the agency preparing the plan,~~] identify both short-term and long-term waste management problems, set short-term objectives as steps toward meeting long-term goals, and recommend specific actions to be taken within stated [~~state~~] times designed to address the identified problems and to achieve the stated objectives and goals. A plan shall reflect the state's preferred waste management methods as stated in Section 361.022 or 361.023 [~~for the kinds of waste under the jurisdiction of the agency preparing the plan~~]. A strategic plan shall describe the total estimated

generation of solid waste in the state over a five-year and a 10-year period and shall list existing and proposed solid waste management facilities to manage that waste.

(d) The commission in developing a comprehensive statewide [~~Each agency in preparing its~~] strategic plan shall:

(1) consult with:

(A) [~~(1)~~] the agency's waste minimization, recycling, or reduction division;

(B) the municipal solid waste management and resource recovery advisory council;

(C) [~~(2)~~] the waste reduction advisory committee; [~~and~~]

(D) [~~(3)~~] the interagency coordinating council; and

(E) local governments, appropriate regional and state agencies, businesses, citizen groups, and private waste management firms;

(2) hold public hearings in different regions of the state; and

(3) publish the proposed plan in the Texas Register.

(e) A strategic plan shall be updated every two years. The commission [~~Each agency~~] continually shall collect and analyze data for use in its next updated plan and systematically shall monitor progress toward achieving existing plan objectives and goals. In preparing its updated plan, an agency shall examine previously and newly identified waste management problems, reevaluate its plan objectives and goals, and review and update its planning documents.

(f) Before the [~~department or the~~] commission adopts its strategic plan or makes significant amendments to the plan, the Texas Air Control Board must have the opportunity to comment and make recommendations on the proposed plan or amendments and shall be given such reasonable time to do so as specified by the agency.

SECTION 2.03. Subchapter B, Chapter 361, Health and Safety Code, is amended by adding Section 361.0201 to read as follows:

Sec. 361.0201. COMPREHENSIVE MUNICIPAL SOLID WASTE MANAGEMENT STRATEGIC PLAN. (a) The comprehensive municipal solid waste management strategic plan developed under Section 361.020 shall identify the components of the municipal solid waste stream that are highest in volume and shall set priorities according to those findings.

(b) The plan shall:

(1) describe the capacity in the state to manage municipal waste through existing treatment or disposal facilities and identify all existing municipal solid waste management facilities in the state, their capacity, and their projected remaining useful life; and

(2) analyze the state's capacity requirements over the planning periods specified in Section 361.020(c).

(c) The analysis of capacity requirements under Subsection (b) shall:

(1) examine the type and amount of each municipal solid waste stream that can reasonably be expected to be generated in the state or accepted from other states, using information on existing and past levels of waste and representative receipts from other states, and shall include information on the sources, characteristics, and current patterns of waste management of those waste streams; and

(2) estimate the amount of the total municipal solid waste identified under this subsection that is reasonably expected to be:

(A) recycled annually, according to previous rates and projected increases from those rates;

(B) transported annually to another state or imported into this state for treatment or other disposition according to previous rates and projected increases from those rates; and

(C) disposed of or incinerated annually within the state.

(d) The plan shall set a goal for overall reduction in the amount of municipal solid waste consistent with Section 361.422 using 1991 as the base year for computing the reduction. The commission may adjust this goal if it determines that it is not necessary given the state's disposal capacity, is not economically or technologically feasible, or is not feasible given the state's projected population growth.

(e) The plan shall ensure that source reduction, reuse, recycling, composting, and resource recovery are all addressed.

(f) The plan shall include a program of public education developed under Section 361.0202.

(g) The plan may not allow the commission to require a local government to perform any act not specifically required by state law or commission rule.

SECTION 2.04. Subchapter B, Chapter 361, Health and Safety Code, is amended by adding Section 361.0202 to read as follows:

Sec. 361.0202. DEVELOPMENT OF EDUCATION PROGRAMS. (a) The commission shall develop a public awareness program to increase awareness of individual responsibility for properly reducing and disposing of municipal solid waste and to encourage participation in waste source reduction, composting, reuse, and recycling. The program shall include:

(1) a media campaign to develop and disseminate educational materials designed to establish broad public understanding and compliance with the state's waste reduction and recycling goals; and

(2) a curriculum, developed in cooperation with the commissioner of education and suitable for use in programs from kindergarten through high school, that promotes waste reduction and recycling.

(b) As part of the program, the commission may:

(1) advise and consult with individuals, businesses, and manufacturers on source reduction techniques and recycling; and

(2) sponsor or cosponsor with public and private organizations technical workshops and seminars on source reduction and recycling.

SECTION 2.05. Subchapter B, Chapter 361, Health and Safety Code, is amended by adding Section 361.0219 to read as follows:

Sec. 361.0219. OFFICE OF WASTE EXCHANGE. (a) The office of waste exchange is an office of the commission.

(b) The office shall facilitate the exchange of solid waste, recyclable or compostable materials, and other secondary materials among persons that generate, recycle, compost, or reuse those materials, in order to foster greater recycling, composting, and reuse in the state. At least one party to such an exchange must be in the state. The office shall provide

information to interested persons on arranging exchanges of these materials in order to allow greater recycling, composting, and reuse of the materials, and may act as broker for exchanges of the materials if private brokers are not available.

(c) The office of waste exchange shall adopt a plan for providing to interested persons information on waste exchange and shall report to the legislature on the plan and on the state's participation in any regional or national waste exchange program. Annually the office of waste exchange shall report to the legislature on progress in implementing this section, including information on the movement and exchange of materials and the effect on recycling, composting, and reuse rates in the state.

SECTION 2.06. Section 361.024, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) Rules shall be adopted as provided by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). As provided by that Act, the commission must adopt rules when adopting, repealing, or amending any agency statement of general applicability that interprets or prescribes law or policy or describes the procedure or practice requirements of the agency. The commission shall follow its own rules as adopted until it changes them in accordance with that Act.

SECTION 2.07. Section 361.034(a), Health and Safety Code, is amended to read as follows:

(a) The commission shall submit a report to the presiding officers of the legislature and the governor not later than January 1 of each odd-numbered year. The report must include:

(1) a summary of a performance report of the imposed industrial solid waste and hazardous waste fees authorized under Subchapter D and related activities to determine the appropriateness of the fee structures;

(2) an evaluation of progress made in accomplishing the state's public policy concerning the preference of waste management methods under Section 361.023;

(3) projections of the volume of waste by type of waste, disposition of waste, and remaining capacity or capacity used for the treatment and disposal of the waste; [~~and~~]

(4) projections of the availability of adequate capacity in this state for the management of all types of hazardous waste generated within the state and a report of the amounts, types, and sources of hazardous waste imported into and exported from the state in the previous year;

(5) an evaluation of the progress made and activities engaged in consistent with the state's municipal solid waste management plan, in particular the progress toward meeting the waste reduction goal established by Section 361.0201(d);

(6) an evaluation of the progress made by local governments under the solid waste management plans;

(7) the status of state procurement under Section 361.426 of products made of recycled materials or that are reusable, including documentation of any decision not to purchase those products;

(8) the status of the governmental entity recycling program established under Section 361.425, including the status of collection and storage procedures and program evaluations required by that section;

(9) the status of the public education program described in Section 361.0202; and

(10) recommendations to the governor and to the legislature for improving the management of municipal solid waste in the state.

SECTION 2.08. Section 361.111, Health and Safety Code, is amended to read as follows:

Sec. 361.111. COMMISSION SHALL [~~DEPARTMENT MAY~~] EXEMPT CERTAIN MUNICIPAL SOLID WASTE MANAGEMENT FACILITIES. (a) The commission shall [~~department may~~] exempt from permit requirements a municipal solid waste management facility that[:

[~~(1)~~] is used in the transfer of municipal solid waste to a solid waste processing or disposal facility from:

(1) a municipality [~~service area~~] with a population of less than 50,000;

(2) a county with a population of less than 85,000;

(3) a facility used in the transfer of municipal solid waste that transfers or will transfer 125 tons a day or less; or

(4) a materials recovery facility that recycles for reuse more than 10 percent of its incoming nonsegregated waste stream if the remaining nonrecyclable waste is transferred to a permitted Type I landfill not farther than 50 miles from the materials recovery facility.

(b) The facility shall comply [~~5,000 to a solid waste processing or disposal site; and~~

[~~(2) complies~~] with design and operational requirements established by commission [~~board of health~~] rule that are necessary to protect the public's health and the environment.

(c) To qualify for an exemption under this section, an applicant must hold a public meeting about the siting of the facility in the municipality or county in which the facility is or will be located.

SECTION 2.09. Section 363.003, Health and Safety Code, is amended to read as follows:

Sec. 363.003. FINDINGS. The legislature finds that:

(1) the growth of the state's economy and population has resulted in an increase in discarded materials;

(2) the improper management of solid waste creates hazards to the public health, can cause air and water pollution, creates public nuisances, and causes a blight on the landscape;

(3) there is increasing public opposition to the location of solid waste land disposal facilities;

(4) because some communities lack sufficient financial resources, municipal solid waste land disposal sites in the state are being improperly operated and maintained, causing potential health problems to nearby residents, attracting vectors, and creating conditions that destroy the beauty and quality of our environment;

(5) often, operational deficiencies occur at rural solid waste land disposal sites operated by local governments that do not have the funds, personnel, equipment, and technical expertise to properly operate a disposal system;

(6) many smaller communities and rural residents have no organized solid waste collection and disposal system, resulting in dumping

of garbage and trash along the roadside, in roadside parks, and at illegal dump sites;

(7) combining two or more small, inefficient operations into local, regional, or countywide systems may provide a more economical, efficient, and safe means for the collection and disposal of solid waste and will offer greater opportunities for future resource recovery;

(8) there are private operators of municipal solid waste management systems with whom persons can contract or franchise their services, and many of those private operators possess the management expertise, qualified personnel, and specialized equipment for the safe collection, handling, and disposal of solid waste;

(9) technologies exist to separate usable material from solid waste and to convert solid waste to energy, and it will benefit this state to work in cooperation with private business, nonprofit organizations, and public agencies that have acquired knowledge, expertise, and technology in the fields of energy production and recycling, reuse, reclamation, and collection of materials;

(10) the opportunity for resource recovery is diminished unless local governments can exercise control over solid waste and can enter long-term contracts to supply solid waste to resource recovery systems or to operate those systems; [~~and~~]

(11) the control of solid waste collection and disposal should continue to be the responsibility of local governments and public agencies, but the problems of solid waste management have become a matter of state concern and require state financial assistance to plan and implement solid waste management practices that encourage the safe disposal of solid waste and the recovery of material and energy resources from solid waste; and

(12) local governments should be encouraged to contract with waste management firms to meet the requirements of this chapter.

SECTION 2.10. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.0961 to read as follows:

Sec. 361.0961. RESTRICTIONS ON AUTHORITY OF LOCAL GOVERNMENT OR OTHER POLITICAL SUBDIVISION. (a) A local government or other political subdivision may not adopt an ordinance, rule, or regulation to:

(1) prohibit or restrict, for solid waste management purposes, the sale or use of a container or package in a manner not authorized by state law;

(2) prohibit or restrict the processing of solid waste by a solid waste facility permitted by the commission for that purpose in a manner not authorized by state law; or

(3) assess a fee or deposit on the sale or use of a container or package.

(b) This section does not prevent a local government or other political subdivision from complying with federal or state law or regulation. A local government or other political subdivision may take any action otherwise prohibited by this section in order to comply with federal requirements or to avoid federal or state penalties or fines.

(c) This section does not limit the authority of a local government to enact zoning ordinances.

SECTION 2.11. Section 363.062, Health and Safety Code, is amended by adding a new Subsection (d) and relettering existing Subsections (d) and (e) to read as follows:

(d) In each even-numbered year on the anniversary of the adoption of a municipal solid waste management plan, each planning region shall report to the department on the progress of the region's municipal solid waste management program and recycling activities developed under this section. The department may not require a planning region to submit to the department information previously submitted to the department by the planning region in an earlier plan or report.

(e) If the department determines that a regional solid waste management plan does not conform to the requirements adopted by the board, the department shall give written notice to the planning region of each aspect of the plan that must be changed to conform to board requirements. After the changes have been made in the plan as provided by the department, the department shall submit the plan to the board for approval.

(f) [~~(e)~~] The board by rule shall adopt an approved regional solid waste management plan.

SECTION 2.12. Section 363.063, Health and Safety Code, is amended by adding a new Subsection (d) and relettering existing Subsections (d) and (e) to read as follows:

(d) In each even-numbered year on the anniversary of the adoption of a municipal solid waste management plan, each local government shall report to the department on the progress of its municipal solid waste management program and recycling activities implemented under this section. The department may not require a local government to submit to the planning region or to the department information previously submitted to the planning region or department by the local government in an earlier plan or report.

(e) If the department determines that a local solid waste management plan does not conform to the requirements adopted by the board, the department shall give written notice to the local government of each aspect of the plan that must be changed to conform to board requirements. After changes are made in the plan as requested by the department, the department shall submit the plan to the board for approval.

(f) [~~(e)~~] The board by rule shall adopt an approved local solid waste management plan.

SECTION 2.13. Section 363.064, Health and Safety Code, is amended to read as follows:

Sec. 363.064. CONTENTS OF REGIONAL OR LOCAL SOLID WASTE MANAGEMENT PLAN. A regional or local solid waste management plan must:

(1) include a description and an assessment of current efforts in the geographic area covered by the plan to minimize production of municipal solid waste, including sludge, and efforts to reuse or recycle waste;

(2) identify additional opportunities for waste minimization and waste reuse or recycling;

(3) include a description and assessment of existing or proposed community programs for the collection of household hazardous waste;

(4) make recommendations for encouraging and achieving a greater degree of waste minimization and waste reuse or recycling in the geographic area covered by the plan;

(5) encourage cooperative efforts between local governments and private industry in the siting of landfills for the disposal of solid waste;

(6) consider the need to transport waste between municipalities, from a municipality to an area in the jurisdiction of a county, or between counties, particularly if a technically suitable site for a landfill does not exist in a particular area; [~~and~~]

(7) allow a local government to justify the need for a landfill in its jurisdiction to dispose of the solid waste generated in the jurisdiction of another local government that does not have a technically suitable site for a landfill in its jurisdiction;[~~.~~]

(8) [~~(7)~~] establish recycling rate goals appropriate to the area covered by the plan; and

(9) [~~(8)~~] recommend composting programs for yard waste and related organic wastes that may include:

(A) creation and use of community composting centers;

(B) adoption of the "Don't Bag It" program for lawn clippings developed by the Texas Agricultural Extension Service; and

(C) development and promotion of education programs on home composting, community composting, and the separation of yard waste for use as mulch;

(10) assess the need for new waste disposal capacity;

(11) include a public education program; and

(12) include waste reduction in accordance with the goal established under Section 361.0201(d), to the extent that funds are available.

SECTION 2.14. The office of waste exchange created by Section 361.0219, Health and Safety Code, as added by this article, shall adopt the plan required by that section not later than September 1, 1994.

SECTION 2.15. The change in law made by Section 361.024, Health and Safety Code, as amended by this article, applies to rules in effect on or adopted on or after the effective date of this Act.

ARTICLE 3. MISCELLANEOUS

SECTION 3.01. This Act does not affect the transfer of powers, duties, rights, and obligations made by Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991.

SECTION 3.02. 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 from and after its passage, and it is so enacted.

Amendment No. 1

Amend **C.S.S.B. 1051** as follows:

(1) Strike SECTION 1.11 of the bill (page 11, lines 17-27, and page 12, lines 1-7, House Committee Report) in its entirety and renumber subsequent sections of the article appropriately.

(2) Strike SECTION 2.10 of the bill (page 29, lines 11-27, and page 30, lines 1-5, House Committee Report) in its entirety and renumber subsequent sections of the article appropriately.

(3) Following ARTICLE 2 of the bill (page 33, between lines 19 and 20, House Committee Report), add a new ARTICLE 3 to read as follows and renumber the subsequent article appropriately:

ARTICLE 3. USED OIL, RECYCLING, AND WASTE REDUCTION

SECTION 3.01. Section 361.421, Health and Safety Code, is amended to read as follows:

Sec. 361.421. DEFINITIONS. In this subchapter:

(1) "Compost" is the disinfected and stabilized product of the decomposition process that is used or sold for use as a soil amendment, artificial top soil, growing medium amendment, or other similar uses.

(2) "Composting" means the controlled biological decomposition of organic materials through microbial activity. Depending on the specific application, composting can serve as both a volume reduction and a waste treatment measure. A beneficial organic composting activity is an appropriate waste management solution that shall divert compatible materials from the solid waste stream that cannot be recycled into higher grade uses and convert these materials into a useful product that is put to beneficial reuse [~~can serve~~] as a soil amendment or mulch.

(3) "Life-cycle cost benefit analysis" means a method of determining [~~comparing~~] the total equivalent costs and benefits of using products over their lifetimes or over any other period of time. These costs and benefits are all associated costs and all associated benefits of each product over the time under consideration and include initial costs, annual operating costs, annual savings, future costs, and residual (salvage) values. The use of this method permits exact comparisons of these total costs and benefits to determine the most cost-effective product [~~based on initial maintenance costs which include the initial cost, maintenance costs, and other related expenses~~].

(4) "Postconsumer waste" means a material or product that has served its intended use and has been discarded after passing through the hands of a final user. For the purpose of this subchapter, the term does not include industrial or hazardous waste.

(5) "Recyclable material" means material that has been recovered or diverted from the [~~non-hazardous~~] solid waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products which may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste unless the material is deemed to be hazardous solid waste by the Administrator of the United States Environmental Protection Agency, whereupon it shall be regulated accordingly unless it is otherwise exempted

in whole or in part from regulation under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), by Environmental Protection Agency regulation. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

(6) "Recycled material" means materials, goods, or products that consist of recyclable material or materials derived from postconsumer waste, industrial waste, or hazardous waste which may be used in place of a raw or virgin material in manufacturing a new product.

(7) "Recycled product" means a product which meets the requirements for recycled material content as prescribed by the rules established by the department described in Section 361.427.

(8) "Recycling" means a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products. Recycling [~~Except for mixed municipal solid waste composting, that is, composting of the typical mixed solid waste stream generated by residential, commercial, and/or institutional sources, recycling~~] includes:

(A) the composting process if the compost material is put to beneficial reuse as defined by the commission; and

(B) the application to land, as organic fertilizer, of processed sludge or biosolids from municipal wastewater treatment plants and other organic matter resulting from poultry, dairy, livestock, or other agricultural operations.

(9) "Source reduction" means an activity or process that avoids the creation of municipal solid waste in the state by reducing waste at the source and includes:

(A) redesigning a product or packaging so that less material is ultimately disposed of;

(B) changing a process for producing a good or providing a service so that less material is disposed of; or

(C) changing the way a material is used so that the amount of waste generated is reduced.

(10) "State agency" means a department, commission, board, office, council, or other agency in the executive branch of government that is created by the constitution or a statute of this state and has authority not limited to a geographical portion of the state. The term does not include a university system or institution of higher education as defined by Section 61.003, Education Code.

(11) [~~(10)~~] "Virgin material" means a raw material used in manufacturing that has not yet become a product.

(12) [~~(11)~~] "Yard waste" means leaves, grass clippings, yard and garden debris, and brush, including clean woody vegetative material not greater than six inches in diameter, that results from landscaping maintenance and land-clearing operations. The term does not include stumps, roots, or shrubs with intact root balls.

SECTION 3.02. Section 361.422, Health and Safety Code, is amended to read as follows:

Sec. 361.422. STATE SOURCE REDUCTION AND RECYCLING GOAL. (a) It is the state's goal to reduce [~~achieve~~] by January 1, 1994, [~~the recycling of at least 40 percent of~~] the amount of [~~state's total~~] municipal solid waste disposed of in this state by at least 40 percent through source reduction and recycling [~~stream~~].

(b) In this section, "total municipal solid waste stream" means the sum of the state's total municipal solid waste that is disposed of as solid waste, measured in tons, and the total number of tons of recyclable material that has been diverted or recovered from the total municipal solid waste and recycled.

(c) The [~~By January 1, 1992, the~~] department shall establish rules and reporting requirements through which progress toward achieving the established source reduction and recycling goals can be measured. The rules may take into consideration those ongoing community source reduction and recycling programs where substantial progress has already been achieved. The department may also establish a limit on the amount of credit that may be given to certain high-volume materials in measuring recycling progress.

(d) For the purpose of measuring progress toward the municipal solid waste reduction goal, the department shall use the weight of the total municipal solid waste stream in 1991 as a baseline for comparison. To compute progress toward the municipal solid waste reduction goal for a year, the department shall compute:

(1) the total number of tons of recyclable material that have been diverted or recovered from the total municipal solid waste stream in that year and recycled; and

(2) the actual or estimated amount by which the total municipal solid waste stream has been reduced through source reduction.

(e) To compute the amount of waste reduced through source reduction, the department may use the results of studies, surveys, or reports of source reduction activities undertaken by businesses, communities, or other sources of municipal solid waste. The department may estimate the amount of waste reduced through source reduction by adjusting the total municipal solid waste stream in the comparison year for changes in economic activity that contributes to municipal solid waste, for changes in population, and for other relevant changes between the baseline year and the comparison year. The department may attribute the difference between the actual and the adjusted total municipal solid waste stream to source reduction activities.

(f) Before January 1, 1994, the commission shall determine whether the goal established in Subsection (a) is being achieved. If the commission finds that the goal is not being achieved, it shall convene an advisory task force consisting of representatives of the commission, the General Land Office, local governments, the Municipal Solid Waste Management and Resource Recovery Advisory Council, and the commercial solid waste disposal industry and may recommend to the legislature a phased-in ban on the disposal of yard waste in a landfill. The task force may recommend

a plan to the legislature for implementing the ban after considering how the ban will:

(1) affect the state's disposal capacity;

(2) affect the economy of the state;

(3) affect local governments; and

(4) be accepted and adhered to by the citizens of the state.

SECTION 3.03. Section 361.425, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A state agency, state court or judicial agency, a university system or institution of higher education, a county, municipality, school district, or special district shall:

(1) in cooperation with the [~~State Purchasing and~~] General Services Commission or the department establish a program for the separation and collection of all recyclable materials generated by the entity's operations, including, at a minimum, aluminum, steel containers, aseptic packaging and polycoated paperboard cartons, high-grade office paper, and corrugated cardboard;

(2) provide procedures for collecting and storing recyclable materials, containers for recyclable materials, and procedures for making contractual or other arrangements with buyers of recyclable materials;

(3) evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled; and

(4) establish educational and incentive programs to encourage maximum employee participation.

(d) In this section, "recyclable materials" includes materials in the entity's possession that have been abandoned or disposed of by the entity's officers or employees or by any other person.

SECTION 3.04. The heading to Subchapter N, Chapter 361, Health and Safety Code, is amended to read as follows:

SUBCHAPTER N. WASTE REDUCTION [~~RECYCLING~~]
PROGRAMS; DISPOSAL FEES

SECTION 3.05. Section 371.003(1), Health and Safety Code, is amended to read as follows:

(1) "Automotive oil" means any lubricating oils intended for use in an internal combustion engine, crankcase, transmission, gear box, or differential for an automobile, bus, or truck. The term includes oil that is not labeled specifically for that use but is suitable for that use according to generally accepted industry specifications.

SECTION 3.06. Section 371.061, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) The fund is exempt from the application of Sections 403.094(h) and 403.095, Government Code.

SECTION 3.07. Subchapter B, Chapter 371, Health and Safety Code, is amended by adding Sections 371.0245 and 371.0246 to read as follows:

Sec. 371.0245. REIMBURSEMENT OF COLLECTION CENTER. (a) The commission, on proper application, shall reimburse the owner or operator of an eligible registered public used oil collection center for costs associated with the collection center's disposal of:

(1) do-it-yourself (DIY) used oil collected by the collection center that, unknown to the center at the time of collection, contains hazardous wastes;

(2) used oil collected by the collection center that has been commingled with DIY oils described in Subdivision (1) and is unsuitable for recycling; or

(3) contaminated used oil left at the collection center as used oil after posted business hours and without the knowledge of the collection center.

(b) A registered public used oil collection center is eligible for reimbursement if it demonstrates to the satisfaction of the commission that:

(1) the center has established procedures to minimize the risk that the used oil the center generates or collects from the public will not be mixed with hazardous wastes, especially halogenated wastes;

(2) the center accepts not more than five gallons of used oil from any person at any one time; and

(3) the center can document to the satisfaction of the commission the volume of used oil the center collects from the public during a period by:

(A) providing a process by which all individuals leaving do-it-yourself (DIY) used oil at the center are required to log their names, addresses, and the approximate amounts of used oil brought to the collection center and ensuring that all do-it-yourself (DIY) used oil collected is kept in a separate sealed and labeled container placed on an impermeable surface; or

(B) another method approved by the commission.

(c) For the purpose of Subsection (b)(2), the owner or operator of a registered public used oil collection center may presume that a quantity of not more than five gallons of used oil collected from a member of the public is not mixed with a hazardous substance, if the owner or operator acts in good faith and in the belief the oil is generated from the individual's personal activity.

(d) In any state fiscal year, a registered public used oil collection center may not be reimbursed for more than $5,000 in total eligible disposal costs, subject to Section 371.0246(d).

(e) A reimbursement made under this section may be paid out of the used oil recycling fund not to exceed an aggregate amount of $500,000 each fiscal year.

Sec. 371.0246. PROCEDURES FOR REIMBURSEMENT. (a) An owner or operator of a registered public used oil collection center may apply for reimbursement from the commission.

(b) An application for reimbursement shall be filed on a form approved or provided by the commission.

(c) An application must contain:

(1) the name, address, and telephone number of the applicant;

(2) the name, mailing address, location address, and commission registration number of the registered public used oil collection center from which the contaminated oil was removed;

(3) the name, address, telephone number, and commission registration number of the hazardous waste transporter used to dispose of the contaminated used oil;

(4) a copy of the signed uniform hazardous waste manifest;

(5) a copy of each invoice for which reimbursement is requested and evidence that the amount shown on the invoice has been paid in full, which may be in the form of:

(A) canceled checks;

(B) business receipts from the person who performed the work; or

(C) other documentation approved by the commission;

(6) a waste-characterization or similar documentation required before acceptance of a hazardous waste by the disposal facility that accepted the contaminated used oil for disposal; and

(7) any other information that the executive director may reasonably require.

(d) All claims for reimbursement filed under this section and Section 371.0245 are subject to the availability of money in the used oil recycling fund and to Section 371.0245(e). This subchapter does not create an entitlement to money in the used oil recycling fund or any other fund.

SECTION 3.08. Subchapter D, Chapter 371, Health and Safety Code, is amended by adding Section 371.063 to read as follows:

Sec. 371.063. ANNUAL REPORTING REQUIREMENT. The commission shall monitor the balance of the used oil recycling fund and shall provide a detailed report of all income, expenditures, and programs funded to the Texas Legislature on an annual basis.

SECTION 3.09. Section 371.062, Health and Safety Code, is amended to read as follows:

Sec. 371.062. FEE ON SALE OF AUTOMOTIVE OIL. (a) In this section:

(1) "First sale" means the first actual sale of automotive oil delivered to a location in this state and sold to a purchaser who is not an automotive oil manufacturer. The term does not include the sale of automotive oil exported from this state to a location outside this state for the purpose of sale or use outside this state. This term does not include sales of automotive oils for resale to or use by vessels exclusively engaged in foreign or interstate commerce.

(2) "Importer" means any person who imports or causes to be imported automotive oil into this state for sale, use, or consumption.

(3) "Oil manufacturer" means any person or entity that formulates automotive oil and packages, distributes, or sells that automotive oil. The term includes any person packaging or repackaging automotive oil.

(b) An oil manufacturer [~~or importer~~] who makes a first sale of automotive oil is liable for a fee.

(c) An oil importer who imports or causes to be imported automotive oil is liable for the fee at the time the oil is received.

(d) An oil distributor or retailer who exports from this state to a location outside this state oil on which the automotive oil fee has been paid may request from his supplier a refund or credit of the fee paid on

the exported oil. The supplier or oil manufacturer and the importer may in turn request a refund of the fee paid to the comptroller. The amount of refund that may be claimed under this section may equal but not exceed the amount of the fee paid on the automotive oil.

(e) An oil manufacturer, importer, distributor, or retailer who makes a sale to a vessel or a sale for resale to a vessel of automotive oil on which the automotive oil fee has been paid may file with the comptroller a request for refund of the fee paid on the oil or, where applicable, may request a refund or credit from the supplier to whom the fee was paid. The supplier may in turn request a refund from the comptroller. The amount of refund that may be claimed under this section may equal but not exceed the amount of the fee paid on the automotive oil.

(f) Each oil manufacturer or importer required to pay a fee under this section shall:

(1) prepare and maintain, on a form provided or approved by the comptroller, a report of each first sale or, in the case of an importer, the first receipt in Texas of automotive oil by the person and the price received;

(2) retain the invoice or a copy of the invoice or other appropriate record of the sale or receipt for four years from the date of sale or receipt; and

(3) on or before the 25th day of the month following the end of each calendar quarter, file a report with the comptroller and remit to the comptroller the amount of fees required to be paid for the preceding quarter.

(g) [~~(d)~~] Records required to be maintained under Subsection (f) [~~(c)~~] shall be available for inspection by the comptroller at all reasonable times.

(h) [~~(e)~~] The comptroller shall adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under this section.

(i) [~~(f)~~] Except as provided by this section, Chapters 101 and 111 through 113, Tax Code, apply to the administration, payment, collection, and enforcement of fees under this section in the same manner that those chapters apply to the administration, payment, collection, and enforcement of taxes under Title 2, Tax Code.

(j) [~~(g)~~] The fee imposed under this section is two cents per quart or eight cents per gallon of automotive oil. The department shall monitor the unobligated balance of the used oil recycling fund and shall adjust the fee rate to meet expenditure requirements of the used oil recycling program and to maintain an appropriate fund balance. The fee imposed under this section may not exceed five cents per quart or 20 cents per gallon of automotive oil. On or before September 1 of each year, the department and the comptroller jointly shall issue notice of the effective fee rate for the next fiscal year.

(k) [~~(h)~~] A person required to pay a fee under this section may retain one percent of the amount of the fees due from each quarterly payment as reimbursement for administrative costs.

(l) [~~(i)~~] The comptroller may deduct a percentage of the fees collected under this section in an amount sufficient to pay the reasonable and

necessary costs of administering and enforcing this section. The comptroller shall credit the amount deducted to the general revenue fund. The balance of fees and all penalties and interest collected under this section shall be deposited to the credit of the used oil recycling fund.

SECTION 3.10. The change in law made by Sections 371.0245 and 371.0246, Health and Safety Code, as added by this article, applies only to costs incurred by an eligible registered public used oil collection center on or after September 1, 1993.

SECTION 3.11. Not later than December 1, 1993, the Texas Water Commission or its successor shall adopt any rules necessary to administer the reimbursement program established by Sections 371.0245 and 371.0246, Health and Safety Code, as added by this article.

SECTION 3.12. (a) Except as provided by Subsection (b), this article takes effect October 1, 1993.

(b) Sections 3.07 and 3.08 take effect September 1, 1993.

(4) Strike original SECTION 3.02 of the bill (page 33, lines 24-27, and page 34, lines 1-3, House Committee Report), and substitute the following new sections, appropriately numbered:

SECTION 4.02. Except as otherwise provided by this Act, this Act takes effect immediately.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2

Amend **C.S.S.B. 1051** as follows:

(1) Insert a new SECTION 1.11 (page 11, between lines 16 and 17, Committee Printing) and renumber the subsequent sections appropriately:

SECTION 1.11. Section 361.421(5), Health and Safety Code, is amended to read as follows:

(5) "Recyclable material" means material, including unprocessed wood by-products, that has been recovered or diverted from the non-hazardous solid waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products which may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

(2) In SECTION 2.10, in proposed Section 361.0961(a)(2), Health and Safety Code (page 29, line 21, Committee Printing), between "facility" and "permitted" insert ", except for a solid waste facility owned by the local government,".

(3) Insert a new Article 3 (page 33, between lines 19 and 20, Committee Printing) to read as follows and renumber the existing Article 3 and sections in that article appropriately:

ARTICLE 3. TIRE RECYLCING

SECTION 3.01. Sections 361.471 and 361.472, Health and Safety Code, are amended to read as follows:

Sec. 361.471. DEFINITIONS. In this subchapter:

(1) "Fund" means the waste tire recycling fund.

(2) "Green tire" means the casing form of a tire that has not been cured or does not have a tread or marking of any kind.

(3) "Manufacturer reject tire" means a tire rendered defective in the manufacturing process, whether the tire is determined to be defective before or after consumer purchase.

(4) "Mobile tire shredder" means equipment mounted on wheels or skid-mounted and hauled from place to place to split, shred, or quarter used or scrap tires.

(5) [~~(3)~~] "Scrap tire" has the meaning assigned by Section 361.112.

(6) [~~(4)~~] "Waste tire facility" means a facility registered [~~permitted~~] by the commission [~~department~~] under Section 361.477 [~~361.112~~] at which scrap tires are collected [~~or deposited~~] and shredded to facilitate the future extraction of useful materials for recycling, reuse, or energy recovery and are stored in a waste tire storage facility or a facility that recycles, reuses, or recovers the energy from the shredded tire pieces.

(7) [~~(5)~~] "Waste tire processor" means:

(A) a waste tire facility; or

(B) a mobile tire shredder that splits, shreds, or quarters tires and deposits the split, shredded, or quartered tires for eventual recycling, reuse, or energy recovery at:

(i) a waste tire storage facility registered by the commission [~~department~~] under Section 361.112; or

(ii) a waste tire facility.

(8) "Waste tire storage facility" means a facility registered by the commission under Section 361.477 at which whole used or scrap tires or shredded tire pieces are collected and stored to facilitate the future extraction of useful material for recycling, reuse, or recovery. The term does not include a marine dock, rail yard, or trucking facility used to store tires that are awaiting shipment to a person for recycling, reuse, or energy recovery for 30 days or less.

(9) [~~(6)~~] "Waste tire transporter" means a person who collects and transports used or scrap tires or scrap tire pieces for storage or disposal.

(10) [~~(7)~~] "Weighed tire" means a unit of weight for shredded scrap tires that is equal to 18.7 pounds.

Sec. 361.472. WASTE TIRE RECYCLING FEES. (a) A wholesale or retail tire dealer who sells or offers to sell new tires not for resale shall collect at the time and place of sale a waste tire recycling fee [~~of $2~~] for each new [~~automobile, van, bus, truck, trailer, semitrailer, truck tractor and semitrailer combination, or recreational vehicle~~] tire sold as follows:

(1) $2 for each tire that has a rim diameter of [~~equal to or greater than~~] 12 inches or more but less than 25 [~~26~~] inches; and

(2) $2 for a motorcycle tire, regardless of the rim diameter.

(b) The sale of a tire as original equipment in the manufacture of a new vehicle is a sale for resale.

(c) A fee may not be assessed for a bicycle tire.

(d) [~~A dealer required to collect a fee under this section may retain 2 1/2 cents from each fee the dealer collects. A dealer shall account for amounts retained under this subsection in the manner prescribed by the comptroller.~~

[~~(c)~~] A dealer required to collect a fee under this section:

(1) shall list as a separate item on an invoice a fee due under this section; and

(2) except as provided by Subsection (e) [~~(d)~~], on or before the 20th day of the month following the end of each calendar month and on a form and in the manner prescribed by the comptroller, shall file a report with and shall remit to the comptroller the amount of fees collected during the preceding calendar month.

(e) [~~(d)~~] A person required to collect a fee under this section who collects less than $50 for a calendar month or less than $150 for a calendar quarter is not required to file a monthly report but shall file a quarterly report with and make a quarterly remittance to the comptroller. The quarterly report and remittance shall include fees collected during the preceding calendar quarter. The report and remittance are due not later than the 20th day of the month following the end of the calendar quarter.

(f) [~~(e)~~] An invoice or other record required by this section or rules of the comptroller must be maintained for at least four years after the date on which the invoice or record is prepared and be open for inspection by the comptroller at all reasonable times.

(g) [~~(f)~~] The comptroller shall adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under this section.

(h) A waste tire recycling fee is imposed on the storage, use, or consumption in this state of a new tire at the same rate as provided by Subsection (a), except when purchased for the purpose of resale.

(i) A person storing, using, or consuming a new tire in this state is liable for the waste tire recycling fee as defined in this section and is responsible for reporting and paying the fee to the comptroller in the same manner as a person required to collect this fee, as provided in Subsections (d)(2) and (e).

(j) A person storing, using, or consuming a new tire in this state is not further liable for the waste tire recycling fee imposed by Subsection (a) if the person pays the fee to a wholesaler or retailer engaged in business in this state or another person authorized by the comptroller to collect the fee and receives from the wholesaler, retailer, or other person a purchaser's receipt.

SECTION 3.02. Subchapter P, Chapter 361, Health and Safety Code, is amended by adding Section 361.4725 to read as follows:

Sec. 361.4725. REGISTRATION; FEE. A person who applies to the commission to register a waste tire storage facility or a fixed or mobile tire processor, or to renew or amend the registration, must pay a fee of $500.

SECTION 3.03. Sections 361.475-361.477, Health and Safety Code, are amended to read as follows:

Sec. 361.475. WASTE TIRE RECYCLING FUND. (a) The waste tire recycling fund is a special account in the general revenue fund.

(b) The commission [~~department~~] shall administer the fund.

(c) The fund consists of fees and penalties collected under this subchapter, interest on money in the fund, and money from gifts, grants, or any other source intended to be used for the purposes of this subchapter.

(d) The fund may be used only to pay:

(1) waste tire processors that meet the requirements for payment under Section 361.477 and rules adopted under that section;

(2) the commission's [~~department's~~] reasonable and necessary administrative costs of performing its duties under this subchapter in an amount not to exceed six percent of the money annually accruing to the fund; and

(3) the comptroller's reasonable and necessary administrative costs of performing the comptroller's duties under this subchapter in an amount not to exceed two percent of the money annually accruing to the fund.

(e) Registration fees received under Section 361.4725 shall be allocated to the commission for its reasonable and necessary costs associated with reviewing applications for registration of and with registering fixed and mobile tire processing facilities and storage sites.

(f) The fund may not be used to reimburse shredding of:

(1) innertubes;

(2) scrap rubber products;

(3) green tires;

(4) industrial solid waste, excluding waste tires;

(5) oversized tires, as defined by commission rule, unless the oversized tires are collected from a priority enforcement list site; or

(6) manufacturer reject tires.

(g) The commission may classify special authorization tires, as defined by commission rule, as priority enforcement list tires.

(h) The fund shall maintain a balance of not less than $500,000.

(i) If the commission has reason to believe that the fund balance will fall below $500,000, the commission may:

(1) suspend the requirement to reimburse priority enforcement list tires shredded in excess of the minimum percentage identified in Section 361.477(c)(3)(C); or

(2) limit the number of waste tires for which a processor will be reimbursed.

(j) The revenues obtained from the waste tire recycling fees shall be deposited to the credit of the waste tire recycling fund and may be used only to pay for those activities and costs identified in Subsection (d) or (e).

Sec. 361.476. PRIORITY ENFORCEMENT LIST. The commission [~~department~~] shall identify scrap [~~unauthorized~~] tire sites [~~dumps~~] that present an existing or potential threat to public health and safety or to the environment and shall prepare an enforcement list of those sites [~~dumps~~], giving priority to sites [~~dumps~~] for which the commission cannot locate a person who:

(1) is the property owner of record, the site operator, or the depositor of the scrap tires on the site;

(2) has benefitted financially from the disposition of the scrap tires on the site; and

(3) is financially capable of paying all or part of the total or partial cleanup of the site, considering the costs of the cleanup as the commission determines [~~a responsible party cannot be located~~].

Sec. 361.477. PAYMENTS TO WASTE TIRE PROCESSORS. (a) The commission [~~department~~] each month shall pay a waste tire processor that shreds scrap tires and meets the requirements of this section and rules adopted under this section an amount equal to 85 cents for each weighed tire shredded by the processor during the preceding calendar month.

(b) If the total number of used or scrap tires or tire pieces contained in illegal scrap tire sites that are identified on the priority enforcement list is below 500,000 tires, the commission may pay more than 85 cents for each weighed tire to processors with whom the commission has contracted to remove and shred scrap tires and scrap tire pieces from priority enforcement list sites. The 500,000 tire limit does not include those tires contained in sites under commission enforcement or attorney general action or that require corrective action or remedial action in response to a release or threat of release of hazardous substances. In acting under this subsection, the commission may contract with processors on a regional or site-specific basis. The contracts shall be procured through a competitive bid process conducted in accordance with the provisions of the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) applicable to contracts for services. The commission may elect not to enter into contracts under this subsection. The contracts may be only for the removal and shredding of tires from priority enforcement list sites.

(c) A waste tire processor that desires to receive payment under this section for tires shredded by the processor during a calendar month must:

(1) apply to the commission for registration [~~department~~] in accordance with forms prescribed by the commission [~~department~~];

(2) apply to the commission for payment on forms prescribed by the commission or, on a voluntary basis, apply by a removable storage medium stored in an industry standard file format acceptable to the commission;

(3) demonstrate as required by rules adopted under this section that:

(A) all tires for which payment is sought have been shredded to a particle size not larger than nine square inches; [~~and~~]

(B) not less than 25 percent of those tires were collected from generators; and

(C) if the total number of used or scrap tires or tire pieces contained in illegal waste tire sites that are identified on the priority enforcement list exceeds 500,000 tires for more than 30 consecutive days, not less than 15 [~~25~~] percent and not more than 30 percent of those tires were collected from scrap tire sites [~~dumps~~] listed on the [~~department's~~] priority enforcement list;

(4) [~~(3)~~] provide any other information the commission [~~department~~] determines is needed to accomplish the purposes of this subchapter, including a monthly report of scrap tires or tire pieces shredded, subtotaled by tire count or weight, for each generator number and priority enforcement list number; [~~and~~]

(5) [~~(4)~~] demonstrate that energy recovery activities in the state are in compliance with applicable air emission control rules and standards as adopted by the Texas Air Control Board; and

(6) provide financial assurance deemed adequate by the commission that corresponds to:

(A) the payment appropriate for the number of scrap tires the processor anticipates shredding in the next calendar month; or

(B) the number of scrap tires the waste tire storage site owner or operator anticipates accepting for storage in the next calendar month.

(d) [~~(c)~~] A waste tire processor that in any month exceeds the [~~25 percent~~] minimum requirement of Subsection (c)(3)(C) [~~(b)(2)~~] shall receive a credit for the amount in excess of the requirement [~~25 percent~~] that may be used to meet the minimum requirement during a later month. The commission [~~board of health~~] by rule may prescribe the method of applying credits accrued under this subsection.

(e) [~~(d)~~] The commission [~~board of health~~] by rule shall adopt application and payment procedures and requirements to implement this section.

(f) Until the commission has determined that a waste tire processor is in compliance with all applicable requirements, the commission may not authorize the processor to process or store scrap tires at a site at which the processor processes or stores or intends to process or store scrap tires.

(g) Notwithstanding Section 361.486, the commission may reimburse a processor for shredded scrap tires if the processor has a binding agreement to deliver the shredded scrap tires to a person to recycle or reuse or to use for energy recovery within 180 days after the date of reimbursement.

(h) The commission may not pay a waste tire processor for processing scrap tires if the commission determines that the processor:

(1) has not provided adequate financial assurance;

(2) does not have adequate fire protection; or

(3) is causing an imminent danger to public health or welfare.

(i) The commission shall issue to an applicant all processing and storage registrations necessary to begin operations and obtain reimbursement from the fund if the applicant, on or before March 10, 1993:

(1) had an application pending for a new processing facility that was reviewed by the commission and found to be in general technical compliance;

(2) had an application pending for a new storage facility with a total capacity in excess of 7 million waste tire units; and

(3) had expended or committed in excess of $1 million in total project costs.

(j) The commission shall adopt rules to manage payments from the fund to prevent depletion of the fund. Rules adopted under this subsection shall consider:

(1) appropriate payments to reflect the varying amounts of money available in the fund;

(2) a waste tire processor's monthly average number of tires for which the processor has been reimbursed historically;

(3) a waste tire processor's shredding and storage capacity; and

(4) the date the waste tire processor was registered.

(k) If a waste tire processor does not fully use its monthly allocation for reimbursement, the commission may assign the unused portion of the allocation to another waste tire processor who can demonstrate having underutilized shredding and storage capacity available for service to rural counties in this state.

[~~(c) A permitted Type VIII tire monofill approved under board of health rules may qualify as a waste tire processor and is eligible to receive payment under this section if the Type VIII tire monofill complies with all the provisions of this subchapter and rules of the board of health.~~]

SECTION 3.04. Subchapter P, Chapter 361, Health and Safety Code, is amended by adding Sections 361.4771 and 361.4772 to read as follows:

Sec. 361.4771. PAYMENT FOR SHREDDING OUTSIDE OF STATE. The commission may reimburse a registered waste tire processor for shredding tires generated in this state and shredded outside this state if the processor:

(1) meets all requirements that apply to a waste tire processor who shreds tires within this state;

(2) monthly reimburses the state for reasonable and necessary costs incurred by the commission for on-site audits of the out-of-state facility as the commission considers necessary;

(3) voluntarily submits to the commission's enforcement authority as necessary to ensure compliance with this subchapter; and

(4) agrees to maintain evidence of financial responsibility under Section 361.479 in an amount equal to twice the amount that would be required of an in-state waste tire processor.

Sec. 361.4772. PAYMENT FOR BALING TIRES. A registered waste tire processor who bales whole tires is eligible for reimbursement at a rate of 25 cents for each tire if the processor meets the requirements of this subchapter that apply to a waste tire processor and to tires processed.

SECTION 3.05. Sections 361.478 and 361.479, Health and Safety Code, are amended to read as follows:

Sec. 361.478. EVALUATION OF RECYCLING AND ENERGY RECOVERY ACTIVITIES; CERTIFICATION FOR PAYMENT. (a) Beginning January 1, 1996 [~~June 1, 1995~~], and every two [~~five~~] years after that date, the commission [~~department~~] shall evaluate according to standards adopted by commission [~~board of health~~] rule the recycling and energy recovery activities of each waste tire processor that received payment from the waste tire recycling fund [~~under Section 361.477 during the preceding five years~~].

(b) After evaluation, the commission [~~department~~] shall certify as eligible for payment under this subchapter [~~Section 361.477~~] during the next two [~~five~~] years a waste tire processor that has conducted or provided for recycling of or energy recovery from tires for which the processor received payment during the preceding period of operation [~~five years~~].

(c) A waste tire processor that receives payment under this subchapter [~~Section 361.477~~] during any two-year [~~five-year~~] period and that after evaluation is not certified by the commission [~~department~~] under Subsection (b) as eligible for payment under this subchapter [~~Section 361.477~~] may not receive payment under this subchapter [~~that section~~] for the next two [~~five~~] years.

(d) The commission [~~board of health~~] by rule may establish a procedure by which a waste tire processor can reestablish eligibility for payment under this subchapter [~~Section 361.477~~].

Sec. 361.479. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) A waste tire storage facility registered by the commission [~~department~~] under Section 361.112 or a waste tire facility that accepts shredded scrap tires for storage or for processing for recycling, reuse, or energy recovery shall submit to the commission [~~department~~] evidence of financial responsibility in an amount adequate to assure proper cleanup and [~~or~~] closure of the facility.

(b) A facility subject to Subsection (a) shall submit to the commission [~~department~~] an estimate of the total amount of shredded scrap tires and tire pieces measured by weighed tire that the facility will store or process, the maximum number of out-of-state tires the facility will store, and the estimated cost, using that total amount, of cleaning up and [~~or~~] closing the facility.

(c) The commission [~~department~~] shall evaluate and may amend an estimate submitted under Subsection (b) and [~~by order~~] shall determine for each facility the amount for which evidence of financial responsibility is required.

(d) Evidence of financial responsibility may be in the form of:

(1) a performance bond or[~~,~~] a letter of credit acceptable to the commission that is from a [~~recognized~~] financial institution, a trust fund, or insurance for a privately owned facility; or

(2) a self-insurance test designed by the commission[~~, or a resolution by the commissioners court or the city council, as appropriate,~~] for a publicly owned facility. A person who makes an initial request for reimbursement from the waste tire recycling fund on or after September 1, 1993, must provide evidence of financial responsibility for the full amount determined under Subsection (c).

SECTION 3.06. Sections 361.482 and 361.483, Health and Safety Code, are amended to read as follows:

Sec. 361.482. PROHIBITION ON DISPOSAL OF SHREDDED TIRES IN LANDFILL. A waste tire processor may not dispose of shredded scrap tires in a landfill if the processor has received payment under Section 361.477 for shredding the tires.

Sec. 361.483. CIVIL PENALTY. (a) A person who violates this subchapter or a rule adopted or order issued under this subchapter [~~Section~~

~~361.481 or 361.482~~] is liable for a civil penalty of up to $10,000 for each violation and for each day of a continuing violation.

(b) The attorney general or the prosecuting attorney in the county in which the alleged violation occurs may bring suit to recover the civil penalty imposed under Subsection (a).

(c) A penalty collected under this section shall be deposited to the credit of the waste tire recycling fund.

SECTION 3.07. Subchapter P, Chapter 361, Health and Safety Code, is amended by adding Sections 361.4831 and 361.4832 to read as follows:

Sec. 361.4831. INJUNCTION FOR CORRECTIVE ACTION. (a) The attorney general or the prosecuting attorney in a county in which the violation occurs may bring suit for an injunction to compel a person who violates this subchapter or a rule adopted or order issued under this subchapter to take corrective action.

(b) The suit may be brought independently of or in conjunction with a suit under Section 382.483.

Sec. 361.4832. ADMINISTRATIVE PENALTY AND ORDER FOR CORRECTIVE ACTION. If a person violates this subchapter or a rule adopted or order issued under this subchapter the commission may:

(1) assess against the person an administrative penalty under Section 361.252; or

(2) order the person to take a corrective action.

SECTION 3.08. Sections 361.484 and 361.485, Health and Safety Code, are amended to read as follows:

Sec. 361.484. RULES. The commission [~~board of health~~] may adopt rules reasonably necessary to implement this subchapter.

Sec. 361.485. REPORT. Not later than February 1 of each odd-numbered year, the commission [~~department~~] shall report to the governor and the legislature on the administration of the program established under this subchapter and its effectiveness in cleaning up existing scrap tire sites [~~dumps~~] and in preventing new scrap tire sites [~~dumps~~].

SECTION 3.09. Subchapter P, Chapter 361, Health and Safety Code, is amended by adding Sections 361.486-361.495 to read as follows:

Sec. 361.486. RECYCLING EFFORTS. (a) On and after January 1, 1996, for all new, amended, and renewal processing registration applications, the processor must identify those persons who will accept the processor's shredded scrap tire pieces for recycling or reuse or to use the shredded scrap tires for energy recovery. The commission shall reimburse a processor for only those shredded tires that the commission determines are committed to a legitimate end user.

(b) The commission may disapprove of the use a person identified by the processor has for the tire pieces unless the person identified is authorized by the state to use tire-derived fuel for energy recovery.

(c) The commission by rule shall define recycling for purposes of this subchapter.

(d) On or before January 1, 1994, and on a semiannual basis thereafter, registered processors and storage site owners and operators

shall report their recycling, reuse, and energy recovery activities to the commission. The commission by rule shall prescribe the form and other requirements of the report.

(e) A person who, in this state, recycles or recovers the energy from shredded tire pieces shall register with the commission in accordance with the rules and on the forms prescribed by the commission.

Sec. 361.487. REIMBURSEMENT RESTRICTIONS. (a) A processor seeking reimbursement under Section 361.477 shall process and store the scrap tires or scrap tire pieces in the state.

(b) The commission shall treat scrap tires and scrap tire pieces generated in Texas, removed from Texas, and subsequently reintroduced to Texas as out-of-state scrap tires for the purposes of this subchapter.

(c) Scrap tires and scrap tire pieces that are shredded and for which a person is reimbursed may not be disposed of in a Type VIII-S tire monofill.

Sec. 361.488. GENERATOR CHARGE FOR SCRAP TIRES PROHIBITED. A scrap tire generator may not receive remuneration in exchange for scrap tires.

Sec. 361.489. IMMEDIATE REMOVAL AND REMEDIAL ACTION BY COMMISSION. (a) The commission may, with the funds available to the commission from the waste tire recycling fund, undertake immediate remediation of a site if, after investigation, the commission finds:

(1) that there exists a situation caused by the illegal dumping of scrap tires that is causing or may cause imminent and substantial endangerment to the public health and safety or the environment; and

(2) the immediacy of the situation makes it prejudicial to the public interest to delay action until an administrative order can be issued to potentially responsible parties or until a judgment can be entered in an appeal of an administrative order.

(b) If a person ordered to eliminate an imminent and substantial danger to the public health and safety or the environment has failed to do so within the time limits specified in the order or any extension of time approved by the commission, the commission may implement a remedial program for the site.

(c) The commission may bring suit against a potentially responsible party to recover reasonable expenses incurred in undertaking immediate removal under Subsection (a) or in implementing a remedial action order under Subsection (b). For purposes of this subsection, the commission shall employ the following three criteria to determine whether a person is a potentially responsible party:

(1) the person must be the property owner of record, the site operator, or the depositor of the scrap tires on the site;

(2) the person must have benefitted financially from the disposition of the scrap tires on the site; and

(3) the person must be financially capable of paying all or part of the costs of the total or partial cleanup of the site, considering the costs of the cleanup as determined by the commission.

(d) The commission shall file the suit to recover costs not later than one year after the date removal or remedial measures are completed.

(e) Money collected in a suit to recover costs shall be deposited to the credit of the waste tire recycling fund.

(f) The commission, in lieu of bringing suit to recover costs incurred under this section, may file a lien against the property on which the site is located. The lien shall state the name of the owner of the property, the amount owed, and the legal description of the property. The lien arises and attaches on the date the lien is filed in the real property records of the county in which the property is located. The lien is subordinate to the rights of prior bona fide purchasers or lienholders on the property.

Sec. 361.490. ACCESS TO PRIORITY ENFORCEMENT LIST SITE. (a) Members of the commission, employees or agents of the commission, and authorized processors or their subcontractors are entitled to enter any public or private property at any reasonable time for the purpose of inspecting, investigating, or remediating any condition related to illegal dumping of scrap tires. An authorized processor or subcontractor is entitled to enter property only if the commission directs the processor or subcontractor to enter the property. The executive director shall give notice of intent to enter private property for those purposes by certified mail to the last known address indicated in the current county property records at least 10 days before a commission member, commission employee or agent, or authorized processor or subcontractor enters the property. A commission member, commission employee or agent, or authorized processor or subcontractor who, acting under this subsection, enters private property shall:

(1) observe the establishment's rules concerning safety, internal security, and fire protection; and

(2) if the property has management in residence, make a reasonable attempt to notify the management or person in charge of the entry and exhibit credentials.

(b) Authorized processors and their subcontractors may not be considered agents of the state and are solely responsible for their actions.

Sec. 361.491. INJUNCTION TO RESTRAIN VIOLATION. If it appears that a person has violated, is violating, or is threatening to violate this subchapter or a rule, permit, or order adopted or issued under this subchapter, the executive director may bring suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.

Sec. 361.492. NEW TIRE WHOLESALERS AND RETAILERS. A person selling new tires as described in Section 361.472(a) shall accept from customers, without charge, used tires of the type and in a quantity at least equal to the number of new tires purchased.

Sec. 361.493. CONFIDENTIALITY. Information submitted to the commission in accordance with Section 361.477(g) or Section 361.486(a) or (d), and any report generated by the commission based on the information, is confidential and is not subject to disclosure under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a,

Vernon's Texas Civil Statutes), and the commission shall protect the information accordingly.

Sec. 361.494. APPEAL. The commission shall establish a process by which a registered waste tire processor who is adversely affected by an agency decision affecting reimbursement may appeal that decision to the executive director or the commission.

Sec. 361.495. ENSURING CAPACITY. Not later than October 1 of each odd-numbered year, the commission shall determine the total shredding capacity of all registered waste tire processors. If the commission determines that the shredding capacity is less than the previous year's reimbursed waste tire units, the commission may issue registrations to waste tire processors until the anticipated shredding capacity equals the previous year's reimbursed waste tire units. If the commission determines that the shredding capacity exceeds the previous year's reimbursed waste tire units, the commission may not issue a registration to a new waste tire processor until the next capacity assessment is completed.

SECTION 3.10. Section 361.014, Health and Safety Code, is amended to read as follows:

Sec. 361.014. USE OF SOLID WASTE FEE REVENUE. (a) Revenue received by the department under Section 361.013 shall be deposited in the state treasury to the credit of the department. At least half the revenue is dedicated to the department's municipal solid waste permitting and enforcement programs and related support activities, and the balance of the revenue is dedicated to pay for activities that will enhance the state's solid waste management program, including:

(1) provision of funds for the municipal solid waste management planning fund and the municipal solid waste resource recovery applied research and technical assistance fund established by the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Chapter 363);

(2) provision of technical assistance to local governments concerning solid waste management;

(3) establishment of a solid waste resource center in the department and an office of waste minimization and recycling;

(4) provision of supplemental funding to local governments for the enforcement of this chapter, the Texas Litter Abatement Act (Chapter 365), and Chapter 741, Acts of the 67th Legislature, Regular Session, 1981 (Article 4477-9a, Vernon's Texas Civil Statutes);

(5) conduct of a statewide public awareness program concerning solid waste management;

(6) provision of supplemental funds for other state agencies with responsibilities concerning solid waste management, recycling, and other initiatives with the purpose of diverting recyclable waste from landfills;

(7) conduct of research to promote the development and stimulation of markets for recycled waste products;

(8) creation of a state municipal solid waste superfund for:

(A) the cleanup of unauthorized tire dumps and solid waste dumps for which a responsible party cannot be located or is not immediately financially able to provide the cleanup; and

(B) the cleanup or proper closure of abandoned or contaminated municipal solid waste sites for which a responsible party is not immediately financially able to provide the cleanup; and

(9) provision of funds for other programs that the board of health may consider appropriate to further the purposes of this chapter.

(b) Revenue derived from fees charged under Section 361.013(c) to a transporter of whole used or scrap tires or shredded tire pieces shall be deposited to the credit of the waste tire recycling fund.

SECTION 3.11. Section 361.112, Health and Safety Code, is amended by adding Subsection (m) to read as follows:

(m) The commission may adopt rules to regulate the storage of scrap or shredded tires that are stored at a marine dock, rail yard, or trucking facility for more than 30 days.

SECTION 3.12. Section 363.041, Health and Safety Code, is amended to read as follows:

Sec. 363.041. COMPOSITION OF ADVISORY COUNCIL. The Municipal Solid Waste Management and Resource Recovery Advisory Council is composed of the following 17 [~~15~~] members appointed by the board:

(1) an elected official from a municipality with a population of 750,000 or more;

(2) an elected official from a municipality with a population of 100,000 or more but less than 750,000;

(3) an elected official from a municipality with a population of 25,000 or more but less than 100,000;

(4) an elected official from a municipality with a population of less than 25,000;

(5) two elected officials of separate counties, one of whom is from a county with a population of less than 150,000;

(6) an official from a municipality or county solid waste agency;

(7) a representative from a private environmental conservation organization;

(8) a representative from a public solid waste district or authority;

(9) a representative from a planning region;

(10) a representative of the financial community;

(11) a representative from a solid waste management organization composed primarily of commercial operators;

(12) a board member; [~~and~~]

(13) two persons representing the public who would not otherwise qualify as members under this section;

(14) a registered, fixed waste tire processor; and

(15) a registered, mobile waste tire processor.

SECTION 3.13. (a) The Texas Natural Resource Conservation Commission may not register a waste tire processor until after the commission makes its initial determination of the capacity of registered waste tire processors as provided by Section 361.495, Health and Safety Code, as added by this article.

(b) If this article takes immediate effect, notwithstanding the date provided by Section 361.495, Health and Safety Code, as added by this

article, the Texas Natural Resource Conservation Commission shall make the initial determination of the capacity of registered waste tire processors not later than 30 days after the effective date of this article.

SECTION 3.14. The changes in the waste tire recycling fee made by Section 361.472, Health and Safety Code, as amended by this article, take effect October 1, 1993.

Amendment No. 3

Amend the amendment to **C.S.S.B. 1051** by amending Section 1.11 to read as follows:

Section 1.11. Section 361.421(5), Health and Safety Code, is amended to read as follows:

(5) "Recyclable material" means material, including wood by-products such as wood chips, that has been recovered or diverted from the non-hazardous solid waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products which may otherwise be produced using raw or virgin materials. Recyclable material is not solid waste. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

Amendment No. 4

Amend the Saunders amendment to **C.S.S.B. 1051** in Subdivision (3) of the amendment, proposed SECTION 3.04 of the bill, as follows:

(1) In the introductory language of SECTION 3.04 (page 13, line 2), strike "and 361.4772" and substitute ", 361.4772, and 361.4773".

(2) Insert Section 361.4773, Health and Safety Code (page 13, between lines 24 and 25), to read as follows:

Sec. 361.4773. PAYMENT FOR RECYCLING TIRES INTO PRODUCT. The commission by rule may establish a program to reimburse from the fund a waste tire recycler for each weighed tire the waste tire recycler processes to make useful products.

Amendment No. 5

Amend **C.S.S.B. 1051** on page 29, line 8, by striking all of Subsection (12), and "; and" on page 29, line 7, and add "."

Amendment No. 6

Amend **C.S.S.B. 1051** as follows:

(1) Insert a new Section ____ to read as follows:

"SECTION ____. Amend Section 361.477, Health and Safety Code, by inserting a new Subsection (m) to read as follows:

(m) A person receiving payment from the fund may only receive more than 85 cents per waste tire unit under Subsection (b)."

(2) Renumber the remaining subsections appropriately.

Amendment No. 7

Amend **C.S.S.B. 1051** as follows:

(1) On page 12, line 8, insert a new SECTION 1.111 to read as follows:

"SECTION 1.111. Section 361.422, Health and Safety Code, is amended by amending Subsections (a) and (c) and by adding new Subsections (e)-(g) to read as follows:

Sec. 361.422. STATE [~~RECYCLING~~] MUNICIPAL SOLID WASTE DISPOSAL REDUCTION GOAL. (a) It is the state's goal to achieve by January 1, 1994 a reduction [~~the recycling~~] of at least 40 percent of the state's total municipal solid waste stream.

(c) By January 1, 1992, the department shall establish rules and reporting requirements through which progress toward achieving the established [~~recycling~~] goals can be measured. [~~The rules may take into consideration those ongoing community recycling programs where substantial progress has already been achieved. The department may also establish a limit on the amount of credit that may be given to certain high volume materials in measuring recycling progress.~~]

(e) The baseline for the purpose of measuring progress toward the municipal solid waste reduction goal shall be the weight of the total municipal solid waste stream in 1991.

(f) To calculate progress toward the municipal solid waste reduction goal for the year under comparison, the department shall compare the weight, measured in tons, of the total municipal solid waste stream that was disposed of in 1991 to the weight that was disposed of in the year for which the comparison is made.

(g) In this section, "disposed of" shall include municipal solid waste that is incinerated and municipal solid waste that is imported into the state."

(2) On page 29, line 9, after "firms", insert "and secondary materials recycling firms"

Amendment No. 8

Amend **C.S.S.B. 1051** as follows:

(1) On page 8, between lines 5 and 6 add a new Subsection (g) to read as follows:

"(g) The department shall allow a home-rule municipality that has enacted an ordinance imposing a local environmental protection fee for disposal services as of January 1, 1993, to offer disposal or environmental programs or services to persons within its jurisdiction, from the revenues generated by said fee, as such services are required by state or federal mandates. If such services or programs are offered, the home-rule municipality may require the use by those persons within its jurisdiction."

(2) Renumber the remaining sections accordingly.

Amendment No. 1 on Third Reading

Amend **C.S.S.B. 1051** as follows:

Amend Section 361.422(d), Health and Safety Code, as follows:

(1) Delete the last word of Subsection (d), which is "compute," and substitute "compare the total number of tons disposed in the year under comparison, either by landfilling or by other disposal methods, to the total number of tons disposed in the base year, adjusting for changes in population, tons of solid waste imported and exported, and other relevant changes between the baseline year and the comparison year."

(2) Amend Section 361.422 by deleting Subsections (d)(1) and (d)(2).

(3) Amend Section 361.422, by deleting Subsection (e).

Amendment No. 2 on Third Reading

Amend **C.S.S.B. 1051** on third reading by striking amended Sections 361.472(d)-(j), Health and Safety Code, as amended by Second Reading Amendment No. 2 (Saunders), and substituting the following:

(d) A dealer required to collect a fee under this section may retain 2 1/2 cents from each fee the dealer collects. A dealer shall account for amounts retained under this subsection in the manner prescribed by the comptroller.

(e) [~~(c)~~] A dealer required to collect a fee under this section:

(1) shall list as a separate item on an invoice a fee due under this section; and

(2) except as provided by Subsection (f) [~~(d)~~], on or before the 20th day of the month following the end of each calendar month and on a form and in the manner prescribed by the comptroller, shall file a report with and shall remit to the comptroller the amount of fees collected during the preceding calendar month.

(f) [~~(d)~~] A person required to collect a fee under this section who collects less than $50 for a calendar month or less than $150 for a calendar quarter is not required to file a monthly report but shall file a quarterly report with and make a quarterly remittance to the comptroller. The quarterly report and remittance shall include fees collected during the preceding calendar quarter. The report and remittance are due not later than the 20th day of the month following the end of the calendar quarter.

(g) [~~(e)~~] An invoice or other record required by this section or rules of the comptroller must be maintained for at least four years after the date on which the invoice or record is prepared and be open for inspection by the comptroller at all reasonable times.

(h) [~~(f)~~] The comptroller shall adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under this section.

(i) A waste tire recycling fee is imposed on the storage, use, or consumption in this state of a new tire at the same rate as provided by Subsection (a), except when purchased for the purpose of resale.

(j) A person storing, using, or consuming a new tire in this state is liable for the waste tire recycling fee as defined in this section and is responsible for reporting and paying the fee to the comptroller in the same manner as a person required to collect this fee, as provided in Subsections (e)(2) and (f).

(k) A person storing, using, or consuming a new tire in this state is not further liable for the waste tire recycling fee imposed by Subsection (a) if the person pays the fee to a wholesaler or retailer engaged in business in this state or another person authorized by the comptroller to collect the fee and receives from the wholesaler, retailer, or other person a purchaser's receipt.

The amendments were read.

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

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **S.B. 1051** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chair; Shelley, Harris of Dallas, Wentworth, and Carriker.

SENATE RESOLUTIONS ON FIRST READING

The following resolutions were introduced, read first time, and referred to the committees indicated:

S.C.R. 103 by Wentworth State Affairs
Encouraging any state agency entering into a building or construction contract with the successful bidder to establish a formal "partnering" agreement and program along the lines of the National Associated General Contractor's Partnering Program.

S.C.R. 104 by Wentworth Administration
Establishing the Governor's Awards for Excellence in the Arts, Humanities, and Sciences.

VOTES RECONSIDERED

On motion of Senator Whitmire and by unanimous consent, the vote by which **C.S.H.B. 2178** was finally passed was reconsidered.

Question—Shall **C.S.H.B. 2178** be finally passed?

On motion of Senator Whitmire and by unanimous consent, the vote by which the Three-Day Rule on **C.S.H.B. 2178** was suspended was reconsidered.

Question—Shall the Three-Day Rule be suspended?

On motion of Senator Whitmire and by unanimous consent, the vote by which **C.S.H.B. 2178** was passed to third reading was reconsidered.

Question—Shall the bill be passed to third reading?

On motion of Senator Whitmire and by unanimous consent, **C.S.H.B. 2178** was withdrawn and **H.B. 2178** was considered in lieu thereof.

H.B. 2178 was passed to third reading by a viva voce vote.

HOUSE BILL 2178 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2178** be placed on its third reading and final passage.

H.B. 2178, Relating to compensation of victims of certain crimes.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 867 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 867** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **S.B. 867** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the location of certain justice of the peace courts.

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

SECTION 1. Subsection (d), Section 292.001, Local Government Code, is amended to read as follows:

(d) A justice of the peace court may not be housed or conducted in a building located outside the court's precinct except as provided by Section 27.051(f), Government Code, or unless the justice of the peace court is situated in the county courthouse in a county with a population of at least 220,000 persons but no more than 230,000 persons.

SECTION 2. Section 27.051(f), Government Code, is amended to read as follows:

(f) A justice of the peace of a precinct in a county with a population of less than 30,000 may hold court in the county courthouse, or another facility provided under Section 292.002(a), Local Government Code, for that purpose. If requested by the justice, the commissioners court of the county may provide and furnish a suitable place in the courthouse or another facility provided under Section 292.002(a), Local Government Code, for the justice to hold court.

SECTION 3. This Act takes effect September 1, 1993.

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. 867** by a viva voce vote.

SENATE BILL 894 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 894** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **S.B. 894** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the administration and enforcement of motor fuel taxes; providing penalties.

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

SECTION 1. Section 153.001, Tax Code, is amended to read as follows:

Sec. 153.001. DEFINITIONS. In this chapter:

(1) "Aviation fuel dealer" means a person who:

(A) is the operator of an aircraft servicing facility;

(B) delivers gasoline or diesel fuel exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and

(C) does not use, sell, or distribute gasoline or diesel fuel on which a fuel tax is required to be collected or paid to this state.

(2) "Bulk user" means a person who owns or leases a bulk storage tank from which gasoline or diesel fuel is delivered into the fuel supply tanks of a motor vehicle or other equipment owned or operated by the person.

(3) [~~(2)~~] "Cargo tank" means an assembly that is used for transporting, hauling, or delivering liquids and that consists of a tank having one or more compartments mounted on a wagon, automobile, truck, trailer, or wheels, and includes accessory piping, valves, and meters, but does not include a fuel supply tank connected to the carburetor or fuel injector of a motor vehicle.

(4) [~~(3)~~] "Dealer" means a person who is the operator of a service station or other retail outlet and who delivers motor fuel into the fuel supply tanks of motor vehicles or motorboats.

(5) [~~(4)~~] "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, that is suitable for or used for the propulsion of diesel-powered motor vehicles. The term includes products commonly referred to as kerosene, light cycle oil, number two fuel oil, distillate fuel, cutter stock, or heating oil, but does not include gasoline or liquefied gas.

(6) "Diesel fuel jobber" means a person who:

(A) purchases tax-paid diesel fuel from a permitted supplier, another jobber, or a dealer; and

(B) makes a sale with the tax included to a permitted supplier, another jobber, a dealer, or a bulk user.

(7) [~~(5)~~] "Diesel bulk delivery" means a delivery of a quantity of diesel fuel in excess of five gallons, but does not include a delivery into the fuel supply tanks of a motor vehicle.

(8) [~~(6)~~] "Diesel tax prepaid user" means a person:

(A) whose purchases of diesel fuel are predominantly for nonhighway use;

(B) whose only diesel-powered motor vehicles are passenger cars or light trucks; and

(C) who elects to prepay an annual diesel fuel tax to the comptroller on each diesel-powered motor vehicle.

[~~(7) "Diesel user" means a person who delivers, or causes to be delivered, diesel fuel into the fuel supply tanks of motor vehicles owned or operated by him.~~]

(9) [~~(8)~~] "Distributor" means a person who:

(A) regularly makes sales or distributions of gasoline that are not into the fuel supply tanks of motor vehicles, motorboats, or aircraft;

(B) refines, distills, manufactures, produces, or blends for sale or distribution gasoline in this state;

(C) imports or exports gasoline other than in the fuel supply tanks of motor vehicles; or

(D) in any other manner acquires or possesses tax-free gasoline.

(10) [~~(9)~~] "Gasoline" means any liquid or combination of liquids blended together offered for sale, sold, or used as the fuel for a gasoline-powered engine. The term includes blending agents, but excludes diesel fuel and liquefied gas.

(11) "Gasoline jobber" means a person who:

(A) purchases tax-paid gasoline from a permitted distributor, another jobber, or a dealer; and

(B) makes a sale with the tax included to a permitted distributor, another jobber, a dealer, or a bulk user.

(12) [~~(10)~~] "Interstate trucker" means a person who for commercial purposes operates in this state, other states, or countries a motor vehicle that:

(A) has two axles and a registered gross weight in excess of 26,000 pounds;

(B) has three or more axles; or

(C) is used in combination and the registered gross weight of the combination exceeds 26,000 pounds [~~imports motor fuel in the fuel supply tanks of a motor vehicle having an aggregate fuel tank capacity of 60 or more gallons, operated for commercial purposes, for taxable use on the public highways of this state, but who does not sell or distribute motor fuel to other persons within this state, except as provided in Subchapter D of this chapter~~].

(13) "Jobber" includes a diesel fuel jobber or a gasoline jobber.

(14) [~~(11)~~] "Lessor" means a person:

(A) whose principal business is the leasing or renting of motor vehicles for compensation to the general public;

(B) who maintains established places of business; and

(C) whose lease or rental contracts require the motor vehicles to be returned to the established places of business at the termination of the lease.

(15) [~~(12)~~] "Light truck" means a pickup truck, panel delivery truck, carryall truck, or other motor vehicle that is designed, used, or maintained primarily for the transportation of property and that has a manufacturer's rated carrying capacity not exceeding 2,000 pounds.

(16) [~~(13)~~] "Liquefied gas" means all combustible gases that exist in the gaseous state at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include gasoline or diesel fuel.

(17) [~~(14)~~] "Liquefied gas tax decal user" means a person who owns or operates on the public highways of this state a motor vehicle:

(A) equipped with a liquefied gas carburetion system;

(B) required to be licensed by the State Department of Highways and Public Transportation; and

(C) required to have a Texas certificate of inspection.

(18) [~~(15)~~] "Motorboat" means a vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(19) [~~(16)~~] "Motor fuel" includes gasoline, diesel fuel, liquefied gas, and other products that are usable as propellants of a motor vehicle.

(20) [~~(17)~~] "Motor vehicle" means a self-propelled vehicle licensed for highway use or used on the highway.

(21) [~~(18)~~] "Passenger car" means a motor vehicle designed for carrying 10 or fewer passengers and used for the transportation of persons.

(22) [~~(19)~~] "Public highway" means a way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.

(23) [~~(20)~~] "Registered gross weight" or "RGW" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the State Department of Highways and Public Transportation.

(24) [~~(21)~~] "Sale" means a transfer of title, exchange, or barter of motor fuel, but does not include transfer of possession of motor fuel on consignment.

(25) [~~(22)~~] "Supplier" means a person who:

(A) refines, distills, manufactures, produces, or blends for sale or distribution diesel fuel in this state;

(B) imports or exports diesel fuel other than in the fuel supply tanks of motor vehicles;

(C) sells or delivers diesel fuel in bulk quantities to dealers, users, aviation fuel dealers, or other suppliers; or

(D) is engaged in the business of selling or delivering diesel fuel in bulk quantities to consumers for nonhighway uses.

(26) [~~(23)~~] "Transit company" means a business that:

(A) transports in a political subdivision persons in carriers designed for 12 or more passengers;

(B) holds a franchise from a political subdivision; and

(C) has its rates regulated by the subdivision or is owned or operated by the political subdivision.

(27) "User" means a person who owns or operates a motor vehicle having fuel supply tanks into which gasoline or diesel fuel is delivered.

SECTION 2. Section 153.004(d), Tax Code, is amended to read as follows:

(d) Each person, other than a common carrier transporting motor fuel under this chapter, shall also carry a copy of the supplier, distributor, jobber, or user permit, or proof of tax payment on the motor fuel being transported, unless the person is an end user transporting the person's own motor fuel purchased under a signed statement as provided by Section 153.205.

SECTION 3. Section 153.008, Tax Code, is amended to read as follows:

Sec. 153.008. INSPECTION OF PREMISES AND RECORDS. For the purpose of determining the amount of tax collected and payable to the state, the amount of tax accruing and due, and whether a tax liability has been incurred under this chapter, the comptroller may:

(1) inspect any premises where motor fuel; crude petroleum; natural gas; derivatives or condensates of crude petroleum, natural gas, or their products; methyl alcohol; ethyl alcohol; or other blending agents are produced, made, prepared, stored, transported, sold, or offered for sale or exchange;

(2) examine the books and records required to be kept and records incident to the business of any distributor, supplier, dealer, jobber, or any person receiving or possessing, delivering, or selling motor fuel, crude oil, derivatives or condensates of crude petroleum, natural gas, or their products, or any blending agents;

(3) examine and either gauge or measure the contents of all storage tanks, containers, and other property or equipment; and

(4) take samples of any and all of these products stored on the premises.

SECTION 4. Section 153.010, Tax Code, is amended to read as follows:

Sec. 153.010. AUTHORITY TO STOP AND EXAMINE. In order to enforce the provisions of this chapter, the comptroller or a peace officer may stop a motor vehicle that appears to be operating with or transporting motor fuel in order to examine the cargo manifest or invoices required to be carried, examine a permit or copy of a permit that may be required to be carried, take samples from the fuel supply or cargo tanks, and make any other investigation that could reasonably be made to determine whether the taxes have been paid or accounted for by a distributor, supplier, dealer, user, jobber, or any person required to be so permitted.

SECTION 5. Section 153.013(a), Tax Code, is amended to read as follows:

(a) A distributor, supplier, dealer, interstate trucker, jobber, or user who fails to keep a record, issue an invoice, or file a report required by this chapter, is presumed to have sold or used for taxable purposes all motor fuel shown by an audit by the comptroller to have been sold to the distributor, supplier, dealer, interstate trucker, jobber, or user. Motor fuel unaccounted for is presumed to have been sold or used for taxable purposes. The comptroller may fix or establish the amount of taxes, penalties, and interest due the state from the records of deliveries or from any records or information available to him. If a tax claim, as developed from this procedure, is not paid, after the opportunity to request a redetermination, the claim and any audit made by the comptroller or any report filed by the distributor, supplier, dealer, interstate trucker, jobber, or user, are evidence in any suit or judicial proceedings filed by the attorney general, and are prima facie evidence of the correctness of the claim or audit. A prima facie presumption of the correctness of the claim may be overcome at the trial by evidence adduced by the distributor, supplier, dealer, interstate trucker, jobber, or user.

SECTION 6. Section 153.016, Tax Code, is amended to read as follows:

Sec. 153.016. ADDITIONAL TAX APPLIES TO DEALER AND JOBBER INVENTORIES. (a) On the effective date of an increase in the rates of the taxes imposed by this chapter, a dealer or jobber that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which the taxes imposed by this chapter at a previous rate have been paid shall report to the comptroller the volume of that gasoline and diesel fuel, and at the time of the report shall pay a tax on that gasoline and diesel fuel at a rate equal to the rate of the tax increase.

(b) On the effective date of a reduction of the rates of taxes imposed by this chapter, a dealer or jobber that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which the taxes imposed by this chapter at the previous rate have been paid becomes entitled to a refund in an amount equal to the difference in the amount of taxes paid on that gasoline or diesel fuel at the previous rate and at the rate in effect on the effective date of the reduction in the tax rates. The rules of the comptroller shall provide for the method of claiming a refund under this chapter and may require that the refund be paid through the distributor or supplier from whom the dealer received the fuel.

SECTION 7. 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 supply tank of a motor vehicle operated by a person not required to be permitted as an interstate trucker [~~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;

(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 8. Section 153.106(a), Tax Code, is amended to read as follows:

(a) A distributor, interstate trucker, gasoline jobber, or aviation fuel dealer shall file an application with the comptroller for one of the nonassignable permits provided for in this subchapter.

SECTION 9. Subchapter B, Chapter 153, Tax Code, is amended by adding Section 153.1071 to read as follows:

Sec. 153.1071. GASOLINE JOBBER'S PERMIT. A person performing the functions of a gasoline jobber shall obtain a gasoline jobber's permit.

SECTION 10. Section 153.112, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) A gasoline jobber's permit is permanent and is valid so long as the permittee has in force and effect the required bond or security, or until the permit is surrendered by the holder or canceled by the comptroller.

SECTION 11. Section 153.108, Tax Code, is amended to read as follows:

Sec. 153.108. INTERSTATE TRUCKER'S PERMIT. An interstate trucker's permit authorizes a person who imports gasoline into Texas in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [~~vehicles having an aggregate capacity of 60 or more gallons~~] to report and pay the tax due on the gasoline imported into this state or to claim a credit or refund of the tax paid on gasoline purchased in Texas and used in other states.

SECTION 12. Sections 153.109(a) and (c), Tax Code, are amended to read as follows:

(a) In lieu of an annual interstate trucker's permit, a person bringing a motor vehicle described by Section 153.001(12)(A), (B), or (C) into this state for commercial purposes [~~with fuel supply tanks having an aggregate capacity of 60 or more gallons~~] may obtain a trip permit. The trip permit must be obtained before [~~prior to entry into the state~~] or at the time of entry into this state.

(c) A fee for each trip permit shall be collected from the applicant and shall be in the amount of $50 for each vehicle for each trip [~~an amount equivalent to the tax payable on the quantity of gasoline that could be imported in the fuel supply tanks of the motor vehicle, but not less than $5~~].

SECTION 13. Section 153.111, Tax Code, is amended to read as follows:

Sec. 153.111. DISTRIBUTOR MAY PERFORM OTHER FUNCTIONS. A distributor may operate under the distributor's permit as [~~an interstate trucker or~~] an aviation fuel dealer without securing a separate permit, but is subject to all other conditions, requirements, and liabilities imposed on those permittees.

SECTION 14. Section 153.114, Tax Code, is amended to read as follows:

Sec. 153.114. LIST OF DISTRIBUTORS, [~~AND~~] AVIATION FUEL DEALERS, AND GASOLINE JOBBERS. The comptroller, on or before December 20 of each year, shall mail or distribute to all permitted distributors a printed alphabetical list of permitted distributors, [~~and~~] aviation fuel dealers, and gasoline jobbers [~~who are qualified to purchase gasoline tax-free during the ensuing calendar year~~]. A distributor and an aviation fuel dealer on the list are qualified to purchase gasoline tax free during the following calendar year. A gasoline jobber on the list is qualified to purchase gasoline tax-paid during the following calendar year. A supplemental list of additions and deletions shall be delivered to the distributors each month. A current and effective permit or the list furnished by the comptroller is evidence of the validity of the permit until the comptroller notifies distributors of a change in the status of a permit holder.

SECTION 15. Section 153.115(a), Tax Code, is amended to read as follows:

(a) An interstate trucker who imports gasoline into Texas in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [~~vehicles having an aggregate capacity of 60 or more gallons for each vehicle~~] shall report and pay the tax at the imposed rate on gasoline that is imported and used on Texas highways. The number of gallons of gasoline used on Texas highways shall be computed by dividing the total miles traveled in all states by the total number of gallons of gasoline delivered into the fuel supply tanks of the motor vehicle [~~vehicles~~] in all states. The mileage factor obtained shall be divided into the total Texas miles traveled in order to determine the number of gallons of gasoline used in Texas.

SECTION 16. Sections 153.116(a), (b), and (c), Tax Code, are amended to read as follows:

(a) The comptroller shall determine the amount of security required of a distributor or a gasoline jobber taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a distributor or a gasoline jobber, and the necessity to protect the state against the failure to pay the tax as it becomes due.

(b) If it is determined that the posting of security is necessary to protect the state, the comptroller may require a distributor or a gasoline jobber to post a [~~surety~~] bond [~~equal to two times the highest tax that could accrue on tax-free gasoline purchased or acquired during a reporting period~~]. A distributor shall post a bond equal to two times the most amount of tax that could accrue on tax-free gasoline purchased or acquired

during a reporting period. A gasoline jobber shall post a bond in an amount determined by the comptroller according to the past tax payment history of the gasoline jobber. The minimum bond is $30,000. The maximum bond is $600,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event he may require one or more bonds or securities in a total amount exceeding $600,000.

(c) A distributor or a gasoline jobber who has filed a bond or other security under this subchapter is exempted from the bond or other security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of the state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security, and may reimpose a requirement of a bond or other security as the comptroller determines necessary to protect the revenues of the state.

SECTION 17. Section 153.117, Tax Code, is amended by amending Subsection (f) and adding Subsection (h) to read as follows:

(f) The comptroller may require selective schedules from a distributor, dealer, aviation fuel dealer, interstate trucker, gasoline jobber, or common or contract carrier for any purchases, sales, or deliveries of gasoline when the schedules are not inconsistent with the requirements of this chapter.

(h) A gasoline jobber shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(4) all gasoline lost by fire or other accident.

SECTION 18. Section 153.118, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) A gasoline jobber is not required to file a report with the comptroller.

SECTION 19. Section 153.206(d), Tax Code, is amended to read as follows:

(d) An interstate trucker who imports diesel fuel into Texas in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [~~having an aggregate capacity of 60 or more gallons for each vehicle~~] shall report and pay the tax at the rate imposed on diesel fuel that is imported and used on Texas highways. The number of gallons of diesel fuel used on Texas highways shall be computed by dividing the total miles traveled in all states by the total number of gallons of diesel fuel delivered into the fuel supply tanks of the motor vehicle [~~vehicles~~] in all states. The mileage factor obtained shall be divided into the total Texas miles traveled in order to determine the number of gallons of diesel fuel used in Texas. An interstate trucker

shall remit all taxes due by him based on the diesel fuel tax rate for each gallon on diesel fuel consumed within the state at the time of the filing of the quarterly report.

SECTION 20. Section 153.207(a), Tax Code, is amended to read as follows:

(a) A supplier, bonded user, interstate trucker, diesel tax prepaid user, [~~or~~] aviation fuel dealer, or diesel fuel jobber shall file an application with the comptroller for one of the nonassignable permits provided for in this subchapter.

SECTION 21. Chapter 153, Subchapter C, Tax Code, is amended by adding Section 153.2081 to read as follows:

Sec. 153.2081. DIESEL FUEL JOBBER'S PERMIT. A person performing the functions of a diesel fuel jobber shall obtain a diesel fuel jobber's permit.

SECTION 22. Section 153.211, Tax Code, is amended to read as follows:

Sec. 153.211. INTERSTATE TRUCKER'S PERMIT. An interstate trucker's permit authorizes a person who imports diesel fuel into the state in the fuel supply tanks of a motor vehicle operated for commercial purposes and described by Section 153.001(12)(A), (B), or (C) [~~vehicles having an aggregate capacity of 60 or more gallons for each vehicle~~] to report and pay the tax due on diesel fuel imported into this state or to claim a credit or a refund of the tax paid on diesel fuel purchased in this state and then used in other states. An interstate trucker may not make tax-free purchases of diesel fuel.

SECTION 23. Section 153.212, Tax Code, is amended to read as follows:

Sec. 153.212. TRIP PERMITS. (a) In lieu of an annual interstate trucker's permit, a person bringing a motor vehicle described by Section 153.001(12)(A), (B), or (C) [~~vehicles~~] into this state for commercial purposes [~~with fuel supply tanks having an aggregate capacity of 60 or more gallons for each vehicle~~] may obtain a trip permit. The trip permit must be obtained before or at the time of entry into this state.

(b) [~~The trip permit must be obtained before entry into the state or at the time of entry.~~] No more than five trip permits may be issued during a calendar year to a person operating interstate.

(c) A fee for each trip permit shall be collected from the applicant and be in the amount of $50 for each vehicle for each trip[~~. The fee is an amount equal to the tax payable on the quantity of diesel fuel that could be imported in the fuel supply tanks of the motor vehicle, but not less than $5~~].

(d) A report is not required with respect to the vehicle.

(e) Operating a motor vehicle without a valid interstate trucker's or trip permit may subject the operator to a penalty under Section 153.402.

SECTION 24. Section 153.214, Tax Code, is amended to read as follows:

Sec. 153.214. SUPPLIER MAY PERFORM OTHER FUNCTIONS. A supplier may operate under the supplier's permit as a user, dealer, [~~interstate trucker,~~] or aviation fuel dealer without securing a separate

permit, but is subject to all other conditions, requirements, and liabilities imposed on those permittees.

SECTION 25. Subchapter C, Chapter 153, Tax Code, is amended by adding Section 153.2141 to read as follows:

Sec. 153.2141. DIESEL FUEL JOBBER MAY PERFORM OTHER FUNCTIONS. A diesel fuel jobber may operate under the jobber's permit as a non-permitted user or dealer but is subject to all other conditions, requirements, and liabilities imposed on a non-permitted user or dealer.

SECTION 26. Section 153.215, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) A diesel fuel jobber's permit is permanent and is valid so long as the permittee has in force and effect the required bond or security, or until the permit is surrendered by the holder or canceled by the comptroller.

SECTION 27. Section 153.217, Tax Code, is amended to read as follows:

Sec. 153.217. LIST OF SUPPLIERS, BONDED USERS, [~~AND~~] AVIATION FUEL DEALERS, AND DIESEL FUEL JOBBERS. (a) The comptroller, on or before December 20 of each calendar year, shall mail or distribute to each supplier a printed alphabetical list of permitted suppliers, bonded users, [~~and~~] aviation fuel dealers, and diesel fuel jobbers [~~who are qualified to purchase diesel fuel tax free during the ensuing calendar year~~]. A permitted supplier, a bonded user, and an aviation fuel dealer on the list are qualified to purchase diesel fuel tax free during the following calendar year. A diesel fuel jobber on the list is qualified to purchase diesel fuel tax-paid during the following calendar year. A supplemental list of additions and deletions shall be delivered to each supplier each month.

(b) The comptroller, on or before January 31 of each calendar year, shall mail or distribute to each supplier a printed alphabetical list of diesel tax prepaid user permittees who are qualified to purchase diesel fuel tax free during the ensuing calendar year. A supplemental list of additions and deletions shall be delivered to each supplier each month.

SECTION 28. Sections 153.218(a), (b), and (c), Tax Code, are amended to read as follows:

(a) The comptroller shall determine the amount of security required of a supplier, [~~or~~] bonded user, or diesel fuel jobber taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a supplier, [~~or~~] bonded user, or diesel fuel jobber and the necessity to protect the state against the failure to pay the tax as it becomes due.

(b) If it is determined that the posting of security is necessary to protect the state, the comptroller may require a supplier or bonded user to post a surety bond equal to two times the most amount of [~~highest~~] tax that could accrue on tax-free diesel fuel purchased or acquired during a reporting period. A diesel fuel jobber shall post a bond in an amount determined by the comptroller according to the past payment history of the jobber. The minimum bond for a supplier or diesel fuel jobber is $30,000, and the maximum bond is $600,000. The minimum bond for a bonded user is $10,000, and the maximum bond is $600,000. However, if the

comptroller determines there is undue risk of loss of tax revenues, the comptroller may require one or more bonds or securities in a total amount exceeding $600,000.

(c) A supplier, [~~or~~] bonded user, or diesel fuel jobber who has filed a bond or other security under this subchapter is exempted from the bond or other security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of the state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security, and may reimpose a requirement of a bond or other security as the comptroller determines is necessary to protect the revenues of the state.

SECTION 29. Section 153.219, Tax Code, is amended by amending Subsection (g) and adding Subsection (i) to read as follows:

(g) The comptroller may require selective schedules from a supplier, dealer, aviation fuel dealer, interstate trucker, diesel fuel jobber, or common or contract carrier for a purchase, sale, or delivery of diesel fuel if the schedules are not inconsistent with the requirements of this chapter.

(i) A diesel fuel jobber shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(4) all diesel fuel lost by fire or other accident.

SECTION 30. Section 153.221(c), Tax Code, is amended to read as follows:

(c) No report is required to be filed by:

(1) an aviation fuel dealer;

(2) a trip permit user;

(3) a diesel tax prepaid user;

(4) a person issuing signed statements; [~~or~~]

(5) a common or contract carrier; or[~~.~~]

(6) a diesel fuel jobber.

SECTION 31. Section 153.222(a), Tax Code, is amended to read as follows:

(a) A dealer or diesel fuel jobber who has paid tax on diesel fuel that has been used or sold for use by the dealer or diesel fuel jobber 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 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 32. Section 153.302(a), Tax Code, is amended to read as follows:

(a) A person using a liquefied gas-propelled motor vehicle, including a motor vehicle equipped to use liquefied gas interchangeably with another motor fuel, that is required to be licensed in Texas for use on the public highways of Texas, shall prepay the liquefied gas tax to the comptroller on an annual basis; except that a person holding a motor vehicle dealer's liquefied gas tax decal or an interstate trucker whose vehicle is registered in Texas but may operate in other states under a multistate tax agreement shall pay the tax to a permitted dealer at the time the fuel is delivered into the fuel supply tank of a motor vehicle.

SECTION 33. Section 153.402, Tax Code, is amended to read as follows:

Sec. 153.402. PROHIBITED ACTS; CIVIL PENALTIES. A person forfeits to the state a civil penalty of not less than $25 nor more than $200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's or a trip permit when the person is required to hold one of those permits;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's permit;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(7) makes a tax-free or taxable sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal;

(8) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(9) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;

(10) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(11) furnishes a signed statement to a supplier for purchasing diesel fuel tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

(12) fails or refuses to comply with or violates a provision of this chapter; or

(13) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter.

SECTION 34. Section 153.403, Tax Code, is amended to read as follows:

Sec. 153.403. CRIMINAL OFFENSES. Except as provided by Section 153.404 of this code, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's permit, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's permit;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in Texas, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal;

(4) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(5) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;

(6) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(7) as a diesel tax prepaid user fails to prepay the tax on every diesel-powered motor vehicle owned or operated by him;

(8) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(9) makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's permit;

(10) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(11) makes a tax-free or taxable sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal;

(12) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, jobber, common or contract carrier, or any person required to hold a permit under this chapter;

(13) refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, stored, sold, delivered, or used;

(14) refuses to permit the comptroller or the attorney general to measure or gauge the contents of or take samples from a storage tank or

container on premises where motor fuel is produced, processed, stored, sold, delivered, or used;

(15) is a distributor, bonded user, interstate trucker, or supplier and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(16) conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected basis prescribed by this chapter;

(17) refuses, while transporting motor fuel, to stop the motor vehicle he is operating when called on to do so by a person authorized to stop the motor vehicle;

(18) refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(19) transports motor fuel for which a cargo manifest is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest containing the information required to be shown on the manifest;

(20) mutilates, destroys, or secretes a book or record required by this chapter to be kept by a distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, jobber, or person required to hold a permit under this chapter;

(21) is a distributor, supplier, user, dealer, interstate trucker, aviation fuel dealer, jobber, or other person required to hold a permit under this chapter, or the agent or employee of one of those persons and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person;

(22) transports in any manner motor fuel under a false cargo manifest;

(23) engages in a motor fuel transaction that requires that the person have a permit under this chapter without then and there holding the required permit;

(24) makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(25) forges, falsifies, or alters an invoice prescribed by law;

(26) makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(27) furnishes to a supplier a signed statement for purchasing diesel fuel tax free when he owns, operates, or acquires a diesel-powered motor vehicle;

(28) holds an aviation fuel dealer's permit and makes a taxable sale or use of any gasoline or diesel fuel;

(29) fails to remit any tax funds collected by a distributor, supplier, user, dealer, interstate trucker, jobber, or any other person required to hold a permit under this chapter;

(30) makes a sale of diesel fuel tax free into a storage facility of a person who:

(A) is not permitted as a supplier, as an aviation fuel dealer, as a bonded user, or as a diesel tax prepaid user of diesel fuel; or

(B) does not furnish to the permitted supplier a signed statement prescribed in Section 153.205 of this code;

(31) makes a sale of gasoline tax free to any person who is not permitted as either a distributor or an aviation fuel dealer;

(32) is a dealer who purchases any motor fuel tax free when not authorized to make a tax-free purchase under this chapter; or

(33) is a dealer who purchases motor fuel with the intent to evade any tax imposed by this chapter.

SECTION 35. Sections 153.118(c) and 153.221(d), Tax Code, are repealed.

SECTION 36. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1993.

(b) Sections 13, 24, and 35 of this Act take effect July 1, 1995.

SECTION 37. 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 Montord and by unanimous consent, the Senate concurred in the House amendment to **S.B. 894** by a viva voce vote.

SENATE BILL 1271 WITH HOUSE AMENDMENT

Senator Montford called **S.B. 1271** 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 No. 1

Amend **S.B. 1271** as follows:

(1) Amend Section 271.091(2) to read as follows:

(2) "Payment" means the local sales and use tax authorized by the Municipal Sales and Use Tax Act, Chapter 321, Tax Code, the County Sales and Use Tax Act, Chapter 323, Tax Code and Subchapter E of Chapter 285, Health and Safety Code.

The amendment was read.

Senator Montford moved to concur in the House amendment to **S.B. 1271.**

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

(Senator Montford in Chair)

GUEST PRESENTED

Senator Patterson was recognized and introduced to the Senate "Mrs. Texas 1993," Michelle Hatmaker of Galveston.

The Senate extended a warm welcome to Mrs. Hatmaker and congratulated her on her exceptional achievements.

Senator Patterson then escorted Mrs. Hatmaker to the President's rostrum, where she was presented with an enrolled copy of **S.R. 882**. The resolution was previously read and adopted on Friday, May 7, 1993.

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. 1067.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1067 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **S.B. 1067.** The Conference Committee Report was filed with the Senate on Thursday, May 27, 1993.

On motion of Senator Whitmire, the Conference Committee Report was adopted by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1776

Senator Patterson 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. 1776** and moved that the request be granted.

The motion prevailed by the following vote: Yeas 18, Nays 8.

Yeas: Bivins, Brown, Carriker, Haley, Harris of Tarrant, Harris of Dallas, Lucio, Montford, Nelson, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Ellis, Henderson, Leedom, Moncrief, Parker, Turner, West.

Absent: Armbrister, Luna, Madla, Sims, Truan.

The Presiding Officer asked if there were any motions to instruct the conference committee on **H.B. 1776** before appointment.

Senator Barrientos moved to instruct the conferees to maintain training programs and background checks of applicants for a handgun permit in any Conference Committee Report that tracks Senate language.

The motion prevailed by the following vote: Yeas 18, Nays 9.

Yeas: Barrientos, Carriker, Ellis, Haley, Henderson, Leedom, Lucio, Moncrief, Nelson, Parker, Ratliff, Rosson, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Montford, Patterson, Shapiro, Shelley, Sibley.

Absent: Armbrister, Luna, Madla, Sims.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Patterson, Chair; Armbrister, Brown, Shapiro, and West.

SENATE RESOLUTION 1099

Senator Whitmire offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 73rd Legislature, Regular Session, 1993, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **S.B. 532** to consider and take action on the following specific matters:

1. Senate Rule 12.03(4) is suspended to permit the committee to add by amendment Section 507.027, Government Code, to read as follows:

Sec. 507.027. INSPECTIONS. The board shall adopt rules relating to inspections by the department of state jail felony facility construction projects.

EXPLANATION. This change is necessary to provide for an inspection mechanism for state jail felony facility construction projects.

2. Senate Rule 12.03(1) is suspended to permit the committee to amend Section 10, Article 42.131, Code of Criminal Procedure, by adding Subsection (d) to read as follows:

(d) A department may acquire, hold title to, and own real property for the purpose of establishing a community corrections facility or a state jail felony facility.

EXPLANATION. This change is necessary to permit community supervision and corrections departments, authorized elsewhere in the law to operate community corrections facilities and state jail felony facilities, to own the real property on which those facilities are located.

3. Senate Rule 12.03(1) is suspended to permit the committee to amend Section 8.01 of the bill to read as follows:

SECTION 8.01. In addition to other amounts appropriated for the fiscal biennium ending August 31, 1995, the balance of the economic stabilization fund, but not to exceed $72,000,000, is appropriated to the Texas Department of Criminal Justice for:

(1) the operation of additional capacity; and

(2) increased supervision for probation.

EXPLANATION. This change is necessary to ensure that the appropriation made by this section does not exceed the balance of the economic stabilization fund.

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

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. 532.**

CONFERENCE COMMITTEE REPORT ON SENATE BILL 532 ADOPTED

Senator Whitmire called from the President's table the Conference Committee Report on **S.B. 532.** The Conference Committee Report was filed with the Senate on Thursday, May 27, 1993.

On motion of Senator Whitmire, the Conference Committee Report was adopted by a viva voce vote.

SENATE BILL 1043 WITH HOUSE AMENDMENTS

Senator Parker called **S.B. 1043** 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 No. 1

Amend Sec. 401.270, Health and Safety Code, in SECTION 1 of **S.B. 1043** by adding a new Subsection (f) to read as follows:

"(f) If the order issued by the Commission pursuant to this section is adopted without notice or hearing, the order shall set a time at least ten (10) but not more than thirty (30) days following the date of issuance of the emergency order and a place for a hearing to be held in accordance with the rules of the Commission. As a result of this hearing, the Commission shall decide whether to affirm, modify, or set aside the emergency order. All provisions of the emergency order shall remain in force and effect during the pendency of the hearing, unless otherwise altered by the Commission."

Amendment No. 2

Amend **S.B. 1043** as follows:

Page 1

Line 17, after "the" insert "possession, use,"

Line 19, insert "(5) "Disposal" has the same meaning as used in Subchapter K of this chapter."

Line 21, delete "shall" and insert "has sole and exclusive authority to"

Page 2

Line 2, delete "shall" and insert "has sole and exclusive authority to"

Page 8

Line 16, insert the following:

"Sec. 401.411. Definition. In this subchapter[,]: (a) "Radioactive substance" includes by-product material, radioactive material, radioactive waste, source material, source of radiation, and special nuclear material as those terms are defined by Section 401.003.

(b) "Disposal" includes the possession, storage, transfer, processing, or other activities that are incidental to the final disposition of a radioactive substance that occurs after the radioactive substance is not longer suitable for its original intended purpose."

Line 20, after "sole" insert "and exclusive"

Line 25, before "authority" insert "and exclusive"

Page 9

Line 2, after "by-product material" insert "pursuant to Subchapter G"

Line 9, after "Health." insert "Guidelines adopted under this provision may not exceed the requirements of commission rules and such guidelines shall not be effective until 30 days after publication of the guidelines in the Texas Register."

The amendments were read.

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

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **S.B. 1043** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Parker, Chair; Sims, Barrientos, Bivins, and Ellis.

SENATE BILL 473 WITH HOUSE AMENDMENTS

Senator West called **S.B. 473** from the President's table for consideration of the House amendments to the bill.

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

Committee Amendment No. 1

Amend **S.B. 473** as follows:

On page 2, delete lines 23-26, and in their place add "(d) A peace officer appointed to their first supervisory position must receive in-service training on supervision as part of the course provided under Subsection (b) within a 24-month period of the date of promotion of their first supervisory position."

Committee Amendment No. 2

Amend **S.B. 473** as follows:

On page 1, line 11, delete the words "one or more of".

Committee Amendment No. 3

Amend **S.B. 473** as follows:

On page 2, lines 15 and 16, delete the words "one or more of".

Amendment No. 4

Amend **S.B. 473** as follows:

(1) In Section 1 of the bill, amended Section 415.032(b), Government Code, amend the subsection to read as follows:

(b) In establishing requirements under this section, the commission may [~~shall~~] require courses and programs to provide training in the investigation of cases that involve one or more of the following:

(1) [~~involving~~] child abuse;

(2) child [~~or~~] neglect;

(3) [~~;~~] family violence; and

(4) [~~; or~~] sexual assault[~~. In addition to this training, the commission shall direct law enforcement agencies to provide continuing in house instruction for its officers in the recognition of cases involving child abuse or neglect, family violence, or sexual assault~~].

(2) In Section 1 of the bill, added Section 415.032(c), Government Code (House Committee Printing, page 1, line 21), strike "shall" and substitute "may".

(3) Strike Sections 2 and 3 of the bill and substitute the following and renumber the subsequent sections appropriately.

SECTION 2. Section 415.034, Government Code, is amended to read as follows:

Sec. 415.034. CONTINUING EDUCATION. (a) The commission may recognize, prepare, or administer [~~voluntary~~] continuing education programs for officers and county jailers.

(b) The commission may require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program every 24 months [~~during a 24 month period~~]. The course must:

(1) be approved by the commission; and

(2) [~~; must~~] include education and training in:

(A) civil rights, racial sensitivity, and cultural diversity; and

(B) the recognition of cases that involve one or more of the following:

(i) [~~involving~~] child abuse;

(ii) child [~~or~~] neglect;

(iii) family violence; and

(iv) sexual assault.

(c) The course provided under Subsection (b)[~~; and~~] may not exceed 40 hours.

(d) A peace officer appointed as a supervisor may receive in-service training on supervision as part of the course provided under Subsection (b) during the 24-month period after the date of appointment as a supervisor.

(e) An honorably retired commissioned officer of the Department of Public Safety who is a special ranger under Section 411.023 may not be required to undergo training under Subsection (b) [~~this subsection~~].

(f) The commission may require a state, county, special district, or municipal agency that appoints or employs a reserve law enforcement officer, county jailer, or public security officer to provide each of those individuals with education and training in civil rights, racial sensitivity, and cultural diversity every 24 months.

Amendment No. 1 on Third Reading

Amend **S.B. 473** on third reading by striking Subdivisions 1 and 2 of the Stiles amendment, Amendment No. 4, adopted on second reading.

Amendment No. 2 on Third Reading

Amend **S.B. 473** on third reading on page 3, line 15, before the period as follows:

"<u>, and all training required by this Act shall be taught at the physical location of the Bill Blackwood Law Enforcement Management Institute of Texas at the campus of Sam Houston State University in Huntsville, Texas</u>".

The amendments were read.

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

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **S.B. 473** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators West, Chair; Whitmire, Ellis, Luna, and Nelson.

(Senator Haley in Chair)

SENATE BILL 456 WITH HOUSE AMENDMENTS

Senator Ellis called **S.B. 456** 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

Amend **S.B. 456** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the punishment of an offense motivated by bias or prejudice and to the conditions of probation or parole of persons convicted of that offense.

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

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.48 to read as follows:

<u>Sec. 12.48. PENALTY IF OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE. (a) If the court makes an affirmative finding under Article 42.013, Code of Criminal Procedure, in the trial of a Class B or Class C misdemeanor, the maximum fine that the court may impose is:</u>

<u>(1) $2,000 for a Class C misdemeanor; and</u>

<u>(2) $4,000 for a Class B misdemeanor.</u>

(b) If it is shown on the trial of a felony offense in which the court makes an affirmative finding under Article 42.013, Code of Criminal Procedure, that the defendant has been previously convicted of an offense for which the court made an affirmative finding under Article 42.013, Code of Criminal Procedure, the maximum fine that the court may impose is $20,000.

SECTION 2. Section 17, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) If the court makes an affirmative finding under Article 42.013, Code of Criminal Procedure, the court may order the defendant to perform community service under this section at a project designated by the court that primarily serves the person or group who was the target of the defendant's bias or prejudice. If the court orders community service under this subsection the court shall order the defendant to perform not less than:

(1) 100 hours of service if the offense is a misdemeanor; or

(2) 300 hours of service if the offense is a felony.

SECTION 3. Article 42.01, Code of Criminal Procedure, is amended by adding Section 5 to read as follows:

Sec. 5. In addition to the information described by Section 1 of this article, the judgment should reflect affirmative findings entered pursuant to Article 42.013 of this code.

SECTION 4. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.013 to read as follows:

Art. 42.013. FINDING THAT OFFENSE WAS COMMITTED BECAUSE OF BIAS OR PREJUDICE. In the punishment phase of the trial of an offense under the Penal Code, if the court determines that the defendant committed an offense because of bias or prejudice against a person or a group, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of that case.

SECTION 5. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:

(o) In addition to other conditions imposed by a parole panel under this article, the parole panel shall require as a condition of parole or release to mandatory supervision that a prisoner for whom the court has made an affirmative finding under Article 42.013 of this code perform not less than 300 hours of community service at a project designated by the parole panel that primarily serves the person or group who was the target of the defendant's bias or prejudice.

SECTION 6. (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 that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 7. This Act takes effect September 1, 1993.

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.

Amendment No. 1 on Third Reading

Amend **C.S.S.B. 456** on third reading as follows:

(1) In SECTION 1 of the bill strike proposed Section 12.48, Penal Code, and substitute the following:

Sec. 12.48. PENALTY IF OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE. (a) Except as provided by Subsections (b) and (c) of this section, if the court makes an affirmative finding under Article 42.013, Code of Criminal Procedure, in the punishment phase of the trial of an offense, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense.

(b) If the court makes an affirmative finding in the punishment phase of the trial of a felony of the first degree, the minimum term of imprisonment in the institutional division of the Texas Department of Criminal Justice is increased to 10 years.

(c) If the court makes an affirmative finding in the punishment phase of the trial of a Class C or Class B misdemeanor, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense except that the minimum term of confinement in jail for the offense is 90 days.

(2) Add a new SECTION 2 to the bill to read as follows:

SECTION 2. Article 42.12, Code of Criminal Procedure, is amended by adding Section 13A to read as follows:

Sec. 13A. PROBATION FOR OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE. (a) A court granting probation to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.013 of this code shall require as a term of probation that the defendant:

(1) serve a minimum term of one year imprisonment in the institutional division of the Texas Department of Criminal Justice if the offense is a felony; or

(2) serve a minimum term of 90 days confinement in jail if the offense is a misdemeanor.

(b) The court may not grant probation on its own motion or on the recommendation of the jury to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.013 of this code if the defendant has been previously convicted of an offense for which the court made an affirmative finding under Article 42.013 of this code.

(3) In existing SECTION 2 of the bill, in proposed Section 17(f) of that section of the bill, strike "defendant's bias or prejudice" and substitute "defendant".

(4) In existing SECTION 4 of the bill, in proposed Article 42.013, strike "committed an offense because of bias or prejudice" and substitute "intentionally selected the victim primarily because of the defendant's bias or prejudice".

(5) In existing SECTION 5 of the bill, in proposed Section 8(o), strike "defendant's bias or prejudice" and substitute "defendant".

(6) Renumber the existing sections of the bill as appropriate.

The amendments were read.

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

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **S.B. 456** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ellis, Chair; West, Moncrief, Whitmire, and Shapiro.

SENATE BILL 958 WITH HOUSE AMENDMENT

Senator Harris of Tarrant called **S.B. 958** 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.

Amendment No. 1 on Third Reading

Amend **S.B. 958** on third reading as follows:

(1) In SECTION 1 of the bill, in Section 2 of Chapter 1135, Acts of the 70th Legislature, Regular Session, 1987, strike Subsection (b) and substitute the following:

(b) The commission [~~commissioner~~] shall issue a certificate of registration to a tow truck owner whose vehicle meets the registration requirements prescribed by rule of the commission [~~commissioner~~] and who pays the registration fee set by the commission in an amount sufficient to recover the commission's costs of administering this Act.

(2) Add new SECTIONS 2, 3, and 4 to the bill to read as follows:

SECTION 2. Section 4, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended by adding Subsection (c) to read as follows:

(c) The commission may impose and collect a fee for a license in an amount sufficient to recover the commission's costs of administering this Act. Fees collected under this subsection shall be deposited in a special account in the general revenue fund that may be appropriated only to the commission for the administration of this Act.

SECTION 3. (a) Any appropriation made to the Department of Licensing and Regulation for the biennium ending August 31, 1995, for the administration of Chapter 1135, Acts of the 70th Legislature, Regular Session, 1987 (Article 6687-9b, Vernon's Texas Civil Statutes), is transferred to the Railroad Commission of Texas for the same period and the same purpose.

(b) Any appropriation made to the Department of Licensing and Regulation for the biennium ending August 31, 1995, for the administration of the Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is transferred to the Railroad Commission of Texas for the same period and the same purpose.

SECTION 4. Sections 2 and 3(b) of this Act are contingent on the becoming law of **S.B. 452**, 73rd Legislature, Regular Session, 1993. If that legislation does not become law, Sections 2 and 3(b) have no effect.

(3) Renumber existing SECTION 2 of the bill and subsequent sections accordingly.

The amendment was read.

On motion of Senator Harris of Tarrant and by unanimous consent, the Senate concurred in the House amendment to **S.B. 958** by a viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 253 ADOPTED

Senator Barrientos called from the President's table the Conference Committee Report on **H.B. 253**. The Conference Committee Report was filed with the Senate on Wednesday, May 26, 1993.

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

SENATE BILL 84 WITH HOUSE AMENDMENTS

Senator Harris of Tarrant called **S.B. 84** 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

Amend **S.B. 84** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the enforcement of support orders for children and the issuance of insurance coverage for certain persons subject to a medical support order for a child; providing a penalty.

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

ARTICLE 1. MEDICAL SUPPORT ORDERS FOR CHILDREN

SECTION 1.01. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.042 to read as follows:

Sec. 32.042. INFORMATION REQUIRED FROM HEALTH INSURERS. (a) An insurer shall maintain a file system that contains the name, employer's mailing address, social security number, and date of birth of each subscriber or policyholder covered by the insurer.

(b) The state's Medicaid third-party recovery division shall identify state medical assistance recipients who have third-party health coverage or insurance as provided by this subsection. The department shall provide to

an insurer Medicaid data tapes that identify medical assistance recipients and request that the insurer identify each subscriber or policyholder of the insurer whose name also appears on the Medicaid data tape. An insurer shall comply with a request under this subsection not later than the 60th day after the date the request was made. An insurer is only required under this subsection to provide the department with the information maintained under Subsection (a) by the insurer or made available to the insurer from the plan. A third-party administrator is subject to this subsection to the extent the information described in this subsection is made available to the third-party administrator from the plan.

(c) An insurer may not be required to provide information in response to a request under this section more than once during a calendar year.

(d) An insurer shall provide the information required under this section only if the department certifies that the identified individuals are applicants for or recipients of services under Medicaid or are legally responsible for an applicant for or recipient of Medicaid services.

(e) The department may enter into an agreement with insurers that provides procedures for requesting and providing information under this section. An agreement under this subsection may not be inconsistent with any law relating to the confidentiality or privacy of personal information or medical records. The procedures agreed to under this subsection must include financial arrangements to reimburse an insurer for necessary costs incurred in providing the requested information and must state the time and manner the procedures take effect.

(f) Information required to be furnished to the department under this section is limited to information necessary to determine whether health benefits have been or should have been claimed and paid under a health insurance policy or plan for medical care or services received by an individual for whom Medicaid coverage would otherwise be available.

(g) Information regarding an individual certified to an insurer as an applicant for or recipient of medical assistance may only be used to identify the records or information requested and may not violate the confidentiality of the applicant or recipient. The department shall establish guidelines not later than the date on which the procedures agreed to under Subsection (e) take effect.

(h) In this section, "insurer" means a group health services corporation, a health maintenance organization, a self-funded or self-insured welfare or benefit plan or program to the extent the regulation of the plan or program is not preempted by federal law, and any other entity that provides health coverage in this state through an employer, union, trade association, or other organization or other source.

SECTION 1.02. Section 14.061, Family Code, is amended by adding Subsection (r) to read as follows:

(r) For purposes of enrolling a child in a health insurance program under this section, a court order requiring that health insurance be provided for a child is a change in the family circumstances of the covered person equivalent to the birth or adoption of a child by the covered person. On receipt of the medical support order by the employer, the child shall be automatically enrolled for the first 31 days after the receipt of the order

by the employer on the same terms and conditions as apply to a dependent child. On receipt of the order by the employer, the employer shall notify the insurer of the automatic enrollment. During the 31-day period, the policyholder shall apply for coverage for the child in accordance with the medical support order.

SECTION 1.03. Subsections (l) and (n), Section 14.43, Family Code, are amended to read as follows:

(l) Liability and Obligation of Employer for Payments. An employer receiving an order under this section or a writ under Section 14.45 who complies with the order or writ is not liable to the obligor for the amount of income withheld and paid as provided in the order or writ. An employer who received an order or writ of withholding and who does not comply with the order or writ is liable to the obligee for the amount not paid in compliance with the order or writ, including an amount the obligor is required to pay for health insurance under Section 14.061 of this code, or to the obligor for the amount withheld and not paid and for reasonable attorney's fees and court costs. An employer receiving two or more orders or writs on any named obligor shall comply with every order or writ to the maximum extent possible. If the total amount in the orders or writ exceeds the maximum amount allowable to be withheld under this section, the employer shall pay an equal amount towards the current support portion of all orders or writs until each order is individually complied with, and thereafter equal amounts on the arrearage portion of all orders until each order or writ is complied with, or until the maximum total amount of allowable withholding under Subsection (f) of this section is reached, whichever occurs first. If an employer is ordered to withhold from more than one obligor, the employer may combine the withheld amounts from the obligors' wages and make a single payment to each appropriate agency requesting withholding if the employer separately identifies the amount of the payment that is attributable to each obligor.

(n) Fine for Employers. In addition to the civil remedies provided by Subsections (l) and (m) of this section or by any other remedy provided by law, an employer who knowingly violates the provisions of those subsections may be subject to a fine not to exceed $200 [~~$50~~] for each occurrence in which the employer fails to withhold. Any fines recovered under this subsection shall be paid to the obligee and credited against any amounts owed by the obligor.

SECTION 1.04. Sections (2)(A), (K), (L), and (M), Chapter 397, Acts of the 54th Legislature, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), are amended to read as follows:

(A) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(1) the entire money and other consideration therefor are expressed therein or in the application, if it is made a part of the policy; and

(2) the time at which the insurance takes effect and terminates is expressed therein; and

(3) it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policy holder, any two

or more eligible members of that family, including husband, wife, dependent children, including a dependent grandchild of the policy holder who is less than 21 years old and living with and in the household of the policy holder, or any children under a specified age which shall not exceed twenty-five years, a child the policy holder is required to insure under a medical support order issued under Section 14.061, Family Code, or enforceable by a court in this state, and any other person dependent upon the policy holder; and

(4) the style, arrangement and over-all appearance of the policy gives no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers (except copies of applications and identification cards) are plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions); and

(5) the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in Section 3 of this Act, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions" or "Exceptions and Reductions"; provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(6) each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) it contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or shortrate table filed with the Board; and

(8) it shall have printed thereon or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten (10) days of its delivery to such person and to have the premium paid refunded if, after examination of the policy, such person is not satisfied with it for any reason. If such person pursuant to such notice, returns the policy to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued. This subdivision shall not apply to single premium nonrenewable policies.

(K) An accident and sickness insurance policy that provides coverage for the immediate family or children of a person insured under the policy may not exclude from coverage or limit coverage to a child of the insured

solely because the child is adopted. For the purposes of this subsection, a child is considered to be the child of an insured if[:

[~~(1)~~] the insured is a party in a suit in which the adoption of the child by the insured is sought[~~; and~~

[~~(2) the insured has custody of the child under a temporary court order that grants to the insured conservatorship of the child~~].

(L) An individual or group policy of accident and sickness insurance that is delivered, issued for delivery, or renewed in this state, including a policy issued by a company subject to Chapter 20, Insurance Code, [~~and~~] evidence of coverage issued by a health maintenance organization subject to the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), and a self-funded or self-insured welfare or benefit plan or program to the extent that regulation of the plan or program is not preempted by federal law that provides coverage for a child of the policyholder, must provide coverage upon payment of a premium for any children of the policyholder's child if those children are dependents of the policyholder for federal income tax purposes or for a child for whom the group member or insured must provide medical support under an order issued under Section 14.061, Family Code, or enforceable by a court in this state.

(M)(1) A group or individual accident and sickness insurance policy that provides coverage for dependent children of a group member or a person insured under the policy may not exclude from or discontinue coverage or set a different premium for the natural born or adopted child of the group member or person insured or for a child for whom the group member or insured must provide medical support under an order issued under Section 14.061, Family Code, or enforceable by a court in this state for either of the following reasons:

(a) the child does not reside with the group member or insured; or

(b) the group member or insured does not claim the child as an exemption for federal income tax purposes under Section 151(c)(1)(B), Internal Revenue Code of 1986 (26 U.S.C. Section 151(c)(1)(B)).

(2) A group or individual accident and sickness insurance policy that provides coverage for dependent children of a group member or a person insured under the policy may not exclude from or discontinue coverage or set a different premium for the natural born or adopted child of the spouse of the group member or person insured, provided that the child resides with the group member or person insured.

(3) Other policy provisions relating to maximum limiting attained age and enrollment in school may be used to establish continued eligibility for coverage of a dependent child. In the event of late enrollment, the insurance company may require evidence of insurability satisfactory to the company before inclusion of the dependent child for coverage under the policy.

SECTION 1.05. Subsection (c), Section 3D, Article 3.51-6, Insurance Code, is amended to read as follows:

(c) For the purposes of this section, a child is considered to be the child of an insured if[:

[~~(1)~~] the insured is a party in a suit in which the adoption of the child by the insured is sought[~~; and~~

[~~(2) the insured has custody of the child under a temporary court order that grants to the insured conservatorship of the child~~].

SECTION 1.06. The comptroller shall perform a study to determine the cost-effectiveness of performing data matches under Section 32.042, Human Resources Code, and the feasibility of expanding the scope of the program under that section. The comptroller shall report the results of the study to the lieutenant governor and the speaker of the house of representatives not later than December 1, 1994.

SECTION 1.07. (a) This article applies only to an order in a suit affecting the parent-child relationship or reciprocal child support action entered on or after the effective date of this Act. An order entered before the effective date of this Act is governed by the law in effect on the date the order was entered, and that law is continued in effect for that purpose.

(b) This article applies only to a policy delivered, issued for delivery, or renewed on or after January 1, 1994. A policy delivered, issued for delivery, or renewed before that date is governed by the law that existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 2. ENFORCEMENT OF CHILD SUPPORT ORDERS AFFECTING LICENSE HOLDERS AND MISCELLANEOUS ENFORCEMENT PROVISIONS

SECTION 2.01. Subchapter B, Chapter 14, Family Code, is amended by adding Sections 14.52, 14.53, and 14.54 to read as follows:

Sec. 14.52. LICENSE WITHHOLDING AND REVOCATION. (a) The attorney general, a domestic relations office, a private attorney representing an obligee, or the obligee may petition a licensing agency for revocation of an obligor's license because of the obligor's child support delinquency. Not later than the 30th day after the date on which the agency receives the petition, the agency shall convene an administrative hearing to determine if the obligor is 30 or more days delinquent. After notice and opportunity for hearing, the licensing agency shall revoke the obligor's license unless the obligor provides evidence that an agreement to pay arrearages has been approved by the court of continuing jurisdiction. A licensing agency may not reinstate a license revoked under this subsection unless the obligor provides proof of full payment of all arrearages or proof that an agreement to pay the arrearages has been approved by the court of continuing jurisdiction.

(b) A person who submits a written application for a license or license renewal shall state in writing under oath at the time of the application that the applicant:

(1) is not 30 days or more delinquent in providing child support; or

(2) is in compliance with a written repayment agreement or court order for any delinquency that does exist.

(c) The attorney general shall adopt rules to implement this section.

(d) In this section:

(1) "License" means a permit, certificate, or similar form of permission issued to a person by a licensing agency and that the person is required by law to have before the person may:

(A) engage in a profession or occupation; or

(B) sell a regulated commodity.

(2) "Licensing agency" means a board, commission, department, or other agency in the executive or judicial branch of state government that issues or renews a license either directly or through a private entity.

Sec. 14.53. DRIVER'S LICENSE WITHHOLDING AND REVOCATION. The attorney general and the Department of Public Safety may by rule establish a procedure for the denial or suspension of the driver's license of any individual who is 30 days or more delinquent in providing child support. A rule adopted under this section shall include provisions for verification, temporary licenses, and judicial review of delinquency. Denial or suspension of a license under a rule adopted under this section is governed by this section and by the rule and not by:

(1) the general licensing provisions of Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes); or

(2) Section 2, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 14.54. INELIGIBILITY TO RECEIVE STATE GRANTS OR LOANS OR BID ON STATE CONTRACTS. (a) A child support obligor who is 30 or more days delinquent in paying child support is not eligible to:

(1) submit a bid or enter into a contract to provide property, materials, or services under a contract with the state; or

(2) receive a state-funded grant or loan.

(b) A sole proprietorship, partnership, corporation, or other entity in which a sole proprietor, partner, majority shareholder, or substantial owner is a delinquent obligor who is ineligible to bid on a state contract under Subsection (a)(1) of this section may not bid on a state contract as provided by this section.

(c) A child support obligor remains ineligible to submit a bid on or enter into a state contract or apply for a state-funded grant or loan under Subsection (a) of this section until:

(1) all arrearages have been paid; or

(2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

(d) Each bidder for a state contract or applicant for a state-funded loan or grant under Subsection (a) of this section shall submit a signed, sworn statement accompanying any bid or application for a grant or loan affirming that the bidder or applicant is not 30 or more days delinquent in providing child support under a court order or a written repayment agreement.

(e) The attorney general and the General Services Commission may adopt rules or prescribe forms to implement any provision of this section.

SECTION 2.02. Chapter 76, Human Resources Code, is amended by adding Section 76.0041 to read as follows:

Sec. 76.0041. DEBTS TO STATE. (a) A person obligated to pay child support in a case in which the attorney general is providing services under this chapter who does not pay the required child support is in debt to the state for the purposes of Section 403.055, Government Code.

(b) The debt of a person in debt to the state as provided by Subsection (a) is equal to the amount of the child support that is past-due and not paid and any interest, fees, court costs, or other amounts owed by the person as a result of the person's failure to pay the child support.

(c) The attorney general is an assignee of all payments, including compensation, by the state to a person in debt to the state as provided by this section. The assignment under this subsection takes effect before the date the person's debt to the state arose.

(d) A person in debt to the state as provided by this section may eliminate the person's debt by:

(1) paying the entire amount of the debt; or

(2) resolving the debt in a manner acceptable to the attorney general.

(e) The comptroller may rely on a representation by the attorney general that:

(1) a person is in debt to the state as provided by this section; or

(2) a person who was in debt to the state has eliminated the person's debt as provided by Subsection (d).

(f) In this section, the payment of workers' compensation benefits to a person in debt to the state is the same as any other payment made to the person by the state. Notwithstanding Section 4.08, Texas Workers' Compensation Act (Article 8308-4.08, Vernon's Texas Civil Statutes), an order or writ to withhold income from workers' compensation benefits is not required under this section.

(g) Notwithstanding Sections 403.055(c) and (e)(4), Government Code, the comptroller may not issue a warrant to a state officer or employee who is in debt to the state as provided by this section.

(h) In this section, "compensation" has the meaning assigned by Section 403.055(f)(1), Government Code, and includes the payment of workers' compensation benefits.

SECTION 2.03. Section 77.001, Human Resources Code, is amended to read as follows:

Sec. 77.001. DESIGNATED STATE AGENCY. (a) The state agency designated to administer a statewide plan for child support may establish and conduct a parent locator service which shall be used to obtain information as to the whereabouts, income, and holdings of any person when such information is to be used for the purposes of locating such person and establishing or enforcing a support or medical support obligation against such person.

(b) The designated state agency is entitled to [~~may~~] request and obtain such information from state and local government agencies, private companies, institutions, or other entities as deemed necessary to carry out the provisions of this Act. Such government and private entities shall

furnish any information so requested and known to such entity to the designated agency unless state or federal law specifically provides that the information may not be disclosed to the designated agency office[~~; except to the extent such information is made nondisclosable by law~~].

(c) The designated agency may issue an administrative subpoena to any individual or organization to furnish information necessary to carry out the provisions of this section and any individual or organization receiving a subpoena shall comply with the subpoena.

(d) The furnishing of information provided for in Subsection (a) of this section by state governmental agencies shall include the transmittal of information in the most efficient and expeditious manner available, including electronic or automated transfer and interface.

SECTION 2.04. Subsection (c), Section 14.972, Family Code, is amended to read as follows:

(c) The lien attaches to all personal property not exempt under provisions of the Texas Constitution, including all claims for negligence, personal injury, or workers' compensation, including an insurance award for any of those claims, owned by the obligor on or after the date on which the lien attaches.

SECTION 2.05. Section 76.002, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) The attorney general shall report to the legislature each biennium on the effectiveness of the attorney general's child support enforcement activity in reducing the state's public assistance obligations. The attorney general shall develop a method for estimating the costs and benefits of the child support enforcement program and the effect of the program on appropriations for public assistance.

ARTICLE 3. EFFECTIVE DATE AND EMERGENCY PROVISION

SECTION 3.01. This Act takes effect September 1, 1993.

SECTION 3.02. 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.

Floor Amendment No. 1

Amend **C.S.S.B. 84** by striking Section 2.01 beginning on line 22, page 10 and ending on line 19, page 12.

Amendment No. 2

Amend **C.S.S.B. 84** on page 14, line 27, after the period by adding the following:

"However, the amount of workers' compensation benefits that may be withheld or assigned under this section may not exceed the percentage of the person's benefits that would apply if the benefits equaled the person's monthly net resources under the child support guidelines in Section 14.055, Family Code, except that in no event may more than 50 percent of the person's weekly compensation benefits be withheld or assigned.

Amendment No. 3

Amend **C.S.S.B. 84** as follows:

Delete Article 2, Section 2.05 from page 16, line 16 through line 24.

Add new Article 2, Section 2.05 to read as follows:

SECTION 2.05. Section 76.002, Human Resources Code, is amended by adding Subsection (i) to read as follows:

(i) The attorney general shall report to the legislature each biennium on the effectiveness of the attorney general's child support enforcement activity in reducing the state's public assistance obligations. The attorney general shall develop a method for estimating the costs and benefits of the child support enforcement program and the effect of the program on appropriations for public assistance. The attorney general shall conduct a study on the payment of child support in Texas and shall report back to the 74th Legislature not later than March 1, 1995. Local child support registries, as defined by Section 11.01(11), Family Code and other governmental entities shall, upon request, provide to the attorney general such information as is necessary for the attorney general to conduct this study. This study may include any issues that the attorney general deems relevant and shall include:

(1) data relating to the percentage of obligors who pay child support as ordered by the court and the percentage of court ordered child support which is paid; and

(2) the reasons for non-payment of child support, including the obligor's ability to pay child support and the obligor's opportunity to exercise court-ordered possession of or access to the obligor's child(ren).

Amendment No. 1 on Third Reading

Amend **C.S.S.B. 84** on third reading by striking Floor Amendment No. 2, adopted on second reading, in its entirety and substituting the following:

"However, the amount of weekly workers' compensation benefits that may be withheld or assigned under this section may not exceed the percentage of the person's benefits that would apply if the benefits equaled the person's monthly net resources under the child support guidelines in Section 14.055, Family Code, except that in no event may more than 50 percent of the person's weekly compensation benefits be withheld or assigned.

The amendments were read.

On motion of Senator Harris of Tarrant and by unanimous consent, the Senate concurred in the House amendments to **S.B. 84** by a viva voce vote.

SENATE BILL 773 WITH HOUSE AMENDMENTS

Senator Whitmire called **S.B. 773** 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 No. 1

Amend **S.B. 773** as follows:

(1) In added Section 777.001(a), Health and Safety Code (page 1, line 7, Committee Printing), strike "Six" and substitute "Seven".

(2) In added Section 777.001(a)(5), Health and Safety Code (page 1, line 19, Committee Printing), strike "and".

(3) In added Section 777.001(a)(6), Health and Safety Code (page 1, line 20, Committee Printing), between "Texas" and the period, insert the following:

"; and

(7) BEN TAUB HOSP.; Harris County Hospital District".

Amendment No. 1 on Third Reading

Amend **S.B. 773** on third reading as follows:

(1) Amend Section 777.001(a), Health and Safety Code, as amended on second reading, by inserting "and" at the end of Subdivision (5), by striking "; and" at the end of Subdivision (6) and substituting ".", and by striking Subdivision (7).

(2) In Section 777.001, Health and Safety Code, insert a new Subsection (c) to read as follows:

(c) The Texas Board of Health may vote to designate a seventh regional or satellite poison control center in Harris County. That poison control center is subject to all provisions of this chapter and other law relating to regional poison control centers.

The amendments were read.

On motion of Senator Whitmire and by unanimous consent, the Senate concurred in the House amendments to **S.B. 773** by a viva voce vote.

(Senator Bivins in Chair)

SENATE BILL 242 WITH HOUSE AMENDMENTS

Senator Ellis called **S.B. 242** 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

Amend **S.B. 242** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the transfer of Texas Turnpike Authority projects to a county or local government corporation and to the administration of those projects.

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

SECTION 1. Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes), is amended by adding Sections 12c and 12d to read as follows:

Sec. 12c. TRANSFER OF TURNPIKE PROJECT. (a) This section applies to a county, or a local government corporation serving a county, with a population of more than 1.5 million, according to the most recent federal decennial census, as to which the Authority, the Texas Transportation Commission, and the governor approve the transfer of a Turnpike Project as being in the best interests of the state and the county.

(b) The Authority may lease, sell, or otherwise convey a Turnpike Project to a county or a local government corporation created under the Texas Transportation Corporation Act (Article 1528l, Vernon's Texas Civil Statutes). A county or a local government corporation may lease, buy, or otherwise receive a Turnpike Project.

(c) An agreement to lease, sell, or convey a Turnpike Project under Subsection (b) of this section must provide for the discharge and final payment or redemption of all of the Authority's outstanding bonded indebtedness issued for the Turnpike Project being leased, sold, or conveyed.

(d) A Turnpike Project that is leased, sold, or conveyed under Subsection (b) of this section is not eligible to become a part of the state highway system until all obligations, including refunding obligations, that are payable from or secured by revenues of the Turnpike Project or the system of pooled projects of which the Turnpike Project is a part, are discharged and finally paid or redeemed.

(e) An agreement for the lease, sale, or conveyance of a Turnpike Project under this section shall be submitted to the attorney general for approval as a part of the records of proceedings relating to the issuance of bonds of the county or local government corporation. If the attorney general determines that the agreement is in accordance with law, the attorney general shall approve the agreement and deliver to the Texas Transportation Commission a copy of the legal opinion of the attorney general stating that approval.

Sec. 12d. SUCCESSOR AGENCY TO AUTHORITY. The following are considered successor agencies to the Texas Turnpike Authority for purposes of Article III, Section 52-b, of the Texas Constitution:

(1) a county or local government corporation that leases, buys, or receives a Turnpike Project under Section 12c of this Act; and

(2) a county, or a local government corporation serving a county, with a population of more than 1.5 million, according to the most recent federal decennial census, that constructs a toll road, toll bridge, or Turnpike Project.

SECTION 2. Section 20b, Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20b. USE OF SURPLUS REVENUES. (a) Except as provided by Subsection (b) of this section, the [~~The~~] Board may use or pledge the surplus revenues of a turnpike project for the payment of costs, including the principal of or interest on bonds, of another turnpike project other than a project financed under Section 20a of this Act under terms, conditions, or pledges made by resolution of the Board. However, the Board may not take an action under this section that violates, impairs, or is inconsistent

with the provisions of a bond resolution, trust agreement, or indenture governing the use of the surplus revenues.

(b) Except as provided by Subsection (c) of this section, the surplus revenues generated by a Turnpike Project that is under construction or operated by the Authority on January 1, 1993, may not be used for a purpose other than:

(1) the costs associated with the construction, expansion, or maintenance of the project generating the revenues; or

(2) transfers to the Texas Turnpike Authority Feasibility Study fund.

(c) The Board may use revenues from a project described by Subsection (b) of this section for a purpose authorized by this Act other than the purposes described by that subsection if:

(1) the Authority obtains permission of the commissioners court of each county in which the project is located; or

(2) an agreement between the Authority and a county or local government corporation created by the county for the lease, sale, or other conveyance of the Turnpike Project permits the revenue to be used for other purposes.

SECTION 3. Sections 7 and 7(a), Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 7. Except as provided by Article 6674v-6, Revised Statutes, the powers herein granted may be carried out by such counties or local government corporations created in such counties under the Texas Transportation Corporation Act (Article 1528l, Vernon's Texas Civil Statutes), and the projects may be acquired, constructed, improved, maintained, [~~and~~] operated, and pooled and tolls and charges fixed and maintained without the consent, approval, supervision or regulation of any commission, department, bureau, agency, or officer of the State of Texas, provided, however, that nothing in Article 6672, Revised Statutes, or this Section shall be construed to prevent the Texas [~~State Highway and Public~~] Transportation Commission from operating and maintaining the project or contributing to the cost of [~~such~~] acquisition, construction, improvement, pooling, operation, and maintenance under such provisions as may be agreed to by the county or local government corporation and the Texas Department of Transportation which are not inconsistent with the rights of bondholders or the rights of any agency, person, firm or corporation then operating the project under lease or contract with the county or local government corporation. The Texas [~~State Highway and Public~~] Transportation Commission shall have authority without further legislative enactment to make such provision for and contributions toward acquisition, construction, improvement, pooling, operation, and maintenance of the project as it may see fit, and to lease the project under such terms not inconsistent with the provisions of the bond resolution or trust indenture as may be agreed upon with the county or local government corporation, and to declare the project or any part thereof to be a part of the State Highway System and to operate the project or such part thereof as a part of the State Highway System, provided, however, that such declaration may

be made and such operation undertaken only to the extent that property and contract rights in the project and in the bonds are not unfavorably affected thereby. When all of the bonds and interest thereon that are payable from or secured by revenues of the project shall have been paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity shall have been set aside in a trust fund for the benefit of the bondholders and shall continue to be held for that purpose, the project shall become a part of the State Highway System and shall be maintained by the Texas [~~State Highway and Public~~] Transportation Commission, free of tolls.

Sec. 7(a). The county is hereby authorized to accept from the United States Government or any of its departments or agencies or from the State of Texas or any of its departments or agencies, any contributions or assistance available from such source or sources in connection with the acquisition, construction, improvement, maintenance, pooling, and operation of such project and to enter into agreements with one or any of them in reference to the acquisition, construction, improvement, maintenance, pooling, and operation of the project.

SECTION 4. Section 4A, Texas Transportation Corporation Act (Article 1528l, Vernon's Texas Civil Statutes), is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) The governing body of a local government may assume for the local government the powers and duties of a local government corporation that has been created by the local government. A local government that assumes the powers and duties of a local government corporation also assumes all of the assets and liabilities of the corporation. The powers, duties, assets, and liabilities of a local government corporation created by more than one local government may be assumed by a local government only if each creating local government so agrees.

(h) A local government corporation is a governmental unit within the meaning of Section 101.001(2), Civil Practice and Remedies Code, and the operations of a local government corporation are governmental and not proprietary functions.

(i) The local government that creates a local government corporation may establish and enforce traffic and other public safety rules on a toll road, toll bridge, or turnpike of the corporation. If more than one local government creates a local government corporation, the local governments may jointly establish and enforce traffic and other public safety rules.

SECTION 5. Subsections (a) and (b), Article 6674v-6, Revised Statutes, are amended to read as follows:

(a) A governmental or private entity, other than a county with a population of more than 1.5 [~~2.4~~] million, according to the most recent federal census, and other than a local government corporation created by a county with a population of more than 1.5 million, according to the most recent federal census, under the Texas Transportation Corporation Act (Article 1528l, Vernon's Texas Civil Statutes), may not begin construction of a toll road, toll bridge, or turnpike without the approval of the Texas [~~State Highway and Public~~] Transportation Commission if the toll road, toll bridge, or turnpike is to become a part of the state highway system. When

deciding whether to approve a proposed toll road, toll bridge, or turnpike project, the commission shall consider:

(1) the feasibility of effectively integrating the toll road, toll bridge, or turnpike into the state highway system; and

(2) the ability of the Texas [~~State~~] Department of [~~Highways and Public~~] Transportation to construct any connecting roads necessary for the toll road, toll bridge, or turnpike to generate sufficient revenue to pay the debt incurred for its construction.

(b) Any bonds of a county, municipality, or political subdivision (other than a county with a population greater than 1.5 million, [~~2,100,000~~] according to the most recent [~~preceding~~] federal census, or a local government corporation created under the Texas Transportation Corporation Act (Article 1528l, Vernon's Texas Civil Statutes), in such a county) or any nonprofit corporation acting on behalf of a county, municipality, or political subdivision, payable in whole or in part from revenues derived from the ownership or operation of a toll road, toll bridge, or turnpike must be reviewed by the Texas [~~State Highway and Public~~] Transportation Commission.

SECTION 6. (a) This section applies to:

(1) a local government corporation created under the Texas Transportation Corporation Act (Article 1528l, Vernon's Texas Civil Statutes) serving a county with a population of more than 2.4 million, according to the most recent federal decennial census; and

(2) a county with a population of more than 2.4 million, according to the most recent federal decennial census, operating under Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes).

(b) A local government corporation or county shall set goals for the awarding of contracts to disadvantaged businesses for each project it operates, maintains, or constructs that are consistent with federal requirements on federal money used in highway construction and maintenance and the goals adopted by the Texas Department of Transportation under Article 6669c, Revised Statutes. The goals must apply to any contract awarded that is associated with a project, including contracts for construction, the issuance of bonds, and the use of professional services.

(c) For purposes of this section, "disadvantaged business" has the meaning assigned by Section 351.1035(a), Local Government Code.

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

Amendment No. 1

Amend **C.S.S.B. 242** by adding a new appropriately numbered section to read as follows and renumbering the existing sections as appropriate:

SECTION ____. Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes), is amended by adding Section 12e to read as follows:

Sec. 12e. TEXAS TURNPIKE AUTHORITY PROJECT REVOLVING FUND. (a) The Authority may maintain a fund entitled the Texas Turnpike Authority Project Revolving Fund. A fund established under this section is a revolving fund held in trust separate from other funds of the Authority in a banking institution chosen by the Authority.

(b) The Authority may transfer amounts from any surplus fund established for a Turnpike Project to the revolving fund if the remaining balance in the surplus fund is not decreased below the minimum balance required by any trust agreement for that project.

(c) The Authority may transfer into the revolving fund amounts from any permissible source, including:

(1) amounts described by Subsection (b) of this section;

(2) amounts received under Section 20a of this Act or from a transfer of a project under Section 12c of this Act;

(3) advances from the Texas Department of Transportation authorized under Article III, Section 52-b, of the Texas Constitution; and

(4) contributions or assistance from the federal government, other state governments, a political subdivision of this state, Mexico, or a political subdivision of Mexico.

(d) The Authority may use the revolving fund to:

(1) finance the construction, maintenance, or operation of Turnpike Projects authorized by this Act;

(2) provide matching amounts necessary for federal grants or other types of participatory funding;

(3) provide credit enhancement for bonds issued to construct, expand, or improve Turnpike Projects;

(4) provide security for, or payment of, future or existing debt for construction, operation, or maintenance of Turnpike Projects;

(5) borrow money and issue promissory notes or other indebtedness payable out of the revolving fund for any purpose authorized by this Act; and

(6) provide for any other reasonable purpose that assists in the financing of the Authority as authorized by this Act.

(e) Amounts expended or advanced from the revolving fund for a Turnpike Project are considered a part of the cost of the project, and the revolving fund must be reimbursed for all amounts drawn from the fund that are used for the project.

Amendment No. 2

Amend **C.S.S.B. 242** by striking Sections 6(b) and (c) of the bill and substituting the following subsections:

(b) A local government corporation or county shall set and make a good faith effort to meet or exceed goals for awarding contracts and subcontracts associated with a project it operates, maintains, or constructs to historically underutilized businesses. The goals shall equal or exceed the federal requirement on federal money used in highway construction and

maintenance. The goals shall apply to the total value of all contracts and subcontracts awarded, including contracts and subcontracts for construction, maintenance, operations, supplies, services, materials, equipment, professional services, the issuance of bonds, and bond counsel.

(c) In this section, "historically underutilized business" means:

(1) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned, managed, and in daily operations is controlled by one or more persons who have been historically underutilized because of their identification as members of certain groups, including African Americans, Hispanic Americans, women, Asian Pacific Americans, and Native Americans, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;

(2) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned and in daily operations is controlled by a person described by Subdivision (1) of this subsection;

(3) a partnership formed for the purpose of making a profit in which at least 51 percent of the assets and interest in the partnership is owned by one or more persons described by Subdivision (1) of this subsection and who also have proportionate interest in the control, daily operation, and management of the partnership's affairs;

(4) a joint venture in which each entity in the joint venture is a historically underutilized business; or

(5) a supplier contract between a historically underutilized business and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies or materials.

Amendment No. 3

Amend Amendment No. 2 to **C.S.S.B. 242** on page 1, line 8, after "construction and maintenance" and before the period, insert "and the goals adopted by the Texas Department of Transportation under Article 6669c, Revised Statutes".

Amendment No. 4

Amend **C.S.S.B. 242** to read as follows:

On page 1, line 12, after "county," by striking "with a population of more than 1.5 million," and replacing it with "<u>or an adjacent county in a joint turnpike authority with a county whose population is more than 1.5 million,</u>"

On page 2, line 27, after "county," by striking "with a population of more than 1.5 million," and replacing it with "<u>or an adjacent county in joint turnpike authority with a county whose population is more than 1.5 million,</u>"

The amendments were read.

Senator Ellis moved to concur in the House amendments to **S.B. 242.**

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

CONFERENCE COMMITTEE ON HOUSE BILL 2073

Senator Henderson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **H.B. 2073** 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. 2073** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Henderson, Chair; Harris of Dallas, Harris of Tarrant, Brown, and Luna.

SENATE BILL 866 WITH HOUSE AMENDMENT

Senator Whitmire called **S.B. 866** 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.

Amendment

Amend **S.B. 866** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the use of abandoned motor vehicles by police departments in certain counties.

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

SECTION 1. Section 5.031(d), Chapter 741, Acts of the 67th Legislature, Regular Session, 1981 (Article 4477-9a, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) This section does not apply to a motor vehicle that is taken into custody by a police department located in a county with a population of 2.4 million or more according to the most recent federal decennial census and that is removed to a privately owned storage facility.

SECTION 2. This Act takes effect September 1, 1993.

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 Whitmire and by unanimous consent, the Senate concurred in the House amendment to **S.B. 866** by a viva voce vote.

SENATE BILL 1089 WITH HOUSE AMENDMENT

Senator Harris of Dallas called **S.B. 1089** 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.

Amendment

Amend **S.B. 1089** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the farm and ranch loan security fund.

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

SECTION 1. Section 252.082, Agriculture Code, is amended to read as follows:

Sec. 252.082. USE OF FUND INCOME [~~INTEREST AND SINKING FUND~~]. [~~(a)~~] The commissioner shall use the income from the [~~interest and sinking fund for~~] farm and ranch loan security fund [~~bonds is created to be used exclusively~~] for the following purposes:

(1) the grant programs under Sections 44.004, 44.005, and 44.006 of this code, in an amount not to exceed $350,000 [~~paying the principal of farm and ranch loan security bonds as they mature~~];

(2) the produce recovery fund under Chapter 103 of this code, in an amount not to exceed $237,000 [~~paying interest on the bonds as it comes due~~]; [~~and~~]

(3) the farm and ranch finance program fund, established by Article III, Section 49-f, of the Texas Constitution, in an amount not to exceed $600,000;

(4) the Texas-Israel Semi-Arid Fund under Chapter 45 of this code, in an amount not to exceed $250,000;

(5) a program administered by the department to reduce the use of pesticides in the production of agricultural crops, in an amount not to exceed $400,000; and

(6) the program for the benefit of young farmers under Chapter 253 of this code, in an amount not to exceed the income balance from the farm and ranch loan security fund [~~paying exchange and collection charges in connection with bonds~~].

[~~(b) Except as otherwise provided by this subsection, the comptroller of public accounts shall credit accrued interest received in the sale of bonds and income from investments of the loan security fund and the interest and sinking fund to the interest and sinking fund. If the accrued interest and income in any year exceeds the cost of paying principal and interest on farm and ranch loan security bonds and any exchange and collection charges, the comptroller shall transfer the amount in excess of those payments to the credit of the farm and ranch security fund for the purpose of financing payment adjustments.~~

[~~(c) After all bonds have been paid, the comptroller shall transfer the balance of the interest and sinking fund to the credit of the farm and ranch loan security fund.~~]

SECTION 2. Section 252.083, Agriculture Code, is amended to read as follows:

Sec. 252.083. INVESTMENT OF FUNDS. [~~(a)~~] The commissioner may invest the farm and ranch loan security fund as authorized by Chapter 401, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-5a, Vernon's Texas Civil Statutes). In accordance with that procedure, the commissioner may invest and direct the investment of the farm and ranch loan security fund in any general or special obligations of this state or any of its political subdivisions, authorities, agencies, or political corporations or in the general or special obligations of any other state or its subdivisions, agencies, or authorities.

[~~(b) The commissioner may invest the interest and sinking fund only in direct obligations of the United States, certificates of deposit in Texas banks, or in obligations the principal and interest of which are guaranteed by the United States.~~]

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Harris of Dallas moved to concur in the House amendment to **S.B. 1089.**

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

SENATE BILL 548 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 548** 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

Amend **S.B. 548** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to judicial review of ad valorem tax appraisals of oil and gas pipelines.

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

SECTION 1. Section 42.22, Tax Code, is amended to read as follows:

Sec. 42.22. VENUE. Venue is in the county in which the appraisal review board that issued the order appealed is located, except as provided

by Section 42.221. Venue is in Travis County if the order appealed was issued by the comptroller.

SECTION 2. Subchapter B, Chapter 42, Tax Code, is amended by adding Section 42.221 to read as follows:

Sec. 42.221. CONSOLIDATED APPEALS FOR MULTICOUNTY PIPELINE. (a) The owner of an oil or gas pipeline that runs through more than one county and is appraised by more than one appraisal district may appeal an order of an appraisal review board relating to the pipeline, to property attached to or connected with the pipeline, or to an easement or other real property on which the pipeline is located to the district court of any county in which a portion of the pipeline is located if the order relating to that portion of the pipeline is appealed.

(b) A petition for review of each appraisal review board order under this section must be filed with the court as provided by Section 42.21. The fee for filing each additional petition for review relating to a pipeline after the first petition for review relating to the same pipeline is filed for a tax year is $5.

(c) If only one appeal by the owner of an oil or gas pipeline is pending before the court in an appeal from the decision of an appraisal review board of a district other than the appraisal district for that county, any party to the suit may, not earlier than the 30th day before and not later than the 10th day before the date set for the hearing, make a motion to transfer the suit to a district court of the county in which the appraisal review board from which the appeal is taken is located. In the absence of a showing that further appeals under this section will be filed, the court shall transfer the suit.

(d) When the owner files the first petition for review under this section for a pipeline for a tax year, the owner shall include with the petition a list of each appraisal district in which the pipeline is appraised for taxation in that tax year.

(e) The court shall consolidate all the appeals for a tax year relating to a single pipeline for which a petition for review is filed with the court and may consolidate other appeals relating to other pipelines of the same owner if the pipelines are located in one or more of the counties on the list required by Subsection (d). Except as provided by this subsection, on the motion of the pipeline owner the court shall grant a continuance to provide the owner with an opportunity to include in the proceeding appeals of appraisal review board orders from additional appraisal districts. The court may not grant a continuance to include an appeal of an appraisal review board order that relates to the pipeline in that tax year after the time for filing a petition for review of that order has expired.

(f) This section does not affect the property owner's right to file a petition for review of an individual appraisal district's order relating to a pipeline in the district court in the county in which the appraisal review board is located.

(g) On a joint motion or the separate motions of at least 60 percent of the appraisal districts that are defendants in a consolidated suit filed before the 45th day after the date on which the property owner's petitions for review of the appraisal review board orders relating to a pipeline for

that tax year must be filed, the court shall transfer the suit to a district court of the county named in the motion or motions if that county is one in which one of the appraisal review boards from which an appeal was taken is located.

SECTION 3. This Act takes effect September 1, 1993. The changes in law made by this Act apply to any petition for review filed under Chapter 42, Tax Code, as amended by this Act, on or after the effective date of this Act and to any petition for review filed under that chapter that is pending before a district court on 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.

Amendment No. 1 on Third Reading

Amend **C.S.S.B. 548** as follows:

(1) Strike all below the enacting clause and substitute the following:

SECTION 1. Section 42.22, Tax Code, is amended to read as follows:

Sec. 42.22. VENUE. Venue is in the county in which the appraisal review board that issued the order appealed is located, except as provided by Section 42.221. Venue is in Travis County if the order appealed was issued by the comptroller.

SECTION 2. Subchapter B, Chapter 42, Tax Code, is amended by adding Section 42.221 to read as follows:

Sec. 42.221. CONSOLIDATED APPEALS FOR MULTICOUNTY PIPELINE OR ELECTRIC LINE. (a) The owner of an oil or gas pipeline or electric transmission or distribution line that runs through more than one county and is appraised by more than one appraisal district may appeal an order of an appraisal review board relating to the pipeline or electric line, to property attached to or connected with the pipeline or electric line, or to an easement or other real property on which the pipeline or electric line is located to the district court of any county in which a portion of the pipeline or electric line is located if the order relating to that portion of the pipeline or electric line is appealed.

(b) A petition for review of each appraisal review board order under this section must be filed with the court as provided by Section 42.21. The fee for filing each additional petition for review relating to a pipeline or electric line after the first petition for review relating to the same pipeline or electric line is filed for a tax year is $5.

(c) If only one appeal by the owner of an oil or gas pipeline or electric line is pending before the court in an appeal from the decision of an appraisal review board of a district other than the appraisal district for that county, any party to the suit may, not earlier than the 30th day before and not later than the 10th day before the date set for the hearing, make a motion to transfer the suit to a district court of the county in which the appraisal review board from which the appeal is taken is located. In the absence of a showing that further appeals under this section will be filed, the court shall transfer the suit.

(d) When the owner files the first petition for review under this section for a pipeline or electric line for a tax year, the owner shall include with the petition a list of each appraisal district in which the pipeline or electric line is appraised for taxation in that tax year.

(e) The court shall consolidate all the appeals for a tax year relating to a single pipeline or electric line for which a petition for review is filed with the court and may consolidate other appeals relating to other pipelines or electric lines of the same owner if the pipelines or electric lines are located in one or more of the counties on the list required by Subsection (d). Except as provided by this subsection, on the motion of the pipeline or electric line owner the court shall grant a continuance to provide the owner with an opportunity to include in the proceeding appeals of appraisal review board orders from additional appraisal districts. The court may not grant a continuance to include an appeal of an appraisal review board order that relates to the pipeline or electric line in that tax year after the time for filing a petition for review of that order has expired.

(f) This section does not affect the property owner's right to file a petition for review of an individual appraisal district's order relating to a pipeline or electric line in the district court in the county in which the appraisal review board is located.

(g) On a joint motion or the separate motions of at least 60 percent of the appraisal districts that are defendants in a consolidated suit filed before the 45th day after the date on which the property owner's petitions for review of the appraisal review board orders relating to a pipeline or electric line for that tax year must be filed, the court shall transfer the suit to a district court of the county named in the motion or motions if that county is one in which one of the appraisal review boards from which an appeal was taken is located.

SECTION 3. This Act takes effect September 1, 1993. The changes in law made by this Act apply to any petition for review filed under Chapter 42, Tax Code, as amended by this Act, on or after the effective date of this Act and to any petition for review filed under that chapter that is pending before a district court on 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.

(2) Strike all above the enacting clause and substitute the following:

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of ad valorem tax appraisals of oil and gas pipelines and of electric transmission and distribution lines.

The amendments were read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendments to **S.B. 548** by a viva voce vote.

SENATE BILL 959 WITH HOUSE AMENDMENTS

Senator Ellis called **S.B. 959** 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

Amend **S.B. 959** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to state energy efficiency and conservation programs; granting the authority to issue revenue bonds.

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

SECTION 1. Subdivisions (3), (4), (5), and (6), Section 2, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), are amended to read as follows:

(3) "Competitive grant program" means a program through which the Legislative Budget Board [~~office of the governor~~] finances projects under this Act that have been approved from a group of competing proposals submitted by public or private applicants.

(4) "Direct grant program" means a program through which the Legislative Budget Board [~~office of the governor~~] finances projects under this Act that have been approved as components of a proposal recommended by the supervising agency of that program.

(5) "Energy office" means the energy office of the General Services Commission [~~office of the governor~~].

(6) "Supervising agency" means the state agency, department, commission, or other entity designated by this Act or by the Legislative Budget Board [~~office of the governor~~] to supervise, manage, or administer the implementation of a program financed under this Act.

SECTION 2. Sections 3 and 4, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 3. OIL OVERCHARGE ADMINISTRATION. (a) The power and discretion to finance projects under, and oversee and monitor the administration of, the competitive and direct grant programs prescribed by this Act are assigned to the Legislative Budget Board [~~office of the governor, subject to the requirements of Section 5 of this Act~~]. The board may finance projects under this Act only with the approval of the governor.

(b) The Legislative Budget Board [~~office of the governor~~] shall determine the supervising agency for each [~~competitive grant program and for each~~] direct grant program established by the board [~~office~~]. The board [~~office of the governor~~] may:

(1) establish direct grant programs [~~and competitive grant programs~~] in addition to those provided by this Act; and

(2) establish criteria for eligibility and evaluation of proposals submitted under direct grant programs [~~or competitive grant programs~~], which criteria may apply to one or more specific programs or to all programs.

(c) The Legislative Budget Board [~~office of the governor~~] shall establish programs and criteria and evaluate proposals in accordance with applicable federal guidelines. The board [~~office of the governor~~] is responsible for the transmission to the appropriate federal entity of all information required under applicable federal guidelines regarding programs and proposals subject to this Act.

Sec. 4. STAFF; AGENCY AND PRIVATE ASSISTANCE. (a) The section of the Legislative Budget Board office that provides federal funds analysis [~~energy office~~] shall provide staff to implement and administer this Act.

(b) In addition to the section of the Legislative Budget Board office that provides federal funds analysis [~~energy office~~], the Legislative Budget Board [~~office of the governor~~] may enlist the assistance of any state agency, department, commission, or other entity or any private entity in the evaluation or review of proposals, the audit of program participants or supervising agencies, the performance of administrative duties under this Act, or the development of eligibility or evaluation criteria.

SECTION 3. Subsections (b) and (e), Section 6, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Money in the account shall be appropriated by the legislature to the Legislative Budget Board [~~governor~~] for use by the board, subject to the approval [~~office~~] of the governor, in the implementation and operation of programs authorized by this Act. The board may reallocate amounts appropriated for direct grant programs among any programs approved by the United States Department of Energy. Money in the account also may be appropriated to provide initial financing for the Texas energy efficiency and conservation program established under Article 16, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

(e) The Legislative Budget Board [~~office of the governor~~] shall determine the persons whose signatures are authorized to be affixed to vouchers submitted to the comptroller for approval of payments from the account. The Legislative Budget Board [~~office of the governor~~] shall give the comptroller notice of each determination made under this subsection. The comptroller shall approve payments from the account in the manner provided for approval of payments from other amounts appropriated by the legislature.

SECTION 4. Subsection (b), Section 7, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The supervising agency of a direct grant program financed under this Act may adopt rules for implementation of the program, including rules providing eligibility criteria, that are not inconsistent with criteria established by applicable federal guidelines, criteria prescribed by this Act,

or criteria adopted by the Legislative Budget Board [~~office of the governor~~].

SECTION 5. Subsection (a), Section 8, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Texas Department of Housing and Community Affairs [~~Human Services~~] is the supervising agency for the direct grant program known as the emergency nutrition and temporary emergency relief program, established by Chapter 34, Human Resources Code. With direct grant money under this Act, the department, under the program, shall provide money for payment to vendors of energy utility services for the purpose of preventing the interruption or termination of energy utility service or restoring that service to low-income persons. The department shall allocate money provided under this Act for the program for distribution within counties on the basis of unemployment and poverty statistics for residents of individual counties.

SECTION 6. Subsection (a), Section 10, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Texas Department of Housing and Community Affairs [~~Human Services~~] is the supervising agency for the direct grant program known as the low-income home energy assistance program, established in accordance with the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. Section 8621 et seq.). With direct grant money under this Act, the department, under the program, shall make payments directly to eligible low-income households, or on behalf of such households to energy suppliers, to assist the recipients in meeting the costs of home energy.

SECTION 7. Section 12, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. NATIVE AMERICAN RESTITUTIONARY PROGRAM. The Texas Department of Housing and Community Affairs [~~Indian Commission~~] is the supervising agency for a direct grant program to be known as the Native American restitutionary program. Under the program, the department [~~commission~~] shall distribute money granted under this Act in accordance with the applicable federal guidelines for the purpose of providing energy-related assistance to Native Americans of this state.

SECTION 8. Subsection (a), Section 17, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The energy office [~~of the governor~~] shall award one or more competitive grants to support regulatory intervention activities to promote the adoption and expansion by energy utilities of consumer-oriented energy conservation programs.

SECTION 9. Subsection (a), Section 18, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A competitive grant program to be known as the public-private partnership program is established. Recipients of grant money under the program may include but are not limited to community foundations

affiliated with the Communities Foundation, Inc., of Texas. The Texas Department of Housing and Community Affairs shall distribute competitive grant money provided under this Act for [~~office of the governor may approve and finance~~] one or more energy-related demonstration projects under this program as well as more broadly aimed energy-related projects. Recipients of grant money under the program may be required to provide in the aggregate from private sources for projects financed under this program amounts at least equal to the total amount of grants awarded by the department [~~office of the governor~~] under the program during a particular fiscal period.

SECTION 10. Subsection (a), Section 19, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A competitive grant program to be known as the housing partnership program is established. With competitive grant money provided under this Act, the Texas Department of Housing and Community Affairs [~~supervising agency~~] shall distribute money for residential energy conservation projects which reduce the amount of energy consumed for space heating, space cooling, water heating, refrigeration, or other residential energy uses. Projects may include demonstration of commercially available cost-effective energy saving techniques and technologies, training and technical assistance in energy efficient construction/remodeling, information transfer to occupants, or financing incentives for energy saving design or improvements. Eligible applicants may include local governments, public housing agencies, or other public or nonprofit organizations serving the housing needs of low and moderate income individuals. Recipients of the grant money under this program may be required to provide from other sources for projects financed under this program amounts at least equal to the total amount of grants awarded by the department [~~supervising agency~~] under the program.

SECTION 11. Sections 21, 22, 23, 24, 25, and 26, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 21. AGRICULTURAL ENERGY CONSERVATION PROGRAM. A direct [~~competitive~~] grant program to be known as the agricultural energy conservation program is established. With direct [~~competitive~~] grant money under this program, the Texas Natural Resource Conservation Commission [~~supervising agency~~] shall distribute money for energy projects designed to benefit agriculture in accordance with applicable federal guidelines, including projects concerning agricultural demonstration projects, energy audits of agricultural and food processing facilities, and agricultural information and technical assistance. [~~The office of the governor may finance a selected proposal without requiring any matching amounts, or the office may require that the recipient match any grant received under the program.~~]

Sec. 22. ALTERNATIVE ENERGY PROGRAM. A competitive grant program to be known as the alternative energy program is established. With competitive grant money provided under this Act, the energy office [~~supervising agency~~] shall distribute money for demonstration projects

developing alternative energy resources, which may include photovoltaics, biomass, wind, and solar applications and other appropriate applications of alternative energy. The Legislative Budget Board [~~office of the governor~~] may require grant recipients under this program to match the grants in ratios determined by the board [~~office~~].

Sec. 23. ENERGY RESEARCH AND DEVELOPMENT PROGRAM. The Legislative Budget Board [~~office of the governor~~] may finance projects under a direct [~~competitive~~] grant program to be known as the energy research and development program that supplement or initiate research by public or private institutions on energy-related issues. The board [~~office of the governor~~] may require recipients to match grants awarded under this program in ratios determined by the board [~~office~~].

Sec. 24. LOCAL GOVERNMENT ENERGY PROGRAM. [~~(a)~~] A direct [~~competitive~~] grant program to be known as the local government energy program is established. Under the program, the supervising agency shall distribute [~~competitive~~] grant money provided under this Act for energy-saving projects that benefit local governments in this state.

[~~(b) Proposals under this section may include energy audits of local government facilities, traffic light synchronization, fleet management, and fuel-efficient transit routing. The office of the governor may require grant recipients under this program to match the grants in ratios determined by the office.~~]

Sec. 25. TRANSPORTATION ENERGY PROGRAM. (a) A direct [~~competitive~~] grant program to be known as the transportation energy program is established. Under this program, the supervising agency shall distribute [~~competitive~~] grant money provided under this Act for projects concerning mass transit and other transportation services. The projects may assist service providers in providing services such as traffic light synchronization, fleet management, energy-efficient computerized transit routing, car-care clinics, vanpooling or ridesharing efforts, transportation of public schoolchildren, transportation of inmates of local correctional facilities [~~public education related to mass transit~~], driver energy conservation awareness training, and transportation services for the elderly or handicapped and may include studies to improve existing and plan for future transportation systems in Texas.

(b) The Legislative Budget Board [~~office of the governor~~] may require grant recipients under this program to match the grants in ratios determined by the board [~~office~~].

Sec. 26. MASS TRANSIT ENERGY PROGRAM. (a) A competitive grant program to be known as the mass transit energy program is established. Under this program, the Texas Department of Transportation [~~supervising agency~~] shall distribute competitive grant money provided under this Act for projects concerning mass transit that are approved by the Legislative Budget Board [~~office of the governor~~] in accordance with this section.

(b) The Texas Department of Transportation [~~supervising agency~~] may allocate competitive grant money among the categories of eligible applicants according to the formula provided by this section. For purposes of this section, an "eligible applicant" is a municipality, a metropolitan or

regional authority, or a local governmental body or other entity that is a recipient of federal public transportation money through the Texas [~~State~~] Department of [~~Highways and Public~~] Transportation or other agency administering federal public transportation money.

(c) The Texas Department of Transportation [~~supervising agency~~] may allocate competitive grant money to the following three categories:

(1) one-third to eligible applicants created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes); Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes); or Article 1118z, Revised Statutes;

(2) one-third to eligible applicants that are in urbanized areas with a population in excess of 50,000, according to the most recent federal census and that are not created under the laws specified in Subdivision (1) of this subsection; and

(3) one-third to eligible applicants in rural areas of the state and in urban areas with populations of 50,000 or less, according to the most recent federal census.

(d) To the greatest extent practicable, eligible applicants who receive competitive grant money under this section [~~Act~~] shall use the money to obtain other grants.

SECTION 12. Subsection (a), Section 27, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A competitive grant program to be known as the energy research in applications program is established. Under this program, the Texas Higher Education Coordinating Board [~~supervising agency~~] shall distribute competitive grant money provided under this Act for projects conducted by institutions of higher education and providing advanced research in energy-related subjects.

SECTION 13. Sections 28, 29, and 31, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 28. DIESEL FUEL CONSERVATION PROGRAM. A competitive grant program to be known as the diesel fuel conservation program is established to implement projects which will improve the fuel efficiency of diesel-powered vehicles and equipment. Under the program, the energy office [~~supervising agency~~] shall use competitive grant money provided under this Act to benefit diesel fuel consumers by identifying and implementing measures to save diesel fuel. Projects may be funded to provide training and technical assistance and/or to demonstrate and implement commercially available technologies which improve the fuel efficiency of trucks, boats, tractors, or other vehicles and equipment which operate on diesel fuel.

Sec. 29. ENERGY RESOURCE OPTIMIZATION PROGRAM. A competitive grant program to be known as the energy resource optimization program is established. Under this program, the General Land Office [~~supervising agency~~] shall distribute competitive grant money provided under this Act for the initiation or supplementation of research programs

designed to recover additional oil and gas from reservoirs in this state, with special emphasis on recovery from state and other public lands.

Sec. 31. TRAFFIC LIGHT SYNCHRONIZATION PROGRAM. (a) The Texas Department of Transportation [~~state department of highways and public transportation~~] is the supervising agency for a competitive grant program to be known as the traffic light synchronization program. This program will provide assistance to local governments throughout the state in efforts to save motor fuels through the optimization of traffic signal timing plans.

(b) [~~(a)~~] The supervising agency shall award funds to local jurisdictions for the costs of training, engineering services, traffic studies, and other activities directly related to and undertaken as part of local traffic signal retiming projects.

(c) [~~(b)~~] The Legislative Budget Board [~~office of the governor~~] may require grant recipients under this program to match the grants in ratios determined by the board [~~office of the governor~~].

SECTION 14. The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by adding Article 16 to read as follows:

ARTICLE 16. TEXAS ENERGY EFFICIENCY AND CONSERVATION PROGRAM

Sec. 16.01. POLICY. It is the policy of this state to promote energy efficiency and conservation within the state. Implementation of the program provided by this article will be in furtherance of that policy by making financial and technical assistance available to authorized borrowers to enable the borrowers to undertake energy efficiency and conservation projects.

Sec. 16.02. DEFINITIONS. In this article:

(1) "Authority" means the Texas Public Finance Authority.

(2) "Program" means the Texas energy efficiency and conservation program provided by this article.

(3) "Revenue bonds" means bonds, notes, commercial paper, or other obligations.

(4) "Revolving fund" means the Texas energy efficiency and conservation revolving fund.

Sec. 16.03. TEXAS ENERGY EFFICIENCY AND CONSERVATION REVOLVING FUND. (a) The Texas energy efficiency and conservation revolving fund is established in the state treasury.

(b) The revolving fund consists of the proceeds of revenue bonds issued as provided by this article, fees collected as provided by Section 16.06 of this article, federal grants, direct appropriations, income from investment or deposit of amounts in the fund, grants from private sources, and repayments of financial assistance made from the fund.

(c) The commission may provide for the establishment and maintenance of separate accounts within the revolving fund, including program accounts, and, at the direction of the authority, shall provide for interest and sinking accounts and reserve accounts relating to revenue bonds. The state treasurer shall hold the assets of the revolving fund in trust for the program and the repayment of bonds issued for the program.

The revolving fund is a trust fund for all purposes, including the application of Sections 403.094, 403.095, and 404.071, Government Code.

(d) Money in the revolving fund may be appropriated only for the repayment of bonds issued for the program, the payment of costs of issuance of the bonds, and making loans under and paying expenses for the administration of the program.

(e) The commission and the authority shall jointly administer the revolving fund.

Sec. 16.04. AUTHORIZED BORROWERS AND ELIGIBLE PROJECTS. (a) An agency or governmental entity of the state and any political subdivision or other type of local governmental entity in the state, including a county, municipality, special purpose district, or corporation held by a governmental entity, is authorized to be a borrower under the program provided by this article.

(b) Any energy efficiency or conservation project undertaken by an authorized borrower involving the acquisition, construction, fabrication, installation, or maintenance of improvements, buildings, facilities, or equipment determined by the authorized borrower to promote the conservation or efficient use of energy sources is an eligible project for assistance under the program provided by this article, including a project involving the conversion of motor vehicles or other sources of substantial energy use to alternative fuels and engine-driven applications and a project involving the acquisition, construction, fabrication, installation, or maintenance of fueling stations supplying alternative fuels or equipment enhancing the use of engine-driven technology to support motor vehicles or other energy applications that use alternative fuels.

Sec. 16.05. TEXAS ENERGY EFFICIENCY AND CONSERVATION PROGRAM. (a) The commission shall establish and administer the Texas energy efficiency and conservation program, shall administer all loans made under the program, and shall collect loan payments and deposit them in the revolving fund. The commission shall adopt rules governing the application for financial assistance under the program and establish criteria for determining which authorized borrowers may participate in the program. In establishing criteria for participation in the program, the commission shall adopt requirements to ensure the full repayment of all financial assistance and the solvency of the program.

(b) The commission may adopt other rules it considers necessary to administer the program or considers in the best interests of the program.

Sec. 16.06. FEES. The commission shall set and collect, from applicants and borrowers under the program, fees the commission considers sufficient to cover the expenses of administering the program or considers in the best interest of the program. The commission shall deposit the fees in the revolving fund and shall apply the fees in accordance with the commission's resolutions and rules.

Sec. 16.07. ISSUANCE OF REVENUE BONDS. (a) The commission by resolution may periodically apply for the issuance of revenue bonds for the purpose of providing money for the revolving fund by submission to the authority of a request for financing that describes the projects to be financed. The total amount of bonds issued for the revolving fund and the

program may not exceed $100 million. The commission shall submit each such resolution it adopts to the authority, and the authority is responsible for issuing the bonds for the commission.

(b) Proceeds of revenue bonds issued as provided by this article shall be deposited in the revolving fund and applied in accordance with the resolution applying for issuance of the bonds:

(1) to provide financial assistance to authorized borrowers; and

(2) to pay costs of issuance of those revenue bonds.

(c) Revenue bonds issued as provided by this article are obligations solely of the authority and are payable solely from money in the revolving fund, which is pledged to the repayment of the revenue bonds. The authority's revenue bonds under this article are not and do not create or constitute a pledge, giving, or lending of the faith, credit, or taxing power of the state. Each revenue bond issued under this article must contain a statement to the effect that the state is not obligated to pay the principal of or any premium or interest on the revenue bond and that neither the faith or credit nor the taxing power of the state is pledged, given, or loaned to such a payment.

(d) Revenue bonds of the authority shall be payable as to principal, interest, and redemption premium, if any, from and secured by a first lien or a subordinate lien on and pledge of all or any part of the property, revenues, income, or other resources in the revolving fund, and may be further secured by all or part of the net revenues dedicated under the loan documents by the borrower for payment of the revenue bonds, by taxes levied by the borrower for that purpose, or by a combination of taxes and net revenue from other available sources, as specified in the commission's resolution applying for issuance of those revenue bonds. The authority may require that the loans made under the program be supported both by taxes and by net revenue from the operation of the project in any ratio the authority considers necessary to fully secure the loans. The authority shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest.

(e) The commission may provide in a resolution applying for the issuance of revenue bonds a request for the issuance of additional revenue bonds to be equally and ratably secured by lien on the revenues and receipts or for the issuance of subordinate lien revenue bonds.

(f) Revenues of the commission that may be used as a source of payment for the revenue bonds or to establish a reserve account to secure the payment of debt service on the revenue bonds include repayments of financial assistance, money appropriated by the legislature to the commission for the purpose of paying or securing the payment of debt service on the revenue bonds, fees collected under Section 16.05 of this article, and federal or private money allocated to the program.

Sec. 16.08. DEFAULT. In the event of a default in payment of the principal of or interest on any loan made under the program or any other default with respect to the loan, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the borrower or its officers, agents, and employees to cure the default by performing those duties that they are legally obligated to perform. These

proceedings shall be brought and venue shall be in a district court of Travis County.

Sec. 16.09. GENERAL PROVISIONS RELATING TO BONDS. (a) The authority's revenue bonds under this article may be issued by the authority from time to time in one or more series or issues, in bearer, registered, or any other form, which may include registered uncertified obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the authority under a system of books and records maintained by the authority. Bonds may mature serially or otherwise not more than 40 years from their date of issuance. Bonds may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise, determined by the authority or determined pursuant to any contractual arrangements approved by the authority, not to exceed the maximum net effective interest rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on the bonds may be payable at any time, and the rate of interest on the bonds may be adjusted at such time as may be determined by the authority or as may be determined pursuant to any contractual arrangement approved by the authority. In connection with the issuance of bonds as provided by this article, the authority may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(b) The bonds issued under this article and interest coupons, if any, are investment securities under the terms of Chapter 8, Business & Commerce Code. The bonds are exempt securities under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), and unless specifically provided otherwise, under any subsequently enacted securities law. Any contract, guaranty, or other document executed in connection with the issuance of bonds pursuant to this article is not a security under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), and unless specifically provided otherwise, any subsequently enacted securities law. The authority may do all things necessary to qualify the bonds for offer and sale under the securities laws and regulations of the United States and of the states and other jurisdictions in the United States as the authority determines.

(c) The bonds may be issued in the form and denominations and executed in the manner and under the terms, conditions, and details determined as provided by the authority in the resolution authorizing their issuance. If any officer whose manual or facsimile signature appears on the bonds ceases to be an officer, the signature is still valid and sufficient for all purposes as if the officer had remained in office.

(d) The bonds may be sold at public or private sale with or without public bidding in the manner, at such rate or rates, price or prices, and on such terms as may be determined by the authority or determined as provided in any contractual arrangement approved by the authority. The authority also may enter into any contractual arrangement under which the

bonds are to be sold from time to time, or subject to purchase, at such prices and rates, interest rate or payment periods, and terms as determined pursuant to that contractual arrangement approved by the authority.

(e) The authority may provide procedures for the replacement of a mutilated, lost, stolen, or destroyed bond or interest coupon.

(f) The resolutions of the authority issuing bonds may contain other provisions and covenants as the authority may determine. The authority may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds as provided by this article, including entering into financing agreements with the commission.

Sec. 16.10. APPLICATION OF TEXAS PUBLIC FINANCE AUTHORITY ACT. Section 10A, as added by Chapter 896, Acts of the 71st Legislature, Regular Session, 1989, and Sections 10B, 15, 16, 17, 18, 19, and 20, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), apply to revenue bonds issued by the authority under this article as if the bonds were issued under that Act for the construction of a building.

SECTION 15. The heading of Chapter 447, Government Code, is amended to read as follows:

CHAPTER 447. ENERGY MANAGEMENT CENTER
[~~OF THE OFFICE OF THE GOVERNOR~~]

SECTION 16. Section 447.001, Government Code, is amended to read as follows:

Sec. 447.001. ESTABLISHMENT OF CENTER. The energy management center is established in the General Services Commission [~~as a division of the office of the governor~~].

SECTION 17. Subsections (a), (c), and (d), Section 447.004, Government Code, are amended to read as follows:

(a) The [~~Through the~~] energy management center[~~, the office of the governor~~] shall adopt and publish energy conservation design standards, under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), that all new state buildings and major renovation projects, including buildings and major renovation projects of state-supported institutions of higher education, are required to meet. The center [~~office of the governor~~] shall define what constitutes a major renovation project under this section and shall review and update the standards biennially.

(c) The standards must be adopted in terms of energy consumption levels and must take into consideration the various classes of building uses and must allow for design flexibility. Procedural standards must be directed toward specific design and building practices that produce good thermal resistance and low infiltration and toward requiring practices in the design of mechanical and electrical systems that maximize energy efficiency. The procedural standards must concern, as applicable:

(1) insulation;
(2) lighting;
(3) ventilation;
(4) climate control;

(5) special energy requirements of health-related facilities of higher education and state agencies; and

(6) any other item that the center [~~office of the governor~~] considers appropriate that is adopted under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) In order to demonstrate compliance with the requirement to adopt and update the conservation design standards, each agency and institution of higher education shall submit a copy of its design and construction manuals to the center [~~office of the governor~~] on request.

SECTION 18. Sections 447.005, 447.006, and 447.007, Government Code, are amended to read as follows:

Sec. 447.005. ENERGY EFFICIENCY PROJECTS. Subject to applicable state and federal laws or guidelines, the [~~office of the governor, through the~~] energy management center[~~,~~] may implement energy efficiency projects at state agencies or may assist those agencies in implementing the projects through energy efficiency programs financed through state or federal grants or loans and shall provide staff for administration of the Texas energy efficiency and conservation program established under Article 16, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

Sec. 447.006. OBTAINING DATA. The energy management center [~~office of the governor~~] shall obtain semiannually from each state agency information relating to the cost of heating and cooling buildings owned by the state.

Sec. 447.007. MODEL CODES. The energy management center [~~office of the governor~~] may recommend model energy conservation building codes to municipalities for use in enacting or amending municipal ordinances.

SECTION 19. Subsection (a), Section 447.008, Government Code, is amended to read as follows:

(a) The [~~Through the~~] energy management center[~~, the office of the governor~~] may provide additional energy services to state and local governments, including:

(1) training of designated state and local governmental employees in energy management, energy-accounting techniques, and energy efficient design and construction;

(2) technical assistance to state agencies and local governments regarding energy efficient capital improvements, energy efficient building design, and cogeneration and thermal storage investments;

(3) technical assistance to the State Auditor and to state agencies regarding conducting energy management performance audits and monitoring of utility bills to detect billing errors;

(4) technical assistance to state agencies and local governments regarding third-party financing of energy efficient capital improvement projects; and

(5) other energy-related assistance requested by agencies, other legislatively created entities of the state, institutions of higher education, local governments, including school districts, and consortiums of

institutions of higher education that the center [~~office of the governor~~] considers appropriate.

SECTION 20. Subsection (a), Section 447.011, Government Code, is amended to read as follows:

(a) The [~~Through the~~] energy management center[~~, the office of the governor~~] shall provide energy management planning assistance to state agencies and institutions of higher education, including:

(1) preparation of a long-range plan for the delivery of reliable, cost-effective utility services for state agencies, institutions of higher education, boards, and commissions in Travis County. This plan shall be presented to the affected agencies for use in preparing their five-year construction and major rehabilitation plans. After other energy-saving alternatives are considered, district heating and cooling and on-site generation of electricity may be considered in planning for reliable, efficient, and cost-effective utility services;

(2) assistance to the Department of Public Safety for energy emergency contingency planning, using state or federal funds when available; and

(3) assistance to state agencies and institutions of higher education in preparing comprehensive energy management plans. The energy management center shall prepare guidelines for the preparation of these plans. State agencies and institutions of higher education that expend more than $250,000 annually for heating, lighting, and cooling and that occupy state-owned buildings shall prepare and submit a five-year energy management plan to the center [~~office of the governor~~]. Agencies and institutions of higher education with smaller usage may be required to submit such plans. Updated plans shall be submitted biennially when requested by the center [~~governor~~].

SECTION 21. Sections 5 and 20, Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes), are repealed.

SECTION 22. If **H.B. 2260**, 73rd Legislature, Regular Session, 1993, is enacted by the legislature and becomes law, this Act prevails, to the extent of conflict, over any provisions of **H.B. 2260** that purport to transfer responsibility for the administration of oil overcharge funds or the responsibility for reporting on, monitoring, or administering a program under the Oil Overcharge Restitutionary Act (Article 4413(56), Vernon's Texas Civil Statutes).

SECTION 23. On the effective date of this Act, all powers, duties, obligations, records, and property of the office of the governor that are connected to a function that is transferred from the office of the governor to another entity by this Act and all appropriations to the office of the governor for functions transferred by this Act are transferred to the appropriate entity. All employees of the energy management center of the office of the governor are transferred to the General Services Commission. All rules, standards, and specifications of the office of the governor that relate to a function that is transferred by this Act remain in effect as rules, standards, and specifications of the entity to which the function is transferred unless superseded by proper authority of that entity.

SECTION 24. This Act takes effect September 1, 1993.

SECTION 25. 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 No. 1

Amend **C.S.S.B. 959**, as follows:

(1) In Section 14 of the bill, strike Sections 16.07, 16.09, and 16.10 of Article 16, State Purchasing and General Services Act, as added by the bill, and renumber remaining sections of Article 16 appropriately.

(2) In Section 14 of the bill, in Section 16.02, Article 16, State Purchasing and General Services Act, as added by the bill, strike Subdivisions (1) and (3), and renumber remaining subdivisions appropriately.

(3) On page 13 of the House Committee Report, 1st Printing, strike lines 25 and 26 and substitute the following:

(b) The revolving fund consists of fees collected as

(4) On page 14 of the House Committee Report, 1st Printing, strike lines 6-8 and substitute the following:

including program accounts. The state treasurer shall hold

(5) On page 14 of the House Committee Report, 1st Printing, Strike lines 9 and 10 and substitute the following:

the assets of the revolving fund in trust for the program. The revolving fund is a

(6) On page 14 of the House Committee Report, 1st Printing, strike lines 14 and 15 and substitute the following:

making loans under and paying

The amendments were read.

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

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **S.B. 959** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ellis, Chair; Ratliff, Moncrief, Montford, and Bivins.

(Senator Barrientos in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 357 ON SECOND READING

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

C.S.H.B. 357, Relating to the records of the conviction or adjudication of a minor.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Amend **C.S.H.B. 357** as follows:

1) In SECTION 2 insert Subsections (f) and (h) to Section 51.15, Family Code (On page 2, line 14, between "(a)-(c)," and "Family" insert "(f), and (h),").

2) On page 2, between lines 50 and 51 insert the following:

(f) If latent fingerprints are found during the investigation of an offense, and a law-enforcement officer has reasonable cause to believe that they are those of a particular child, if otherwise authorized by law, he may fingerprint the child regardless of the age or offense for purpose of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be destroyed immediately. If the comparison is positive, and the child is referred to the juvenile court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition, except that the law enforcement agency may keep a copy of the fingerprints. If the child is not referred to the court, the fingerprint card and other copies of the fingerprints taken shall be destroyed immediately.

(h) If, during the investigation of a criminal offense, a law enforcement officer has reason to believe that a photograph of a child taken into custody or detained as permitted under this title will assist in the identification of the offender and if not otherwise prohibited by law, the officer may photograph the face of the child. If the child is not identified as an offender, the photograph and its negative shall be destroyed immediately. If the child is identified through the photograph and the child is referred to the juvenile court for the offense investigated, the photograph and its negative shall be delivered to the juvenile court for disposition, except that the law enforcement agency may keep a copy of the photograph. If the child is not referred to the juvenile court for the offense investigated, the photograph and its negative shall be destroyed immediately.

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

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 357 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 357** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 7 ON SECOND READING

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

C.S.H.B. 7, Relating to covenants not to compete in certain activities or in providing certain products or services.

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

COMMITTEE SUBSTITUTE HOUSE BILL 7 ON THIRD READING

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 7** be placed on its third reading and final passage.

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

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

HOUSE BILL 2866 ON SECOND READING

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

H.B. 2866, Relating to the creation, administration, powers, duties, operation, and financing of the Jeff Davis County Underground Water Conservation District.

The bill was read second time.

Senator Zaffirini offered the following committee amendment to the bill:

Amend **H.B. 2866** by striking SECTION 9 of the bill and substituting the following language:

SECTION 9. TAXING AUTHORITY. The district may not levy or collect taxes on property in the district at a rate greater than ten cents on the $100 assessed valuation. The district may use tax revenues only to pay for the maintenance and operation of the district.

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

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

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

HOUSE BILL 2866 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2866** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2874 ON SECOND READING

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

H.B. 2874, Relating to the creation, administration, powers, duties, operation, and financing of the Simon Villarreal Underground Water Conservation District.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Amend **H.B. 2874,** page 1, line 59, by striking the word "Two" and inserting the word "Three" before the word "members".

Amend **H.B. 2874,** page 1, line 61, by striking the word "Three" and inserting the word "Two" before the word "members".

Amend **H.B. 2874,** page 2, line 17, by striking the words "one director to serve a term that expires" and inserting the words "two directors to serve terms that expire" before the word "February".

Amend **H.B. 2874,** page 2, line 23, by striking the words "two directors to serve terms that expire" and inserting the words "one director to serve a term that expires" before the word "February".

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

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

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

HOUSE BILL 2874 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2874** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1564 ON SECOND READING

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

H.B. 1564, Relating to occupancy limits for rental dwellings.

The bill was read second time.

Senator Henderson offered the following committee amendment to the bill:

Amend **H.B. 1564** in Section 1 of the bill by striking Subdivisions (1) and (2) of Section 92.010(b), Property Code, as added by the bill, and substituting the following:

(1) to the extent that the landlord is required by a state or federal fair housing law to allow a higher occupancy rate;

(2) if the dwelling is operated by a public or private college or university accredited by a recognized accrediting agency as defined by Section 61.003, Education Code, or by a preparatory school accredited by the Central Education Agency, a regional accrediting agency, or another accrediting agency recognized by the commissioner of education; or

(3) if an adult whose occupancy causes a violation of Subsection (a) is seeking temporary sanctuary from family violence, as defined by Section 71.01, Family Code, for a period that does not exceed one month.

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

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

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

HOUSE BILL 1564 ON THIRD READING

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1564** be placed on its third reading and final passage.

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

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

(Senator Henderson in Chair)

SENATE BILL 695 WITH HOUSE AMENDMENT

Senator Barrientos called **S.B. 695** 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.

Amendment No. 1

Amend **S.B. 695** as follows:

(1) On page 1, line 9, strike "450,000" and substitute "350,000".

The amendment was read.

Senator Barrientos moved to concur in the House amendment to **S.B. 695.**

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

SENATE BILL 511 WITH HOUSE AMENDMENT

Senator Barrientos called **S.B. 511** 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.

Amendment No. 1

Amend **S.B. 511** as follows:

(1) Strike SECTION 2 and substitute a new SECTION 2 to read as follows:

SECTION 2. Section 52.01, Education Code, is amended to read as follows:

Sec. 52.01. ADMINISTRATION. The Texas Higher Education Coordinating Board, [~~Texas College and University System,~~] or its successors, shall administer the student loan program authorized by this chapter pursuant to Article III, Sections [~~Section~~] 50b, 50b-1, 50b-2, and 50b-3, of the Texas Constitution. Personnel and other expenses required to properly administer this chapter shall be funded by:

(1) [~~provided in~~] the general appropriations acts; or

(2) any other source of revenue received by the board in connection with the operation of the student loan program.

(2) Insert a new sections 3 to read as follows and renumber existing SECTION 3 and subsequent sections appropriately:

SECTION 3. Subchapter A, Chapter 52, Education Code, is amended by adding Section 52.011 to read as follows:

Sec. 52.011. ADMINISTRATIVE EXPENSES FROM REPAYMENT OF LOANS. If there are insufficient funds from Subdivisions (1) and (2) of Section 52.01 to cover annual costs to administer the program, revenues received from repayment of student loans issued under this chapter may be used to administer this chapter, provided that the amount used from loan repayments may not exceed 0.5 percent of the total outstanding student loans. This section expires September 1, 1995.

(3) Insert a new section, appropriately numbered, immediately before the section containing the emergency clause, and renumber the subsequent section appropriately:

SECTION ____. Not later than December 31, 1994, the Texas Higher Education Coordinating Board shall prepare and submit to the Legislative Budget Board, the state auditor, the senate finance committee, and the house appropriations committee a cost and efficiency management study of the administration and the administrative costs of the student loan program authorized by Chapter 52, Education Code.

The amendment was read.

Senator Barrientos moved to concur in the House amendment to **S.B. 511.**

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

(President in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 2529 ON SECOND READING

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

C.S.H.B. 2529, Relating to immunity from civil liability for certain persons responsible for or acting in furtherance of programs in which juvenile probationers are required to perform manual labor or to perform community service.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2529 ON THIRD READING

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2529** be placed on its third reading and final passage.

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

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

HOUSE BILL 2516 ON SECOND READING

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

H.B. 2516, Relating to the fees for the administration and enforcement of the labeling of motor fuels containing certain mixtures of gasoline and alcohol.

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

HOUSE BILL 2516 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2516** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 697 ON SECOND READING

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

C.S.H.B. 697, Relating to civil actions to abate certain activities of combinations or criminal street gangs.

The bill was read second time.

On motion of Senator Whitmire and by unanimous consent, **C.S.H.B. 697** was withdrawn and **H.B. 697** was considered in lieu thereof.

H.B. 697 was passed to third reading by a viva voce vote.

HOUSE BILL 697 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 697** be placed on its third reading and final passage.

H.B. 697, Relating to civil actions to abate certain activities of combinations or criminal street gangs.

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

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 364 ON SECOND READING

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

H.B. 364, Relating to the regulation of telephone solicitation; providing civil and criminal penalties.

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

HOUSE BILL 364 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 364** be placed on its third reading and final passage.

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

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

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 479, Relating to the guardianship of a person or an estate, informal probate of wills, informal distribution of estates, emergency payment of burial expenses, and protection of a decedent's personal property; creating the offense of interference with service of citation on a proposed ward. (As amended)

S.B. 540, Relating to the elimination of architectural barriers encountered by persons with disabilities. (As amended)

S.B. 750, Relating to a review and analysis of the process by which agencies issue permits. (As amended)

S.B. 892, Relating to simplifying the application, calculation, administration and reporting of, and the calculation of interest on, certain taxes, providing penalties. (As amended)

S.B. 893, Relating to technical changes to statutes involving certain tax provisions administered by the comptroller; conforming the effective dates and possible rates of certain transit and development corporation sales taxes to other local sales taxes; substituting references to the Comptroller for references to the Property Tax Board in certain property tax provisions; conforming the period for back assessment in the case of certain improper appraisals of property to the period allowed for back assessments for other purposes; revising the applicability of the comptroller's administrative authority to include all taxes and functions for which he has statutory responsibility; clarifying the definitions of certain items taxed under the sales tax and controlled substance tax laws; revising references in the inheritance tax statute to federal tax code provisions concerning credits. (As substituted and amended)

S.B. 1342, Relating to training and employment of school board members. (As amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 2179 ON SECOND READING

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

H.B. 2179, Relating to restitution paid by criminal defendants to crime victims.

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

HOUSE BILL 2179 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2179** be placed on its third reading and final passage.

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

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

(Senator Ratliff in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 665 ON SECOND READING

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

C.S.H.B. 665, Relating to the disposition of exhibits in a criminal case.

The bill was read second time.

On motion of Senator Barrientos and by unanimous consent, **C.S.H.B. 665** was withdrawn and **H.B. 665** was considered in lieu thereof.

H.B. 665 was passed to third reading by a viva voce vote.

HOUSE BILL 665 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 665** be placed on its third reading and final passage.

H.B. 665, Relating to the disposition of exhibits in a criminal case.

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

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

(Senator Barrientos in Chair)

HOUSE BILL 2844 ON SECOND READING

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

H.B. 2844, Relating to the Rusk County Court at Law.

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

HOUSE BILL 2844 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2844** be placed on its third reading and final passage.

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

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

HOUSE BILL 2831 ON SECOND READING

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

H.B. 2831, Relating to the jurisdiction of the statutory county court in Panola County.

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

HOUSE BILL 2831 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2831** be placed on its third reading and final passage.

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

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

AT EASE

The Presiding Officer at 5:19 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Shapiro at 5:41 p.m. called the Senate to order as In Legislative Session.

CONFERENCE COMMITTEE ON HOUSE BILL 273

Senator Harris of Dallas 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. 273** 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. 273** 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 Harris of Dallas, Chair; Henderson, Brown, Parker, and Sibley.

AT EASE

Senator Shapiro at 5:45 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Shapiro at 5:57 p.m. called the Senate to order as In Legislative Session.

LEAVE OF ABSENCE

On motion of Senator Harris of Dallas, Senator Leedom was granted leave of absence for the remainder of today on account of illness in the family.

SENATE BILL 1227 WITH HOUSE AMENDMENTS

Senator Henderson called **S.B. 1227** 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 No. 1

Amend **S.B. 1227** by adding a new appropriately numbered section of the bill to read as follows and renumbering the existing sections as appropriate:

SECTION ____. If enacted, **S.B. 1067**, Acts of the 73rd Legislature, Regular Session, 1993, does not affect Sections 38.122 and 38.123, Penal Code, as added by Section 5 of this Act, and those sections continue in

effect on and after the enactment and effective date of **S.B. 1067**, Acts of the 73rd Legislature, Regular Session, 1993, as a part, and subject to the general provisions, of the Penal Code, as amended.

Committee Amendment No. 1

Amend **S.B. 1227** as follows:

(1) Strike, in Section 1 of the bill, in Section 38.01(12), Penal Code, the subdivision defining "Solicit employment" and substitute a new subdivision to read as follows:

(12) [~~(11)~~] "Solicit employment" means to communicate in person or by telephone or written communication with a prospective client [~~claimant~~] or [~~defendant or with~~] a member of the prospective client's [~~claimant's or defendant's~~] family concerning a legal matter arising out of a particular occurrence or event, or series of occurrences or events, or concerning an existing legal problem of the prospective client, for the purpose of providing legal representation to the prospective client, when neither the person receiving the communication nor anyone acting on that person's behalf has requested the communication. The term does not include a communication initiated [~~communicating~~] by a family member of the person receiving a communication, a communication [~~communicating~~] by an attorney who has a prior or existing attorney-client relationship with the person receiving the communication, or communication by an attorney for [~~communicating with~~] a qualified nonprofit organization with the organization's members for the purpose of educating the organization's members to understand the law, [~~laymen~~] to recognize legal problems, to make intelligent selection of legal counsel, or to use available legal services. The term does not include an advertisement by an attorney through public media.

(2) In Section 2 of **S.B. 1227**, Section 38.12(d)(2)(A), Penal Code, after the word "occurred", add "unless the person involved in a vehicular accident designates a desire to be contacted on the form promulgated under Subsection (a), Section 45, Article 6701d (V.T.C.S.)".

(3) In Section 3 of **S.B. 1227**, Section 45(a), on page 10, at line 10, after "accident", delete the word "desires", and insert before "to be contacted", the following: "does or does not desire".

(4) Insert new Section 7 of **S.B. 1227**, to read as follows:

"Section 7. (a) Not later than June 1, 1994, the State Bar of Texas shall adopt rules governing lawyer advertising; and written solicitations to prospective clients. (b) A rule adopted under this Section shall not conflict with any other law."

(5) Renumber current Sections 7, 8, and 9, accordingly.

The amendments were read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendments to **S.B. 1227** by a viva voce vote.

(President in Chair)

FLOOR PRIVILEGES GRANTED

On motion of Senator Parker and by unanimous consent, floor privileges were granted to James Fields and C. J. Treadway, members of his staff, during the deliberation of **C.S.H.B. 1461.**

On motion of Senator Harris of Dallas and by unanimous consent, floor privileges were granted to Jo Betsy Norton of his staff during the deliberation of **C.S.H.B. 1461.**

COMMITTEE SUBSTITUTE HOUSE BILL 1461 ON THIRD READING

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

C.S.H.B. 1461, Relating to insurance regulation and to the continuation, powers and duties of the Texas Department of Insurance and the office of public insurance counsel; providing administrative penalties; making an appropriation.

The bill was read third time.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 1461** as follows:

(1) On page 44, line 13, strike the word "years" and replace with "year"

(2) On page 62, line 26, strike the phrase "State Board" and replace with "Texas Department"

(3) On page 102, line 15, delete SECTION 4.07, and renumber the subsequent sections accordingly.

(4) On page 116, line 24, insert "Plan" between "Insurance" and "Association"

(5) On page 196, line 3 and line 5, strike "or conservatorship"

(6) On page 196, line 6, strike "or conservator"

(7) On page 207, line 5, strike "Subsections (1) and (2)" and replace with"Subsection (a-1)"

(8) On page 208, line 13, strike "Subsections (1) and (2)" and replace with "Subsection (b-1)"

(9) On page 275, between lines 23 and 24, insert a new Section 12.39 to read as follows:

SECTION 12.39. Section 2(b), Article 21.14, Insurance Code is amended to read as follows:

(b) Nothing contained in this article shall be so construed as to affect or apply to orders, societies, or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business, and the ladies' society, or ladies' auxiliary to such orders, societies or associations, or any secretary of a Labor Union or organization, or any secretary or agent of any fraternal benefit society, which does not operate at a profit, except that a person who has had a license revoked under Section 16 of this article may not solicit or otherwise transact business under Chapter 10 of this code.

(10) On page 310, line 25, strike "member" and replace with "carrier"

(11) On page 310, line 25, strike "company" and replace with "carrier"

(12) On page 312, lines 14 and 15, strike "rate board" and replace with "commissioner"

(13) On page 312, line 20, strike "its" and replace with "a"

(14) On page 313, line 2, substitute "commissioner" for "board"

(15) On page 339, line 21, strike "their successors" and replace with "its successor"

(16) On page 339, line 24, strike the word "board" and replace with "commissioner"

(17) On page 342, line 5, strike the word "or"

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

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 1A

Amend **C.S.H.B. 1461** as follows:

Strike Floor Amendment No. 14, as amended by Floor Amendment No. 14A1 on second reading, and substitute the following:

1. Add a new appropriately numbered article to the bill to read as follows:

ARTICLE ____. CERTAIN INFORMATION RELATING TO RATES

SECTION _____.01. Section 4(a), Article 5.73, Insurance Code, is amended to read as follows: (a) The Board shall annually require an audit of any advisory organization that provides statistics or other information to the Board in a proceeding to set rates. The audit shall be conducted under rules adopted by the Board, at the expense of the advisory organization. The audit must examine the advisory organization's method of collecting, analyzing, and reporting data to assure the accuracy of data. The audit may examine source documents within individual companies. Except for individual company information, an audit is public information.

SECTION ____.02. Article 5.73, Insurance Code, is amended by adding Sections 4A, 4B, 4C and 4D as follows:

Sec. 4A. (a) An advisory organization may not receive from or supply to insurers transacting insurance in this state the information described in Section 1 of this article unless the advisory organization establishes a subsidiary that:

(1) is domiciled in this state;

(2) has an office in this state; and

(3) has a governing board composed of:

(A) an ex officio member appointed by the commissioner; and

(B) five representatives of property and casualty insurers licensed in this state who subscribe to or purchase products from the advisory organization.

(b) Each advisory organization shall file with the commissioner a copy of its constitution and bylaws, article of agreement or association, or certificate of incorporation and a copy of the rules governing its activities.

(c) Each advisory organization shall file with the commissioner a list showing each subscriber company doing business in this state and the

products or information the subscriber company purchases. The filing required by this subsection shall be made at least quarterly.

(d) On request by the commissioner, each advisory organization shall report to the department a summary of the actuarial assumptions, trend factors, economic factors, and other criteria used in trending data for companies doing business in this state.

Sec. 4B. Each insurer relying on prospective loss costs provided by an advisory organization must justify, by expert evidence, its need for that information on the grounds of insufficiency of that insurer's data and experience. Such justification may be made by affidavit by a qualified actuary or after notice and opportunity for a hearing. An insurer unable to demonstrate its need for prospective loss costs provided by an advisory organization may not file or use that information.

Sec. 4C. An insurer may not receive from an advisory organization prospective loss costs for personal automobile, homeowners', or dwelling fire insurance.

Sec. 4D. The select committee on rate and form regulation created under Article 1.50 of this code shall appoint an independent consulting firm to evaluate the activities of advisory organizations in this state, including their impact on competition in the insurance market, their use by insurers, and their impact on availability and affordability of coverage, and any other matters relevant to a determining their continued authorization. The committee shall include in its report to the legislature a recommendation for the future role of advisory organizations in this state.

SECTION ____.03. Section 5, Article 5.73, Insurance Code, is amended to read as follows:

Sec. 5. The authority granted under this article expires September 1, 1997 [~~1993~~].

SECTION ____.04. Article 21.69, Insurance Code, is amended to read as follows: Art. 21.69. PARALLEL STATISTICAL DATA COLLECTION [~~BOARD MAY CONTRACT FOR PREMIUM AND LOSS DATA~~].

(a) Except as provided in Article 5.58 of this code, the commissioner shall contract with one statistical entity for each line of insurance to compile and maintain historical premium and loss data pursuant to statistical plans adopted by the commissioner. A statistical entity designated by the commissioner must provide sufficient evidence of five years of experience in data collection, data maintenance, data quality control, accounting and related areas. [~~board may contract with any qualified entity to collect historical premium and loss data as defined by the board and pursuant to statistical plans promulgated or approved by the board.~~]

(b) An insurer may continue to provide historical premium and loss data to a statistical agent designated by the board prior to April 1, 1993, as required by a statistical plan in use on that date. The board shall receive that information, and the statistical agent may return that information to its subscribers. The board may utilize this information in all rate hearings.

(c) The select committee on rate and form regulation created under Article 1.50 of this code shall appoint an independent consulting firm to

evaluate the costs and benefits of each of the systems and include in its report to the legislature a recommendation for future data collection consistent with its recommendations on rates.

SECTION ____.05. Not later than December 31, 1993, each advisory organization governed by Article 5.73, Insurance Code, shall establish a subsidiary domiciled in this state as required by Section 4A(a), Article 5.73, Insurance Code, as added by this Act.

2. Renumber subsequent articles of this bill accordingly.

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

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.H.B. 1461** as follows:

On page 394, delete lines 3 through 5.

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

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 3

Amend **C.S.H.B. 1461** by striking Floor Amendment No. 23 adopted on second reading.

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

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 4

Amend **C.S.H.B. 1461** as follows:

(1) On page 64, line 5, insert "11," between "," and "and".

(2) On page 65, between lines 14 and 15, insert the following:

"(c) The comptroller by rule may change the dates for reporting and payment of taxes to improve operating efficiencies within the agency, so long as a system of semiannual prepayment of taxes imposed by this article is maintained [~~The State Board of Insurance may establish such rules, regulations, minimum standards, or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of this article~~].

Sec. 11. ANNUAL TAX RETURN. Each insurance carrier which is liable under this article for tax on premiums shall file a tax return annually[~~, under oath by two officers of such carrier,~~] on forms prescribed by the comptroller [~~State Board of Insurance~~]."

(3) On page 84, delete lines 20 through 27 and on page 85, delete lines 1 through 6 and substitute the following:

"(e) The commissioner shall advise the comptroller of the applicable rate of assessment no later than the date 45 days prior to the due date of the maintenance fee return for the period for which such fees are due. If

the commissioner has not advised the comptroller of the applicable rate by such date, the applicable rate shall be the rate applied in the previous period. If the commissioner advises the comptroller of the applicable rate of assessment after maintenance fees have been assessed pursuant to this subsection, the comptroller shall:

(1) advise each insurer in writing of the amount of any additional maintenance fees due; or

(2) refund any excess maintenance fees paid."

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

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 5

Amend **C.S.H.B. 1461** as follows:

Strike Amendment No. 12 on second reading and substitute:

(1) On page 403, line 19, add a new SECTION 20.24 to read as follows:

SECTION 20.24: Section 1: Amend Sec. 4.04, Article 5.76-2, Insurance Code, by adding a new Subsection (q) to read as follows:

"(q) The pass through allowances authorized in subsections (d) and (e) hereof shall be deemed exclusive subsequent to the effective date of this article, but other methods utilized prior to such effective date shall be deemed valid if consistent with the purpose of this article and if the premium resulting from their use is less than the premium which would have been charged for similarly rated risk in the Rejected Risk Fund."

Section 2. The validation made by this amendment shall govern any civil or regulatory proceeding except a civil proceeding pending in a court of competent jurisdiction on May 1, 1993, including civil proceedings filed on or before May 1, 1993, which are seeking class action status, whether or not the plaintiff or defendant classes have been certified.

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

Senator Harris of Dallas offered the following amendment to the bill:

Floor Amendment No. 6

Amend **C.S.H.B. 1461** at page 49, line 1, as follows:

1. Delete Section 3.03 of the bill and insert in lieu thereof the following:

SECTION 3.03. Amend Section 2(b), Article 1.14-1, Insurance Code, to read as follows:

(b) The provisions of this section do not apply to:

1. The lawful transaction of surplus lines insurance pursuant to Article 1.14-2.

2. The lawful transaction of reinsurance by insurers.

3. Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state

at the time of issuance, and which transactions are subsequent to the issuance of such policy.

4. Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside of this state which are reported and on which premium tax is paid in accordance with this Article.

5. Transactions in this state involving group life, health or accident insurance (other than credit insurance) and group annuities where the master policy of such groups was lawfully issued and delivered in a state in which the company was authorized to do an insurance business and such transactions are authorized by other statutes of this state.

6. Lawful transactions by servicing companies of the Texas workers' compensation employers' rejected risk fund pursuant to Section 4.08, Article 5.76-2.

7. Management and accounting activities in this state on behalf of a non-admitted captive insurance company that insures solely directors' and officers' liability insurance for the directors and officers of its parent and affiliated companies and/or the risks of its parent and affiliated companies. This provision does not exempt any insured or insurer from the payment of any applicable tax on premiums or any other applicable provision in this code.

2. Add a new Section 3.031 following Section 3.03 of the bill to read as follows:

Section 3.031. Amend Section 2(a)6, Article 1.14-1, Insurance Code, to read as follows:

6. Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subdivision shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer, its parent or affiliated companies.

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

Senator Harris of Tarrant offered the following amendment to the bill:

Floor Amendment No. 7

Amend **C.S.H.B. 1461** as follows:

(1) Strike Floor Amendment No. 17 on second reading.

(2) Amend **C.S.H.B. 1461** on page 121, line 27, after the word "property" by inserting the words "all commercial casualty."

And on page 122, line 2, before the word "fidelity" by inserting the word "automobile"

And on page 122, line 20, after the word "property" by inserting the words "all commercial casualty."

And on page 122, line 23, after the word "bond" by inserting the words "or an automobile insurance policy."

And on page 127, line 13, by adding a new Subsection (f) to read as follows:

(f) Policy forms for use with large risks are exempt from the requirements of Subsections (a), (b) and (e) of this section. For purposes of this subsection, "large risk" means:

(1) an insured that has total insured property values of $10 million or more;

(2) an insured that has total annual gross revenues of $20 million or more; or

(3) an insured that has a total premium of $50,000 or more for property insurance, $50,000 or more for general liability insurance, or $100,000 or more for multiperil insurance.

And on page 127, line 21, by adding a new SECTION 6.10 to read as follows:

SECTION 6.10 Article 5.15(h), Insurance Code, is amended to read as follows:

(h) Notwithstanding Subsection (a)-(g) of this article, [~~on and after October 1, 1991,~~] rates for general liability [~~and~~] commercial property, and all commercial casualty insurance coverage under this article are determined, and hearings related to those rates are conducted, as provided by Article 5.13-2 of this code. This subsection expires December 31, 1995.

And renumber all subsequent sections

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

Floor Amendment No. 8 was not offered.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 8A

Amend **C.S.H.B. 1461** by adding the following appropriately numbered section and by renumbering the remaining sections of the bill as appropriate:

SECTION ____ Article 21.52, Insurance Code, is amended by adding Section 3A to read as follows:

Sec. 3A. PROVISION OF PHYSICAL MODALITIES AND PROCEDURES

(a) A health insurer or licensed third party administrator may not deny reimbursement to a practitioner for the provision of covered services of physical modalities and procedures that are within the scope of such practitioner's practice provided such services are performed in strict conformity with applicable laws and regulations relating to the licensure

of the practitioner and with the terms of the insurance policy or other coverage agreement.

(b) A health maintenance organization or preferred provider organization may not deny reimbursement to a participating practitioner for services provided pursuant to a coverage agreement solely because of the type of practitioner who provided such services as long as the services are performed in strict conformity with applicable laws and regulations relating to the licensure of the practitioner and with the terms of the insurance policy or other coverage agreement.

(c) Nothing herein shall be construed to circumvent contractual provider network agreements between a health insurer or a third party administrator and licensed practitioners.

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

Floor Amendment No. 9 was not offered.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 9A

Amend **C.S.H.B. 1461** by striking Sections 15.04, 15.05, and 15.06 of the bill (relating to the legislative oversight committee).

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

Senator Harris of Tarrant offered the following amendment to the following bill:

Floor Amendment No. 10

Amend **C.S.H.B. 1461**, by adding the following section:

SECTION ___. Subdivision (11), Section 5, Article 21.28-C, Insurance Code, is amended to read as follows:

(11) "Net direct written premiums", when assessing other than the workers' compensation line of business, means direct premiums written in this state on insurance policies to which this Act applies, less return premiums on those policies and dividends paid or credited to policyholders on that direct business. The term does not include premiums on contracts between insurers or reinsurers. When assessing the workers' compensation line of business the term "net direct written premiums" includes the modified annual premium prior to the application of any deductible premium credit, less return premiums on those policies and dividends paid or credited to policyholders on that direct business. The term does not include premiums on contracts between insurers or reinsurers.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 11

Amend **C.S.H.B. 1461** as follows:

Strike Floor Amendment No. 4 on second reading and replace it with the following:

Amend SECTION 1.08 of **C.S.H.B. 1461** by deleting the current Article 1.24D and replacing it with the following:

Article 1.24.D. CONFIDENTIALITY OF UNDERWRITING GUIDELINES. (a) The department or the office of public insurance counsel may request and receive copies of an insurer's underwriting guidelines. Underwriting guidelines are confidential and the department or the office of public insurance counsel may not make the guidelines available to the public, provided, however, that the department or the office of public insurance counsel may disclose a summary of the underwriting guidelines in a manner that does not directly or indirectly identify the insurer who provided the guidelines.

(b) This law does not preclude the use of underwriting guidelines as evidence to prosecute a violation of this code. If guidelines are used to prosecute a violation of the law, all copies of those guidelines shall be presumed confidential and subject to a protective order until all appeals on the case have been exhausted. After the exhaustion of all appeals, if an insurer is found to have violated this code, the copies of the underwriting guidelines that were used as evidence of the violation shall no longer be presumed confidential.

(c) When such guidelines are furnished to the department or the office of public insurance counsel, only those persons within the department or the office of public insurance counsel with a need to know will have access to such guidelines. The department and the office of public insurance counsel shall establish internal control systems to limit such access and keep a record thereof.

(d) Violations of the provisions of this article shall be considered as violation of the Open Records Act, TEX. REV. CIV. STAT. ANN. Art. 6252-17a (Vernon Supp. 1993).

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

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 12

Amend **C.S.H.B. 1461** on page 376, insert new Sections 19.06 and 19.07 to read as follows and renumber subsequent sections accordingly:

SECTION 19.06. Section 2, Article 21.52B, Insurance Code, is amended by amending Subsection (b) to read as follows:

(b) This section does not prohibit:

(1) a provision of a policy from limiting the quantity or dosage supply of pharmaceutical products for which coverage is provided or providing financial incentives to encourage the beneficiary and prescribing physician to use a program that provides pharmaceutical products in quantities that result in cost savings to the insurance plan and beneficiary if the provision applies equally to all designated providers of pharmaceutical services under the policy; or

(2) a pharmacy card program that provides a [~~for an alternative~~] means of obtaining pharmaceutical services offered by the [~~such~~] policy through all designated providers of pharmaceutical services.

SECTION 19.07. Section 5, Article 21.52B, Insurance Code, is amended to read as follows:

Sec. 5. APPLICATION OF PROHIBITION. The provisions of Section 2 of this article do not apply to a self-insured [~~an~~] employee benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001, et seq.).

The amendment was read and was adopted by the following vote: Yeas 25, Nays 3.

Yeas: Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Lucio, Madla, Moncrief, Montford, Parker, Ratliff, Rosson, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson, Patterson, Shapiro.

Absent: Armbrister, Luna.

Absent-excused: Leedom.

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

The bill as amended was finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Leedom.

MESSAGE FROM THE HOUSE

House Chamber
May 27, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

The House conferees were discharged and the House has concurred in Senate amendments to **H.B. 2511** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 1434** by a non-record vote.

The House has adopted the Conference Committee Report on **H.B. 253** by a non-record vote.

The House has adopted the Conference Committee Report on **H.B. 1200** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 274** by a non-record vote.

The House has adopted the Conference Committee Report on **S.B. 426** by a non-record vote.

The House has refused to concur in Senate amendments to **H.B. 431** and has requested the appointment of a conference committee to consider

the differences between the two Houses. The House conferees are: Representatives Chisum, Chair; Maxey, Swinford, Corte, and Dear.

The House has refused to concur in Senate amendments to **H.B. 1064** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Erickson, Chair; Johnson, Sadler, Grusendorf, and Dear.

The House has refused to concur in Senate amendments to **H.B. 1158** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Craddick, Chair; Hamric, Heflin, Culberson, and A. Smith.

The House has refused to concur in Senate amendments to **H.B. 1432** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Uher, Chair; Holzheauser, Telford, Saunders, and Turner of Coleman.

The House has refused to concur in Senate amendments to **H.B. 1540** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Shields, Chair; Harris, Rudd, Alvarado, and Brimer.

The House has refused to concur in Senate amendments to **H.B. 1626** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Coleman, Chair; Alexander, Van De Putte, Romo, and Nieto.

The House has refused to concur in Senate amendments to **H.B. 2115** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Junell, Chair; Conley, Hernandez, Bomer, and Telford.

The House has refused to concur in Senate amendments to **H.B. 2333** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Johnson, Chair; Hochberg, McCoulskey, Hernandez, and West.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 339**. The House conferees are: Representatives Stiles, Chair; Campbell, Hightower, Telford, and Oakley.

H.C.R. 153, Designating the Grand 1894 Opera House of Galveston as the official opera house of Texas.

H.C.R. 167, Commending Reverend J. J. Roberson on the occasion of his installation as the new president of the Baptist Ministers Association of Houston and Vicinity.

The House has concurred in Senate amendments to **H.B. 2241** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 11.11 SUSPENDED
(Posting Rule)

On motion of Senator Ratliff and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Education might meet tomorrow.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Ratliff and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Education might consider **H.B. 326** tomorrow.

CONFERENCE COMMITTEE REPORT ON
SENATE BILL 798

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 25, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 798** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ARMBRISTER	CAMPBELL
HALEY	CHISUM
ROSSON	HAMRIC
WENTWORTH	GUTIERREZ
SHELLEY	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to liability insurance and similar coverage for political subdivisions and for certain governmental officials and employees.

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

SECTION 1. Section 41.012, Government Code, is amended to read as follows:

Sec. 41.012. LIABILITY INSURANCE. A county or district attorney may purchase, for himself and for his staff members, liability insurance, or similar coverage from a governmental pool operating under Chapter 119, Local Government Code, or a self-insurance fund or risk retention group operating under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), to insure against claims arising from the performance of his official duties from state or county funds appropriated or allocated for the expenses of his office or from accounts maintained by the county or district attorney, including but not limited to the fund created by charges assessed by the county or district attorney in connection with the collection of "insufficient fund" negotiable instruments.

SECTION 2. Subsection (c), Section 51.302, Government Code, is amended to read as follows:

(c) Each district clerk shall obtain an insurance policy or similar coverage from a governmental pool operating under Chapter 119, Local Government Code, to cover the district clerk and any deputy clerk against liabilities incurred through errors or omissions in the performance of official duties. The amount of the policy must be in an amount equal to the maximum amount of fees collected in any year during the term of office immediately preceding the term for which the insurance is obtained, except that the amount of the policy or other coverage document may not be for less than $10,000 nor more than $700,000. If the policy or other coverage document provides coverage for other county officials, the amount of the policy must be at least $1 million.

SECTION 3. Subsections (a) and (b), Section 82.003, Local Government Code, are amended to read as follows:

(a) The county clerk shall obtain an insurance policy or similar coverage from a governmental pool operating under Chapter 119 covering the clerk and each deputy clerk against liability incurred through errors and omissions in the performance of their official duties.

(b) The policy or other coverage document must be in an amount equal to the maximum amount of fees collected in any year during the term of office preceding the term for which the policy is to be obtained. However, the policy or other coverage document must be in an amount of at least $10,000 but is not required to exceed $500,000. If the policy or other coverage document provides coverage for other county officials, the policy or other coverage document must be in an amount of at least $1 million.

SECTION 4. Subsection (a), Section 119.002, Local Government Code, is amended to read as follows:

(a) On the adoption of a resolution by the commissioners courts of at least 10 counties in this state, the County Government Risk Management Pool is created to insure each county in this state that purchases coverage in the pool against liability for the [~~that county's~~] acts or omissions of that county and the officials and employees of that county under the law.

SECTION 5. Chapter 119, Local Government Code, is amended by adding Section 119.009 to read as follows:

Sec. 119.009. PARTICIPATION BY OTHER POLITICAL SUBDIVISIONS. (a) A political subdivision other than a county may participate in the County Government Risk Management Pool established under this chapter.

(b) A political subdivision participating in the pool under this section is entitled to the same coverage provided to a county and may participate under the same terms and conditions as a county.

SECTION 6. Subsection (a), Section 154.010, Local Government Code, is amended to read as follows:

(a) A warrant may be drawn on either the general fund or salary fund to pay any insurance premium or self-insurance pool contribution for the purpose of providing insurance or other coverage for the liabilities of an official or employee of the county, a district attorney who has all or part of the county within the district attorney's jurisdiction, or an official of any special purpose district located, in whole or in part, in the county arising from the performance of an official duty or a duty of employment as authorized by Section 157.041 or Chapter 119, Local Government Code, or by Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), or by the [~~The~~] Interlocal Cooperation Act (Chapter 791, Government Code [~~(Article 4413(32c), Vernon's Texas Civil Statutes~~]).

SECTION 7. Section 157.041, Local Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The commissioners court of a county may obtain insurance or similar coverage from a governmental pool operating under Chapter 119 or a self-insurance fund or risk retention group operating under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), for [~~insure~~] an official or employee of the county[~~,~~] including county and precinct peace officers designated by the commissioners court, a district attorney who has all or part of the county within the district attorney's jurisdiction, or an official of any special purpose district located, in whole or in part, in the county against liability arising from the performance of official duties or duties of employment.

(d) Coverage obtained from a pool operating under Chapter 119 or a self-insurance fund or risk retention group operating under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), is not insurance and, except as provided by Subsections (b) and (c), is not subject to regulation by the Texas Department of Insurance.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 702

Senator Leedom submitted the following Conference Committee Report:

Austin, Texas
May 26, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 702** 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.

LEEDOM	WOLENS
ELLIS	CONLEY
MADLA	ECKELS
SHAPIRO	LONGORIA
SHELLEY	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to application of the Texas Health Maintenance Organization Act to hospital districts.

BE ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (1), Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code), is amended to read as follows:

(1) "Person" means any natural or artificial person, including, but not limited to, individuals, partnerships, associations, organizations, trusts, hospital districts, or corporations.

SECTION 2. Subchapter C, Chapter 281, Health and Safety Code is amended by adding Section 281.0515 to read as follows:

Sec. 281.0515. PROCEDURES FOR HEALTH MAINTENANCE ORGANIZATION. A district may establish a health maintenance organization in accordance with the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) to provide or arrange for health care services for the residents of the district.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

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

CONFERENCE COMMITTEE REPORT ON SENATE JOINT RESOLUTION 49

Senator Montford submitted the following Conference Committee Report:

Austin, Texas
May 27, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.J.R. 49** 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	STILES
HARRIS OF DALLAS	JUNELL
SIBLEY	WILSON
HALEY	ECKELS
ARMBRISTER	HOLZHEAUSER
On the part of the Senate	On the part of the House

A JOINT RESOLUTION

proposing a constitutional amendment prohibiting a personal income tax without voter approval and dedicating the proceeds of the tax, if enacted, to education and property tax relief.

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

SECTION 1. Article VIII, Section 1(c), of the Texas Constitution is amended to read as follows:

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. Subject to the restrictions of Section 24 of this article, it [~~It~~] may also tax incomes of both natural persons and corporations other than municipal. Persons[~~, except that persons~~] engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

SECTION 2. Article VIII of the Texas Constitution is amended by adding Section 24 to read as follows:

Sec. 24. (a) A general law enacted by the legislature that imposes a tax on the net incomes of natural persons, including a person's share of partnership and unincorporated association income, must provide that the portion of the law imposing the tax not take effect until approved by a majority of the registered voters voting in a statewide referendum held on

the question of imposing the tax. The referendum must specify the rate of the tax that will apply to taxable income as defined by law.

(b) A general law enacted by the legislature that increases the rate of the tax, valorem tax relief.

(g) The net revenues remaining after the dedication of money from the tax under Subsection (f) shall be used for support of education, subject to legislative appropriation, allocation and direction.

(h) The maximum rate at which a school district may impose ad valorem maintenance and operation taxes is reduced by an amount equal to one cent per $100 valuation for each one cent per $100 valuation that the school district's ad valorem maintenance and operation tax is reduced by the minimum amount of money dedicated under Subsection (f) of this section, provided that a school district may subsequently increase the maximum ad valorem maintenance and operation tax rate if the increased maximum rate is approved by a majority of the voters of the school district voting at an election called and held for that purpose. The legislature by general law shall provide for the tax relief that is required by Subsection (f) and this subsection.

(i) Subsections (f) and (h) of this section apply to ad valorem maintenance and operation taxes levied by a school district on or after the first January 1 after the date on which a tax on the net incomes of natural persons, including a person's share of partnership and unincorporated association income, begins to apply to that income, except that if the income tax begins to apply on a January 1, Subsections (f) and (h) of this section apply to ad valorem maintenance and operation taxes levied on or after that date.

(j) A provision of this section prevails over a conflicting provision of Section 3 of Article VII to the extent of the conflict.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1993. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment prohibiting a personal income tax without voter approval, and if an income tax is enacted, dedicating the revenue to education and limiting the rate of local school taxes."

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 7

Senator Ratliff submitted the following Conference Committee Report:

Austin, Texas
May 27, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 7** have met

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

RATLIFF	LINEBARGER
HALEY	HERNANDEZ
LUCIO	OGDEN
LUNA	SADLER
SIBLEY	STILES
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to public school education and finance; providing civil penalties.

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

ARTICLE 1

SECTION 1.01. Title 2, Education Code, is amended by adding Chapter 36 to read as follows:

CHAPTER 36. EQUALIZED WEALTH LEVEL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 36.001. DEFINITIONS. In this chapter:

(1) "Equalized wealth level" means the wealth per student provided by Section 36.002.

(2) "Wealth per student" means the taxable value of property, as determined under Section 11.86, divided by the number of students in weighted average daily attendance.

(3) "Weighted average daily attendance" has the meaning assigned by Section 16.302, except that weighted average daily attendance is computed using the estimate of average daily attendance under Section 16.2541, and the estimate under Section 16.2541 is modified by including a student residing in a school district but attending school in another district in the estimate for the district of the student's residence and not of the district in which the student attends school.

Sec. 36.002. EQUALIZED WEALTH LEVEL. (a) Except as provided by Subsections (b) and (c), a school district may not have a wealth per student that exceeds $280,000.

(b) For the 1993-1994 school year, in accordance with a determination of the commissioner of education, the wealth per student that a school district may have after exercising an option under Section 36.003(2), (3), or (4) may not be less than the amount needed to maintain the amount of state and local revenue per weighted student for maintenance and operation of the district for the 1992-1993 school year if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or $1.375 on the $100 valuation of taxable property.

(c) For the 1994-1995 and 1995-1996 school years, in accordance with a determination of the commissioner of education, the wealth per student that a school district may have after exercising an option under Section 36.003(2), (3), or (4) may not be less than the amount needed to maintain the amount of state and local revenue per weighted student for maintenance

and operation of the district for the 1992-1993 school year if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or $1.50 on the $100 valuation of taxable property.

(d) For purposes of Subsections (b) and (c), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year by the quotient of the district's taxable value of property, as determined under Section 11.86, divided by 100.

Sec. 36.003. OPTIONS TO ACHIEVE EQUALIZED WEALTH LEVEL. A district with a wealth per student that exceeds the equalized wealth level may take any combination of the following actions to achieve the equalized wealth level:

(1) consolidation with another district as provided by Subchapter B;

(2) detachment of territory as provided by Subchapter C;

(3) purchase of average daily attendance credit as provided by Subchapter D;

(4) contracting for the education of nonresident students as provided by Subchapter E; or

(5) tax base consolidation with another district as provided by Subchapter F.

Sec. 36.004. ANNUAL REVIEW OF PROPERTY WEALTH. (a) Not later than July 15 of each year, the commissioner of education shall review the wealth per student of school districts in the state and shall notify:

(1) each district with wealth per student exceeding the equalized wealth level;

(2) each district to which the commissioner proposes to annex property detached from a district notified under Subdivision (1), if necessary, under Subchapter G; and

(3) each district to which the commissioner proposes to consolidate a district notified under Subdivision (1), if necessary, under Subchapter H.

(b) If, before the dates provided by this subsection, a district notified under Subsection (a)(1) has not successfully exercised one or more options under Section 36.003 that reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner shall order the detachment of property from that district as provided by Subchapter G. If that detachment will not reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner may not detach property under Subchapter G but shall order the consolidation of the district with one or more other districts as provided by Subchapter H. An agreement under Section 36.003(1) or (2) must be executed not later than September 1 immediately following the notice under Subsection (a). An election for an option under Section 36.003(3), (4), or (5) must be ordered before September 1 immediately following the notice under Subsection (a).

(c) A district notified under Subsection (a) may not adopt a tax rate for the tax year in which the district receives the notice until the

commissioner of education certifies that the district has achieved the equalized wealth level.

(d) A detachment and annexation or consolidation under this chapter:

(1) is effective for foundation school program funding purposes for the school year that begins in the calendar year in which the detachment and annexation or consolidation is agreed to or ordered; and

(2) applies to the ad valorem taxation of property beginning with the tax year in which the agreement or order is effective.

Sec. 36.005. COMPTROLLER AND APPRAISAL DISTRICT COOPERATION. The chief appraiser of each appraisal district and the comptroller shall cooperate with the commissioner and school districts in implementing this chapter.

Sec. 36.006. RULES. (a) The commissioner of education may adopt rules necessary for the implementation of this chapter. The rules may provide for the commissioner to make necessary adjustments to the provisions of Chapter 16, including providing for the commissioner, with the approval of the foundation school fund budget committee, to make an adjustment in the funding element established by Section 16.302, at the earliest date practicable, to the amount the commissioner believes, taking into consideration options exercised by school districts under this chapter and estimates of student enrollments, will match appropriation levels.

(b) As necessary for the effective and efficient administration of this chapter, the commissioner of education may modify effective dates and time periods for actions described by this chapter.

Sec. 36.007. COMMISSIONER TO APPROVE SUBSEQUENT BOUNDARY CHANGES. A school district that is involved in an action under this chapter that results in boundary changes to the district or in the consolidation of tax bases is subject to consolidation, detachment, or annexation under Chapter 19 only if the commissioner of education certifies that the change under Chapter 19 will not result in a district with a wealth per student that exceeds the equalized wealth level.

Sec. 36.0075. HOMESTEAD EXEMPTIONS. (a) The governing board of a school district that results from consolidation under this chapter, including a consolidated taxing district under Subchapter F, for the tax year in which the consolidation occurs may determine whether to adopt a homestead exemption provided by Section 11.13, Tax Code, and may set the amount of the exemption, if adopted, at any time before the school district adopts a tax rate for that tax year. This section applies only to an exemption that the governing board of a school district is authorized to adopt or change in amount under Section 11.13, Tax Code.

(b) This section prevails over any inconsistent provision of Section 11.13, Tax Code, or other law.

Sec. 36.008. TAX ABATEMENTS. (a) A tax abatement agreement executed by a school district that is involved in consolidation or in detachment and annexation of territory under this chapter is not affected and applies to the taxation of the property covered by the agreement as if executed by the district within which the property is included.

(b) The commissioner shall determine the wealth per student of a school district under this chapter as if any tax abatement agreement

executed by a school district on or after May 31, 1993, had not been executed.

Sec. 36.0085. TAX INCREMENT OBLIGATIONS. The payment of tax increments under Chapter 311, Tax Code, is not affected by the consolidation of territory or tax bases or by annexation under this chapter. In each tax year a school district paying a tax increment from taxes on property over which the district has assumed taxing power is entitled to retain the same percentage of the tax increment from that property that the district in which the property was located before the consolidation or annexation could have retained for the respective tax year.

Sec. 36.009. CONTINGENCY. (a) If any of the options described by Section 36.003 as applied to a school district are held invalid by a final decision of a court of competent jurisdiction, a school district is entitled to exercise any of the remaining valid options in accordance with a schedule approved by the commissioner of education.

(b) If a final order of a court of competent jurisdiction should hold each of the options provided by Section 36.003 invalid, the commissioner shall act under Subchapter G or H to achieve the equalized wealth level only after notice and hearing is afforded to each school district affected by the order. The commissioner shall adopt a plan that least disrupts the affected school districts. If because the exigency to adopt a plan prevents the commissioner from giving a reasonable time for notice and hearing, the commissioner shall timely give notice to and hold a hearing for the affected school districts, but in no event less than 30 days from time of notice to the date of hearing.

(c) If a final order of a court of competent jurisdiction should hold an option provided by Section 36.003 invalid and order a refund to a district of any amounts paid by a district choosing that option, the amount shall be refunded but held in reserve and not expended by the district until released by order of the commissioner of education. The commissioner shall order the release immediately on the commissioner's determination that, through one of the means provided by law, the district has achieved the equalized wealth level. The amount released shall be deducted from any state aid payable to the district according to a schedule adopted by the commissioner.

Sec. 36.010. DATE OF ELECTIONS. An election under this chapter for voter approval of an agreement entered by the board of trustees shall be held on a Tuesday or Saturday not more than 45 days after the date of the agreement. Section 41.001, Election Code, does not apply to the election.

Sec. 36.011. PROCEDURE. (a) Except as provided by Subchapter G, a decision of the commissioner under this chapter is appealable under Section 11.13(c).

(b) Any order of the commissioner issued under this chapter shall be given immediate effect and may not be stayed or enjoined pending any appeal.

(c) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) does not apply to a decision of the commissioner under this chapter.

(d) On the request of the commissioner, the secretary of state shall publish any rules adopted under this chapter in the Texas Register and the Texas Administrative Code.

SUBCHAPTER B. CONSOLIDATION BY AGREEMENT

Sec. 36.031. AGREEMENT. The governing boards of any two or more school districts may consolidate the districts by agreement in accordance with this subchapter to establish a consolidated district with a wealth per student equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner of education certifies that the consolidated district, as a result of actions taken under this chapter, will have a wealth per student equal to or less than the equalized wealth level.

Sec. 36.032. GOVERNING LAW. Except to the extent modified by the terms of the agreement, the consolidated district is governed by the applicable provisions of Subchapter C, Chapter 19, other than a provision requiring consolidating districts to be contiguous. The agreement may not be inconsistent with the requirements of this subchapter.

Sec. 36.033. GOVERNANCE PLAN. (a) The agreement among the consolidating districts may include a governance plan designed to preserve community-based and site-based decision making within the consolidated district, including the delegation of specific powers of the governing board of the district other than the power to levy taxes.

(b) The governance plan may provide for a transitional board of trustees during the first year after consolidation, but beginning with the next year the board of trustees must be elected from within the boundaries of the consolidated district from single-member districts drawn in accordance with the procedures provided by Section 23.024.

Sec. 36.034. INCENTIVE AID. (a) For the first and second school years after creation of a consolidated district under this subchapter, the commissioner of education shall adjust allotments to the consolidated district to the extent necessary to preserve the effects of an adjustment under Section 16.102, 16.103, or 16.104 to which either of the consolidating districts would have been entitled but for the consolidation.

(b) A district receiving incentive aid payments under this section is not entitled to incentive aid under Subchapter G, Chapter 23.

SUBCHAPTER C. DETACHMENT AND ANNEXATION BY AGREEMENT

Sec. 36.061. AGREEMENT. (a) By agreement of the governing boards of two school districts, territory may be detached from one of the districts and annexed to the other district if, after the action:

(1) the wealth per student of the district from which territory is detached is equal to or less than the equalized wealth level; and

(2) the wealth per student of the district to which territory is annexed is not greater than the greatest level for which funds are provided under Subchapter H, Chapter 16.

(b) The agreement is not effective unless the commissioner of education certifies that, after all actions taken under this chapter, the wealth per student of each district involved will be equal to or less than the applicable level permitted by Subsection (a).

Sec. 36.062. GOVERNING LAW. Except to the extent of any conflict with this chapter and except for any requirement that detached property must be annexed to a school district that is contiguous to the detached territory, the annexation and detachment is governed by Chapter 19.

Sec. 36.063. ALLOCATION OF APPRAISED VALUE OF DIVIDED UNIT. If portions of a parcel or other item of property are located in different school districts as a result of a detachment and annexation under this subchapter, the parcel or other item of property shall be appraised for taxation as a unit, and the agreement shall allocate the taxable value of the property between the districts.

Sec. 36.064. ALLOCATION OF INDEBTEDNESS. The annexation agreement may allocate to the receiving district any portion of the indebtedness of the district from which the territory is detached, and the receiving district assumes and is liable for the allocated indebtedness.

Sec. 36.065. NOTICE. As soon as practicable after the agreement is executed, the districts involved shall notify each affected property owner and the appraisal district in which the affected property is located.

SUBCHAPTER D. PURCHASE OF ATTENDANCE CREDIT

Sec. 36.091. AGREEMENT. A school district with a wealth per student that exceeds the equalized wealth level may execute an agreement with the commissioner of education to purchase attendance credits in an amount sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.

Sec. 36.092. CREDIT. (a) For each credit purchased, the weighted average daily attendance of the purchasing school district is increased by one student in weighted average daily attendance for purposes of determining whether the district exceeds the equalized wealth level.

(b) A credit is not used in determining a school district's scholastic population, average daily attendance, or weighted average daily attendance for purposes of Chapter 15 or 16.

Sec. 36.093. COST. The cost of each credit is an amount equal to the greater of:

(1) the amount of the district's total tax revenue per weighted student in average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of total tax revenue per weighted student in average daily attendance for the school year preceding the school year for which the contract is executed.

Sec. 36.094. PAYMENT. (a) A school district shall pay for credits purchased in accordance with a schedule adopted by the commissioner of education, with all payments being made not later than February 15 of the school year for which the agreement is in effect.

(b) Receipts shall be deposited in the state treasury and may be used only for foundation school program purposes.

Sec. 36.095. DURATION. An agreement under this section is valid for one school year and, subject to Section 36.096, may be renewed annually.

Sec. 36.096. VOTER APPROVAL. (a) After first executing an agreement under this section, the board of trustees shall order and conduct an election, in the manner provided by Sections 19.003(d)-(h), to obtain voter approval of the agreement.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Authorizing the board of trustees of _____ School District to purchase attendance credits from the state with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

SUBCHAPTER E. CONTRACT FOR EDUCATION OF NONRESIDENT STUDENTS

Sec. 36.121. AGREEMENT. The board of trustees of a district with a wealth per student that exceeds the equalized wealth level may execute an agreement to educate the students of another district in a number that, when the weighted average daily attendance of the students served is added to the weighted average daily attendance of the contracting district, is sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner of education certifies that the transfer of weighted average daily attendance will not result in any of the contracting districts' wealth per student being greater than the equalized wealth level and that the agreement requires an expenditure per weighted student in average daily attendance that is at least equal to the amount per weighted student in average daily attendance required under Section 36.093, unless it is determined by the commissioner that a quality educational program can be delivered at a lesser amount.

Sec. 36.122. VOTER APPROVAL. (a) After first executing an agreement under this section, the board of trustees of the district that will be educating nonresident students shall order and conduct an election, in the manner provided by Sections 19.003(d)-(h), to obtain voter approval of the agreement.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Authorizing the board of trustees of _____ School District to educate students of other school districts with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

Sec. 36.123. WADA COUNT. For purposes of Chapter 16, students served under an agreement under this subchapter are counted only in the weighted average daily attendance of the district providing the services.

SUBCHAPTER F. TAX BASE CONSOLIDATION

Sec. 36.151. AGREEMENT. The board of trustees of two or more school districts may execute an agreement to conduct an election on the creation of a consolidated taxing district for the maintenance and operation of the component school districts. The agreement is subject to approval by the commissioner of education. The agreement is not effective unless the commissioner of education certifies that the consolidated taxing district will have a wealth per student equal to or less than the equalized wealth level after all actions taken under this chapter.

Sec. 36.152. DATE OF ELECTION. Any agreement under this subchapter must provide for the ordering of an election to be held on the same date in each district.

Sec. 36.153. PROPOSITION. (a) The ballot shall be printed to provide for voting for or against the proposition: "Creation of a consolidated taxing district composed of the territory of _____ school districts, and authorizing the levy, assessment, and collection of annual ad valorem taxes for the maintenance of the public free schools within that taxing district at a rate not to exceed $_____ on the $100 valuation of taxable property."

(b) The rate to be included in the proposition shall be provided by the agreement among the districts but may not exceed the maximum rate provided by law for independent school districts.

Sec. 36.154. APPROVAL. The proposition is approved only if the proposition receives a favorable vote of the majority of the votes cast within each participating school district.

Sec. 36.155. CONSOLIDATED TAXING DISTRICT. A consolidated taxing district is a school district established for the limited purpose of exercising the taxing power authorized by Article VII, Section 3, of the Texas Constitution and distributing the revenue to its component school districts.

Sec. 36.156. GOVERNANCE. (a) The consolidated taxing district is governed by the boards of the component school districts acting jointly.

(b) Any action taken by the joint board must receive a favorable vote of a majority of each component district's board of trustees.

Sec. 36.157. MAINTENANCE TAX. (a) The joint board shall levy a maintenance tax for the benefit of the component school districts not later than September 1 of each year or as soon thereafter as practicable.

(b) Each component district shall bear a share of the costs of assessing and collecting taxes in proportion to the component district's share of weighted average daily attendance in the consolidated taxing district.

(c) A component district may not levy an ad valorem tax for the maintenance and operation of the schools.

(d) Notwithstanding Sections 20.04 and 20.09, the consolidated taxing district may levy, assess, and collect a maintenance tax for the benefit of the component districts at a rate that exceeds $1.50 per $100 valuation of taxable property to the extent necessary to pay contracted obligations on the lease purchase of permanent improvements to real property entered into on or before May 12, 1993. The proposition to impose taxes at the

necessary rate must be submitted to the voters in the manner provided by Section 20.04.

Sec. 36.158. REVENUE DISTRIBUTION. The consolidated taxing district shall distribute maintenance tax revenue to the component districts on the basis of the number of weighted students in average daily attendance in the component districts.

Sec. 36.159. TAXES OF COMPONENT DISTRICTS. (a) The governing board of a component school district of a consolidated taxing district that has consolidated for maintenance and operation purposes only may issue bonds and levy, pledge, and collect ad valorem taxes within that component district sufficient to pay the principal of and interest on those bonds as provided by Chapter 20.

(b) A component district levying an ad valorem tax under this section or Section 36.160(b)(1) is entitled to the guaranteed yield provided by Subchapter H, Chapter 16, for that portion of its tax rate that, when added to the maintenance tax levied by the consolidated taxing unit, does not exceed the limitation provided by Section 16.303.

Sec. 36.160. OPTIONAL TOTAL TAX BASE CONSOLIDATION. (a) An agreement executed under Section 36.151 may provide for total tax base consolidation instead of consolidation for maintenance and operation purposes only.

(b) Under an agreement providing for total tax base consolidation:

(1) the component districts may not levy maintenance or bond taxes, except to the extent necessary to retire bonds and other obligations issued before the effective date of the consolidation;

(2) the joint board may issue bonds and levy, pledge, and collect ad valorem taxes sufficient to pay the principal of and interest on those bonds, and issue refunding bonds, as provided by Chapter 20 for independent school districts; and

(3) to the end of the ballot proposition required under Section 36.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district after the effective date of the consolidation and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

(c) Under an agreement providing for total tax base consolidation:

(1) the component districts may provide for the consolidated taxing district to assume all of the indebtedness of all component districts; and

(2) to the end of the ballot proposition required by Section 36.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district or previously issued by the component school districts and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

SUBCHAPTER G. DETACHMENT AND ANNEXATION BY COMMISSIONER OF EDUCATION

Sec. 36.201. DEFINITION. In this subchapter, "mineral property" means a real property mineral interest that has been severed from the

surface estate by a mineral lease creating a determinable fee or by a conveyance that creates an interest taxable separately from the surface estate. A mineral property includes each royalty interest, working interest, or other undivided interest in the mineral property.

Sec. 36.202. DETERMINATION OF TAXABLE VALUE. (a) For purposes of this subchapter, the taxable value of an individual parcel or other item of property and the total taxable value of property in a school district resulting from the detachment of property from or annexation of property to that district is determined by applying the appraisal ratio for the appropriate category of property determined under Section 11.86 for the preceding tax year to the taxable value of the detached or annexed property determined under Title 1, Tax Code, for the preceding tax year.

(b) For purposes of this subchapter, the taxable value of all or a portion of a parcel or item of real property includes the taxable value of personal property having taxable situs at the same location as the real property.

Sec. 36.203. PROPERTY SUBJECT TO DETACHMENT AND ANNEXATION. (a) Only the following property may be detached and annexed under this subchapter:

(1) a mineral property;

(2) real property used in the operation of a public utility, including a pipeline, pipeline gathering system, or railroad or other rail system; and

(3) real property used primarily for industrial or other commercial purposes, other than property used primarily for agriculture or for residential purposes.

(b) If a final judgment of a court determines that a mineral interest may not be annexed and detached as provided by this subchapter without an attendant annexation and detachment of the surface estate or any other interest in the same land, the detachment and annexation of a mineral interest under this subchapter includes the surface estate and each other interest in the land covered by the mineral interest.

Sec. 36.204. TAXATION OF PERSONAL PROPERTY. Personal property having a taxable situs at the same location as real property detached and annexed under this subchapter is taxable by the school district to which the real property is annexed.

Sec. 36.205. DETACHMENT OF PROPERTY. (a) The commissioner shall detach property under this section from each school district from which the commissioner is required under Section 36.004 to detach property under this subchapter.

(b) The commissioner shall detach from each school district covered by Subsection (a) one or more whole parcels or items of property in descending order of the taxable value of each parcel or item, beginning with the parcel or item having the greatest taxable value, until the school district's wealth per student is equal to or less than the equalized wealth level, except as otherwise provided by Subsection (c).

(c) If the detachment of whole parcels or items of property, as provided by Subsection (a) would result in a district's wealth per student that is less than the equalized wealth level by more than $10,000, the commissioner may not detach the last parcel or item of property and shall

detach the next one or more parcels or items of property in descending order of taxable value that would result in the school district having a wealth per student that is equal to or less than the equalized wealth level by not more than $10,000.

(d) Notwithstanding Subsections (a)-(c), the commissioner may detach only a portion of a parcel or item of property if:

(1) it is not possible to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level under this subchapter unless some or all of the parcel or item of property is detached and the detachment of the whole parcel or item would result in the district from which it is detached having a wealth per student that is less than the equalized wealth level by more than $10,000; or

(2) the commissioner determines that a partial detachment of that parcel or item of property is preferable to the detachment of one or more other parcels or items having a lower taxable value in order to minimize the number of parcels or items of property to be detached consistent with the purposes of this chapter.

Sec. 36.206. ANNEXATION OF PROPERTY. (a) The commissioner shall annex property detached under Section 36.205 to school districts eligible for annexation in accordance with this section. A school district is eligible for annexation of property to it under this subchapter only if, before any detachments or annexations are made in a year, the district's wealth per student is less than the greatest level for which funds are provided under Subchapter H, Chapter 16.

(b) Property may be annexed to a school district without regard to whether the property is contiguous to other property in that district.

(c) The commissioner shall annex property detached from school districts beginning with the property detached from the school district with the greatest wealth per student before detachment, and continuing with the property detached from each other school district in descending order of the district's wealth per student before detachment.

(d) The commissioner shall annex the parcels or items of property detached from a school district to other school districts that are eligible for annexation of property in descending order of the taxable value of each parcel or item according to the following priorities:

(1) first, to the eligible school districts assigned to the same county as the school district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than $0.15 the total tax rate adopted for that year by the school district from which the property is detached;

(2) second, to the eligible school districts served by the same Regional Education Service Center as the district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than $0.10 the total tax rate adopted for that year by the school district from which the property is detached; and

(3) third, to other eligible school districts whose total adopted tax rate for the preceding tax year does not exceed by more than $0.05 the total tax rate adopted for that year by the school district from which the property is detached.

(e) If the districts identified by Subsection (d) for a school district are insufficient to annex all the property detached from the school district, the commissioner shall increase, for purposes of this section, all the maximum difference in tax rates allowed under Subsection (d) in increments of $0.01 until the districts are identified that are sufficient to annex all the property detached from the district.

(f) If only one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall annex property to that district until it reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter H, Chapter 16, by annexing whole parcels or items of property. Any remaining detached property shall be annexed to eligible school districts in the next priority group as provided by this section.

(g) If more than one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall first annex property to the district within the priority group to which could be annexed the most taxable value of property without increasing its wealth per student above the greatest level for which funds are provided under Subchapter H, Chapter 16, until that district reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter H, Chapter 16, by annexing whole parcels or items of property. Then any additional detached property shall be annexed in the same manner to other eligible school districts in the same priority group in descending order of capacity to receive taxable value of annexed property without increasing the district's wealth per student above the greatest level for which funds are provided under Subchapter H, Chapter 16. If every school district in a priority group reaches a wealth per student equal to the greatest level for which funds are provided under Subchapter H, Chapter 16, as nearly as possible, the remaining detached property shall be annexed to school districts in the next priority group in the manner provided by this section.

(h) For purposes of this section, a portion of a parcel or item of property detached in that subdivided form from a school district is treated as a whole parcel or item of property.

(i) The commissioner may order the annexation of a portion of a parcel or item of property, including a portion of property treated as a whole parcel or item under Subsection (h), if:

(1) the annexation of the whole parcel or item would result in the district eligible to receive it in the appropriate priority order provided by this section having a wealth per student greater than $10,000 more than the greatest level for which funds are provided under Subchapter H, Chapter 16; or

(2) the commissioner determines that annexation of portions of the parcel or item would reduce disparities in district wealth per student more efficiently than would be possible if the parcel or item were annexed as a whole.

(j) The commissioner may modify the priorities established by this section as the commissioner considers reasonable to minimize or reduce the number of school districts to which the property detached from a school district is annexed, to minimize or reduce the geographic dispersal of property in a school district, to minimize or reduce disparities in school district wealth per student that would otherwise result, or to minimize or reduce any administrative burden or expense.

(k) For purposes of this section, a school district is assigned to a county if the school district is assigned to that county in the 1992-1993 Texas School Directory published by the Central Education Agency.

Sec. 36.207. LIMITATIONS ON DETACHMENT AND ANNEXATION. The commissioner may detach and annex property under this subchapter only if:

(1) the property is not exempt from ad valorem taxation under Section 11.20 or 11.21, Tax Code; and

(2) the property does not contain a building or structure owned by the United States, this state, or a political subdivision of this state that is exempt from ad valorem taxation under law.

Sec. 36.208. ORDERS AND NOTICE. (a) The commissioner shall order any detachments and annexations of property under this subchapter not later than November 8 of each year.

(b) As soon as practicable after issuing the order under Subsection (a), the commissioner shall notify each affected school district and the appraisal district in which the affected property is located of the determination.

Sec. 36.209. TREATMENT OF SUBDIVIDED PROPERTY. (a) If the commissioner orders the detachment or annexation of a portion of a parcel or item of property under this subchapter, the order shall specify the portion of the taxable value of the property to be detached or annexed and may, but need not, describe the specific area of the parcel or item to be detached or annexed.

(b) If an order for the detachment or annexation of a portion of a parcel or item of property does not describe the specific area of the parcel or item to be detached or annexed, the commissioner, as soon as practicable after issuing the order, shall determine the specific area to be detached or annexed and shall certify that determination to the appraisal district for the county in which the property is located.

(c) If portions of a parcel or item of property are located in two or more school districts as the result of a detachment or annexation, the parcel or item shall be appraised for taxation as a unit, and the commissioner shall determine the portion of the taxable value of the property that is located in each of those school districts based on the square footage of the property, or any other reasonable method adopted by the commissioner.

Sec. 36.210. DUTIES OF CHIEF APPRAISER. (a) The chief appraiser of each appraisal district shall cooperate with the commissioner in administering this subchapter. The commissioner may require the chief appraiser to submit any reports or provide any information available to the chief appraiser in the form and at the times required by the commissioner.

(b) As soon as practicable after the detachment and annexation of property, the chief appraiser of the appraisal district for the school district from which the property is detached shall send a written notice of the detachment and annexation to the owner of any property taxable in a different school district as a result of the detachment and annexation. The notice must include the name of the school district by which the property is taxable after the detachment and annexation.

(c) The commissioner may reimburse an appraisal district for any costs incurred in administering this subchapter and may condition the reimbursement or the amount of the reimbursement on the timely submission of reports or information required by the commissioner or the satisfactory performance of any other action required or requested by the commissioner.

Sec. 36.211. STUDENT ATTENDANCE. A student who is a resident of real property detached from a school district may choose to attend school in that district or in the district to which the property is annexed. For purposes of determining average daily attendance under Section 16.006, the student shall be counted in the district to which the property is annexed. If the student chooses to attend school in the district from which the property is detached, the state shall withhold any foundation school funds from the district to which the property is annexed and shall allocate to the district in which the student is attending school those funds and the amount of funds equal to the difference between the state funds the district is receiving for the student and the district's cost in educating the student.

Sec. 36.212. BOND TAXES. Property detached from a school district is released from the obligation for any tax to pay principal and interest on bonds authorized by the district before detachment. The property is subject to any tax to pay principal or interest on bonds authorized by the district to which the property is annexed whether authorized before or after annexation.

Sec. 36.213. DETERMINATION BY COMMISSIONER FINAL. A decision or determination of the commissioner of education under this subchapter is final and not appealable.

SUBCHAPTER H. CONSOLIDATION BY COMMISSIONER OF EDUCATION

Sec. 36.251. COMMISSIONER ORDER. If the commissioner of education is required under Section 36.004 to order the consolidation of districts, the consolidation is governed by this subchapter. The commissioner's order shall be effective on a date determined by the commissioner, but not later than the earliest practicable date after November 8.

Sec. 36.252. SELECTION CRITERIA. (a) In selecting the districts to be consolidated with a district that has a property wealth greater than the equalized wealth level, the commissioner shall select one or more districts with a wealth per student that, when consolidated, will result in a consolidated district with a wealth per student equal to or less than the equalized wealth level. In achieving that result, the commissioner shall give priority to school districts in the following order:

(1) first, to the contiguous district that has the lowest wealth per student and is located in the same county;

(2) second, to the district that has the lowest wealth per student and is located in the same county;

(3) third, to a contiguous district with a property wealth below the equalized wealth level that has requested the commissioner that it be considered in a consolidation plan;

(4) fourth, to include as few districts as possible that fall below the equalized wealth level within the consolidation order that have not requested the commissioner to be included;

(5) fifth, to the district that has the lowest wealth per student and is located in the same regional education service center area; and

(6) sixth, to a district that has a tax rate similar to that of the district that has a property wealth greater than the equalized wealth level.

(b) The commissioner may not select a district that has been created as a result of consolidation by agreement under Subchapter B to be consolidated under this subchapter with a district that has a property wealth greater than the equalized wealth level.

(c) In applying the selection criteria specified by Subsection (a), if more than two districts are to be consolidated, the commissioner shall select the third and each subsequent district to be consolidated by treating the district that has a property wealth greater than the equalized wealth level and the district or districts previously selected for consolidation as one district.

Sec. 36.253. GOVERNANCE. (a) Until the initial trustees elected as provided by Subsection (b) have qualified and taken office, a district consolidated under this subchapter is governed by a transitional board of trustees consisting of the board of trustees of the district having the greatest student membership on the last day of the school year preceding the consolidation plus one member of the board of trustees of each other consolidating district selected by that board.

(b) The transitional board of trustees shall divide the consolidated district into nine single-member trustee districts in accordance with the procedures provided by Section 23.024. The transitional board shall order an election for the initial board of trustees to be held on the first January uniform election date after the effective date of a consolidation order.

(c) Members of the board of trustees of a consolidated district serve staggered terms of office for four years.

(d) Section 19.058 applies to districts consolidated under this subchapter.

Sec. 36.254. DISSOLUTION OF CONSOLIDATED DISTRICT. (a) If the legislature abolishes ad valorem taxes for public school maintenance and operations and adopts another method of funding public education, the board of trustees of a consolidated district created under this subchapter may dissolve the consolidated district, provided that the dissolution is approved by a majority of those voters residing within the district participating in an election called for the purpose of approving the dissolution of the consolidated school district.

(b) If a consolidated district is dissolved, each of the former districts is restored as a separate district and is classified as an independent district.

(c) Title to real property of the consolidated district is allocated to the restored district in which the property is located. Title to proportionate shares of the fund balances and personal property of the consolidated district, as determined by Subsection (e), are allocated to each restored district.

(d) Each of the restored districts assumes and is liable for:

(1) indebtedness of the consolidated district that relates to real property allocated to the district; and

(2) a proportionate share, as determined by Subsection (e), of indebtedness of the consolidated district that does not relate to real property.

(e) A restored district's proportionate share of fund balances, personal property, or indebtedness is equal to the proportion that the number of students in average daily attendance in the restored district bears to the number of students in average daily attendance in the consolidated district.

Sec. 36.255. FUND BALANCES. Fund balances of a school district consolidated under this subchapter may be used only for the benefit of the schools within the district that generated the funds.

Sec. 36.256. EMPLOYMENT CONTRACTS. A consolidated district created under this subchapter shall honor an employment contract entered into by a consolidating district.

Sec. 36.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS AND TRANSPORTATION ALLOTMENT. The budget of the consolidated district must apply the benefit of the adjustment or allotment to the schools of the consolidating district to which Section 16.103, 16.104, or 16.156 would have applied in the event that the consolidated district still qualifies as a small or sparse district.

SECTION 1.02. (a) Subsection (a), Section 18.03, Education Code, is amended to read as follows:

(a) A county-unit system may not be adopted under this chapter after May 1, 1993. A system purportedly created after that date is dissolved September 1, 1993. This subsection does not affect the existence or operation of a county-unit system adopted before that date. [~~Any county in this state may, at an election called for that purpose under the provisions of this chapter and to the extent herein provided, adopt a county-unit system of education for the purpose of levying, assessing, and collecting a school equalization tax and for such other administrative purposes as are authorized in this chapter.~~]

(b) Sections 18.04, 18.21, 18.22, 18.23, 18.24, and 18.31, Education Code, are repealed.

SECTION 1.03. (a) Notwithstanding any provision of Chapter 36, Education Code, as added by this Act, this section applies to actions in 1993 to achieve the equalized wealth level.

(b) The commissioner shall make the determinations of wealth per student not later than August 30, 1993. The commissioner may use wealth and weighted student data from the current year or the preceding school year for purposes of those determinations. The commissioner shall

immediately notify each district that exceeds the equalized wealth level and each district with which the commissioner intends to consolidate that district under Subchapter G, Chapter 36, Education Code, as added by this Act.

(c) Notwithstanding Section 36.006(b), Education Code, as added by this Act, if not later than October 19, 1993, a school district notified under Section 36.004(a)(1), Education Code, as added by this Act, has not exercised one or more options under Section 36.003, Education Code, as added by this Act, that reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner of education, not later than November 8, 1993, shall order detachment of territory as provided by Subchapter G, Chapter 36, Education Code, as added by this Act. If detachment under that subchapter will not reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner of education shall order the consolidation of the district with one or more other districts as provided by Subchapter H, Chapter 36, Education Code, as added by this Act.

SECTION 1.04. This article takes effect immediately.

ARTICLE 2

SECTION 2.01. Chapter 16, Education Code, is reenacted and amended to read as follows:

CHAPTER 16. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 16.001. STATE POLICY. (a) It is the policy of the State of Texas that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to his or her educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

(b) The public school finance system of the State of Texas shall adhere to a standard of neutrality which provides for substantially equal access to similar revenue per student at similar tax effort, considering all state and local tax revenues of districts after acknowledging all legitimate student and district cost differences.

Sec. 16.002. PURPOSE OF FOUNDATION SCHOOL PROGRAM. (a) The purposes of the Foundation School Program set forth in this chapter are to guarantee that each school district in the state has:

(1) adequate resources to provide each eligible student a basic instructional program and facilities suitable to the student's 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 and additional funds for facilities.

Sec. 16.003. STUDENT ELIGIBILITY. (a) A student is entitled to the benefits of the Foundation School Program if he is 5 years of age or older and under 21 years of age at the beginning of the scholastic year and has not graduated from high school.

(b) A student to whom Subsection (a) of this section does not apply is entitled to the benefits of the Foundation School Program if the student is enrolled in a prekindergarten class under Section 21.136 of this code.

(c) The commissioner of education, in consultation with the Commissioner of Human Services, shall monitor and evaluate prekindergarten programs in the State of Texas as to their developmental appropriateness. Furthermore, the commissioner of education, in consultation with the Commissioner of Human Services, shall evaluate the potential for coordination on a statewide basis of prekindergarten programs with government-funded early childhood care and education programs such as child care administered under Chapter 44 of the Human Resources Code and federal Head Start programs. This evaluation shall utilize recommendations contained in the report to the 71st Legislature required by Chapter 717, Acts of the 70th Legislature, Regular Session, 1987. For the purpose of providing cost-effective care for children during the full work day with developmentally appropriate curriculum, the commissioners shall investigate the use of existing child care program sites as prekindergarten sites. Following the evaluation required by this section, the commissioners, in cooperation with school districts and other program administrators, shall integrate programs, staff, and program sites for prekindergarten, child care, and federal Head Start programs to the greatest extent possible.

(d) A child may be enrolled in the first grade if he is at least six years of age at the beginning of the scholastic year or has been enrolled in the first grade or has completed kindergarten in the public schools in another state prior to transferring to a Texas public school.

Sec. 16.005. ADMINISTRATION OF THE PROGRAM. The commissioner of education, in accordance with the rules of the State Board of Education, shall take such action and require such reports consistent with the terms of this chapter as may be necessary to implement and administer the Foundation School Program.

Sec. 16.006. AVERAGE DAILY ATTENDANCE. (a) In this chapter:

(1) for the 1993-1994 and 1994-1995 school years, average daily attendance is determined by the daily attendance as averaged each month of the minimum school year as described under Section 16.052(a); and

(2) for the 1995-1996 school year and each year thereafter, average daily attendance is the quotient of the sum of attendance for each day of the minimum school year as described under Section 16.052(a) and for each day approved by the commissioner of education for an extended year program under Section 21.562 divided by the number of days in the minimum school year [~~of this code~~].

(b) A school district that experiences a decline of two percent or more in average daily attendance as a result of the closing or reduction in

personnel of a military base shall be funded on the basis of the actual average daily attendance of the immediately preceding school year.

(c) The commissioner of education shall adjust the average daily attendance of school districts that have a significant percentage of students whose parent or guardian is a migrant worker. For the purposes of this subsection, "migrant worker" has the meaning assigned by Section 35.029 [~~21.5515~~] of this code.

(d) The commissioner may adjust the average daily attendance of a school district in which a disaster, flood, extreme weather condition, fuel curtailment, or other calamity has a significant effect on the district's attendance.

Sec. 16.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS). (a) Each school district [~~and each county education 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.

(b) Each school district shall use a uniform accounting system adopted by the commissioner of education for the data required to be reported for the Public Education Information Management System.

(c) Annually, the commissioner of education shall review the Public Education Information Management System and shall repeal or amend rules that require school districts to provide information through the Public Education Information Management System that is not necessary or useful. In reviewing and revising the Public Education Information Management System, the commissioner shall develop rules to ensure that the system provides useful, accurate, and timely information on student demographics and academic performance, personnel, and school district finances. [~~The Central Education Agency shall report annually to the Legislative Education Board the financial status of each county education district. The report shall include the total state and local education revenues for each tier of the Foundation School Program.~~]

Sec. 16.008. EQUALIZED FUNDING ELEMENTS. (a) The Legislative Education Board shall adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of a biennium of the qualified funding elements under Section 16.256(e) of this code necessary to achieve the state policy under Section 16.001 of this code not later than the 1994-1995 school year and for each school year thereafter.

(b) Not [~~Beginning in 1992, not~~] later than October 1 preceding each regular session of the legislature, the board shall report the equalized funding elements to the foundation school fund budget committee, the commissioner of education, and the legislature.

[~~Sec. 16.009. REVENUE LIMIT. (a) The revenue limit is an amount equal to 110 percent of the amount of state and local funds guaranteed under the Foundation School Program per student in weighted average daily attendance to each school district at a total tax rate of $0.25 per $100 of taxable value of property as calculated for the 1994-1995 school year.~~

[~~(b) Not later than April 15, the commissioner of education shall~~

~~estimate the revenue limit for each school district for the current school year and shall certify that amount to each school district.~~

[~~(c) Not later than August 15 of each year the commissioner of education shall determine as nearly as possible for the current school year:~~

[~~(1) the total amount of state and local funds per student in weighted average daily attendance available in each school district; and~~

[~~(2) the total amount of state and local funds per student in weighted average daily attendance required for debt service in each school district.~~

[~~(d) The commissioner shall determine the total number of students in weighted average daily attendance in school districts in which the amount specified in Subsection (c)(1) of this section, less the amount specified in Subsection (c)(2) of this section, exceeds the revenue limit.~~

[~~(e) If the total number of students in weighted average daily attendance in districts with state and local revenues exceeding the revenue limit equals or exceeds two percent of the total number of students in weighted average daily attendance for the current school year, no school district may levy a tax at a rate that would result in an amount of state and local funds, excluding funds required for debt service, during the next school year that exceeds the revenue limit, except that those districts exceeding the revenue limit may maintain during the next school year the total amount of state and local funds per student in weighted average daily attendance for the current school year. The commissioner shall notify those districts in which revenues are subject to the limitation imposed in this subsection.~~

[~~(f) In this section:~~

[~~(1) "Weighted student in average daily attendance" has the meaning assigned in Section 16.302 of this code.~~

[~~(2) "Taxable value of property" has the meaning assigned in Section 11.86 of this code.~~

[~~Sec. 16.010. DEFINITION. In this chapter, "school district" does not include a county education district unless expressly included.~~

[~~Sec. 16.011. NOTICE OF YIELDS TO BE PUBLISHED. (a) Not earlier than the 30th day or later than the seventh day before the date of adopting a tax rate for the years 1991, 1992, 1993, and 1994, a school district shall publish the following notice, using the yields and tax rates certified by the commissioner:~~

[~~"NOTICE OF COMPARABLE TAX RATES AND REVENUES~~

[~~"The legislature has enacted a statute on school funding to comply with a court mandate enforcing the state constitution. Under prior statutes, the tax rate for last year provides _____ per student in state and local revenues. Under this statute, that same rate now provides _____ per student in state and local revenues.~~

[~~"State law only requires a minimum tax rate of _____ for county education districts. State law does not require a school district to adopt additional taxes. Neither does state law require a school district to adopt a tax rate that maximizes the receipt of state funds.~~

[~~"The board of trustees of the _____ School District hereby gives notice that it is considering the adoption of a tax rate of _____ that will provide _____ per student in state and local revenues."~~

[~~(b) If a district is required to give public notice of a hearing under Section 26.06, Tax Code, the notice described by Subsection (a) of this section may be included in the required notice under Section 26.06, Tax Code.~~

[~~(c) The notice described by Subsection (a) of this section shall be published in the two newspapers with the largest circulation within the school district unless only one newspaper is in general circulation within the district. The notice may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline must be 18-point or larger type.~~

[~~(d) The notice described by Subsection (a) of this section must also be included in the tax bill or a separate statement accompanying the tax bill.~~

[~~(e) The commissioner shall adopt rules to implement this section.~~

[~~(f) This section expires January 1, 1995.~~]

SUBCHAPTER B. REQUIREMENTS FOR DISTRICT PARTICIPATION IN THE FOUNDATION SCHOOL PROGRAM FUND

Sec. 16.051. REQUIRED COMPLIANCE. In order to receive financial support from the Foundation School Fund, a school district must comply with the standards set forth in this subchapter.

Sec. 16.052. OPERATION OF SCHOOLS; TEACHER PREPARATION AND STAFF DEVELOPMENT. (a) Each school district must provide for not less than 180 days of instruction for students and not less than three days of preparation for teachers for each school year, except as provided in Subsection (c) of this section.

(b) Each school district must provide for not less than 20 hours of staff development training under guidelines provided by the commissioner of education. The training provided must include technology training and must occur during regular hours of required teacher service. On the request of a teacher, a school district may credit the teacher compensatory time to be applied toward the number of training hours required under this subsection for workshops, conferences, or other professional training that the teacher has attended.

(c) The commissioner of education may approve the operation of schools for less than the number of days of instruction and teacher preparation otherwise required when disasters, floods, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of the school.

(d) Each school district may reserve three hours of the first preparation day provided each school year under Subsection (a) of this section for faculty staff meetings.

(e) The staff development required by this section must be predominantly campus-based, for the purpose of improving student achievement, and planned with the involvement of the campus school committee established under Section 21.931 of this code. Campus staff development may include activities that enable the campus staff to plan together, to enhance existing skills, to share effective strategies, to reflect on curricular and instructional issues, to analyze student achievement results, to reflect on means of increasing student achievement, to study

research, to practice new methods, to identify students' strengths and needs, to develop meaningful programs for students, to appropriately implement site-based decision making, and to conduct action research. Staff development activities may include study teams, individual research, peer coaching, workshops, seminars, conferences, and other reasonable activities that have the potential to improve student achievement.

Sec. 16.053. ACCREDITATION. Each school district must be accredited by the Central Education Agency.

Sec. 16.054. STUDENT/TEACHER RATIOS; CLASS SIZE. (a) Except as provided by Subsection (b) of this section, each school district must employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance.

(b) A school district may not enroll more than 22 students in a kindergarten, first, second, third, or fourth grade class. This requirement shall not apply during the last 12 weeks of any school year.

(c) In determining the number of students to enroll in any class, a district shall consider the subject to be taught, the teaching methodology to be used, and any need for individual instruction.

(d) On application of a school district, the commissioner may except the district from the limits in Subsection (b) of this section if the commissioner finds the limits work an undue hardship on the district. An exception expires at the end of the semester for which it is granted, and the commissioner may not grant an exception for more than one semester at a time.

(e) The commissioner shall report to the legislature each biennium regarding compliance with this section. The report must include:

(1) a statement of the number of school districts granted an exception under Subsection (d) of this section; and

(2) an estimate of the total cost incurred by school districts in that biennium in complying with this section.

Sec. 16.055. COMPENSATION OF PROFESSIONAL AND PARAPROFESSIONAL PERSONNEL. (a) A school district must pay each employee who is qualified for and employed in a position classified under the Texas Public Education Compensation Plan set forth in Section 16.056 of this chapter not less than the minimum monthly base salary, plus increments for teaching experience, specified for the position.

(b) Contracts for personnel shall be made on the basis of a minimum of 10 months' service, which must include the number of days of instruction for students and days of preparation for personnel required by Section 16.052 of this code. The days of preparation required herein shall be conducted by local boards of education under rules and regulations established by the State Board of Education that are consistent with the state accreditation standards for program planning, preparation, and improvement. Personnel employed for more than 10 months shall be paid not less than the minimum monthly base pay plus increments for experience for each month of actual employment. Personnel employed for 11 months at pay grades 1-11 must render 202 days of service, and personnel employed for 12 months at pay grades 1-11 must render 220

days of service. Personnel employed for 11 months at pay grades 12-18 must render 207 days of service, and personnel employed for 12 months at pay grades 12-18 must render 226 days of service. However, the number of days of service required by this subsection may be reduced by the commissioner under Section 16.052(c) of this code, and the reduction shall not reduce the total salaries of personnel.

(c) Notwithstanding Subsection (b) of this section, a vocational agriculture teacher employed for 12 months shall render 226 days of service regardless of pay grade.

Sec. 16.056. TEXAS PUBLIC EDUCATION COMPENSATION PLAN. (a) School district personnel who are qualified for and employed in positions described in Subsection (d) of this section shall be paid not less than the monthly base salary, plus increments for teaching experience, set forth in Subsection (c) of this section, or greater amounts provided by appropriation.

(b) Each individual shall advance one step per 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

(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

(e) With the approval of the State Board of Education, the commissioner of education may add additional positions and months of service to the Texas Public Education Compensation Plan to reflect curriculum and program changes authorized by law. With the approval of the board, the commissioner shall also develop policies for the implementation and administration of the compensation plan.

(f) Each person employed in the public schools of this state who is an educational aide, teacher trainee, or nondegree teacher or who is assigned to a position classified under the Texas Public Education Compensation Plan must be certified according to the certification requirements or standards for each position as established by rule adopted by the State Board of Education. However, additional certification may not be required of a person holding a valid state license as a speech language pathologist or audiologist. Persons other than those holding such a license may only be employed to render such services if an acceptable licensed applicant is not available.

(g) The State Board of Education shall prescribe the general duties and required preparation and education for educational aides, teacher trainees, and nondegree teachers and for the positions listed in Subsection (d) of this section under the circumstances described therein.

(h) In determining the placement of a teacher on the salary schedule under Subsection (c) of this section, a district shall credit the teacher for each year of experience, whether or not the years are consecutive. Notwithstanding the provision of this subsection, no teacher shall be placed on the salary schedule at a step above the step where the teacher would have been placed had that teacher remained in continuous service.

[~~Sec. 16.057. Career Ladder Salary Supplement. (a) Except as provided by Subsection (c) of this section, each teacher on level two, three, or four of a career ladder is entitled to the following annual supplement in addition to the minimum salary set by this subchapter:~~

[~~Level 2 ..... $2,000~~

[~~Level 3 ..... $4,000~~

[~~Level 4 ..... $6,000~~

[~~(b) If the district pays more than the state minimum salary prescribed by this subchapter, the teacher is entitled to the career ladder supplement in addition to the amount otherwise paid by the district for the teacher's step.~~

[~~(c) If the allotment under Section 16.158 of this code that is designated for support of the career ladder will not fully fund the supplements under this section:~~

[~~(1) the district may reduce the supplements to not less than the following:~~

[~~Level 2 ..... $1,500~~
[~~Level 3 ..... $3,000~~
[~~Level 4 ..... $4,500~~

~~or;~~

[~~(2) provide for stricter performance criteria than that provided under Section 13.302 of this code, subject to the approval of the State Board of Education; or~~

[~~(3) take action under both Subdivisions (1) and (2) of this subsection.~~]

SUBCHAPTER C. BASIC ENTITLEMENT

Sec. 16.101. BASIC ALLOTMENT. For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or vocational education programs, for which an additional allotment is made under Subchapter D of this chapter, a district is entitled to an allotment of $2,300 [~~$2,200 for the 1991-1992 school year, $2,400 for the 1992-1993 school year, $2,600 for the 1993-1994 school year, and $2,800 for the 1994-1995 school year and thereafter~~] or a greater amount adopted by the foundation school fund budget committee under Section 16.256 of this code [~~for the 1993-1994 school year and each school year thereafter~~]. A greater amount for any school year may be provided by appropriation.

Sec. 16.102. COST OF EDUCATION ADJUSTMENT. (a) The basic allotment for each district is adjusted to reflect the geographic variation in known resource costs and costs of education due to factors beyond the control of the school district. [~~Except as provided by this section, the adjustment is that provided under Section 16.206 of this code.~~]

(b) The adjustment for the 1993-1994 and 1994-1995 [~~1991-1992 and 1992-1993~~] school years is the cost of education index and formula adopted in December 1990 by the foundation school fund budget committee. The [~~For the 1991-1992 and 1992-1993 school years, the~~] commissioner of education shall recalculate the cost of education index for school districts that are eligible for the adjustment under Section 16.103 of this code, excluding from the computation the calculation for the diseconomies of scale component and substituting a value of 1.00. Beginning with the 1995-1996 school year, the foundation school fund budget committee shall determine the cost of education adjustment under Section 16.256. [~~This subsection expires September 1, 1993.~~]

Sec. 16.103. SMALL DISTRICT ADJUSTMENT. (a) 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 average daily attendance for which the district is entitled to an allotment under Section 16.101 of this code; and

(3) "ABA" is the adjusted basic allotment determined under Section 16.102 of this code.

(b) The basic allotment [~~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) X .0004)) X ABA

(c) The basic allotment [~~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) X .00025)) X ABA

[~~(c) This section expires September 1, 1993.~~]

Sec. 16.1031. USE OF SMALL DISTRICT ADJUSTMENT IN CALCULATING SPECIAL ALLOTMENTS. In determining the amount of a special allotment under Subchapter D of this chapter for a district to which Section 16.103 of this code applies, a district's adjusted basic allotment is considered to be the district's adjusted allotment determined under Section 16.103. [~~This section expires September 1, 1993.~~]

Sec. 16.104. SPARSITY ADJUSTMENT. Notwithstanding Sections 16.101, 16.102, and 16.103 of this code, a school district that has fewer than 130 students in average daily attendance shall be provided an adjusted basic allotment on the basis of 130 average daily attendance if it offers a kindergarten through grade 12 program and has prior or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose prior or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided an adjusted basic allotment on the basis of 75 average daily attendance. An average daily attendance of 60 students shall be the basis of providing the adjusted basic allotment if a district offers a kindergarten through grade 6 program and has prior or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district. [~~This section expires September 1, 1993.~~]

SUBCHAPTER D. SPECIAL ALLOTMENTS

Sec. 16.151. SPECIAL EDUCATION. (a) For each student in average daily attendance in a special education program under Subchapter N, Chapter 21, in a mainstream instructional arrangement, a school district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 1.1. For each full-time equivalent student in average daily attendance in a special education program under Subchapter N, Chapter 21, of this code, in an instructional arrangement other than a mainstream instructional arrangement, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as follows:

Homebound	5.0
Hospital class	3.0 [~~5.0~~]
Speech therapy	5.0 [~~7.11~~]
Resource room	3.0 [~~2.7~~]
Self-contained, mild and moderate, regular campus	3.0 [~~2.3~~]

Self-contained, severe, regular campus ..... 3.0 [~~3.5~~]
Self-contained, separate campus 2.7
Multidistrict class ..... 2.7 [~~3.5~~]
Nonpublic day school ..... 1.7 [~~3.5~~]
Vocational adjustment class 2.3
Community class ..... 2.7 [~~3.5~~]
[~~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 4.0 [~~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 2.8 [~~5.0~~].

(c) Beginning with the 1995-1996 school year, the self-contained, separate campus; multidistrict class; and community class instructional arrangements shall be combined into a single instructional arrangement known as the off home campus instructional arrangement. For funding purposes, the number of contact hours credited per day for each student in the off home campus instructional arrangement may not exceed the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year.

(d) Beginning with the 1995-1996 school year, for funding purposes the contact hours credited per day for each student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements may not exceed the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.

(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 this section. In prescribing the qualifications that a mainstream instructional arrangement must meet, the board shall establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.

(f) 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) 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) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in the special education program under Subchapter N, Chapter 21, of this code.

(i) In the determination of instructional arrangements for students in residential instructional arrangements, the State Board of Education shall develop arrangements 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 partially or totally self-contained classrooms to the number of full-time equivalent students placed in resource room or mainstream instructional arrangements [~~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. The commissioner of education may reduce the special education allotment the district receives to the level to which the district would be entitled if the district's ratio was not more than 25 percent higher than the statewide average ratio. [~~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 school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner of education, of the adjusted basic allotment or adjusted allotment, as applicable, for each full-time equivalent student in average daily attendance, multiplied by the amount designated for the student's instructional arrangement under this section, for each day the program is provided divided by the number of days in the minimum school year. The total amount of state funding for extended year services under this section may not exceed $10 million per year. A school district may use funds received under this section only in providing an extended

year program [~~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~~].

(m) From the total amount of funds appropriated for special education under this section, the commissioner of education shall withhold an amount specified in the General Appropriations Act, which for the 1994-1995 biennium may not exceed $2 million, and distribute that amount to school districts for programs under Section 21.513. 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. After deducting the amount withheld under this subsection from the total amount appropriated for special education, the commissioner of education shall reduce each district's allotment proportionately and shall allocate funds to each district accordingly.

Sec. 16.152. COMPENSATORY EDUCATION ALLOTMENT. (a) For each student who is educationally disadvantaged or who is a nonhandicapped student residing in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.2, and by 2.41 for each full-time equivalent student who is in a remedial and support program under Section 21.557 of this code because the student is pregnant.

(b) For purposes of this section, the number of educationally disadvantaged students is determined by averaging the best six months' enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year.

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, which shall not exceed 15 percent, 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. Funds allocated under this section, other than the indirect cost allotment, shall only be expended to improve and enhance programs and services funded under the regular education program.

(d) The Central Education Agency shall evaluate the effectiveness of remedial and support programs provided under Section 21.557 of this code for students at risk of dropping out of school.

(e) A school district in which the actual dropout rate in any school year exceeds the state's dropout rate goal for that year under Subsection (a) of Section 11.205 of this code shall, for the school year immediately following that school year, allocate a percentage of the district's allotment under this section to remedial and support programs under Section 21.557 of this code for students at risk of dropping out of school. The percentage allocated to those programs must be at least equal to the state's actual dropout rate for the preceding year. The programs must be programs authorized by the State Board of Education. The Central Education

Agency shall provide to the district technical assistance in reducing the district's dropout rate. At the request of a district, the commissioner of education may exempt the district from the requirements of this section if the commissioner finds that special circumstances in the district merit the exemption.

(f) 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 tier one allotments in the same manner described for a reduction in allotments under Section 16.254 [~~allotment proportionately~~].

(g) 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.

(h) The commissioner of education shall coordinate the funds withheld under Subsection (g) 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.

(i) The commissioner of education shall withhold funds allocated under this section to a district that fails to timely prepare or make available on request of a member of the general public the report required under Section 21.557(i) of this code. The commissioner may restore withheld funds only when the commissioner is satisfied that the district has provided the information requested.

(j) [~~(i)~~] After deducting the amount withheld under Subsection (g) 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 tier one allotments in the same manner described for a reduction in allotments under Section 16.254 [~~allotment under Subsection (a) proportionately~~] and shall allocate funds to each district accordingly.

(k) [~~(j)~~] From the total amount of funds appropriated for allotments under this section, the commissioner of education shall, each fiscal year, withhold the amount of $5,000,000 and distribute that amount for programs under Subchapter V, Chapter 21, of this code. A program established under that subchapter is required only in school districts in which the program is financed by funds distributed under this section or other funds distributed by the commissioner for a program under that subchapter.

(l) [~~(k)~~] The commissioner of education shall coordinate the funds withheld under Subsection (k) [~~(j)~~] 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 at-risk students. For each school year that a school district receives funds under this section, the district shall allocate an amount of local funds for school guidance and counseling programs that is equal to or greater than the amount of local funds that the school district allocated for that purpose during the preceding school year.

(m) [~~(l)~~] After deducting the amount withheld under Subsection (k) [~~(j)~~] 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 tier one allotments in the same manner described for a reduction in allotments under Section 16.254 [~~allotment under Subsection (a) on a per pupil basis~~].

(n) From the total amount of funds appropriated for allotments under this section, the commissioner of education may withhold an amount not exceeding $1 million each fiscal year and distribute the funds to school districts that incur unanticipated expenditures resulting from a significant increase in the enrollment of nonhandicapped students who reside in residential placement facilities.

(o) After deducting the amount withheld under Subsection (n) from the total amount appropriated for the allotment under Subsection (a), the commissioner of education shall reduce each district's allotment under Subsection (a) proportionately.

Sec. 16.153. BILINGUAL EDUCATION ALLOTMENT. (a) For each student in average daily attendance in a bilingual education or special language program under Subchapter L, Chapter 21, of this code, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1.

(b) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, 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.

Sec. 16.155. VOCATIONAL EDUCATION ALLOTMENT. (a) For each full-time equivalent student in average daily attendance in an approved vocational education program in grades nine through 12 or in vocational education for the handicapped programs in grades seven through 12, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.37.

(b) In this section, "full-time equivalent student" means 30 hours of contact a week between a student and vocational education program personnel.

(c) 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 in grades nine through 12 or vocational education for the handicapped programs in grades seven through 12 under the provisions of Sections 21.111, 21.1111, and 21.112 of this code.

(d) 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.

(e) The commissioner shall conduct a cost-benefit comparison between vocational education programs and mathematics and science programs.

(f) [~~(h)~~] Out of the total statewide allotment for vocational education under this section, the commissioner of education shall set aside an amount specified in the General Appropriations Act, which may not exceed an amount equal to one percent of the total amount appropriated, to support regional vocational education planning committees established under Section 21.115(b) of this code. After deducting the amount set aside under this subsection from the total amount appropriated for vocational education under this section, the commissioner shall reduce each district's tier one allotments [~~allotment~~] in the same manner described for a reduction in allotments [~~state funds~~] under Section 16.254 [~~16.254(d)~~] of this code.

Sec. 16.156. TRANSPORTATION ALLOTMENT. (a) Each district or county operating a transportation system is entitled to allotments for transportation costs as provided by this section.

(b) As used in this section:

(1) "Regular eligible pupil" means a pupil who resides two or more miles from his or her campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as an eligible handicapped pupil.

(2) "Eligible handicapped pupil" means a pupil who is handicapped as defined in Section 21.503 of this code and who would be unable to attend classes without special transportation services.

(3) "Linear density" means the average number of regular eligible pupils transported daily, divided by the approved daily route miles traveled by the respective transportation system.

(c) Each district or county operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible pupil of operating and maintaining the regular transportation system and the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district or county. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Fund Budget Committee and the legislature in the General Appropriations Act. The allotment per mile of approved route may not exceed the amount set by appropriation.

(d) A district or county may apply for and on approval of the commissioner of education receive an additional amount of up to 10 percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. Each board of trustees shall provide to the commissioner the

definition of hazardous conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

(e) The [~~state~~] commissioner of education may grant an amount set by appropriation for private or commercial transportation for eligible pupils from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. The grants shall be made only in extreme hardship cases, and no grants shall be made if the pupils live within two miles of an approved school bus route.

(f) The cost of transporting vocational education students from one campus to another inside a district or from a sending district to another secondary public school for a vocational program or an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.

(g) A school district or county that provides special transportation services for eligible handicapped pupils is entitled to a state allocation paid on a previous year's cost-per-mile basis. The maximum rate per mile allowable shall be set by appropriation based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary. The commissioner of education may grant an amount set by appropriation for private transportation to reimburse parents or their agents for transporting eligible handicapped pupils. The mileage allowed shall be computed along the shortest public road from the pupil's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(h) The allocation for eligible regular students transported by the regular transportation system shall be increased by five percent for any district or county school board which has complied with the provisions of Section 21.173 of this code in accordance with rules adopted by the State Board of Education.

(i) Funds allotted under this section must be used in providing transportation services.

(j) In the case of a district belonging to a county transportation system, the district's transportation allotment for purposes of determining a district's foundation school program allocations shall be determined on the basis of the number of approved daily route miles in the district multiplied by the allotment per mile to which the county transportation system is entitled.

Sec. 16.158. TEACHER COMPENSATION [~~CAREER LADDER~~] ALLOTMENT. (a) Each district is entitled to an allotment for teacher

compensation [~~support of the career ladder~~] equal to its unadjusted average daily attendance multiplied by $90.

(b) Except as provided by Subsection (d), an [~~An~~] allotment under this section may be used only for the purposes of paying the salaries of teachers who were entitled to career ladder 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.

(d) If an allotment under this section exceeds the amount necessary to pay the salaries of teachers who were entitled to career ladder supplements as provided by Section 16.058, a district shall use the excess to supplement salaries of other teachers.

Sec. 16.159. GIFTED AND TALENTED STUDENT ALLOTMENT. (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 .12 for each school year or a greater amount provided by appropriation.

(b) Funds allocated under this section, other than the amount that represents the program's share of general administrative costs, must be used in providing approved programs for gifted and talented students under Subchapter Q, Chapter 21, of this code or, in the case of a district that has not yet established a program, in developing programs for gifted and talented students. Each district must account for the expenditure of state funds as provided by rule of the State Board of Education. If by the end of the 12th month after receiving an allotment for developing a program a district has failed to implement an approved program, the district must refund the amount of the allotment to the agency within 30 days.

(c) Not more than five percent of a district's students in average daily attendance are eligible for funding under this section.

(d) If the amount of state funds for which school districts are eligible under this section exceeds the amount of state funds appropriated in any year for the programs, the commissioner of education shall reduce each district's tier one allotments in the same manner described for a reduction in allotments under Section 16.254 [~~allotment on a pro rata basis~~].

(e) If the total amount of funds allotted under this section before a date set by rule of the State Board of Education is less than the total amount appropriated for a school year, the commissioner shall distribute the remainder proportionately to the districts that have received an allotment, and no other districts are eligible for an allotment for that school year.

(f) After each district has received allotted funds for this program, the State Board of Education may use up to $500,000 of the funds allocated under this section for programs such as Future Problem Solving Olympics of the Mind, and Academic Decathlon, as long as these funds are used to train personnel and provide program services. To be eligible for funding under this section, a program must be determined by the State Board of Education to provide services that are effective and consistent with the state plan for gifted and talented education.

Sec. 16.160. TECHNOLOGY FUNDS. (a) Developmental and technology allotment allocations under the provisions of Chapter 14 are included in the Foundation School Program.

(b) Each district shall be allotted the amount specified in Section 14.063 of this code after deductions by the commissioner of education for the purposes of financing programs authorized under Subchapter C, Chapter 14, of this code.

SUBCHAPTER F. ACCOUNTABLE COSTS OF EDUCATION

Sec. 16.201. PURPOSE. The accountable costs of education studies are designed to support the development of the equalized funding elements necessary to provide an efficient state and local public school finance system which meets the state policy established in Section 16.001 of this code and provides the research basis for the equalized funding elements under the provisions of Section 16.256 of this code.

[~~Sec. 16.202. STUDIES. On a biennial basis, the Legislative Education Board and the Legislative Budget Board, with the assistance of the Educational Economic Policy Center and the Central Education Agency, shall complete each of the following studies and develop recommended amounts where appropriate for each year of the next biennium:~~

[~~(1) a study of the fiscal neutrality of the system to determine the status of the state and local finance system with regard to the policies established under the provisions of Section 16.001 of this code, including recommendations for adjustments necessary to maintain fiscal neutrality;~~

[~~(2) the accountable costs per student to school districts of providing educational programs, personnel, and other operating costs that meet accreditation criteria and the provisions of law and regulation;~~

[~~(3) program cost differentials designed by program to provide support for the added expense of high-cost courses or programs for students participating in such courses or programs, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;~~

[~~(4) transportation and career ladder allotments;~~

[~~(5) the levels of tax effort necessary for each tier of the Foundation School Program necessary to fulfill the requirements of Sections 16.001 and 16.008 of this code; and~~

[~~(6) capital outlay and debt service requirements and formula elements for the requirements of Subchapter I of this chapter or other provisions of this chapter.~~

[~~Sec. 16.203. PROCEDURES. (a) The program cost differentials developed jointly by the Legislative Education Board and the Legislative Budget Board shall be submitted to the foundation school fund budget~~

~~committee for adoption beginning with the 1993-1994 school year. If the foundation school fund budget committee fails to adopt by April 1 the program cost differentials for the following school year, the commissioner of education, after considering the recommendations developed by those boards, shall adopt program cost differentials.~~

[~~(b) The commissioner of education shall provide appropriate assistance to the boards for the calculation of the various funding elements. Subject to review by the Legislative Education Board, the commissioner of education shall retain from the allotments under Sections 16.102 and 16.103 of this code and Subchapter D of this chapter amounts appropriate to finance necessary additional costs for the studies required under this subchapter.~~

[~~(c) The boards may appoint advisory committees to assist in the development of the various funding elements and studies required under this subchapter. Advisory committee members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties. Reimbursement shall be from funds available under Subsection (b) of this section or from other funds available to the boards.~~

[~~(d) In the studies relating to program cost differentials the boards shall give special consideration to cost factors associated with class size, laboratory expenses, materials, equipment, teacher training, necessary salary supplementation, and special services related to individual courses or groups of courses.~~

[~~Sec. 16.204. Naval Military Facility Impact. (a) The model on which a cost of education 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 Legislative Education Board and the Legislative Budget Board shall recommend the adjustment of the basic allotment during that school year to consider any impact of the facility on the cost of education 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 (Article 689a-4d, Vernon's Texas Civil Statutes).~~

[~~(d) This section expires September 1, 1993.~~]

Sec. 16.205. LIMIT ON ADMINISTRATIVE COSTS. (a) The commissioner of education by rule shall determine annually:

(1) an administrative cost ratio for school districts with fewer than 500 students in average daily attendance;

(2) an administrative cost ratio for school districts with 500 to 999 students in average daily attendance;

(3) an administrative cost ratio for school districts with 1,000 to 4,999 students in average daily attendance;

(4) an administrative cost ratio for school districts with 5,000 to 9,999 students in average daily attendance; and

(5) an administrative cost ratio for school districts with more than 10,000 students in average daily attendance.

(b) The commissioner of education may adjust the administrative cost ratio of a district to allow for additional administrative costs required by:

(1) the sparsity of the district; or

(2) students with special needs.

(c) Not later than February 1 of each year, the commissioner of education shall notify all districts of the requirements and standards for determining administrative cost ratios for the following year. Not later than May 1 of each year, Central Education Agency staff shall conduct a desk audit of prior-year expenditure data available through the Public Education Information Management System (PEIMS) to identify those districts whose administrative cost ratio in the prior year exceeded their adjusted group standard. Districts with an administrative cost ratio in excess of their adjusted group standard shall be notified not later than May 15 that they have excessive administrative costs and that they are required to reduce these costs to the level of the adjusted group standard for the following school year. Not later than the 60th day after receiving notification, a district shall respond to the commissioner of education by submitting a description of the district's plan to comply with the standard for the following year or request a waiver from the commissioner of education explaining why the district cannot comply with the standard. Not later than August 15, the commissioner of education shall notify responding districts if further action is needed.

(d) If a school district fails to reduce administrative costs to the level required by this section, the commissioner of education shall deduct from a school district's tier one allotments an amount equal to the amount by which the district's administrative costs exceed the amount permitted by its administrative cost ratio, unless the commissioner has granted a waiver in response to the district's request. The commissioner shall make a deduction under this subsection from the foundation school fund payments to the district in the school year following the school year in which the plan to reduce costs was to be implemented. If a school district does not receive a tier one allotment, the district shall remit an amount equal to the excess to the comptroller for deposit to the credit of the foundation school fund.

(e) The commissioner of education may grant a waiver to a school district that exceeds its administrative cost ratio if the excess is justified by unusual circumstances.

(f) A school district shall include a statement of any amount withheld or remitted under Subsection (d) in the district report card required by Section 35.042.

(g) In this section:

(1) "Administrative cost ratio" means a school district's administrative costs divided by its instructional costs, expressed as a percentage.

(2) "Administrative costs" are defined as operating expenses made from funds other than federal funds associated with managing, planning, directing, coordinating, and evaluating a school district in accordance with

Accounting functions 21 - Instructional Administration, and 41 - General Administration as described in the Financial Accounting Manual Bulletin 679 for Budgeting, Accounting, and Auditing in Texas Public Schools, Ninth Edition, published by the Central Education Agency.

(3) "Instructional costs" are defined as operating expenses made from funds other than federal funds associated with teacher-student instruction in accordance with Accounting functions 11 - Instruction, 22 - Instructional Resources and Media Services, 25 - Curriculum and Instructional Staff Development, and 31 - Guidance and Counseling Services as described in the Financial Accounting Manual Bulletin 679 for Budgeting, Accounting, and Auditing in Texas Public Schools, Ninth Edition, published by the Central Education Agency.

(4) "Adjusted group standard" is the acceptable administrative cost ratio for each district as determined in accordance with Subsections (a) and (b). [~~EFFICIENCY IN ADMINISTRATION REPORT. (a) The commissioner of education shall conduct a study to determine the most appropriate and efficient method for reporting and monitoring the allocation of resources by school districts.~~

[~~(b) The study shall identify the most effective means for calculating, monitoring, and reporting the proportion of resources that school districts allocate for their administrative costs and shall include administrator-teacher ratios.~~

[~~(c) The study shall include a description of average efficient administrative expenditures by districts with consideration of district size and demographics.~~

[~~(d) Prior to the beginning of each regular session of the legislature, the agency shall provide a report with recommendations to the Legislative Education Board and the legislature.~~

[~~(e) The study is an element of the study of accountable costs of education under this subchapter.~~

[~~Sec. 16.206. COST ADJUSTMENTS. (a) The lieutenant governor shall appoint five members of the senate and the speaker of the house of representatives shall appoint five members of the house to a committee to conduct a study of certain costs of providing public education as provided by this section. The lieutenant governor and the speaker shall make the appointments not later than September 1, 1991.~~

[~~(b) The committee shall examine methods of adjusting for specific resource cost variations caused by factors beyond the control of school districts. The committee shall recommend adjustments for these factors that will provide the most efficient service delivery considering optimum district size, enrollment growth, and other cost factors. For the purpose of the study, the committee shall divide districts and campuses into a variety of categories that may include region, size, area, density, educational characteristics, and economic conditions.~~

[~~(c) The committee may appoint one or more advisory panels to assist the committee in conducting the study. Advisory panel members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.~~

[~~(d) The committee shall recommend adjustments to the Foundation School Program for resource cost variations caused by factors beyond the control of school districts to the foundation school fund budget committee not later than June 1, 1992. The adjustments shall include:~~

[~~(1) an adjustment to account for fast enrollment growth and other factors relevant to a district's need for facilities; and~~

[~~(2) appropriate treatment of the calculation of weighted students under Section 16.302 of this code.~~

[~~(e) The foundation school fund budget committee by rule shall adopt adjustments to the Foundation School Program for resource cost variations beyond the control of school districts to apply beginning with the 1993-1994 school year. The foundation school fund budget committee shall report the adjustments adopted to the legislature and the commissioner of education. If the foundation school fund budget committee fails to adopt the adjustments by November 1, 1992, the commissioner of education by rule shall adopt adjustments not later than December 1, 1992.~~

[~~(f) The rules adopted under this section apply beginning with the 1993-1994 school year. If no rules are adopted under this section, the basic allotment calculated under Sections 16.008 and 16.256(c) of this code shall be increased to reflect the costs associated with the adjustments made by the cost of education index and formula for the 1992-1993 school year.~~]

SUBCHAPTER G. FINANCING THE PROGRAM

Sec. 16.251. FINANCING; GENERAL RULE. (a) The sum of the basic allotment under Subchapter C and[~~,~~] the special allotments under Subchapter D, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter 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 school [~~county education~~] district effort;

(2) ad valorem tax revenue generated by local school district effort in excess of the equalized uniform school [~~county education~~] district effort;

(3) state available school funds distributed in accordance with law; and

(4) 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 district's total revenue is reduced from one school year to the next because of a change in the method of finance 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.

Sec. 16.252. LOCAL SHARE OF PROGRAM COST (TIER ONE). (a) Each school [~~county education~~] district's share of the Foundation School Program shall be an amount determined by the following formula:

LFA = TR X DPV

where:

"LFA" is the school [~~county education~~] district's local share;

"TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of $0.86 [~~$0.72 for the 1991-1992 school year, $0.82 for the 1992-1993 school year, $0.92 for the 1993-1994 school year, and $1.00 for each school year thereafter~~]; and

"DPV" is the taxable value of property in the school [~~county education~~] district for the prior tax year determined under Section 11.86 of this code.

(b) The commissioner of education shall adjust the values reported in the official report of the comptroller as required by Section 5.09(a), [~~Property~~] Tax Code, 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 school [~~county education~~] district.

(c) Appeals of district values shall be held pursuant to Subsection (e) of Section 11.86 of this code.

(d) A school [~~county education~~] district must [~~shall~~] raise its total local share of the foundation school program to be eligible to receive foundation school fund payments. [~~The funds shall be reallocated to the school districts in the county education district in the manner prescribed by Subchapter J of this chapter.~~]

(e) The commissioner of education shall hear appeals from school [~~county education~~] 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 board of trustees of the [~~county education~~] district. The commissioner of education may adjust the [~~county education~~] 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 school [~~county education~~] district. This subsection shall apply to determinations by the commissioner in identifying districts with wealth per student exceeding the equalized wealth level pursuant to Section 36.004.

Sec. 16.254. DISTRIBUTION OF FOUNDATION SCHOOL FUND. (a) For each school year the commissioner of education shall determine:

(1) the amount of money to which a school district is entitled under Subchapters C and D;

(2) the amount of money to which a school district is entitled under Subchapter H;

(3) the amount of money allocated to the district from the available school fund;

(4) the amount of each district's tier one local share under Section 16.252; and

(5) the amount of each district's tier two local share under Section 16.303.

(b) The commissioner shall base the determinations under Subsection (a) on the estimates provided to the legislature under Section 16.2541 for each school district for each school year or different estimates provided by the General Appropriations Act.

(c) Each school district is entitled to an amount equal to the difference for that district between the sum of Subsections (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and (a)(5).

(d) The commissioner shall approve warrants to each school district equaling the amount of its entitlement except as provided by this section. Warrants for all money expended according to this chapter shall be approved and transmitted to treasurers or depositories of school districts in the same manner that warrants for state payments are transmitted. The total amount of the warrants issued under this section may not exceed the total amount appropriated for foundation school program purposes for that fiscal year.

(e) The commissioner shall recompute the amount to which the district is entitled under Subsection (c) if a school district's tax rate is less than the limit authorized under this subsection. The amount to which a district is entitled under this section may not exceed the amount to which the district would be entitled at the district's tax rate for the final year of the preceding biennium, or a different tax rate provided by appropriation. The commissioner shall recompute the amount to which a district is entitled to the extent necessary under this section. The commissioner shall approve warrants to the school in the amount that results from the new computation. An amount equal to the difference between the initial allocation and the amount of the warrants shall be transferred to a special account in the foundation school fund known as the reserve account.

(f) Amounts transferred to the reserve account under Subsection (e) shall be used in the succeeding fiscal year to finance increases in allocations to school districts under Subsection (i). If the amount in the reserve account is less than the amount of the increases under Subsection (i) for the second year of a state fiscal biennium, the commissioner shall certify the amount of the difference to the foundation school fund budget committee not later than January 1 of the second year of the state fiscal biennium. The committee shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under Subsection (h).

(g) If a school district demonstrates to the satisfaction of the commissioner that the estimate of the district's tax rate, student enrollment, or taxable value of property used in determining the amount of state funds to which the district is entitled are so inaccurate as to result in undue financial hardship to the district, the commissioner may adjust funding to that district in that school year to the extent that funds are available for that year, including funds in the reserve account. Funds in the reserve

account may not be used under this subsection until any reserve funds have been used for purposes of Subsection (f).

(h) If the legislature fails during the regular session to enact the transfer and appropriation proposed under Subsection (f) and there are not funds available under Subsection (j), the commissioner shall reduce the total amount of state funds allocated to each district by an amount determined by a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Section 11.86, results in a total levy equal to the total reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection.

(i) Not later than March 1 each year, the commissioner shall determine the actual amount of state funds to which each school district is entitled under the allocation formulas in this chapter for the current school year and shall compare that amount with the amount of the warrants issued to each district for that year. If the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, the commissioner shall adjust the district's entitlement for the next fiscal year accordingly.

(j) The legislature may appropriate funds necessary for increases under Subsection (i) from funds that the comptroller, at any time during the fiscal year, finds are available.

(k) The commissioner shall compute for each school district the total amount by which the district's allocation of state funds is increased or reduced under Subsection (i) and shall certify that amount to the district.

(l) In this section, the number of weighted students in average daily attendance is calculated in the manner provided by Section 16.302. [~~The commissioner of education shall determine annually:~~

[~~(1) the amount of money necessary to operate a Foundation School Program in each school district;~~

[~~(2) the amount of local funds due the school district from the local fund assignment of the county education district; and~~

[~~(3) the amount of state available school funds distributed to each school district.~~

[~~(b) The commissioner of education shall then grant to each school district from the Foundation School Program appropriation the amount of funds necessary to provide the difference between Subdivision (1) and the sum of Subdivisions (2) and (3) of Subsection (a) of this section.~~

[~~(c) The commissioner shall approve warrants to each school district equaling the amount of its grant. Warrants for all money expended according to the provisions of this chapter shall be approved and transmitted to treasurers or depositories of school districts in the same manner as warrants for state apportionment are transmitted.~~

[~~(d) Notwithstanding any other provision of this chapter, if for any year the total state's share of the Foundation School Program, 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 method under which the application of the same number of cents of increase in tax rate applied to the taxable value of property of each district, as determined under Section 11.86 of this code, results in a levy for each district equal to the amount deducted from that district's allocation.~~

[~~(c) 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.~~]

Sec. 16.2541. ESTIMATES REQUIRED. (a) Not later than October 1 of each even-numbered year:

(1) the Central Education Agency shall submit to the foundation school fund budget committee and the legislature an estimate of the tax rate and student enrollment of each school district for the following biennium; and

(2) the comptroller shall submit to the foundation school fund budget committee and the legislature an estimate of the total taxable value of all property in the state as determined under Section 11.86 for the following biennium.

(b) The Central Education Agency and the comptroller shall update the information provided to the legislature under Subsection (a) not later than March 1 of each odd-numbered year.

Sec. 16.255. FALSIFICATION OF RECORDS; REPORT. (a) When, in the opinion of the director of school audits of the Central Education Agency, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, whereby the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased, the director shall promptly and fully report the fact to the State Board of Education and the state auditor.

(b) In the event of overallocation of state funds, as determined by the State Board of Education or the state auditor by reference to the director's report, the Central Education Agency shall, by withholding from subsequent allocations of state funds, recover from the district an amount, or amounts, equal to the overallocation.

Sec. 16.256. FOUNDATION SCHOOL FUND BUDGET COMMITTEE. (a) The foundation school fund budget committee is composed of the governor, the lieutenant governor, and the comptroller [~~of public accounts~~].

(b) On or before December [~~November~~] 1 before each regular session of the legislature, the budget committee shall determine and certify to the comptroller [~~of public accounts~~] an amount of money to be placed in the foundation school fund for the succeeding biennium for the purpose of financing the Foundation School Program as described in this code.

(c) The budget committee may, during the biennium, change the estimate of money necessary to finance the Foundation School Program.

(d) The foundation school fund budget committee shall adopt rules for the calculation for each year of a biennium of the qualified funding elements necessary to achieve the state funding policy under Section 16.001 of this code not later than the 1994-1995 school year and for each

year thereafter. In the calculation of these funding elements, the committee shall consider the report of the Legislative Education Board prescribed under Section 16.008 of this code.

(e) The funding elements shall include:

(1) a basic allotment for the purposes of Section 16.101 of this code that represents the cost per student of a regular education program that meets the basic criteria for an accredited program including all mandates of law and regulation;

(2) adjustments designed to reflect the variation in known resource costs and costs of education beyond the control of school districts;

(3) appropriate program cost differentials and other funding elements for the programs authorized under Subchapter D of this chapter, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;

(4) the maximum guaranteed level of qualified state and local funds per student for the purposes of Subchapter H of this chapter;

(5) the enrichment and facilities tax rate under Subchapter H of this chapter;

(6) the formula elements for the funding formulas for capital outlay and debt service under the provision of Subchapter I of this chapter; and

(7) the calculation of weighted students in average daily attendance under Section 16.302 of this code.

(f) Not [~~Beginning in 1992, not~~] later than December [~~November~~] 1 preceding each regular session of the legislature, the foundation school fund budget committee by rule shall adopt and report the equalized funding elements calculated under this section to the commissioner of education and the legislature. Before the committee adopts the elements, the committee or the committee's designees shall hold a public hearing on the recommendations of the Legislative Education Board.

[~~(g) Notwithstanding other provisions of this section, the funding elements adopted by the foundation school fund budget committee for the 1993-1994 school year and the 1994-1995 school year shall provide for appropriate transition from the program in effect for the 1992-1993 school year.~~]

Sec. 16.258. EFFECT OF APPRAISAL APPEAL. (a) If the final determination of an appeal under Chapter 42, Tax Code, results in a reduction in the taxable value of property that exceeds five percent of the total taxable value of property in the school district for the same tax year determined under Section 11.86 of this code, the commissioner of education shall request the comptroller to adjust its taxable property value findings for that year consistent with the final determination of the appraisal appeal.

(b) If the district would have received a greater amount from the foundation school fund for the applicable school year using the adjusted value, the commissioner shall add the difference to subsequent distributions to the district from the foundation school fund. An adjustment does not affect the local fund assignment of any other district.

Sec. 16.260. FOUNDATION SCHOOL FUND TRANSFERS. (a) In this section:

(1) "Category 1 school district" means a school district having a wealth of less than one-half of the statewide average wealth.

(2) "Category 2 school district" means a school district having a wealth of at least one-half of the statewide average wealth per pupil but not more than the statewide average wealth.

(3) "Category 3 school district" means a school district having a wealth of more than the statewide average wealth.

(4) "Wealth" means the taxable property values reported by the comptroller to the commissioner of education under Section 16.252 of this code divided by the number of students in average daily attendance.

(b) Payments from the foundation school fund to each category 1 school district shall be made as follows:

(1) 21 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of September and October of a fiscal year;

(2) 57 percent of the yearly entitlement of the district shall be paid in six equal installments to be made on or before the 25th day of November, December, January, February, March, and July; and

(3) 22 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of April and May.

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 21 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of September and October of a fiscal year;

(2) 38 percent of the yearly entitlement of the district shall be paid in four equal installments to be made on or before the 25th day of November, December, March, and July;

(3) seven percent of the yearly entitlement of the [~~school~~] district shall be paid in two equal installments to be made on or before the 25th day of January and February;

(4) 22 percent of the yearly entitlement of the [~~school~~] district shall be paid in two equal installments to be made on or before the 25th day of April and May; and

(5) 12 percent of the yearly entitlement of the [~~school~~] district shall be paid in two equal installments to be made on or before the 25th day of June and August.

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) 21 percent of the yearly entitlement of the <u>district</u> [~~school~~] shall be paid in two equal installments to be made on or before the 25th day of September and October of a fiscal year;

(2) 57 percent of the yearly entitlement of the <u>district</u> [~~school~~] shall be paid in six equal installments to be made on or before the 25th day of November, December, March, June, July, and August; and

(3) 22 percent of the yearly entitlement of the [~~school~~] district shall be paid in two equal installments to be made on or before the 25th day of April and May.

(e) The amount of any installment required by this section may be modified to provide a school district with the proper amount to which the district may be entitled by law and to correct errors in the allocation or distribution of funds. If an installment under this section is required to be equal to other installments, the amount of other installments may be adjusted to provide for that equality. A payment under this section is not invalid because it is not equal to other installments.

SUBCHAPTER H. GUARANTEED YIELD PROGRAM (TIER TWO)

Sec. 16.301. PURPOSE. The purpose of the guaranteed yield component of the Foundation School Program is to provide each school district with the opportunity to supplement the basic program at a level of its own choice and with access to additional funds for facilities. An allotment under this subchapter may be used for any legal purpose, including capital outlay and debt service.

Sec. 16.302. ALLOTMENT. [~~(a)~~] Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment [~~of the county education district in which the school district is located~~] up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 16.303 of this code, is determined by the formula:

GYA = (GL X WADA X DTR X 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 $20.55 [~~$21.50 for the 1991-1992 school year, $22.50 for the 1992-1993 school year, $26 for the 1993-1994 school year, and $28 for each school year thereafter;~~] or a greater amount for any year provided by appropriation, or a greater amount adopted by the foundation school fund budget committee under Section 16.256(d) [~~of this code for the 1993-1994 or 1994-1995 school year or thereafter~~];

"WADA", except as provided by Section 16.206 of this code, is the number of weighted students in average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters C and D of this chapter, less any allotments to the district for transportation, teacher compensation [~~career ladder supplements~~], or technology and 50 percent of the adjustment under Section 16.102 of this code, by the basic allotment for the applicable year;

"DTR" is the district enrichment and facilities tax rate of the school district, which is determined by subtracting the district's local fund assignment from [~~dividing~~] the total amount of taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Section 11.86 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 as determined under Section 11.86 of this code divided by 100.

[~~(b) Beginning with the 1993-1994 school year, if the program cost differentials developed jointly by the Legislative Education Board and the Legislative Budget Board under Section 16.203 of this code and the adjustments studied under Section 16.206 of this code are not adopted by the foundation school fund budget committee or the commissioner of education, the amount guaranteed under this section is an amount per student rather than per weighted student and a school district's average daily attendance ("ADA") under Section 16.006 of this code is substituted for "WADA" in the formula under Subsection (a) of this section.~~]

Sec. 16.303. LIMITATION ON ENRICHMENT AND FACILITIES TAX RATE. The district enrichment and facilities tax rate ("DTR") under Section 16.302 of this code may not exceed $0.64 per $100 of valuation, [~~$0.45~~] or a greater amount [~~for 1993-1994 and 1994-1995 school years or thereafter as~~] adopted by the foundation school fund budget committee under Section 16.256(d) of this code.

Sec. 16.304. COMPUTATION OF AID FOR DISTRICT ON MILITARY RESERVATION OR AT STATE SCHOOL. State assistance under this subchapter for a school district located on a federal military installation or at Moody State School is computed using the average tax rate and property value per student of school districts in the county, as determined by the commissioner of education.

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. All facilities constructed after September 1, 1992, must meet the standards in order to be financed with state or local tax funds.

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.

[~~SUBCHAPTER J. COUNTY EDUCATION DISTRICT DISTRIBUTIONS~~

[~~Sec. 16.501. TIER ONE. (a) The commissioner of education shall notify each county education district of the total amount of funds that each~~

~~school district in the county education district is entitled to receive under tier one of the Foundation School Program.~~

[~~(b) For tier one, the board of trustees of each county education district shall distribute the funds collected from the tax levied by the county education district under Section 20.945 of this code to the school districts in the county on the basis of the component districts' share of the taxable value of property of the county education district with the provision that no component district shall receive funds in excess of the cost of tier one less the distribution of the available school fund.~~

[~~(c)(1) Notwithstanding Subsection (b) of this section, for the 1991-1992, 1992-1993, and 1993-1994 school years, for tier one the board of trustees of each county education district shall distribute the funds collected from the tax levied by the county education district under Section 20.945 of this code to the school districts in the county education district as follows:~~

[~~(A) to those school districts that did not receive foundation school funds for the 1990-1991 school year in which the amount of revenue per weighted student from local funds and the available school fund for the 1990-1991 school year exceeds the total amount of revenue per weighted student to which the district is entitled under the Foundation School Program at a tax rate equal to the maximum tax rate authorized under Section 20.09 of this code, the county education district shall distribute an amount equal to the difference between the amount of revenue per weighted student in the district in the 1990-1991 school year from local funds and the available school fund and the levy that results from the application of the maximum rate authorized under Section 20.09 of this code to the district's taxable value of property; and~~

[~~(B) the county education district shall apportion the remaining funds collected from the tax levy to each school district in the county education district on the basis of the component districts' share of the taxable value of property of the county education district with the provision that no component district shall receive funds in excess of the cost of tier one less the distribution of the available school fund.~~

[~~(2) This subsection expires September 1, 1994.~~

[~~(d) If the total amount available for distribution by the county education district exceeds the county education district's local share under Section 16.252 of this code, the county education district shall retain the excess amount for distribution in succeeding years.~~

[~~(e) If the total amount available for distribution by the county education district is less than the county education district's local share under Section 16.252 of this code, the distributions shall be made under rules adopted by the commissioner of education.~~

[~~Sec. 16.502. COLLECTION AND DISTRIBUTION SCHEDULES. The commissioner of education shall establish a schedule for the distribution of funds to each school district under this subchapter.~~

[~~Sec. 16.503. DEFINITION. In this subchapter, "taxable value of property" is the value determined under Section 11.86 of this code.~~]

SECTION 2.02. Subsections (b) and (e), Section 14.063, Education Code, are amended to read as follows:

(b) Each school district is entitled to an annual allotment for the purposes provided under Section 14.064 of this code equal to its unadjusted average daily attendance multiplied by[~~:~~

[~~(1)~~] $30 [~~for the 1992-1993 school year, or a greater amount provided by appropriation;~~

[~~(2) $35 for the 1993-1994 school year, or a greater amount provided by appropriation;~~

[~~(3) $40 for the 1994-1995 school year, or a greater amount provided by appropriation;~~

[~~(4) $45 for the 1995-1996 school year, or a greater amount provided by appropriation; and~~

[~~(5) $50 for the 1996-1997 school year and for each school year thereafter~~], or a greater amount provided by appropriation.

(e) If an insufficient amount is available in the fund for the state's share of the allotments under Subsection (b) of this section, the agency shall reduce each district's allotment in the same manner described for a reduction in allotments [~~by application of the formula adopted~~] under Section 16.254 [~~16.254(d)~~] of this code.

SECTION 2.03. Subsections (a) and (b), Section 20.09, Education Code, are amended to read as follows:

(a) Except as provided by Subsections (c) and (d) and unless specifically approved in an election called for that purpose [~~of this section~~], a school district may not impose a total tax rate on the $100 valuation of taxable property that [~~results in a levy that~~] exceeds $1.50. [~~the levy that results from applying the following rate to the district's taxable value of property as determined under Section 11.86 of this code:~~

[~~(1) $0.78 for the 1991 tax year;~~

[~~(2) $0.68 for the 1992 tax year;~~

[~~(3) $0.58 for the 1993 tax year; and~~

[~~(4) $0.50 for each subsequent tax year.~~]

(b) A district may impose taxes under this chapter on the residence homestead of a person whose taxes for general elementary and secondary public school purposes are limited under Article VIII, Section 1-b(d), of the Texas Constitution, only to the extent that the imposition[~~, when added to the taxes imposed on the homestead by the county education district,~~] does not increase the person's tax liability for those purposes in violation of the constitutional limit.

SECTION 2.04. Section 26.08, Tax Code, is amended to read as follows:

Sec. 26.08. ELECTION TO LIMIT SCHOOL TAXES. (a) If the governing body of a school district adopts a rate that exceeds the school district rollback tax rate [~~sum of the district's effective maintenance rate, the rate of $0.08, and the district's current debt rate~~], the qualified voters of the district at [~~by petition may require that~~] an election [~~be~~] held for that purpose must [~~to~~] determine whether or not to limit the tax rate the governing body may adopt for the current [~~following~~] year to the school district rollback tax rate. When increased expenditure of funds by a school district is necessary to respond to a disaster, such as a tornado, hurricane, flood, or other calamity (not including a drought) which has impacted a

school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election [~~a petition~~] is not required [~~valid~~] under this section to repeal a tax increase adopted the next time the district adopts a tax rate after the date the disaster occurs.

(b) The [~~A petition is valid only if:~~

[~~(1) it states that it is intended to require an election in the school district on the question of limiting the tax rate for the following year;~~

[~~(2) it is signed by a number of qualified voters of the school district equal to at least 10 percent of the number of qualified voters of the district according to the most recent official list of qualified voters not counting the signatures of voters gathered by a person who received compensation for circulating the petition; and~~

[~~(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate for the current year.~~

[~~(c) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether or not the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.~~

[~~(d) If the~~] governing body [~~finds that the petition is valid (or fails to act within the time allowed), it~~] shall order that the [~~an~~] election be held in the school district on a date not less than 30 or more than 90 days after the [~~last~~] day on which it adopted the tax rate [~~could have acted to approve or disapprove the petition~~]. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Reducing [~~Limiting~~] the ad valorem tax rate in (name of school district) for the current year from (the rate adopted) to (the school district rollback tax rate) [~~(the following year)~~]."

(c) [~~(e)~~] If a majority of the qualified voters voting on the question in the election favor the proposition, the [~~governing body may not adopt a~~] tax rate for the school district for [~~in~~] the current [~~following~~] year is [~~that exceeds~~] the school district rollback tax rate calculated for that year; otherwise the tax rate for the current year is the one adopted by the governing body [~~using the following formula:~~

[~~ROLLBACK TAX RATE = ((EFFECTIVE MAINTENANCE AND OPERATIONS RATE FOR ELECTION YEAR) + $0.08 (X 1.08)) + CURRENT DEBT RATE~~

~~where "election year" denotes amounts used in calculating the rollback tax rate in the year in which the tax increase that initiated the referendum occurred rather than the year in which the calculation occurs~~].

(d) For purposes of this section, except as provided by Subsection (e), the school district rollback tax rate of a school district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds

to be distributed to the district under Chapters 15 and 16, Education Code, for the school year beginning in the current tax year, would provide the same amount of state funds and local maintenance and operations taxes per student in weighted average daily attendance for that school year that was available to the district in the preceding year;

(2) the rate of $0.06; and

(3) the district's current debt rate.

(e) In the first year in which a school district that is the product of the consolidation of two or more whole school districts adopts a tax, the school district rollback tax rate for the consolidated district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapters 15 and 16, Education Code, for the school year beginning in the current tax year, would provide the same amount of state funds and local maintenance and operations taxes per student in weighted average daily attendance for that school year that was available to the component district in the preceding year for which that amount was greater than for any other component district;

(2) the rate of $0.06; and

(3) the consolidated district's current debt rate.

(f) For purposes of Subsections (d) and (e), the amount of state funds and local maintenance and operations taxes that was available to a school district in the preceding year is the amount of state funds distributed to the school district under Chapters 15 and 16, Education Code, for the preceding school year and the total amount of local maintenance and operations taxes imposed by the district in the preceding tax year.

(g) In this section, "weighted students in average daily attendance" has the meaning assigned by Section 16.302, Education Code.

(h) [~~(f)~~] For purposes of this section, local tax funds dedicated to a junior college district under Section 20.48(c), [~~Texas~~] Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085 of this code.

(i) In calculating the school district rollback tax rate for a school district for the 1993 tax year, county education district taxes received by the school district for the 1992-1993 school year are treated as state funds distributed to the district under Chapter 16, Education Code, for that school year. This subsection expires January 1, 1995.

[~~(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 total revenue 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 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 (c) 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 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.~~

[~~(i) If a school district is certified by the commissioner of education under Section 16.254(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 16.254, 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 (c) 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.~~

[~~(j) In a school district that received distributions from an equalization tax imposed under Chapter 18, Education Code, the effective rate of that tax as of the date of the county-unit system's abolition is added to the district's effective maintenance and operations rate under Subsections (a) and (c) of this section in the calculation of the district's rollback tax rate.~~]

SECTION 2.05. It is the intent of the 73rd Legislature that, in case of a conflict, the funding provisions for an optional extended year program as provided by Section 21.562, Education Code, as added by this Act, control over any other funding provisions for the program enacted by the 73rd Legislature during its regular session.

SECTION 2.06. (a) Notwithstanding the requirement in Section 16.254, Education Code, as amended by this Act, requiring determinations under that section to be based on estimates provided under Section 16.2541, Education Code, as added by this Act, or on different estimates provided by the General Appropriations Act, for the biennium ending August 31, 1995, determinations required under Section 16.254 shall be based on estimates provided by the Legislative Budget Board model run, number 401, as adjusted to reflect options exercised by school districts under Chapter 36, Education Code, as added by this Act.

(b) Changes in funding to school districts for special education under Sections 16.151(a) and (b), Education Code, and under Section 16.101, Education Code, to the extent of its reference to the mainstream instructional arrangement, as those sections are amended by this Act, apply beginning with the 1994-1995 school year. For the 1993-1994 school year, the weights provided by Sections 16.151(a) and (b), Education Code, as

those sections existed before amendment by this Act, apply to funding to school districts for special education and those sections are continued in effect for that purpose.

(c) Any other changes in the funding of public schools made by this Act apply beginning with the 1993-1994 school year.

SECTION 2.07. To the extent that reenactment of Chapter 16, Education Code, by this article conflicts with another enactment of the 73rd Legislature, Regular Session, 1993, amending a provision of that chapter, the other enactment prevails without regard to the relative dates of enactment.

SECTION 2.08. This article takes effect immediately.

ARTICLE 3

SECTION 3.01. Subsection (c), Section 21.032, Education Code, is amended to read as follows:

(c) Unless specifically exempted by Section 21.033 of this code, a student enrolled in a public school district must attend an extended year program provided by a school district for which the student is eligible or tutorial classes required by the district under Section 21.103(b) of this code. A district shall provide transportation services to students required to attend an extended year program provided by a school district in the same manner as during the regular school year. A school district is not required to provide transportation services to accommodate [~~such~~] students required to attend tutorial classes under Section 21.103(b).

SECTION 3.02. Section 21.502, Education Code, is amended to read as follows:

Sec. 21.502. DEFINITIONS. As used in this subchapter, "special services" means:

(1) "special teaching," which may be provided by professional and paraprofessional personnel in the following instructional settings:

(A) resource room;

(B) self-contained classroom, regular or special campus;

(C) hospital or community class;

(D) homebound or bedside;

(E) speech or hearing therapy class; or

(F) mainstream; or

(2) "related services," which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the proper development and implementation of a handicapped student's individualized educational plan, including but not limited to special transportation, school health services, counseling with students or families, psychological services, audiological services, visual training, medical or psychiatric diagnostic services, occupational therapy, physical therapy, recreational therapy, social work services, parent counseling and training, adaptive equipment, special seating, orientation and mobility training, speech therapy, music therapy, and corrective therapy.

SECTION 3.03. Subsection (b), Section 21.506, Education Code, is amended to read as follows:

(b) Except as provided by Subsection (c) of this section, contracts for residential placements when approved may be paid for from a combination

of federal, state, and local funds. The local share of the total contract cost per pupil is that portion of the local tax effort (total dollars generated by debt service and maintenance taxes) which exceeds the district's local fund assignment under Section 16.252, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that which remains after subtracting the local share. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the state share is that which remains after subtracting the local share from that portion of the contract which involves the costs of instructional and related services. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program.

SECTION 3.04. Subchapter O, Chapter 21, Education Code, is amended by adding Sections 21.562 and 21.563 to read as follows:

Sec. 21.562. STATE-FUNDED OPTIONAL EXTENDED YEAR PROGRAM. (a) A school district may apply to the commissioner of education for funding and approval of an extended year program for a period not to exceed 30 days for students in kindergarten through grade level eight who are identified as likely not to be promoted to the next grade level for the succeeding school year.

(b) The commissioner may adopt rules for the administration of programs provided under this section.

(c) A school district may not enroll more than 12 students in a class provided under this section.

(d) Each class provided under this section shall be taught by a teacher who has completed successfully a program that provides training to teach a class under this section and that satisfies standards the commissioner establishes.

(e) A student who attends at least 85 percent of the program days of a program under this section shall be promoted to the next grade level at the beginning of the next school year unless a parent of the student presents a written request to the school principal that the student not be promoted to the next grade level. As soon as practicable after receiving the request from a parent, the principal shall hold a formal meeting with the student's parent, extended year program teacher, and counselor. During the meeting, the principal, teacher, or counselor shall explain the longitudinal statistics on the academic performance of students who are not promoted to the next grade level and provide information on the effect of retention on a student's self-esteem and on the likelihood of a student dropping out of school. After the meeting, the parent may withdraw the request that the student not be promoted to the next grade level. If the parent of a student eligible for promotion under this subsection withdraws the request, the student shall be promoted. If a student is promoted under this subsection, the school district shall continue to use innovative practices to ensure that the student is successful in school in succeeding years.

(f) A school district that provides a program under this section shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

(g) A school district may apply for approval under this section only for a pilot program for students in grade level one for the 1993-1994 school year and only for a pilot program for students in grade levels one and two for the 1994-1995 school year. The state's share of a pilot program under this section may not exceed the amount appropriated for program purposes. Funds provided to a pilot program may be used for transportation of eligible students. This subsection expires September 1, 1995.

Sec. 21.563. OPTIONAL EXTENDED YEAR PROGRAM. (a) A school district may apply to the commissioner of education for approval to provide an extended year program for a period not to exceed 45 days for students in kindergarten through grade level eight who would otherwise not be promoted.

(b) In order to provide the funding necessary for a program approved under this section, with the approval of the commissioner, a school district may provide a number of days of instruction for students during the regular school term that is up to five days less than the number otherwise required under Section 16.052(a). A school district providing a program under this section is not entitled to funding appropriated for purposes of providing programs under Section 21.562.

(c) The commissioner may adopt rules for the administration of programs provided under this section.

SECTION 3.05. Subchapter Z, Chapter 21, Education Code, is amended by adding Section 21.939 to read as follows:

Sec. 21.939. LEGISLATIVE LOBBYIST OR LIAISON; PROHIBITION. (a) A school district may not employ a person who is required to register under Chapter 305, Government Code, by virtue of the person's activities on behalf of the school district.

(b) A school district may not employ a person whose primary duties are activities related to proposed legislation or administrative action, including supplying information to members of the legislative or executive branch, obtaining information from members of the legislative or executive branch, monitoring the progress of proposed legislation or administrative action, or acting as an advocate or proponent of proposed legislation or administrative action.

(c) A school district that employs a person in violation of this section is liable to this state for a civil penalty in an amount equal to three times the total compensation the district has paid to that person. The attorney general may sue to collect the penalty.

(d) If a civil penalty is imposed against a school district under this section, the commissioner of education shall reduce the amount allocated to the district from the foundation school fund in an amount equal to the compensation paid by the district to the person employed in violation of this section.

SECTION 3.06. This article takes effect immediately and applies beginning with the 1993-1994 school year.

ARTICLE 4

SECTION 4.01. Subsection (a), Section 11.86, Education Code, is amended to read as follows:

(a) The comptroller shall conduct an annual study using comparable sales and generally accepted auditing and sampling techniques to determine the total value of all taxable property in each [~~county education~~] school district [~~and each of its component school districts~~]. The study shall determine the taxable value of all property and of each category of property within the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. The comptroller shall make appropriate adjustments in the study to account for actions taken under Chapter 36. In conducting the study, the comptroller shall review the appraisal standards, procedures, and methodology used by each appraisal district to determine the taxable value of property in each school district. The review must test the validity of the taxable values assigned to each category of property by the appraisal district:

(1) using, if appropriate, samples selected through generally accepted sampling techniques; and

(2) according to generally accepted standard valuation, statistical compilation, and analysis techniques. If the comptroller finds in the annual study that generally accepted appraisal standards and practices were used by the appraisal district in valuing a particular category of property, and that the taxable values assigned to each category of property by the appraisal district are valid, the appraisal roll value of that category of property is presumed to represent taxable value. In the absence of such a presumption, the comptroller shall estimate the taxable value of that category of property using generally accepted standard valuation, statistical compilation, and analysis techniques. For the purposes of this section, "taxable value" means market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study;

(2) the total dollar amount of any abatements [~~exemptions~~] granted before May 31, 1993, within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code);

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone and that is eligible for tax increment financing under the Tax Increment Financing Act (Chapter 311, Tax Code);

(4) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(5) the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value may not exceed the fair market value of the land;

(6) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(7) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the Texas Constitution that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property; and

(8) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income.

SECTION 4.02. Subchapter B, Chapter 23, Education Code, is amended by adding Section 23.34 to read as follows:

Sec. 23.34. CONTRACTS FOR EDUCATIONAL SERVICES. The board of trustees of an independent school district may contract with a public or private entity for that entity to provide educational services for the district.

SECTION 4.03. Subsection (f), Section 317.005, Government Code, is amended to read as follows:

(f) The governor or board may adopt an order under this section withholding or transferring any portion of the total amount appropriated to finance the foundation school program for a fiscal year. The governor or board may not adopt such an order if it would result in an allocation of money between particular programs or statutory allotments under the foundation school program contrary to the statutory proration formula provided by Section 16.254(h) [~~16.254(d)~~], Education Code. The governor or board may transfer an amount to the total amount appropriated to finance the foundation school program for a fiscal year and may increase the basic allotment. The governor or board may adjust allocations of amounts between particular programs or statutory allotments under the foundation school program only for the purpose of conforming the allocations to actual pupil enrollments or attendance.

SECTION 4.04. Subdivision (12), Section 1.04, Tax Code, is amended to read as follows:

(12) "Taxing unit" means a county, an incorporated city or town (including a home-rule city), a school district, [~~a county education district,~~] a special district or authority (including a junior college district, a hospital district, a district created by or pursuant to the Water Code, a mosquito control district, a fire prevention district, or a noxious weed control district), or any other political unit of this state, whether created by or pursuant to the constitution or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on property even if the governing body of another political unit determines the tax rate for the unit or otherwise governs its affairs.

SECTION 4.05. Section 6.02, Tax Code, is amended by amending Subsections (b) and (f) and adding Subsection (g) to read as follows:

(b) A taxing unit [~~other than a county education district~~] that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's

boundaries. To be effective, the choice must be approved by resolution of the board of directors of the district chosen. The choice of a school district to participate in a single appraisal district does not apply to property annexed to the school district under Subchapter C or G, Chapter 36, Education Code, unless:

(1) the school district taxes property other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code, in the same county as the annexed property; or

(2) the annexed property is contiguous to property in the school district other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code. [~~A county education district that has boundaries extending into two or more counties must participate in each appraisal district in which one of its component school districts participates for purposes of appraisal of the component school district's territory.~~]

(f) All costs of operating an appraisal district in territory outside the county for which the appraisal district is established are allocated to the taxing unit for which the appraisal district appraises property in [~~that chooses to add~~] that territory [~~to the district~~]. If the appraisal district appraises property in the same territory for two or more taxing units [~~add the same territory to an appraisal district~~], costs of operating the district in that territory are allocated to the units in the proportion the total dollar amount of taxes each unit imposes in that territory bears to the total dollar amount of taxes all taxing units participating in the appraisal district impose in that territory.

(g) If property is annexed to a school district under Subchapter C or G, Chapter 36, Education Code, the appraisal district established for the county in which the property is located shall appraise the property for the school district, and the school district participates in that appraisal district for purposes of the appraisal of that property, except as otherwise permitted by Subsection (b).

SECTION 4.06. Section 6.03, Tax Code, is amended by amending Subsections (c) through (e) and adding Subsection (m) to read as follows:

(c) Members of the board of directors are appointed by vote of the governing bodies of the incorporated cities and towns, the school districts [~~other than the county education district~~], and, if entitled to vote, the conservation and reclamation districts that participate in the district and of the county. A governing body may cast all its votes for one candidate or distribute them among candidates for any number of directorships. Conservation and reclamation districts are not entitled to vote unless at least one conservation and reclamation district in the district delivers to the chief appraiser a written request to nominate and vote on the board of directors by June 1 of each odd-numbered year. On receipt of a request, the chief appraiser shall certify a list by June 15 of all eligible conservation and reclamation districts that are imposing taxes and that participate in the district.

(d) The voting entitlement of a taxing unit that is entitled to vote for directors is determined by dividing the total dollar amount of property taxes imposed in the district by the taxing unit for the preceding tax year by the sum of the total dollar amount of property taxes imposed in the

district for that year by each taxing unit that is entitled to vote, by multiplying the quotient by 1,000, and by rounding the product to the nearest whole number. That number is multiplied by the number of directorships to be filled. [~~For a school district, the total dollar amount of property taxes imposed in the district by the unit is considered to be the sum of the taxes imposed by the district and the revenue received by the district from the county education district.~~] A taxing unit participating in two or more districts is entitled to vote in each district in which it participates, but only the taxes imposed in a district are used to calculate voting entitlement in that district.

(e) The chief appraiser shall calculate the number of votes to which each taxing unit other than a conservation and reclamation district is entitled and shall deliver written notice to each of those units of its voting entitlement before October 1 of each odd-numbered year. The chief appraiser shall deliver the notice:

(1) to the county judge and each commissioner of the county served by the appraisal district;

(2) to the presiding officer of the governing body of each city or town participating in the appraisal district, to the city manager of each city or town having a city manager, and to the city secretary or clerk, if there is one, of each city or town that does not have a city manager; and

(3) to the presiding officer of the governing body of each school district[~~, other than the county education district,~~] participating in the district and to the superintendent of those school districts.

(m) If a school district participates in an appraisal district in which the only property of the school district located in the appraisal district is property annexed to the school district under Subchapter C or G, Chapter 36, Education Code, an individual who does not meet the residency requirements of Subsection (a) is eligible to be appointed to the board of directors of the appraisal district if:

(1) the individual is a resident of the school district; and

(2) the individual is nominated as a candidate for the board of directors by the school district or, if the taxing units have adopted a change in the method of appointing board members that does not require a nomination, the school district appoints or participates in the appointment of the individual.

SECTION 4.07. Subsections (d) and (h), Section 6.06, Tax Code, are amended to read as follows:

(d) Each taxing unit participating in the district[~~, other than a county education district,~~] is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the district by the unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by each participating unit for that year. [~~For a school district, other than a county education district, the total dollar amount of property taxes imposed in the district by the unit is considered to be the sum of the taxes imposed by the district and the revenue received by the district from the county education district.~~] If a taxing unit participates in two or more districts, only the taxes imposed in a district

are used to calculate the unit's cost allocations in that district. If the number of real property parcels in a taxing unit is less than 5 percent of the total number of real property parcels in the district and the taxing unit imposes in excess of 25 percent of the total amount of the property taxes imposed in the district by all of the participating taxing units for a year, the unit's allocation may not exceed a percentage of the appraisal district's budget equal to three times the unit's percentage of the total number of real property parcels appraised by the district.

(h) If a newly formed taxing unit or a taxing unit that did not impose taxes in the preceding year[~~, other than a county education district,~~] imposes taxes in any tax year, that unit is allocated a portion of the amount budgeted to operate the district as if it had imposed taxes in the preceding year, except that the amount of taxes the unit imposes in the current year is used to calculate its allocation. Before the amount of taxes to be imposed for the current year is known, the allocation may be based on an estimate to which the district board of directors and the governing body of the unit agree, and the payments made after that amount is known shall be adjusted to reflect the amount imposed. The payments of a newly formed taxing unit that has no source of funds are postponed until the unit has received adequate tax or other revenues.

SECTION 4.08. Subsections (d), (e), (m), and (n), Section 11.13, Tax Code, are amended to read as follows:

(d) In addition to the exemptions provided by Subsections (b) and (c) of this section, an individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion (the amount of which is fixed as provided by Subsection (e) of this section) of the appraised value of his residence homestead if the exemption is adopted either:

(1) by the governing body of the taxing unit [~~other than a county education district~~]; or

(2) by a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of a taxing unit [~~other than a county education district~~], and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit[~~; or~~

[~~(3) by a favorable vote of a majority of the qualified voters of a county education district at an election held under Section 20.950, Education Code~~].

(e) The amount of an exemption adopted as provided by Subsection (d) of this section is $3,000 of the appraised value of the residence homestead unless a larger amount is specified by:

(1) the governing body authorizing the exemption if the exemption is authorized as provided by Subdivision (1) of Subsection (d) of this section; or

(2) the petition for the election if the exemption is authorized as provided by Subdivision (2) of Subsection (d) of this section[~~; or~~

[~~(3) the proposition approved at an election held under Section 20.950, Education Code~~].

(m) In this section:

(1) "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

(2) "School district" means a political subdivision organized to provide general elementary and secondary public education. [~~"School district" includes a county education district established by the consolidation of the local school districts in its boundaries for the limited purpose of exercising a portion of the taxing power previously authorized by the voters in those school districts.~~] "School district" does not include a junior college district or a political subdivision organized to provide special education services.

(n) In addition to any other exemptions provided by this section, an individual is entitled to an exemption from taxation by a taxing unit [~~other than a county education district~~] of a percentage of the appraised value of his residence homestead if the exemption is adopted by the governing body of the taxing unit before May 1 in the manner provided by law for official action by the body. If the percentage set by the taxing unit produces an exemption in a tax year of less than $5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of $5,000 of the appraised value. The percentage adopted by the taxing unit may not exceed 20 percent. [~~In addition to any other exemptions provided by this section, an individual is entitled to an exemption from taxation by a county education district of a percentage of the appraised value of his residence homestead if the exemption is adopted by the voters of the district at an election held in the district for that purpose under Section 20.946, Education Code.~~] If the percentage set by the voters produces an exemption in a tax year of less than $5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of $5,000 of the appraised value. The percentage adopted by the voters may not exceed 20 percent.

SECTION 4.09. Subsections (c) and (e), Section 11.14, Tax Code, are amended to read as follows:

(c) The governing body of a taxing unit, [~~other than a county education district,~~] by resolution or order, depending upon the method prescribed by law for official action by that governing body, may provide for taxation of tangible personal property exempted under Subsection (a). [~~The voters of a county education district, by an election held under Section 20.951, Education Code, may provide for taxation of tangible personal property exempted under Subsection (a).~~] If a taxing unit provides for taxation of tangible personal property as provided by this subsection, the exemption prescribed by Subsection (a) does not apply to that unit.

(e) A political subdivision [~~other than a county education district~~] choosing to tax property otherwise made exempt by this section, pursuant to Article VIII, Section 1(e), of the Texas Constitution, may not do so until the governing body of the political subdivision has held a public hearing on the matter, after having given notice of the hearing at the times and in the manner required by this subsection, and has found that the

action will be in the public interest of all the residents of that political subdivision. At the hearing, all interested persons are entitled to speak and present evidence for or against taxing the property. Not later than the 30th day prior to the date of a hearing held under this subsection, notice of the hearing must be:

(1) published in a newspaper having general circulation in the political subdivision and in a section of the newspaper other than the advertisement section;

(2) not less than one-half of one page in size; and

(3) republished on not less than three separate days during the period beginning with the 10th day prior to the hearing and ending with the actual date of the hearing.

SECTION 4.10. Section 21.01, Tax Code, is amended to read as follows:

Sec. 21.01. REAL PROPERTY. Real property is taxable by a taxing unit if located in the unit on January 1, except as provided by Chapter 36, Education Code.

SECTION 4.11. Section 21.02, Tax Code, is amended to read as follows:

Sec. 21.02. TANGIBLE PERSONAL PROPERTY GENERALLY. (a) Except as provided by Subsection (b) and Sections 21.021, 21.04, and 21.05 [~~of this code~~], tangible personal property is taxable by a taxing unit if:

(1) it is located in the unit on January 1 for more than a temporary period;

(2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;

(3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or

(4) the owner resides (for property not used for business purposes) or maintains his principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this section.

(b) Tangible personal property having taxable situs at the same location as real property detached from a school district and annexed by another school district under Chapter 36, Education Code, is taxable in the tax year in which the detachment and annexation occurs by the same school district by which the real property is taxable in that tax year under Chapter 36, Education Code. For purposes of this subsection and Chapter 36, Education Code, tangible personal property has taxable situs at the same location as real property detached and annexed under Chapter 36, Education Code, if the detachment and annexation of the real property, had it occurred before January 1 of the tax year, would have changed the taxable situs of the tangible personal property determined as provided by Subsection (a) from the school district from which the real property was detached to the school district to which the real property was annexed.

(c) Tangible personal property has taxable situs in a school district that is the result of a consolidation under Chapter 36, Education Code, in

the year in which the consolidation occurs if the property would have had taxable situs in the consolidated district in that year had the consolidation occurred before January 1 of that year.

SECTION 4.12. Section 25.25, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The chief appraiser shall change the appraisal records and school district appraisal rolls promptly to reflect the detachment and annexation of property among school districts under Subchapter C or G, Chapter 36, Education Code.

SECTION 4.13. The following provisions are repealed:

(1) Section 1.05 and Subchapter G, Chapter 20, Education Code;

(2) Sections 6.061(f), 26.12(e), and 312.002(e) and (f), Tax Code.

SECTION 4.14. Effective September 1, 1993, each county education district created under Section 2, Chapter 20, Acts of the 72nd Legislature, Regular Session, 1991, is abolished.

SECTION 4.15. (a) On August 31, 1993, each county education district shall transfer its funds to its component school districts in the manner provided by rule of the commissioner of education, except any penalties paid to a county education district in 1993 shall be allocated to the school district that is the situs of the property that incurred the penalties.

(b) On September 1, 1993, any assets of a county education district other than funds are transferred to its component school districts in the manner and amounts provided by rule of the commissioner of education.

(c) On September 1, 1993, the contracts and other liabilities of a county education district are transferred to its component school districts in the manner and amounts, including joint obligations, provided by rule of the commissioner of education.

(d) The records of the board of a county education district shall be maintained as provided by rule of the commissioner of education.

(e) The component school districts of a county education district abolished by this Act may collect and use or distribute taxes imposed by the county education district that are delinquent in the manner provided by rule of the commissioner of education.

SECTION 4.16. This article takes effect immediately and applies beginning with the 1993-1994 school year.

ARTICLE 5

SECTION 5.01. Subchapter Z, Chapter 13, Education Code, is amended by adding Section 13.914 to read as follows:

Sec. 13.914. LOANED TEACHERS. (a) A school district may by agreement with a business, including a sole proprietorship or corporation, accept for special employment as a classroom teacher with the district a person employed by the business subject to the conditions prescribed by Subsection (b).

(b) An agreement under Subsection (a) must provide that:

(1) the salary of the loaned teacher is paid by the business according to the contractual relationship between the business and the loaned teacher;

(2) the school district shall supervise the loaned teacher in the performance of teaching activities; and

(3) all health and accident insurance and pension benefits of the loaned teacher are the exclusive obligation of the business.

(c) The commissioner of education may adopt guidelines for an agreement under this section and may authorize the expenditure of Central Education Agency funds for the recruiting and employment of loaned teachers under this section.

(d) The State Board of Education by rule may provide a one-year exemption for a loaned teacher from the teacher certification requirements of this chapter and may provide minimum standards and educational experience for qualifications for the exemption.

SECTION 5.02. This article takes effect immediately.

ARTICLE 6

SECTION 6.01. Subsections (a) and (b), Section 4.25, Education Code, are amended to read as follows:

(a) If any parent or person standing in parental relation to a child, within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn, in writing, the parent or person standing in parental relation that attendance must be immediately required. If after this warning the parent or person standing in parental relation intentionally, knowingly, recklessly, or with criminal negligence fails to require the child to attend school as required by law and the child has unexcused voluntary absences for the amount of time specified under Section 51.03(b)(2), Family Code, the parent or person standing in parental relation commits an offense. The attendance officer shall file a complaint against him in the county court, in the justice court of his resident precinct, or in the municipal court of the municipality in which he resides or in the municipality or justice of the peace precinct in which the school is located. In addition, if the child has unexcused voluntary absences for the amount of time specified under Section 51.03(b)(2), Family Code [~~been voluntarily absent from school for 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period without the consent of his parents~~], the attendance officer shall refer the child to the county juvenile probation department for action as conduct indicating a need for supervision under that section [~~Section 51.03(b), Family Code~~]. A court in which a complaint is filed under this subsection shall give preference to a hearing on the complaint over other cases before the court. An offense under this section is punishable by a fine of not less than $10 [~~$5~~] nor more than $50 [~~$25~~] for the first offense, not less than $20 [~~$10~~] nor more than $100 [~~$50~~] for the second offense, and not less than $50 [~~$25~~] nor more than $200 [~~$100~~] for a subsequent offense. Each day the child remains out of school after the warning has been given or the child ordered to school by the juvenile court may constitute a separate offense. If the court probates the sentence, the court may require the defendant to render personal services to a charitable or educational institution as a condition of probation.

(b) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of the school district in which the child attends school; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the county court or justice court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court [~~It is a defense to prosecution under Subsection (a) of this section that the parent or person standing in parental relation to the child is unable to compel the child to attend school~~].

SECTION 6.02. Chapter 54, Family Code, is amended by adding Section 54.043 to read as follows:

Sec. 54.043. MONITORING SCHOOL ATTENDANCE. If the court places a child on probation under Section 54.04(d) and requires as a condition of probation that the child attend school, the probation officer charged with supervising the child shall monitor the child's school attendance and report to the court if the child is voluntarily absent from school.

SECTION 6.03. (a) The change in law made by this article applies only to an offense committed on or after the effective date of this article. For the purposes of this section, an offense is committed before the effective date of this article if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6.04. This article takes effect September 1, 1993.

ARTICLE 7

SECTION 7.01. Title 2, Education Code, is amended by adding Chapter 35 to read as follows:

CHAPTER 35. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 35.001. PUBLIC EDUCATION GOALS. The objective of state support and maintenance of a system of public education is education for good citizenship and is grounded on the conviction that a general diffusion of knowledge is essential for the welfare of Texas and for the preservation of the liberties and rights of citizens. The goals of public education are as follows:

GOAL A: All students shall have access to an education of high quality that will prepare them to participate fully now and in the future in the social, economic, and educational opportunities available in Texas.

GOAL B: The achievement gap between educationally disadvantaged students and other populations will be closed. Through enhanced dropout prevention efforts, the graduation rate will be raised to 95 percent of students who enter the seventh grade.

GOAL C: The state shall demonstrate exemplary performance in comparison to national and international standards for student performance.

GOAL D: A well-balanced and appropriate curriculum will be provided to all students.

GOAL E: Qualified and effective personnel will be attracted and retained. Adequate and competitive compensation commensurate with responsibilities will be ensured. Qualified staff in critical shortage areas will be recruited, trained, and retained.

GOAL F: The organization and management of all levels of the education system will be productive, efficient, and accountable.

GOAL G: Instruction and administration will be improved through research that identifies creative and effective methods. Demonstration programs will be developed and local initiatives encouraged for new instructional arrangements and management techniques. Technology will be used to increase the equity, efficiency, and effectiveness of student learning, instructional management, staff development, and administration.

SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

Sec. 35.021. ESSENTIAL SKILLS AND KNOWLEDGE. (a) The State Board of Education by rule shall establish the essential skills and knowledge that all students should learn to achieve the goals provided under Section 35.001.

(b) Before adopting rules under this section, the board shall consider the comments of the Legislative Education Board as required under Section 11.24.

Sec. 35.022. ASSESSMENT PROGRAM. (a) The State Board of Education by rule shall create and implement a statewide assessment program that is primarily performance-based to ensure school accountability for student achievement that achieves the goals provided under Section 35.001. After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.

(b) Before adopting rules under this section, the State Board of Education shall consider the comments of the Legislative Education Board as required under Section 11.24.

Sec. 35.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS. (a) The Central Education Agency shall adopt appropriate criterion-referenced assessment instruments designed to assess competencies in reading, writing, social studies, science, mathematics, and other subject areas determined by the State Board of Education. Assessment in reading and mathematics shall be annual for all nonexempt pupils in grades three through eight and assessment shall be periodic in other areas as determined by the State Board of Education.

(b) The Central Education Agency shall also adopt secondary exit-level assessment instruments designed to assess competencies in mathematics, social studies, science, and English language arts and other subject areas determined by the State Board of Education. The English language arts section must include the assessment of writing competencies. The State Board of Education shall administer the assessment instruments.

(c) The State Board of Education shall adopt a schedule for the administration of secondary exit-level assessment instruments. Each pupil who did not perform satisfactorily on any secondary exit-level assessment instrument when initially tested shall be given multiple opportunities to retake that assessment instrument.

(d) An assessment instrument adopted under this section may include multiple sets of questions with one set administered to each group of students assessed in order to enhance security and broaden the total curriculum elements assessed.

(e) The assessment instruments shall be designed to include assessment of a student's problem-solving ability and complex-thinking skills.

(f) The assessment instruments required by Subsections (a) and (b) must include assessments of social studies and science not later than the 1994-1995 school year. The State Board of Education may adopt a schedule for the addition of the assessment of those subjects at the required grade levels in phases. This subsection expires August 31, 1995.

(g) The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered uniformly in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this section shall report the results to the Central Education Agency in a manner prescribed by the commissioner of education.

(h) Not later than the 1994-1995 school year, the Central Education Agency shall adopt end-of-course tests for grades nine through 12 for subjects as defined by the commissioner of education and the State Board of Education.

(i) The Central Education Agency shall notify school districts and campuses of the results of assessment instruments administered under this section at the earliest possible date determined by the State Board of Education but not later than the beginning of the subsequent school year.

(j) The provisions of this section are subject to modification by rules adopted under Section 35.022. Each assessment instrument adopted under those rules must be reliable and valid and must meet federal requirements for measurement of student progress.

Sec. 35.024. 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 instruction for students who did not perform satisfactorily on an assessment instrument administered under this subchapter. The intensive programs shall be designed to enable the students to be performing at grade level at the conclusion of the next regular school term.

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

Sec. 35.025. EXIT-LEVEL PERFORMANCE REQUIRED. (a) A student may not receive a high school diploma until the student has performed satisfactorily on the secondary exit-level assessment instruments for reading, writing, and mathematics. The State Board of Education shall adopt a schedule for the addition of satisfactory performance on secondary exit-level assessment instruments in other subject areas as a requirement for receipt of a high school diploma.

(b) Each time a secondary exit-level assessment instrument is administered, a student who has not been given a high school diploma because of a failure to perform satisfactorily on the assessment instrument for that subject area may retake the assessment instrument.

(c) A student who has been denied a high school diploma under Subsections (a) and (b) and who subsequently performs satisfactorily on each secondary exit-level assessment instrument shall be issued a high school diploma.

Sec. 35.026. LOCAL OPTION. In addition to the assessment instruments adopted by the Central Education Agency and administered by the State Board of Education, a local school district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A norm-referenced assessment instrument adopted under this section must be economical, nationally recognized, and state-approved.

Sec. 35.027. 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 academic 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.

(c) The State Board of Education shall adopt rules under which a dyslexic student who is not exempt under this section may utilize procedures including but not limited to oral examinations where appropriate and the allowance of additional time and the materials or technology necessary for the student to demonstrate the student's mastery of the competencies the assessment instruments are designed to measure.

Sec. 35.028. COMPARISON OF STATE RESULTS TO NATIONAL RESULTS. The state assessment program shall obtain nationally comparative results for the subject areas and grade levels for which criterion-referenced assessment instruments are adopted under Section 35.023.

Sec. 35.029. MIGRANT WORKERS. (a) The State Board of Education by rule may provide alternate dates for the administration of the assessments to a student whose parent or guardian is a migrant worker and who travels with the parent or guardian. The alternate dates may be chosen following a consideration of migrant work patterns, and the dates selected may afford maximum opportunity for the students to be present when the assessment instruments are administered.

(b) In this section, "migrant worker" means an individual who is employed in agricultural labor of a seasonal or temporary nature and whose work requires the individual to be absent overnight from the individual's residence.

Sec. 35.030. CONFIDENTIALITY; PERFORMANCE REPORTS. (a) In adopting academic skills assessment instruments under this subchapter, the State Board of Education or a local school district shall ensure the security of the instruments and tests in their preparation, administration, and grading. Meetings or portions of meetings held by the State Board of Education or a local school district at which individual assessment instruments or assessment instrument items are discussed or adopted are not open to the public under Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the assessment instruments or assessment instrument items are confidential.

(b) The results of individual student performance on academic skills assessment instruments administered under this subchapter are confidential and may be made available only to the student, the student's parent or guardian, the school personnel directly involved with the student's educational program, and the Central Education Agency as required by this subchapter. However, overall student performance data shall be aggregated by grade level, subject area, campus, and district and made available to the public, with appropriate interpretations, at regularly scheduled meetings of the governing board of each school district. The information may not contain the names of individual students or teachers. The commissioner of education shall compile all of the data and report it to the legislature, lieutenant governor, and governor no later than January 1 of each odd-numbered year.

(c) In compiling performance data under Subsection (b), a district or the commissioner of education 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, Chapter 21; or

(2) a special education program under Subchapter N, Chapter 21.

Sec. 35.031. COST. The cost of preparing, administering, or grading the assessment instruments shall be paid from the compensatory aid provided by Section 16.152, and each district shall bear the cost in the same manner described for a reduction in allotments under Section 16.254. If a district does not receive an allocation of compensatory aid, the commissioner of education shall subtract the cost from the district's other foundation school fund allocations.

Sec. 35.032. BIENNIAL REPORTS. The State Board of Education shall biennially report to the legislature an evaluation of the correlation between student grades and student performance on assessment instruments administered under this subchapter. The report may be included with other reports made as required by law.

Sec. 35.033. ASSESSMENT INSTRUMENT STANDARDS; CIVIL PENALTY. (a) A company or organization may not distribute to, sell to,

or grade for the same school district the same form of an assessment instrument for more than three school years. A school district may not use the same form of an assessment instrument for more than three years.

(b) A company or organization that grades an assessment instrument shall report the results to the district and to the Central Education Agency by campus and district and in comparison to state and national averages, unless the agency requests a report of the results in another form.

(c) State and national norms of averages shall be computed using data that are not more than two years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered. The standardization norms shall be based on a national probability sample that meets accepted standards for educational and psychological testing and shall be updated at least every two years using proven psychometric procedures approved by the State Board of Education.

(d) A company or organization that reports results using national norms that are not calculated in compliance with Subsection (c) is liable to the state in an amount equal to three times the amount of actual damages. The actual damages are presumed to be at least equal to the amount charged by the company or organization to a school district for the assessment instrument, including any charge for grading the assessment instrument. The attorney general, a district attorney, or a county attorney may bring suit to collect the damages on the request of the State Board of Education or on the request of a student or a parent or guardian of a student to whom the assessment instrument was administered.

(e) The State Board of Education shall adopt rules for the implementation of this section and for the maintenance of the security of the contents of all assessment instruments.

(f) In this section, "assessment instrument" means a group-administered achievement test.

SUBCHAPTER C. PERFORMANCE INDICATORS

Sec. 35.041. ACADEMIC EXCELLENCE INDICATORS. (a) The State Board of Education, on the advice of the Legislative Education Board, shall adopt a set of indicators of the quality of learning on a campus. The State Board of Education biennially shall review the indicators for the consideration of appropriate revisions.

(b) Performance on the indicators adopted under this section shall be compared to state-established standards. The degree of change from one school year to the next in performance on each indicator adopted under this section shall also be considered. The indicators must be based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status and must include:

(1) the results of assessment instruments required under Subchapter B aggregated by grade level and subject area;

(2) dropout rates;

(3) student attendance rates;

(4) high school end-of-course examinations adopted by the State Board of Education;

(5) the percentage of graduating students who attain scores on the secondary exit-level assessment instruments required under Subchapter B that are equivalent to a passing score on the test instrument required under Section 51.306;

(6) the percentage of graduating students who meet the course requirements established by the State Board of Education for career or college preparation program designations when available;

(7) the results of the Scholastic Assessment Test (SAT) and the American College Test; and

(8) any other indicator the State Board of Education adopts.

(c) Performance on the indicator under Subsection (b)(1) shall be compared to state standards, required improvement, and comparable improvement. The state standard shall be established by the commissioner of education. Required improvement is defined as the progress necessary for the campus or district to meet state standards and for its students to meet exit requirements as defined by the commissioner of education. Comparable improvement is derived by measuring campuses and districts against a profile developed from a total state student performance data base which exhibits substantial equivalence to the characteristics of students served by the campus or district, including but not limited to past academic performance, socioeconomic status, ethnicity, and limited English proficiency.

(d) 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.

(e) Annually, the commissioner of education shall define exemplary, recognized, and unacceptable performance for each academic excellence indicator included under Subsections (b)(1) through (6) and shall project the standards for each of those levels of performance for succeeding years.

Sec. 35.042. PERFORMANCE REPORT. (a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner of education. The annual report must also include campus performance objectives established under Section 21.7532 and the progress of each campus toward those objectives, which shall be available to the public. The annual report must also include the performance rating for the district as provided under Section 35.062(a) and the performance rating of each campus in the district as provided under Section 35.062(c). Supplemental information to be included in the reports shall be determined by the local board of trustees. Performance information in the annual reports on the indicators established under Section 35.041 and descriptive information required by this section shall be provided by the Central Education Agency.

(b) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall notify property owners and parents in the district of the hearing. After the hearing the report shall be widely disseminated within the district in a manner to be determined under rules adopted by the commissioner of education.

(c) The report must also include a comparison provided by the Central Education Agency of:

(1) the performance of each campus to its previous performance and to state-established standards;

(2) the performance of each district to its previous performance and to state-established standards; and

(3) the performance of each campus or district to comparable improvement.

(d) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, economic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover; and

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program.

(e) The State Board of Education by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.

(f) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

Sec. 35.043. CAMPUS REPORT CARD. (a) Each school year, the Central Education Agency shall prepare and distribute to each school district a report card for each campus. The campus report cards must be based on the most current data available disaggregated by student groups. Campus performance must be compared to previous campus and district performance, current district performance, state established standards, and comparable campus group performance.

(b) The report card shall include the following information where applicable:

(1) student performance on state adopted assessment instruments;

(2) attendance;

(3) dropout rate;

(4) student performance on college admissions tests;

(5) student/teacher ratios; and

(6) administrative and instructional costs per student.

(c) The commissioner of education shall adopt rules for requiring dissemination of campus report cards annually to the parent of or person standing in parental relation to each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

Sec. 35.044. USES OF PERFORMANCE REPORT. The information required to be reported under Section 35.042 shall be:

(1) the subject of public hearings or meetings required under Sections 21.930, 21.931, and 35.042;

(2) a primary consideration in district and campus planning; and

(3) a primary consideration of:

(A) the State Board of Education in the evaluation of the performance of the commissioner of education;

(B) the commissioner of education in the evaluation of the performance of the directors of the regional education service centers;

(C) the board of trustees of a school district in the evaluation of the performance of the superintendent of the district; and

(D) the superintendent in the evaluation of the performance of the district's campus principals.

SUBCHAPTER D. ACCREDITATION STATUS

Sec. 35.061. ACCREDITATION REQUIRED. Each school district must be accredited by the Central Education Agency.

Sec. 35.062. 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 assign to districts that are accredited and that have a performance in one of the categories described below an additional performance rating as follows:

(1) exemplary (meets or exceeds state exemplary standards);

(2) recognized (meets or exceeds required improvement and within 10 percent of state exemplary standards); or

(3) accredited warned (below the state clearly unacceptable performance standard and does not meet required improvement).

(b) The academic excellence indicators adopted under Sections 35.041(b)(1) through (6) shall be the main consideration of the Central Education Agency in the rating of the district under this section. Additional criteria in the accreditation rules may 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 relation between the academic excellence indicators adopted by the State Board of Education under Section 35.041 and the campus performance objectives established under Section 21.7532, including the manner in which the campus performance objectives were established and the progress of the campus in meeting the objectives;

(4) the quality of learning on each of the district's campuses based on indicators including scores on achievement tests;

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

(6) the effectiveness of the district's principals as instructional leaders;

(7) the effectiveness of the district's campuses on the basis of the most current criteria identified by research on effective schools;

(8) the fulfillment of curriculum requirements;

(9) the effectiveness of the district's programs in special education based on the Central Education Agency's most recent compliance review of the district and programs for special populations;

(10) the effectiveness of district and campus staff development programs;

(11) the effective use of technology to enhance student achievement;

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

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

(14) efficient allocation of available resources;

(15) the presence and quality of comprehensive and developmental guidance and counseling programs on campuses;

(16) the quality and effectiveness of the district's vocational education program; and

(17) the effectiveness of the board of trustees in governing the district.

(c) The Central Education Agency shall evaluate against state standards and shall report the performance of each campus in a district on the basis of the campus's performance on the indicators adopted under Sections 35.041(b)(1) through (6).

Sec. 35.063. DETERMINING ACCREDITATION STATUS. (a) The Central Education Agency shall annually review the performance of each district and campus on the indicators adopted under Sections 35.041(b)(1) through (6) and determine if a change in the accreditation status of the district is warranted.

(b) Each annual review shall include an analysis of the indicators under Sections 35.041(b)(1) through (6) to determine district and campus performance in relation to:

(1) standards established for each indicator;

(2) required improvement as defined under Section 35.041(c); and

(3) comparable improvement as defined by Section 35.041(c).

(c) A district's accreditation rating may be raised or lowered based on the district's performance or may be lowered based on the unacceptable performance of one or more campuses in the district.

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

(e) Beginning not later than the 1993-1994 school year, the commissioner of education shall notify a district that is rated accredited warned and the performance of the district or a campus in the district is below each standard under Subsection (b) and shall require the district to notify property owners and parents in the district of the lowered accreditation rating and its implication.

Sec. 35.064. ON-SITE INVESTIGATIONS. (a) The commissioner of education may direct the Central Education Agency to conduct on-site investigations at any time and may raise or lower the accreditation rating as a result of the investigation.

(b) The commissioner of education shall determine the frequency of on-site investigations by the Central Education Agency according to annual comprehensive analyses of student performance and equity in relation to the academic excellence indicators adopted under Section 35.041.

(c) In making an on-site accreditation investigation, the investigators shall obtain information from 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 State Board of Education 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 a campus or district from screening the information.

(d) The Central Education Agency shall give written notice to the superintendent and the board of trustees of any impending investigation of the district's accreditation.

(e) If an annual review indicates low performance on one or more of the indicators under Sections 35.041(b)(1) through (6) of one or more campuses in a district, the Central Education Agency may conduct an on-site evaluation of those campuses only.

(f) The investigators shall report orally and in writing to the board of trustees of the district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.

Sec. 35.065. SPECIAL ACCREDITATION INVESTIGATIONS. (a) The commissioner of education shall authorize special accreditation investigations to be conducted under the following circumstances:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment are determined;

(3) in response to complaints submitted to the Central Education Agency with respect to any of the following:

(A) alleged violations of civil rights or other requirements imposed on the state by federal law or court order; or

(B) alleged violations of the accreditation criteria related to effective governance operations; or

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements.

(b) Based on the results of a special accreditation investigation, the commissioner of education may lower the district's accreditation rating and may take appropriate action under Subchapter G.

Sec. 35.066. AGENCY ASSISTANCE. The Central Education Agency shall provide assistance to districts which have been found to have difficulty meeting accreditation standards.

SUBCHAPTER E. SUCCESSFUL SCHOOLS AWARDS

Sec. 35.081. CREATION OF SYSTEM. The Texas Successful Schools Awards System is created to recognize and reward those schools and

school districts that demonstrate progress or success in achieving the education goals of the state.

Sec. 35.082. TYPES OF AWARDS. (a) The governor may present a financial award to the schools or districts that the commissioner of education determines have demonstrated the highest levels of sustained success or the greatest improvement in achieving the education goals. 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 commissioner of education, subject to any limitation set by the commissioner 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 determined to have met or exceeded the education goals.

(c) The commissioner of education may establish additional categories of awards and award amounts for a school or district determined to be successful under Subsection (a) or (b) that are contingent on the school's or district's involvement with paired, lower-performing schools.

Sec. 35.083. AWARDS. (a) The criteria which the commissioner of education shall use to select successful schools and districts shall be related to the goals in Section 35.001 and shall include consideration of performance on the academic excellence indicators adopted under Section 35.041. For purposes of selecting schools and districts under Section 35.082(a), each school's performance shall be compared to state standards and to its previous performance.

(b) The commissioner of education shall select annually schools and districts qualified to receive successful school awards for their performance and report the selections to the governor and the State Board of Education.

(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 successful school award.

Sec. 35.084. USE OF AWARDS. (a) In determining the use of a monetary award received under this subchapter, a school or district shall give priority to academic enhancement purposes. The award may not be used for any purpose related to athletics, and it may not be used to substitute for or replace funds already in the regular budget for a school or district.

(b) The school committee established under Section 21.931 shall determine the use of the funds awarded to a school under this subchapter. The professional staff, as that term is used in Section 21.930, shall determine the use of the funds awarded to the school district under this subchapter.

Sec. 35.085. FUNDING. The award system may be funded by donations, grants, or legislative appropriations. The commissioner of education may solicit and receive grants and donations for the purpose of making awards under this subchapter. A small portion of the award funds may be used by the commissioner of education to pay for the costs associated with sponsoring a ceremony to recognize or present awards to schools or districts 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. 35.086. CONFIDENTIALITY. All information and reports received by the commissioner of education under this subchapter from schools or school districts deemed confidential 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.

SUBCHAPTER F. ADDITIONAL REWARDS

Sec. 35.101. RECOGNITION AND REWARDS. The State Board of Education shall develop a plan for recognizing and rewarding school districts and campuses that are rated as exemplary or recognized and for developing a network for sharing proven successful practices statewide and regionally.

Sec. 35.102. EXCELLENCE EXEMPTIONS. (a) Except as provided by Subsection (b), a school campus or district that is rated exemplary is exempt from requirements and prohibitions imposed under this code including rules adopted under this code.

(b) A school campus or district is not exempt under this section from a prohibition on conduct that constitutes a criminal offense. A school campus or district is not exempt under this section from requirements imposed by federal law or rule including requirements for special education or bilingual education programs. Except as provided by Subsection (d), a school campus or district is not exempt under this section from a requirement or prohibition imposed by state law or rule relating to:

(1) curriculum essential elements, excluding the methodology used by a teacher and the time spent by a teacher or a student on a particular task or subject;

(2) restrictions on extracurricular activities;

(3) health and safety;

(4) competitive bidding;

(5) textbook selection;

(6) elementary school class size limits;

(7) removal of a disruptive student from the classroom;

(8) suspension or expulsion of a student;

(9) at-risk programs;

(10) prekindergarten programs;

(11) minimum graduation requirements; or

(12) educational employee and educational support employee rights and benefits. In this section, "educational support employee" means a full-time or part-time school employee not defined as a "teacher" by Section 21.201(1).

(c) The Central Education Agency shall monitor and evaluate deregulation of a school campus or district under this section and Section 11.273 and report annually on the effect of deregulation on student achievement to the State Board of Education, the Legislative Education Board, the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature. The report must include a list of the

exemptions utilized and a review of the effectiveness of the waivers and exemptions programs.

(d) The commissioner of education may exempt an exemplary school campus from elementary class size limits under this section if the school campus submits to the commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The commissioner shall review achievement levels annually. The exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

SUBCHAPTER G. ACCREDITATION SANCTIONS

Sec. 35.121. SANCTIONS. (a) If a district does not satisfy the accreditation criteria, the commissioner of education shall take any of the following actions, listed in order of severity, to the extent the commissioner determines necessary:

(1) issue public notice of the deficiency to the board of trustees;

(2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the Central Education Agency, and the sanctions that may be imposed under this section if the performance does not improve;

(3) order the preparation of a student achievement improvement plan that addresses each academic excellence indicator for which the district's performance is unacceptable, the submission of the plan to the commissioner of education for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner of education or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5) arrange an on-site investigation of the district;

(6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;

(7) appoint a master to oversee the operations of the district;

(8) appoint a management team to direct the operations of the district in areas of unacceptable performance;

(9) if a district has been rated as accredited warned for a period of one year or more, appoint a board of managers composed of residents of the district to exercise the powers and duties of the board of trustees; or

(10) if a district has been rated as accredited warned for a period of two years or more, annex the district to one or more adjoining districts under Section 19.027.

(b) If a campus performance is below any standard under Section 35.063(b), the campus is considered a low-performing campus and the commissioner of education may take any of the following actions, listed in order of severity, to the extent the commissioner determines necessary:

(1) issue public notice of the deficiency to the board of trustees;

(2) order a hearing conducted by the board of trustees at the

campus for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the Central Education Agency, and the sanctions that may be imposed under this section if the performance does not improve within a designated period of time and of soliciting public comment on the initial steps being taken to improve performance;

(3) order the preparation of a student achievement improvement plan that addresses each academic excellence indicator for which the campus's performance is unacceptable, the submission of the plan to the commissioner of education for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner of education or the commissioner's designee at which the president of the board of trustees, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement;

(5) appoint a special campus intervention team to:

(A) conduct a comprehensive on-site evaluation of each low-performing campus to determine the cause for the campus's low performance and lack of progress;

(B) recommend actions, including reallocation of resources and technical assistance, changes in school procedures or operations, staff development for instructional and administrative staff, intervention for individual administrators or teachers, waivers from state statute or rule, or other actions the team considers appropriate;

(C) assist in the development of a campus plan for student achievement; and

(D) assist the commissioner of education in monitoring the progress of the campus in implementing the campus plan for improvement of student achievement;

(6) if a campus has been a low-performing campus for a period of one year or more, appoint a board of managers composed of residents of the district to exercise the powers and duties of the board of trustees of the district in relation to the campus; or

(7) if a campus has been a low-performing campus for a period of two years or more, order closure of the school program on the campus.

(c) The commissioner of education shall review annually the performance of a district or campus subject to this section to determine the appropriate actions to be implemented under this section. The commissioner must review at least annually the performance of a district for which the accreditation rating has been lowered due to unacceptable student performance and may not raise the rating until the district has demonstrated improved student performance. If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status. At the beginning of the 1993-1994 school year, the Central Education Agency shall rate any district with clearly unacceptable performance as accredited warned and the commissioner of education shall begin appropriate intervention in the district. The

commissioner of education shall report annually to the governor, lieutenant governor, and the speaker of the house of representatives on districts or campuses subject to this section the actions taken by the commissioner to improve student performance and the results of those actions.

(d) The costs of providing a monitor, master, management team, or special campus intervention team shall be paid by the district.

(e) A master or management team appointed to oversee the operations of the district shall prepare a plan for the implementation of action under Subsection (a)(9) or (10) and may:

(1) direct an action to be taken by the principal of a campus, the superintendent of the district, or the board of trustees of the district; or

(2) approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board of trustees of the district.

(f) A special campus intervention team appointed under this section may consist of teachers, principals, other educational professionals, and superintendents recognized for excellence in their roles and appointed by the commissioner of education to serve as members of a team.

(g) If the commissioner of education appoints a board of managers to govern a district, the powers of the board of trustees of the district are suspended for the period of the appointment and the commissioner shall appoint a district superintendent. Notwithstanding any other provision of this code, the board of managers may amend the budget of the district.

(h) If the commissioner of education appoints a board of managers to govern a campus, the powers of the board of trustees of the district in relation to the campus are suspended for the period of the appointment and the commissioner shall appoint a campus principal. Notwithstanding any other provision of this code, the board of managers may submit to the commissioner for approval amendments to the budget of the district for the benefit of the campus. If the commissioner approves the amendments, the board of trustees of the district shall adopt the amendments.

SECTION 7.02. Section 11.273, Education Code, is amended by amending Subsection (e) and adding Subsection (h) to read as follows:

(e) A school campus or district may not receive an exemption or waiver under this section from requirements imposed by federal law or rule, including requirements for special education or bilingual education programs. Except as provided by Subsection (h), a [~~A~~] school campus or district may not receive an exemption or waiver under this section from a requirement or prohibition imposed by state law or rule relating to:

(1) curriculum essential elements, excluding the methodology used by a teacher and the time spent by a teacher or a student on a particular task or subject;

(2) restrictions on extracurricular activities;

(3) health and safety;

(4) competitive bidding;

(5) elementary school class size limits, except as provided by Section 16.054;

(6) minimum graduation requirements;

(7) removal of a disruptive student from the classroom;

(8) suspension or expulsion of a student;

(9) at risk programs;

(10) prekindergarten programs;

(11) educational employee and educational support employee rights and benefits. In this section, "educational support employee" means a full-time or part-time school employee not defined as a "teacher" by Section 21.201(1) of this code; or

(12) special education or bilingual education programs.

(h) The commissioner of education may grant to a school district or campus that is required to develop and implement a student achievement improvement plan under Section 35.121 an exemption or waiver from any law or rule other than a prohibition on conduct that constitutes a criminal offense or a requirement imposed by federal law or rule. A school campus or district may not receive an exemption or waiver under this section from a requirement or prohibition imposed by state law or rule relating to educational employee and educational support employee rights and benefits. In this section, "educational support employee" means a full-time or part-time school employee not defined as a "teacher" by Section 21.201(1).

SECTION 7.03. Section 11.62, Education Code, is amended to read as follows:

Sec. 11.62. ORGANIZATION AND REGULATIONS. (a) The State Department of Education shall be organized into divisions and subdivisions established by the commissioner of education [~~subject to the approval of the State Board of Education~~].

(b) Directors of the major divisions of the State Department of Education, and all of its other employees, shall be appointed by the commissioner of education [~~pursuant to general rules and regulations adopted by the State Board of Education~~].

(c) The rules and regulations pertaining to personnel administration shall include a comprehensive classification plan, including an appropriate title for each position, a description of duties and responsibilities, and the minimum requirements of training, experience, and other qualifications essential for adequate performance of the work. These rules and regulations shall likewise provide [~~tenure safeguards,~~] leave and retirement provisions[~~,~~] and establish hearing procedures.

SECTION 7.04. Section 13.351, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The duties of the superintendent include:

(1) assuming administrative responsibility and leadership for the planning, operation, supervision, and evaluation of the education programs, services, and facilities of the district and for the annual performance appraisal of the district's staff;

(2) assuming administrative authority and responsibility for the assignment and evaluation of all personnel of the district other than the superintendent and making recommendations regarding the selection, promotion, and dismissal of such personnel, except as provided by Section 13.352 of this code;

(3) managing the day-to-day operations of the district as its chief executive officer;

(4) as directed by local board policy, causing to be prepared a budget covering all estimated revenue and proposed expenditures of the district for the next succeeding fiscal year, according to generally accepted accounting principles, rules adopted by the State Board of Education, and adopted policies of the board of trustees;

(5) preparing recommendations for policies to be adopted by the board of trustees and overseeing the implementation of adopted policies;

(6) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;

(7) providing leadership for the attainment of student performance in the district based on the indicators adopted under Section 35.041 and other indicators as may be adopted by the State Board of Education or the district's board of trustees; and

(8) performing any other duties assigned by action of the board of trustees.

SECTION 7.05. Subsections (a), (b), and (d), Section 19.027, Education Code, are amended to read as follows:

(a) The commissioner of education by order may annex to one or more adjoining districts a school district that has been rated as accredited warned [~~academically unaccredited~~] for a period of two years.

(b) The governing board of a district to which territory of an accredited warned [~~academically unaccredited~~] district is annexed is the governing board for the new district.

(d) Title to the real property of the accredited warned [~~academically unaccredited~~] district vests in the district to which the property is annexed. Each district to which territory is annexed assumes and is liable for any portion of the accredited warned [~~academically unaccredited~~] district's indebtedness that is allocated to the receiving district under Section 19.004 of this code.

SECTION 7.06. Subsection (f), Section 21.557, Education Code, is amended to read as follows:

(f) For the purposes of this section, "student at risk of dropping out of school" includes:

(1) each student in grade levels seven through 12 who is under 21 years of age and who:

(A) was not advanced from one grade level to the next two or more school years;

(B) has mathematics or reading skills that are two or more years below grade level;

(C) did not maintain an average equivalent to 70 on a scale of 100 in two or more courses during a semester, or is not maintaining such an average in two or more courses in the current semester, and is not expected to graduate within four years of the date the student begins ninth grade; or

(D) did not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 35 [~~this subchapter in the seventh, ninth, or twelfth grade~~];

(2) each student in prekindergarten through grade level six who:

(A) did not perform satisfactorily on a readiness test or assessment instrument administered at the beginning of the school year;

(B) did not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 35 [~~this subchapter in the third or fifth grade~~];

(C) is a student of limited English proficiency, as defined by Section 21.452 of this code;

(D) is sexually, physically, or psychologically abused;

(E) engages in conduct described by Section 51.03(a), Family Code; or

(F) is otherwise identified as at risk under rules adopted by the State Board of Education; and

(3) each nonhandicapped student who resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster family group home.

SECTION 7.07. Section 21.930, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The professional staff elected under this section shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from the Central Education Agency for the purpose of discussing the performance of the district and the district performance objectives.

SECTION 7.08. Section 21.931, Education Code, is amended by adding Subsection (g) to read as follows:

(g) Each school committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from the Central Education Agency for the purpose of discussing the performance of the campus and the campus performance objectives.

SECTION 7.09. Subsection (a), Section 23.33, Education Code, is amended to read as follows:

(a) The State Board of Education shall adopt statewide standards for the duties of a school board member as criteria for board member training [~~appoint an advisory committee to develop statewide standards on the duties of a school board member. The committee shall consist of at least 15 persons knowledgeable in the management of the public schools of the state, and no less than five members of the committee shall consist of individuals currently serving as locally elected school board members~~].

SECTION 7.10. The Educational Economic Policy Center, established under Section 34.051, Education Code, shall monitor and evaluate the implementation of the accountability system set forth in this Act and provide annual progress reports to the governor, the Legislative Education Board, and the commissioner of education.

SECTION 7.11. (a) The Select Committee to Conduct a Comprehensive Review of the Central Education Agency and efficient use of educational resources in the state is established.

(b) The committee is composed of:

(1) the chairs of the Senate Education Committee and the House Public Education Committee;

(2) two members of the senate, appointed by the lieutenant governor;

(3) two members of the house of representatives, appointed by the speaker of the house of representatives;

(4) one teacher, one principal, and one school district superintendent, appointed jointly by the lieutenant governor and the speaker of the house of representatives; and

(5) four representatives of businesses and communities, at least two of whom have one or more children attending the public schools, appointed jointly by the lieutenant governor and the speaker of the house of representatives.

(c) The chairs of the Senate Education Committee and the House Public Education Committee serve as co-chairs of the committee.

(d) The committee shall conduct an in-depth and comprehensive review of the mission, organization, size, and effectiveness of the Central Education Agency. In conducting its review, the committee shall study the mission, organizational structure, and practices of similar agencies in other states. The review must include:

(1) a study of the agency's success in addressing national education goals adopted by the president of the United States and the nation's 50 governors and the goals for public education provided by Section 35.001, Education Code, as added by this Act;

(2) a study of the agency's organizational mission, structure, size, and effectiveness;

(3) a study of the number and effectiveness of committees created under the auspices of the agency or the State Board of Education;

(4) identification of those functions that should be performed by the state and those that should be performed regionally through regional service centers;

(5) a study of the adequacy, validity, and timeliness of data collected and published by the Public Education Information Management System (PEIMS) as provided by Section 16.007, Education Code;

(6) a study of the adequacy and effectiveness of programs designed for special populations of students and for teacher and administrator staff development;

(7) a study of the adequacy and effectiveness of assistance provided the site-based management teams established under Section 21.931, Education Code; and

(8) a study of the efficient use of state resources, school district structure, and opportunities for shared cost in order to determine the best management and use of state resources and to assist school districts in determining optimum educational opportunities.

(e) The commissioner of education shall ensure that the committee has access to any documentation and agency personnel the committee requests.

(f) Meetings of the committee shall be held at the call of the co-chairs.

(g) A majority of the members of the committee constitutes a quorum.

(h) Not later than December 1, 1994, the committee shall issue a

report stating the findings of its review under Subsection (d) of this section, including any recommendations for statutory changes. The report must be approved by a majority of the membership of the committee. Any dissenting member may attach a statement to the report.

(i) Staff members of the Senate Education Committee and the House Public Education Committee shall serve as the staff of the committee.

(j) The Legislative Budget Board, comptroller, state auditor, and other state agencies, officials, and personnel shall cooperate with the committee in carrying out its duties under this section.

(k) Each member of the committee is entitled to reimbursement for actual and necessary expenses incurred in performing committee duties. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective house. Each public member is entitled to reimbursement from funds appropriated to the committee.

(l) The committee may coordinate its study with any other legislative study.

(m) The committee expires January 10, 1995.

SECTION 7.12. The following provisions of the Education Code are repealed:

(1) Sections 2.01, 11.272, 21.258, 21.551 through 21.556, 21.558 through 21.561, 21.751 through 21.7531, and 21.754 through 21.758; and

(2) Subchapter A, Chapter 34.

SECTION 7.13. Section 21.9211, Education Code, is amended by amending Subsection (e) and adding Subsections (g) and (h) to read as follows:

(e) The advisory council shall review the rules of the University Interscholastic League and shall make recommendations relating to the rules to the governor, the legislature, 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 January 1, 1995 [~~September 1, 1990~~].

(g) The advisory council shall study:

(1) University Interscholastic League policy with respect to the eligibility of students to participate in programs;

(2) geographic distribution of University Interscholastic League resources and programs; and

(3) gender equity.

(h) No actions of the University Interscholastic League relating to the provision of additional programs of school districts shall be taken pending submission of a final report by the advisory council.

SECTION 7.14. This article takes effect immediately and applies beginning with the 1993-1994 school year.

ARTICLE 8

SECTION 8.01. Subchapter Z, Chapter 21, Education Code, is amended by adding Section 21.938 to read as follows:

Sec. 21.938. DISTRICT AND CAMPUS PLANNING PROCESS. (a) The board of trustees of each school district shall develop a district and campus planning process, utilizing the procedures established in Sections 35.041, 21.930, and 21.931, under which the board shall adopt a

report detailing a plan for the district and plans for each campus.

(b) Each district's report shall include a current analysis of student performance based on the academic excellence indicators adopted under Section 35.041, campus performance objectives established under Section 21.7532, and other measures of student performance the board determines and shall include provisions for:

(1) addressing the needs of district students for special programs, such as suicide prevention or dyslexia treatment programs;

(2) requiring the principal of each campus, with the assistance of parents and guardians of the school's students, other adults in the attendance area, and the professional staff of the school, to establish a campus plan consistent with Sections 21.7532 and 21.931;

(3) dropout reduction;

(4) integration of technology in instructional and administrative programs;

(5) discipline management;

(6) staff development for professional staff of the district;

(7) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities;

(8) compensatory and remedial education as required by Section 21.557; and

(9) other information the board considers useful.

(c) In the district and campus plan or in another manner permitted by federal law, the board shall address any federal planning requirements.

(d) A district report is not filed with the Central Education Agency, but the district must make the report available to the agency on request.

SECTION 8.02. Subsection (f), Section 12.65, Education Code, is amended to read as follows:

(f) Covers of all books shall be removed before reissue, and the pupils to whom the books are issued shall replace the covers [~~under direction of the teacher~~].

SECTION 8.03. Subsection (a), Section 12.67, Education Code, is amended to read as follows:

(a) If a school district employee enters into a business relationship, employment contract, or other transaction with a textbook publisher doing business, or with the potential of doing business, with the state or a school district in the state and the transaction directly or indirectly results in remuneration to the employee, the transaction must be registered with the superintendent of the school district [~~and with the commissioner of education~~].

SECTION 8.04. Section 21.601, Education Code, is amended to read as follows:

Sec. 21.601. ESTABLISHMENT. [~~(a)~~] Each school district may establish a school-community guidance center designed to locate and assist children with problems which interfere with their education, including but not limited to juvenile offenders and children with severe behavioral problems or character disorders. The centers shall coordinate the efforts of school district personnel, local police departments, truant officers, and

probation officers in working with students, dropouts, and parents in identifying and correcting factors which adversely affect the education of the children.

[~~(b) With the approval of the commissioner of education, school districts with an average daily attendance of less than 6,000 students may cooperate with other districts for the purpose of establishing a common center.~~]

SECTION 8.05. Section 21.701, Education Code, is amended to read as follows:

Sec. 21.701. ADOPTION AND APPROVAL OF PROGRAMS. Each school district shall adopt and implement a discipline management program to be included in the district plan under Section 21.938. [~~Before implementation, the proposed program must be submitted to the Central Education Agency, which shall review and approve or reject the program.~~]

SECTION 8.06. Section 21.702, Education Code, is amended to read as follows:

Sec. 21.702. CONTENT OF APPROVED PROGRAMS. A [~~To be approved, a~~] discipline management program must:

(1) encourage the commitment, cooperation, and involvement of school district administrators, teachers, parents, and students in the development of the program;

(2) encourage the use of the regional education service center to assist in developing the program and providing training to teachers and administrators;

(3) require the designation of a person in each school with special training in discipline management to implement and assess the program in that school and to identify and refer appropriate students to school-community guidance programs;

(4) require the development of a student code of conduct that clearly describes the district's expectations with respect to student conduct, including provisions similar to the Attorney General's Proposed Voluntary Student Code of Conduct of 1980, and specifies the consequences of violating the code;

(5) specifically outline the responsibilities of teachers, administrators, parents, and students in the discipline management program; and

(6) make parental involvement an integral part of the discipline management program, requiring:

(A) one or more conferences during each school year between a teacher and the parents of a student if the student is not maintaining passing grades or achieving the expected level of performance or presents some other problem to the teacher or in any other case the teacher considers necessary;

(B) parent training workshops for home reinforcement of study skills and specific curriculum objectives conducted for parents who want to participate and based on interest indicated by parents in the community; and

(C) a written statement signed by each parent that the parent understands and consents to the responsibilities outlined in the discipline management program.

SECTION 8.07. Section 21.926, Education Code, is amended to read as follows:

Sec. 21.926. INFORMATION TO BE POSTED. (a) For the benefit of parents of school age children, each school in a district shall post in a conspicuous location in the main administration building accessible to the general public[~~:~~

[~~(1) a map of the school's attendance area; and~~

[~~(2) a notice that includes:~~

[~~(A) the aggregate results by grade level for the state and for each campus in the district of assessment instruments administered under Section 21.551 of this code for each of the preceding three school years and, for each high school, the aggregate results by grade level of the most recent administration of any norm-referenced assessment instrument, including the Scholastic Aptitude Test and American College Testing Program assessment instruments;~~

[~~(B) the total enrollment at each campus in the district for each of the four most recent school years;~~

[~~(C) the ratio of classroom teachers to students at each campus in the district;~~

[~~(D) a statement that copies of the notice and of a map of the school's attendance area are available in the school's main office; and~~

[~~(E)~~] a statement that the district's annual performance report is available in the school library.

(b) [~~The assessment instrument results posted under Subsection (a)(2)(A) of this section must be presented in the form of appropriate, nontechnical interpretations in terms understandable to the general public.~~

[~~(c) The board of trustees of the district may prescribe the format of the notice required by Subsection (a)(2) of this section.~~

[~~(d)~~] Each school shall have available in its main office copies of:

(1) the notice [~~and map~~] required to be posted under Subsection (a) of this section; and

(2) a map of the school's attendance area.

(c) [~~(e)~~] Each school shall have available in its library a copy of:

(1) the annual performance report for the district required by Section 21.258 of this code; and

(2) the district and campus plan required by Section 21.938.

[~~(f) Each district shall have available in its administration building the information required to be posted by Subsection (a) of this section for each school in the district.~~]

SECTION 8.08. The following sections of the Education Code are repealed: 11.2051, 12.67(c), 14.065, 21.034, 21.1111(d), 21.253, 21.301(o), 21.557(d), 21.654, and 21.909(d).

SECTION 8.09. Subsection (c), Section 13.037, Education Code, is amended to read as follows:

(c) The Central Education Agency shall collect and maintain [~~teacher performance data from each district's implementation of the statewide appraisal system and shall collect and maintain~~] data from state-mandated tests required for entry to and exit from teacher education programs. The Central Education Agency shall provide probationary teacher performance

data on a regular basis to the respective institutions of higher education and to the Texas Higher Education Coordinating Board[~~, Texas College and University System~~].

SECTION 8.10. Section 13.103, Education Code, is amended to read as follows:

Sec. 13.103. PROBATIONARY CONTRACT: TERMINATION. The board of trustees of any school district may terminate the employment of any teacher holding a probationary contract at the end of the contract period, if in their judgment the best interests of the school district will be served thereby; provided, that notice of intention to terminate the employment shall be given by the board of trustees to the teacher not later than the 60th day before the last day of instruction required [~~on or before April 1, preceding the end of the employment term fixed~~] in the contract. In event of failure to give such notice of intention to terminate within the time above specified, the board of trustees shall thereby elect to employ such probationary teacher in the same capacity, and under probationary contract status for the succeeding school year if the teacher has been employed by such district for less than three successive school years, or in a continuing contract position if such teacher has been employed during three consecutive school years.

SECTION 8.11. The heading to Subchapter E, Chapter 13, Education Code, is amended to read as follows:

SUBCHAPTER E. TEACHER APPRAISAL [~~CAREER LADDER~~]

SECTION 8.12. Subsections (a), (c), and (f), Section 13.302, Education Code, are amended to read as follows:

(a) The State Board of Education shall adopt an appraisal process and criteria on which to appraise the performance of teachers [~~for career ladder level assignment purposes~~]. The criteria must be based on observable, job-related behavior, including teachers' implementation of discipline management procedures.

(c) An [~~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 or [~~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 cannot 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.

(f) Appraisal for teachers must be detailed by category of professional skill and characteristic and must provide for separate ratings per category. The appraisal process shall guarantee a conference between the teacher and

the appraiser. The [~~appraisers, and the~~] conference shall be diagnostic and prescriptive with regard to remediation [~~as~~] needed in overall [~~summary of~~] performance and by category [~~and identify the required performance for advancement to the next level~~].

SECTION 8.13. Section 13.303, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) In appraising teachers, each [~~Each~~] school district shall use:

(1) the appraisal process and performance criteria developed by the board; or

(2) an appraisal process and performance criteria developed by the school district utilizing the procedures established in Sections 21.930 and 21.931 and approved by the commissioner of education [~~in appraising teachers for career ladder level assignment purposes~~].

(c) Appraisal shall be done at least [~~not fewer than:~~

[~~(1) two times during each school year for probationary teachers and for teachers on level one of the career ladder; and~~

[~~(2)~~] once during each school year. The district shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file. Each teacher is entitled to receive a written copy of the evaluation. After receiving a written copy of the evaluation, a teacher is entitled to a second appraisal by a different appraiser or to submit a written rebuttal to the evaluation to be attached to the evaluation in the teacher's personnel file. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district [~~for teachers on levels two, three, and four of the career ladder whose performance, on the most recent appraisal, was evaluated as exceeding expectations or clearly outstanding. The performance of a teacher who, because of unusual circumstances, is appraised only once in a particular year shall be evaluated for career ladder purposes on the basis of a single appraisal~~].

(d) A teacher may be given advance notice of the date or time of an appraisal.

SECTION 8.14. Section 13.304, Education Code, is amended to read as follows:

Sec. 13.304. PERFORMANCE CATEGORIES. In appraisals of teacher performance [~~for career ladder level assignment purposes~~], performance [~~shall be evaluated in the same manner and under the same criteria regardless of level. Performance~~] shall be evaluated as:

(1) unsatisfactory (if the teacher's performance is clearly not acceptable in some major area);

(2) below expectations (if the teacher's performance needs improvement in some major areas);

(3) satisfactory (if the teacher's performance meets expectations);

(4) exceeding expectations (if the teacher's performance excels in some major areas); or

(5) clearly outstanding.

SECTION 8.15. Subchapter B, Chapter 16, Education Code, is amended by adding Section 16.058 to read as follows:

Sec. 16.058. SALARY OF TEACHER FORMERLY ON CAREER LADDER. (a) Notwithstanding any provision to the contrary, a teacher who was assigned to a career ladder level under Subchapter E, Chapter 13, on August 31, 1993, is entitled to receive for the 1993-1994 school year and each school year thereafter, as long as the teacher is employed by the same district, a minimum salary equal to the teacher's base salary plus the teacher's career ladder supplement in the 1992-1993 school year.

(b) In this section, "base salary" means the minimum salary prescribed by Sections 16.055 and 16.056 plus any amount in excess of the minimum salary that a school district pays the teacher.

SECTION 8.16. Subsection (e), Section 21.112, Education Code, is amended to read as follows:

(e) All new, additional, and continuing vocational programs shall offer competency-based instruction. Instruction must be based on the essential elements approved by the State Board of Education. [~~A competency profile must be maintained for each student enrolled.~~]

SECTION 8.17. Subsection (a), Section 21.204, Education Code, is amended to read as follows:

(a) In the event the board of trustees receives a recommendation for nonrenewal, the board, after consideration of the written evaluations required by Section 21.202 of this subchapter and the reasons for the recommendation, shall, in its sole discretion, either reject the recommendation or shall give the teacher written notice of the proposed nonrenewal not later than the 60th day before the last day of instruction required [~~on or before April 1 preceding the end of the employment term fixed~~] in the contract.

SECTION 8.18. Subsection (b), Section 822.201, Government Code, is amended to read as follows:

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) [~~career ladder payments of money authorized by Section 16.057, Education Code;~~

[~~(3)~~] amounts by which the member's salary is reduced under a salary reduction agreement authorized by Article 6252-3d, Revised Statutes; and

(3) [~~(4)~~] amounts that would otherwise qualify as salary and wages under Subdivision (1) [~~or (2)~~] but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986 (26 U.S.C. Section 125), if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance

programs, or group legal services plans.

SECTION 8.19. Subsection (b), Section 825.405, Government Code, is amended to read as follows:

(b) For purposes of this section, the statutory minimum salary is the salary provided by Sections [~~Section~~] 16.056 and 16.058, Education Code, multiplied by the cost of education adjustment applicable under Section 16.102, Education Code, to the district in which the member is employed[~~; plus any career ladder supplement under Section 16.057, Education Code~~].

SECTION 8.20. The following sections of the Education Code are repealed: 12.61(a), 13.301, 13.305, 13.306(b), 13.307-13.317, 13.319-13.323, and 21.251(c).

SECTION 8.21. Subsections (a) and (e), Section 13.353, Education Code, are amended to read as follows:

(a) Each school district shall offer in-service training in management skills for district administrators, including principals and superintendents. The program may be one [~~programs must be consistent with standards or models~~] adopted by the State Board of Education or one approved by the board of trustees and shall include management training in site-based decision making established under Section 21.931 [~~must be flexible and draw from a variety of offerings both in and out of state~~].

(e) From funds appropriated for that purpose, the Central Education Agency may [~~shall~~] allocate an amount each year for the identification, adaptation, development, and evaluation of professional development programs and materials; training of trainers; and technical assistance in the development of general management and leadership development skills, including skills necessary to implement Sections 21.7532, 21.930, and 21.931 of this code. The State Board of Education may designate special projects and development activities to be carried out with such funds. [~~The manner in which such funds are utilized shall be reported annually to the commissioner of education.~~]

SECTION 8.22. Subsection (d), Section 13.354, Education Code, is amended to read as follows:

(d) Each school district may [~~shall~~] use the appraisal process and performance criteria developed by the board in evaluating the performance of an administrator.

SECTION 8.23. The following sections of the Education Code are repealed: 12.64 and 13.354(c).

SECTION 8.24. Subsection (d), Section 21.165, Education Code, is amended to read as follows:

(d) If the requisition is for the purchase of a motor vehicle, bus, bus body, or bus chassis, it must be approved by either the county school board when funded under law or the board of trustees of a school district [~~and by the commissioner of education~~].

SECTION 8.25. Subsections (c) through (i), Section 21.174, Education Code, are amended to read as follows:

(c)(1) Except as provided in Subsections (e) and (f) [~~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, 1993 [~~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 ensure that [~~achieve the following percentages of such vehicles capable of using compressed natural gas or other alternative fuels by the times specified~~]:

(A) not less than 50 percent of its fleet is capable of using compressed natural gas or other alternative fuel not later than the earlier

of September 1, 1997, or four years from the date the fleet exceeds 50 vehicles [~~the percentage shall be equal to or greater than 30 percent of the number of such vehicles operated by September 1, 1994~~]; and

(B) not less than 90 percent of its fleet is capable of using compressed natural gas or other alternative fuel not later than September 1, 2001 [~~equal to or greater than 50 percent of the number of such vehicles operated by September 1, 1996~~].

(2) A school district may meet the fleet composition requirements by converting new or existing vehicles to alternative fuel, by replacing existing vehicle engines with alternative fuel engines, or by purchasing new alternative fuel vehicles [~~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) School districts that achieve a fleet composition of 30 percent or more alternative fuel vehicles by September 1, 1994, have priority to receive appropriated or other funds available for the purpose of fleet conversion to alternative fuel [~~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)(1) The requirements of Subsections (c) and (d) do not apply to any school district if the county or local district school board acts in accordance with Paragraph (A), (B), or (C).

(A) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for service contracts for the supply of compressed natural gas or other alternative fuels that are at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. The bid solicitation provision does not require any board to solicit a bid for service contracts more than once during any fiscal year.

(B) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for conversion of engines or vehicles or replacement of engines or vehicles to compressed natural gas or other alternative fuels that are at or below the net projected

costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the engine or vehicle.

(C) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for a contract that provides for conversion or replacement, or both, of engines or vehicles, or both, to compressed natural gas or other alternative fuel and for the supply of compressed natural gas or other alternative fuels that is at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment, facilities, vehicles, and engines. The bid solicitation provision does not require a board to solicit such a bid more than once during any three-year period.

(2) A person making a bid or submitting a proposal in response to a solicitation made in compliance with this subsection has the burden to provide the school board the information on total cost-effectiveness of the bid, including, if applicable, the cost of new warranties for vehicle or engine conversion and insurance costs.

(3) In determining total cost-effectiveness under this subsection, a board may consider both the short-term and long-term costs to the district and other objective factors that may affect the capacity of the district to use compressed natural gas or other alternative fuels. The board shall consider availability of state and federal funds for conversion and replacement purposes [~~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 requirements of Subsections (c) and (d) do not require any district to convert any vehicle put into service on or before September 1, 1993, to alternative fuel. The requirements of Subsections (c) and (d) do not apply until September 1, 1995, for any district that applied for a two-year life-cycle cost benefit waiver prior to September 1, 1993, if that waiver is subsequently granted. The General Services Commission shall expedite the process on all those waiver applications. [~~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. The requirements of Subsections (c) and (d) do not require a district to convert any vehicle or engine to compressed natural gas or other alternative fuel if the conversion does not meet fuel system integrity standards as designed and tested by the National Highway Transportation Safety Administration or the Railroad Commission of Texas.

(h) In this section, a vehicle is considered to be capable of using compressed natural gas or other alternative fuels if the vehicle is capable of using compressed natural gas or other alternative fuels either in its original equipment engine or in an engine that has been converted to use compressed natural gas or other alternative fuels after September 1, 1991[~~; unless the time for compliance is extended pursuant to Subsection (i) of this section~~].

[~~(i) The General Services Commission may extend the date by which a vehicle powered by a traditional gasoline or diesel engine shall be capable of using compressed natural gas or other alternative fuels as required under this section for one or more periods of 90 days, but not beyond September 1, 1993, if it finds a lack of ability to acquire such vehicles with original alternative fuels equipment, to acquire such vehicles which are able to be converted, or to convert such vehicles to use compressed natural gas or other alternative fuels.~~]

SECTION 8.26. Subsection (a), Section 19.051, Education Code, is amended to read as follows:

(a) By the procedure described in this subchapter, any of the following groups of school districts may consolidate into a single school district:

(1) two or more [~~contiguous~~] independent school districts;

(2) two or more [~~contiguous~~] common school districts; or

(3) one or more independent school districts and one or more common school districts [~~constituting as a whole one continuous territory~~].

SECTION 8.27. Section 21.041, Education Code, as amended by Section 1, Chapter 353, Acts of the 71st Legislature, Regular Session, 1989, and Section 2.12, Chapter 813, Acts of the 71st Legislature, Regular Session, 1989, is reenacted and amended to read as follows:

Sec. 21.041. ABSENCES. (a) Except as provided by this section, a student may not be given credit for a class unless the student is in attendance for at least 90 percent of the [~~80~~] days the class is offered [~~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 the number of days required under Subsection (a) [~~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 the number of days required under Subsection (a) [~~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.

SECTION 8.28. Subsections (a), (b), (e), and (f), Section 21.458, Education Code, are amended to read as follows:

(a) Each district that is required to offer a bilingual education or special language program shall offer a voluntary [~~summer~~] program for children of limited English proficiency who will be eligible for admission to kindergarten or the first grade at the beginning of the next school year. A school that operates on a two-semester system shall offer the program during the period school is recessed for the summer. A school that operates on any other system permitted by this code shall offer 120 hours of instruction on a schedule the board of trustees of the district establishes.

(b) Enrollment in the program is optional with the parent of the child. In a district that operates on a two-semester system, the [~~The~~] program must be offered for one-half day for eight weeks.

(e) The [~~preschool or summer~~] programs required or authorized by this section shall not be a substitute for programs required to be provided during the regular school year.

(f) The legislature may appropriate funds from the foundation school program for support of a [~~the summer~~] program under Subsection (a) of this section.

SECTION 8.29. Subsection (b), Section 21.3011, Education Code, is amended to read as follows:

(b) A student may be removed from class and expelled without resort to an alternative education program under Section 21.301 of this code if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) assaults a teacher or other individual;

(2) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, or commits a serious act or offense while under the influence of alcohol; or on more than one occasion possesses, uses, or is under the influence of an alcoholic beverage;

(4) possesses a firearm as defined by Section 46.01(3), Penal Code, an illegal knife as defined by Section 46.01(6), Penal Code, a club as defined by Section 46.01(1), Penal Code, or a weapon listed as a prohibited weapon under Section 46.06, Penal Code;

(5) engages in conduct that contains the elements of an offense relating to abusable glue or aerosol paint under Sections 485.031 through 485.035, Health and Safety Code, or relating to volatile chemicals under Chapter 484, Health and Safety Code;

(6) engages in conduct that contains the elements of the offense of arson under Section 28.02, Penal Code; [~~or~~]

(7) engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, if the offense is punishable as a felony under that section; or

(8) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code.

SECTION 8.30. Subsection (a), Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) All information collected, assembled, or maintained by or for governmental bodies, except in those situations where the governmental body does not have either a right of access to or ownership of the information, 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, and transcripts from institutions of higher education maintained in the personnel files of professional public school employees; provided, however, that nothing in this section shall be construed to exempt from disclosure

the degree obtained and the curriculum on such transcripts of professional public school employees, and further provided 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 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, Chapter 91, 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, 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) information relating to:

(A) the home addresses or home telephone numbers of each official or employee or each former official or employee of a governmental body except as otherwise provided by Section 3A of this Act, or of peace officers as defined by Article 2.12, Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code; or

(B) the home addresses, home telephone numbers, or social security numbers of employees of the Texas Department of Criminal Justice, or the home or employment addresses or telephone numbers or the names or social security numbers of their family members;

(18) information contained on or derived from triplicate prescription forms filed with the Department of Public Safety pursuant to Section 481.075, Health and Safety Code;

(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) 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) 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;

(22) [~~curriculum objectives and~~] test items developed by educational institutions that are funded wholly or in part by state revenue and test items developed by licensing agencies or governmental bodies; and

(23) the names of applicants for the position of chief executive officer of institutions of higher education, except that the governing body of the institution of higher education must give public notice of the name or names of the finalists being considered for the position at least 21 days prior to the meeting at which final action or vote is to be taken on the employment of the individual.

SECTION 8.31. Subsection (a), Section 5, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) No person who is under the age of eighteen (18) years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school. A person who is eighteen (18) years of age or older may not operate a vehicle as a school bus until he has been properly licensed to operate a school bus. It shall be unlawful for any person to be employed to drive a motor vehicle while in use as a school bus for the transportation of pupils who has not undergone a physical examination which reveals his physical and mental capabilities to safely operate a school bus. Such physical examinations shall be conducted annually for each driver. A pre-employment driver's license check shall have been made with the Texas Department of Public Safety prior to the employment and the person's driving record must be acceptable according to standards developed jointly by the State Board of Education and the Texas Department of Public Safety. Effective at such date and under provisions as may be determined by the State Board of Education, the driver of a school bus shall have in his possession a certificate stating he is enrolled in, or has completed, a driver training course in school bus safety education that has been approved jointly by the State Board of Education and the Texas Department of Public Safety. The bus driving certificate shall remain valid for a period of three years. This subsection does not affect the right of any otherwise qualified person with a hearing disability to be licensed, certified, and employed as a bus driver for vehicles used to transport hearing impaired students or persons. <u>This subsection does not apply to the operation of a vehicle owned by a public institution of higher education to transport students of a school district that operates within that institution if:</u>

<u>(1) the person operating the vehicle is approved by the institution to operate the vehicle; and</u>

<u>(2) the transportation is for a field trip or other special event.</u>

SECTION 8.32. The following sections of the Education Code are repealed: 21.008, 21.132 through 21.134, 23.993, 23.994, and 23.999.

SECTION 8.33. Effective September 1, 1995, the following provisions of the Education Code are repealed:

(1) Title 1; and

(2) Title 2, except Chapters 16, 20, and 36.

SECTION 8.34. Not later than June 1, 1994, the commissioner of education shall submit to the legislature a proposed revision of Education Code provisions repealed by Section 8.33 of this article.

SECTION 8.35. Effective September 1, 1995, the Central Education Agency is abolished.

SECTION 8.36. This article takes effect September 1, 1993.

ARTICLE 9

SECTION 9.01. (a) Except as otherwise provided by this Act, this Act takes effect immediately.

(b) This Act applies to taxes imposed on or after January 1, 1993.

SECTION 9.02. 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 filed with the Secretary of the Senate.

ORDERED NOT PRINTED

On motion of Senator Whitmire and by unanimous consent, the Conference Committee Report on **S.B. 1067** was ordered not printed in the Senate Journal.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1067

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas
May 23, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1067** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE	PLACE
WEST	HIGHTOWER
PARKER	GREENBERG
ARMBRISTER	GRAY
WENTWORTH	GOODMAN
On the part of the Senate	On the part of the House

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 532

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas
May 23, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 532** 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	HIGHTOWER
WEST	PLACE
PARKER	GRAY
ARMBRISTER	S. TURNER
WENTWORTH	GRANOFF
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the creation of the state jail division of the Texas Department of Criminal Justice and to the operations of other divisions of the department and community supervision and corrections departments, to the certification of certain offenders, and to the confinement of certain felons convicted of state jail felonies or awaiting transfer from county jails to the institutional division of the Texas Department of Criminal Justice; providing a penalty; making an appropriation from the economic stabilization fund.

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

ARTICLE 1

SECTION 1.01. Section 491.001(a), Government Code, is amended by adding Subdivision (7) to read as follows:

(7) "State jail division" means the state jail division of the department.

SECTION 1.02. Section 493.002(a), Government Code, is amended to read as follows:

(a) The following divisions are within the department:
(1) the community justice assistance division;
(2) the institutional division; [~~and~~]
(3) the pardons and paroles division; and
(4) the state jail division.

SECTION 1.03. Chapter 493, Government Code, is amended by adding Section 493.0051 to read as follows:

Sec. 493.0051. STATE JAIL DIVISION. The state jail division shall operate and manage state jails to confine defendants described by Section 507.002.

SECTION 1.04. Section 494.008(a), Government Code, is amended to read as follows:

(a) The director of the institutional division or the director's designee may authorize employees of the institutional division to transport inmates and to apprehend escapees from any [~~the~~] division of the department. An employee acting under authority granted by the director has the same powers and duties as a peace officer under the laws of this state, except that the employee may not act without receiving express orders from the director or the director's designee, and may exercise those powers and perform those duties throughout the state but only during duty hours.

SECTION 1.05. Section 498.003(e), Government Code, is amended to read as follows:

(e) If a person confined in a county jail or a transfer facility operated by the institutional division is transferred to any other facility of the institutional division for confinement purposes, the director of the institutional division shall award good conduct time to the person up to an amount equal to that which the person could have accrued during the period of confinement [~~imprisonment~~] in the county jail or transfer facility if instead the person had been imprisoned [~~incarcerated~~] in the division during that period.

SECTION 1.06. Chapter 499, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. TRANSFER FACILITIES

Sec. 499.151. AUTHORITY TO OPERATE OR CONTRACT FOR TRANSFER FACILITIES. (a) The institutional division may operate, maintain, and manage transfer facilities to confine inmates described by Section 499.152, and the board may finance and construct those facilities. The institutional division, with the approval of the board, may contract with a private vendor or the commissioners court of a county for the financing, construction, operation, maintenance, or management of a transfer facility.

(b) The board and the institutional division shall ensure that a service described by Subsection (a) is provided in compliance with standards established under Section 511.017, whether the board or the institutional division provides the service or contracts with an entity listed by Subsection (a) for the provision of the service.

(c) A transfer facility authorized by this subchapter may be located on private land or on land owned by the federal government, the state, or a political subdivision of the state. The board may accept land donated for that purpose.

(d) A commissioners court of a county may not enter into a contract or receive a grant under this section unless:

(1) the commissioners court first consults with the community justice council serving the county; and

(2) the most recent community justice plan for the county served by the community justice council that has been approved by the community justice assistance division describes the contract or grant.

Sec. 499.152. ELIGIBLE INMATES. The institutional division may confine an inmate in a transfer facility authorized by this subchapter:

(1) only if paperwork and processing required under Section 8(a), Article 42.09, Code of Criminal Procedure, for transfer of the inmate to the division has been completed; and

(2) only during a period in which the inmate would otherwise be confined in a county jail awaiting transfer to the division following conviction of a felony or revocation of probation, parole, or release on mandatory supervision.

Sec. 499.153. ADMISSIONS POLICY. The board shall develop, adopt, and enforce:

(1) an admissions policy to accept from county jails eligible inmates described by Section 499.152 for confinement in transfer facilities authorized by this subchapter; and

(2) a transfer policy to transfer eligible inmates described by Section 499.152 from transfer facilities authorized by this subchapter to other facilities of the institutional division.

Sec. 499.154. CUSTODY STATUS; GOOD CONDUCT TIME. An inmate described by Section 499.152 confined in a transfer facility authorized by this subchapter earns good conduct time in the same manner and subject to the same rules as if the inmate were confined in a county jail awaiting transfer to the institutional division.

Sec. 499.155. DURATION OF CONFINEMENT. (a) Except as provided by Subsection (b), the institutional division may not confine an inmate described by Section 499.152 in a transfer facility authorized by this subchapter for a period that exceeds 12 months.

(b) If an inmate described by Section 499.152 is confined in a transfer facility, is released from or transferred from the transfer facility or returned to the convicting county under court order, and is convicted of a subsequent offense, is returned from the convicting county, or is the subject of a revocation of parole or mandatory supervision, the institutional division shall not calculate the previous period of confinement in determining the maximum period the defendant may be confined in a transfer facility following conviction of the subsequent offense, return from the convicting county, or revocation.

(c) If an inmate is discharged or released on parole or mandatory supervision from a transfer facility, the inmate is entitled to receive release or discharge money from the institutional division in the same amount as an inmate is entitled to receive on release or discharge from any other facility of the institutional division under Section 501.015.

SECTION 1.07. Subtitle G, Title 4, Government Code, is amended by adding Chapter 507 to read as follows:

CHAPTER 507. STATE JAIL DIVISION

SUBCHAPTER A. STATE JAIL FELONY FACILITIES

Sec. 507.001. AUTHORITY TO OPERATE OR CONTRACT FOR STATE JAIL FELONY FACILITIES. (a) The state jail division may

operate, maintain, and manage state jail felony facilities to confine inmates described by Section 507.002, and the board may finance and construct those facilities. The state jail division, with the approval of the board, may contract with the institutional division, a private vendor, or the commissioners court of a county for the construction, operation, maintenance, or management of a state jail felony facility. The community justice assistance division, with the approval of the board, may contract with or make a grant to a community supervision and corrections department for the construction, operation, maintenance, or management of a state jail felony facility. A community supervision and corrections department or the commissioners court of a county that contracts or receives a grant under this section may subcontract with a private vendor for the provision of any or all services described by this subsection. A community supervision and corrections department that contracts or receives a grant under this section may subcontract with the commissioners court of a county for the provision of any or all services described by this subsection. The board may contract with a private vendor or the commissioners court of a county for the financing or construction of a state jail felony facility.

(b) The community justice assistance division, after consultation with the advisory committee on community supervision and corrections department management to the judicial advisory council to the community justice assistance division, shall adopt reasonable rules and procedures establishing minimum requirements for work programs and programs of rehabilitation, education, and recreation in state jail felony facilities operated under contracts with or grants from the community justice assistance division. For each state jail felony facility operated by or for the state jail division, the state jail division shall request the assistance of the community supervision and corrections departments and the community justice councils served by the facility in developing work programs and programs of rehabilitation, education, and recreation for defendants confined in the facility. In developing the programs, the state jail division and the community justice assistance division shall attempt to structure programs so that they are operated on a 90-day cycle.

(c) The board shall ensure that a service described by Subsection (a) is provided in compliance with standards established by the board, whether the board, the state jail division, or the community justice assistance division provides the service or contracts with or makes a grant to an entity listed in Subsection (a) for the provision of the service. The board shall ensure that a program described by Subsection (b) is provided in compliance with minimum requirements established under Subsection (b), whether the state jail division or the community justice assistance division provides the service or contracts with or makes a grant to an entity listed in Subsection (a) for the provision of the service.

(d) A state jail felony facility authorized by this subchapter may be located on private land or on land owned by the federal government, the state, a community supervision and corrections department, or a political subdivision of the state. The board may accept land donated for that purpose.

(e) A commissioners court of a county or a community supervision and corrections department may not enter into a contract or receive a grant under this section unless:

(1) the commissioners court or department first consults with the community justice council serving the county or serving the department; and

(2) the most recent community justice plan for the county or department served by the community justice council that has been approved by the community justice assistance division describes the contract or grant.

Sec. 507.002. ELIGIBLE DEFENDANTS. The state jail division may confine in a state jail felony facility authorized by this subchapter defendants required by a judge to serve a term of confinement in a state jail felony facility following conviction of an offense punishable as a state jail felony.

Sec. 507.003. REGIONS. The board shall designate not fewer than nine regions in the state for the purpose of providing regional state jail felony facilities. The board shall ensure that regions are designed to efficiently serve community supervision and corrections departments. The board may not designate a region that contains a part of an area served by a community supervision and corrections department. The board may designate a region that contains only one judicial district, but only if the judicial district serves a municipality with a population of 400,000 or more. Any other provision of law that would otherwise require the board to designate regions on the basis of uniform service regions does not apply to this section.

Sec. 507.004. ALLOCATION POLICIES. The board shall adopt and enforce:

(1) a regional allocation policy to allocate the number of facilities and beds to each region established under Section 507.003; and

(2) an intra-regional allocation policy for each region, to allocate the number of facilities and beds within a region to the community supervision and corrections departments in that region, unless those departments by their own agreement establish the allocation of beds in the region.

Sec. 507.005. IMPLEMENTATION. (a) The board shall provide for the financing, construction, operation, maintenance, and management of the state jail felony facilities for which funds are appropriated under the General Appropriations Act or any other Act of the 73rd Legislature, Regular Session, 1993, in two modes.

(b) In mode one, the board and the state jail division shall provide for state jail felony facilities that contain not less than 70 percent of the beds for which funds are appropriated as described by Subsection (a). The board shall consider the regions designated under Section 507.003 and attempt to place state jail felony facilities at locations that are sufficiently geographically diverse to serve the needs of each of those regions. The state jail division, with the approval of the board, shall contract with the institutional division for the construction, operation, maintenance, and management of facilities included in mode one.

(c) In mode two, the board and at the discretion of the board either or both the state jail division or the community justice assistance division shall provide for state jail felony facilities that contain the percentage of beds for which funds are appropriated as described by Subsection (a) but that are not included in mode one. For facilities provided by the state jail division, the division, with the approval of the board, shall attempt to contract with private vendors or commissioners courts of counties for the construction, operation, maintenance, or management of state jail felony facilities included in mode two. For facilities provided by the community justice assistance division, the division, with the approval of the board, shall attempt to contract with or make grants to community supervision and corrections departments for the construction, operation, maintenance, or management of state jail felony facilities included in mode two. The state jail division, with the approval of the board, may establish pilot programs with counties and the community justice assistance division, with the approval of the board, may establish pilot programs with community supervision and corrections departments. As part of a pilot program, a county or department may agree to construct and operate a state jail felony facility included in mode two under a formula of mutual accountability for sentencing practices and the funding of criminal justice programs. A commissioners court of a county or a community supervision and corrections department may not enter into a contract or receive a grant under this subsection unless:

(1) the commissioners court or department first consults with the community justice council serving the county or serving the department; and

(2) the most recent community justice plan for the county or department served by the community justice council that has been approved by the community justice assistance division describes the contract or grant.

(d) The board, not later than October 1, 1993, shall adopt a timetable for the implementation of mode one and mode two. The board shall design the timetable in a manner that permits the institutional division to meet the obligations imposed on the division by Section 499.121(c).

(e) This section expires September 1, 1995.

Sec. 507.006. USE OF FACILITY FOR TRANSFER INMATES. (a) Notwithstanding any other provision of this subchapter, the state jail division, with the approval of the board, may designate one or more state jail felony facilities to house inmates who are eligible for confinement in a transfer facility under Section 499.152, but only if the designation does not deny placement in a state jail felony facility of defendants required to serve terms of confinement in a facility following conviction of state jail felonies.

(b) Sections 499.154 and 499.155 apply to an inmate eligible for confinement in a transfer facility under Section 499.152 who is nonetheless confined in a state jail felony facility in the same manner as if the inmate were confined in a transfer facility.

(c) This section expires September 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 507.021. EMPLOYEES; LIMITED LAW ENFORCEMENT POWERS. (a) The director of the state jail division or the director's designee may authorize employees of the division to transport defendants and to apprehend escapees from any division of the department. An employee acting under authority granted by the director has the same powers and duties as a peace officer under the laws of this state, except that the employee may not act without receiving express orders from the director or the director's designee, and may exercise those powers and perform those duties throughout the state, but only during duty hours.

(b) The state jail division may allow employees who are granted law enforcement authority under this section to assist peace officers in any county of the state if the assistance is requested for the purpose of apprehending an escapee of a municipal or county jail and if the division determines that the assistance will not jeopardize the safety and security of the division and its personnel. An employee who assists a peace officer in the performance of the officer's duties has the same powers and duties as the officer requesting assistance.

(c) An employee of the state jail division may not enforce the laws of this state relating to the prevention of misdemeanors and the detention of persons who commit misdemeanors, including laws regulating traffic and the use of state highways.

(d) An employee described by Subsection (a) may not be considered a peace officer for any purposes other than those specified under this section and is not required to be certified by the Commission on Law Enforcement Officer Standards and Education.

Sec. 507.022. EMPLOYEES' SALARIES, ROOM AND BOARD, AND MEDICAL CARE. (a) Salaries of employees of the state jail division and the provision of board, lodging, uniforms, and other provisions to employees are as provided by the General Appropriations Act.

(b) Employees of the state jail division who are injured in the line of duty are entitled to receive free medical care and hospitalization from institutional division doctors and the institutional division hospital.

Sec. 507.023. AIDS AND HIV EDUCATION; TESTING. (a) The state jail division shall establish and provide education programs to educate state jail division employees and defendants in state jail felony facilities about AIDS and HIV in the same manner as the institutional division establishes and provides programs for employees and inmates under Section 501.054.

(b) The state jail division shall adopt a policy for handling a defendant with AIDS or HIV and may test a defendant for AIDS or HIV in the same manner and subject to the same conditions as apply to the institutional division under Section 501.054.

(c) In this section, "AIDS" and "HIV" have the meanings assigned by Section 81.101, Health and Safety Code.

Sec. 507.024. TRANSPORTATION OF DEFENDANTS. The board shall adopt rules to provide for the safe transfer of defendants from counties to state jail felony facilities. A sheriff may transport defendants

to a state jail felony facility if the sheriff is able to perform the service as economically as if the service were performed by the division. The state jail division is responsible for the cost of transportation of defendants to the division. Defendants may be transported with other persons being transported to the custody of the department provided appropriate security precautions prescribed by policies of the department are taken.

Sec. 507.025. MEDICAL CARE. The state jail division, with the approval of the board, may contract with the institutional division, a private vendor, or any public health care provider for the provision of medical services to defendants in state jail felony facilities.

Sec. 507.026. CHANGE IN DESIGNATION OF FACILITY. The board may designate any facility under its control as a state jail felony facility and confine state jail felons in that facility.

Sec. 507.027. INSPECTIONS. The board shall adopt rules relating to inspections by the department of state jail felony facility construction projects.

SECTION 1.08. Subsections (h) and (i) of Section 501.059, Government Code, as added by **S.B. 378**, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(h) To the extent possible the committee shall integrate the preferred provider arrangement network with the public medical schools of this state and the component and affiliated hospitals of those medical schools.

(i) For those services for which the public medical schools and their components and affiliates cannot provide, the committee shall initiate a competitive bidding process for contracts under this section to provide medical care to inmates confined in the institutional division.

SECTION 1.09. Chapter 511, Government Code, is amended by adding Section 511.017 to read as follows:

Sec. 511.017. DUTIES RELATED TO STATE JAIL FELONY FACILITIES AND INSTITUTIONAL DIVISION TRANSFER FACILITIES. (a) In this section:

(1) "State jail division" means the state jail division of the Texas Department of Criminal Justice.

(2) "State jail felony facility" means a state jail felony facility authorized by Subchapter A, Chapter 507.

(3) "Transfer facility" means a transfer facility operated by the institutional division of the Texas Department of Criminal Justice under Subchapter G, Chapter 499.

(b) The commission shall provide the state jail division with consultation and technical assistance relating to the operation and construction of state jail felony facilities.

SECTION 1.10. The state jail division of the Texas Department of Criminal Justice shall propose and the Texas Board of Criminal Justice, not later than October 1, 1993, shall designate regions as described by Section 507.003, Government Code, as added by this article, and shall adopt the allocation policies described by Section 507.004, Government Code, as added by this article.

SECTION 1.11. Section 811.001(8), Government Code, is amended to read as follows:

(8) "Custodial officer" means a member of the retirement system who is employed by the institutional division or the state jail division of the Texas Department of Criminal Justice [~~Corrections~~] and certified by the [~~that~~] department as having a normal job assignment that requires frequent or infrequent regularly planned contact with, and in close proximity to, inmates of the institutional division or inmates or defendants confined in the state jail division [~~that institution~~] without the protection of bars, doors, security screens, or similar devices and includes assignments normally involving supervision or the potential for supervision of inmates in inmate housing areas, educational or recreational facilities, industrial shops, kitchens, laundries, medical areas, agricultural shops or fields, or in other areas on or away from property of the institutional division or the state jail division [~~institution~~].

SECTION 1.12. Section 2(a)(4), Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

(4) "Custodial personnel of the Texas Department of Corrections" means a member of the class of employees of the institutional division or the state jail division of the Texas Department of Criminal Justice formally designated as custodial personnel by the Texas Board of Criminal Justice or its predecessor in function [~~the class of employees of the Department of Corrections designated as custodial personnel by a resolution adopted by the Texas Board of Corrections~~].

SECTION 1.13. Section 9, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. DUTY OF THE TEXAS BOARD OF CRIMINAL JUSTICE [~~CORRECTIONS~~]. The Texas Board of Criminal Justice shall adopt and include in its minutes a formal designation identifying the classes of persons who are custodial personnel of the institutional division or the state jail division of the Texas Department of Criminal Justice so that there is no uncertainty about which persons are custodial personnel [~~It shall be the duty of the Texas Board of Corrections to adopt a formal designation spread on its minutes identifying the classes of persons who are custodial personnel of the Texas Department of Corrections. It is the intent of the Legislature in enacting this provision that the constitutional provisions of Section 51-d, Article III, of the Texas Constitution, be observed in order that there be no uncertainty about which persons are custodial personnel and which are not~~].

SECTION 1.14. Subchapter B, Chapter 13, Education Code, is amended by adding Section 13.0323 to read as follows:

Sec. 13.0323. RESTRICTED CERTIFICATION OF INDIVIDUAL CONVICTED OF A CRIMINAL OFFENSE. (a) The State Board of Education by rule shall provide for restricted certification as a teacher of an individual convicted of a criminal offense who would be eligible for certification to teach in a public school in this state if the individual had not been convicted of the offense.

(b) An individual certified under this section may serve as a teacher only in a correctional facility operated by an agency of the state or a political subdivision of the state.

SECTION 1.15. This article takes effect September 1, 1993.

ARTICLE 2

SECTION 2.01. Article 42.13, Code of Criminal Procedure, is amended to read as follows:

Art. 42.13. COMMUNITY JUSTICE ASSISTANCE DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Sec. 1. PURPOSE; DEFINITIONS. (a) The purpose of this article is to:

(1) allow localities to increase their involvement and responsibility in developing sentencing programs that provide effective sanctions for criminal defendants [~~felony offenders~~];

(2) provide increased opportunities for criminal defendants [~~felony offenders~~] to make restitution to victims of crime through financial reimbursement or community service;

(3) provide increased use of community penalties designed specifically to meet local needs; and

(4) promote efficiency and economy in the delivery of community-based correctional programs consistent with the objectives defined by Section 1.02, Penal Code.

(b) In this article:

(1) "Board" means the Texas Board of Criminal Justice.

(2) "Community corrections facility" means a physical structure, established by a judicial district after authorization of the establishment of the structure has been included in the local community justice plan, that is operated by a department or operated for a department by an entity under contract with the department, for the purpose of confining persons placed on community supervision and providing services and programs to modify criminal behavior, deter criminal activity, protect the public, and restore victims of crime. The term includes:

(A) a restitution center;

(B) a court residential treatment facility;

(C) a substance abuse treatment facility;

(D) a custody facility or boot camp;

(E) a facility for an offender with a mental impairment, as defined by Section 614.001, Health and Safety Code;

(F) an intermediate sanction facility; and

(G) a state jail felony facility.

(3) "Department" means a community supervision and corrections department established under Article 42.131 of this code.

(4) [~~(3)~~] "Division" means the community justice assistance division of the Texas Department of Criminal Justice.

(5) "State aid" means funds appropriated by the legislature to the division to provide financial assistance to:

(A) judicial districts, for:

(i) the administration of departments;

(ii) the development and improvement of community supervision services and community-based correctional programs;

(iii) the establishment and operation of community corrections facilities; and

(iv) assistance in conforming with standards and policies of the division and the board; and

(B) state agencies, counties, municipalities, and nonprofit organizations for the implementation and administration of community-based sanctions and programs.

Sec. 2. STANDARDS AND PROCEDURES. (a) The division shall propose and the board shall adopt reasonable rules establishing:

(1) [~~establishing~~] minimum standards for programs, community corrections facilities and other facilities, equipment, and other aspects of the operation of departments;

(2) [~~establishing an application process and procedures for funding community corrections facilities; and~~

[~~(3)~~] a list and description of core services that should be provided by each department;

(3) methods for measuring the success of community supervision and corrections programs, including methods for measuring rates of diversion, program completion, and recidivism; and

(4) [~~establishing~~] a format for community justice plans.

(b) In establishing standards relating to the operation of departments, the division shall consider guidelines [~~previously~~] developed and presented by the advisory committee on community supervision and corrections [~~probation~~] department management to the judicial advisory council established under Section 493.003(b), Government Code [~~Texas Adult Probation Commission~~].

(c) After consultation with the Texas Commission on Alcohol and Drug Abuse, the division by rule shall establish standards for the operation of substance abuse facilities and programs by the division and by departments. A facility or program operating under the standards is not required to be licensed or otherwise approved by any other state or local agency.

Sec. 3. RECORDS, REPORTS, AND INFORMATION SYSTEMS. (a) The division shall require each department to:

(1) keep financial and statistical records determined necessary by the division;

(2) submit a community justice plan and all supporting information requested by the division;[~~; if Section 3 of Article 42.131 of this code applies to the department; and~~]

(3) present data requested by the division as necessary to determine the amount of state aid for which the department is eligible; and

(4) submit periodic financial audits and statistical reports to the division.

(b) The division shall develop an automated [~~probationer~~] tracking system that:

(1) is capable of receiving tracking data from community supervision and corrections departments' caseload management and accounting systems;

(2) is capable of tracking the defendant [~~probationer~~] and the sentencing event at [~~conviction for~~] which the defendant was placed on community supervision [~~probationer received probation~~] by name, arrest charge code, and incident number;

(3) provides the division with the statistical data it needs to support budget requests and satisfy requests for information; and

(4) is compatible with the requirements of Chapter 60 of this code and the information systems used by the institutional division and the pardons and paroles [~~Board of Pardons and Paroles~~] division of the department.

Sec. 4. INSPECTIONS; AUDITS; EVALUATIONS. (a) The division may inspect and evaluate a department or conduct audits of financial records of a department at any reasonable time to determine compliance with the division's rules and standards.

(b) The division shall authorize payments under Section 10(a)(1) of this article only if the division determines that the department has made a reasonable effort to maintain workloads established by the division for supervising officers that do not exceed the following ratios:

(1) one officer or full-time equivalent per 25 cases, with a workload unit value of 4 per case;

(2) one officer or full-time equivalent per 40 cases, with a workload unit value of 2.5 per case;

(3) one officer or full-time equivalent per 75 cases, with a workload unit value of 1.33 per case; and

(4) one officer or full-time equivalent per 100 cases, with a workload unit value of 1 per case.

Sec. 5. COMMUNITY CORRECTIONS FACILITIES. (a) In order to establish and maintain community corrections facilities, the division may:

(1) [~~develop standards for the physical plant and operation of community corrections facilities and standards for the programs offered by those facilities;~~

[~~(2)~~] fund division-managed [~~community corrections~~] facilities [~~if local contractors are not available or do not meet the standards established by the division~~];

(2) [~~(3)~~] fund contracts for [~~management of community corrections~~] facilities that are managed by departments, counties, or vendors;

(3) [~~(4)~~] provide funds to departments for the renovation of leased or donated buildings for use as [~~community corrections~~] facilities;

(4) [~~(5)~~] accept ownership of real property pursuant to an agreement under which the division agrees to construct a [~~community corrections~~] facility and offer the facility for lease;

(5) [~~(6)~~] allow departments, counties, or municipalities to accept and use buildings provided by units of local governments, including rural hospital districts, for use as [~~community corrections~~] facilities;

(6) [~~(7)~~] provide funds to departments, counties, or municipalities to lease, purchase, or construct buildings or to lease or purchase[~~,~~] land[~~,~~] or other real property for use as [~~community corrections~~] facilities, lease or purchase equipment necessary for the operation of facilities, and pay other costs as necessary for the management and operation of facilities; and

[~~(8) require that all community corrections facilities be in compliance with state and local safety laws;~~

[~~(9) develop standards for disciplinary rules to be imposed on residents of community corrections facilities;~~

[~~(10) require departments to provide data requested by the division;~~]

(7) [~~(11)~~] be a party to a contract for correctional services or approve a contract for those services if the state, on a biennial appropriations basis, commits to fund a portion of the contract[~~; and~~

[~~(12) develop standards for the granting of emergency furloughs for residents confined in community corrections facilities~~].

(b) The division may require that community corrections facilities comply with state and local safety laws and may develop standards for:

(1) the physical plant and operation of community corrections facilities;

(2) programs offered by community corrections facilities;

(3) disciplinary rules for residents of community corrections facilities; and

(4) emergency furloughs for residents of community corrections facilities.

(c) Minimum standards for community corrections facilities must include requirements that a facility:

(1) provide levels of security appropriate for the population served by the facility, including as a minimum a monitored and structured environment in which a resident's interior and exterior movements and activities can be supervised by specific destination and time; and

(2) accept only those residents who are physically and mentally capable of participating in any program offered at the facility that requires strenuous physical activity, if participation in the program is required of all residents of the facility.

(d) Standards developed by the division that relate to state jail felony facilities must meet minimum requirements adopted by the board for the operation of state jail felony facilities. The board may adopt rules and procedures for the operation of more than one type of state jail felony facility.

(e) With the consent of the department operating or contracting for the operation of the facility, the board may designate any community corrections facility that is an intermediate sanction facility as a state jail felony facility and confine state jail felons in that facility.

Sec. 6. COMMUNITY JUSTICE PLAN. (a) The [~~Beginning on September 1, 1991, the~~] division shall require as a condition to payment of state aid to a department or county under Section 10 [~~11 or Section 13~~] of this article and eligibility for payment of costs under Section 499.124, Government Code, that a community justice plan be submitted for the department. The community justice council shall submit the plan required by this subsection. A community justice council may not submit a plan under this section unless the plan is first approved by the district judges who manage the department served by the council. The council shall submit a revised plan to the division each odd-numbered year by a

date designated by the division. A plan may be amended at any time with the approval of the division.

(b) A community justice plan required under this section must include:

(1) [~~a summary of services provided by or available to the department at the time the plan is submitted;~~

[~~(2) a description of proposed new facilities or programs or significant expansion of existing facilities or programs and a summary of how the department proposes to use the facilities or programs, with a particular emphasis on the plans of the department to expand the department's use of:~~

[~~(A) electronic monitoring programs;~~

[~~(B) testing for controlled substances; and~~

[~~(C) community corrections facilities, including:~~

[~~(i) restitution facilities;~~

[~~(ii) court residential treatment facilities;~~

[~~(iii) substance abuse treatment facilities;~~

[~~(iv) custody facilities and boot camps;~~

[~~(v) facilities for offenders described by Section 1, Article 4413(49a), Revised Statutes;~~

[~~(vi) intermediate sanction facilities;~~

[~~(vii) pre-parole transfer facilities;~~

[~~(viii) halfway houses; and~~

[~~(ix) work facilities;~~

[~~(3) a description of services for offenders needed within the area served by the department, including services needed within an accessible radius of any facility or program that is proposed;~~

[~~(4) a copy or description of any proposed contract that is required to achieve proposed facilities or programs; and~~

[~~(5)~~] a statement of goals and priorities and of commitment by the community justice council, the district judges who manage the department, and the department to achieve a targeted level of alternative sanctions;

(2) a description of methods for measuring the success of programs provided by the department or provided by an entity served by the department; and

(3) a proposal for the use of state jail felony facilities and, at the discretion of the community justice council, a regional proposal for the construction, operation, maintenance, or management of a state jail felony facility by a county, a community supervision and corrections department, or a private vendor under a contract with a county or a community supervision and corrections department.

[~~(c) A community justice plan submitted to the division by a department or by departments acting in cooperation may include:~~

[~~(1) implementation processes for division-approved program evaluation and data collection;~~

[~~(2) a description of existing and proposed personnel training programs, community service programs, and restitution programs;~~

[~~(3) a description of existing and proposed programs to recruit volunteer community service programs to work with offenders served by the department; and~~

[~~(4) other details or options that the community justice council wishes to include.~~

[~~(d) A community justice plan submitted under this section must include, in addition to the information required by Subsection (b) of this section, a budget and program schedule detailing the application of state funding to the programs proposed in the plan and any other information required by the division.~~]

Sec. 7. OFFICER CERTIFICATION. (a) The division shall establish officer certification programs for department residential officers and department supervision officers. Each program must include coursework relating to the proper performance of the officer's duties and an examination prepared by the division administered at the conclusion of the coursework. The examination must test officers on knowledge required for the proper performance of their duties. Each officer who satisfactorily completes the coursework and examination shall be certified.

(b) Except as provided by Subsections (d), (e), and (f) of this section, a department may not continue to employ an officer unless the officer is exempt from certification requirements on the effective date of this Act or satisfactorily completes the coursework and examination required by this section not later than the first anniversary of the date on which the officer begins employment with the department.

(c) The division shall provide adequate notification of the results of examinations and provide other relevant information regarding examinations as requested by examinees.

(d) The division may extend the period for the coursework and examination requirements for an officer under Subsection (b) or (f) of this section for an additional period not to exceed one year because:

(1) of a need by the department to increase hiring to reduce caseloads to a level necessary to receive full state aid; or

(2) an extenuating circumstance, as determined by the division director, prevents the officer from completing the coursework and examination within the required period [~~for officers employed by a department that during the initial one-year period increases hiring in order to reduce caseloads as required by law as a condition to full state funding~~].

(e) The division may waive certification requirements other than a fee requirement for an applicant with a valid certificate from another state that has certification requirements substantially similar to those of this state.

(f) A department may not continue to employ a residential officer unless the officer successfully completes the coursework and examination requirement under this section before the first anniversary of the date on which the officer begins the officer's assignment to a residential facility [~~employment with the department~~]. The division shall make the first certification coursework and examination required by this subsection available not later than September 1, 1990. An officer who is assigned to a residential facility and who was [~~A residential officer~~] employed by a department before September 1, 1990, is not required to successfully complete the examination before the first anniversary of the date the division makes the first examination available.

(g) The division may deny, revoke, or suspend a certification or may reprimand an [~~a certified~~] officer for a violation of this article or a rule of the Texas Board of Criminal Justice.

(h) If the division proposes to deny, [~~suspend or~~] revoke, or suspend an officer's certification or to reprimand an officer [~~under this article~~], the officer [~~person~~] is entitled to a hearing before the division or a hearings examiner appointed by the division. The division shall adopt procedures for appeals by officers of decisions made by the division to deny, revoke, or suspend a certification or to reprimand an officer [~~by which decisions to suspend are made by or are appealable to the commission~~].

Sec. 8. TRAINING. The division may provide pre-service, in-service, and educational training and technical assistance to departments to promote compliance with the standards under this article and to assist departments in improving the operation of department services.

Sec. 9. [~~DATA AND REPORTS FOR STATE AID. The director of a department shall present data requested by the division as necessary to determine the amount of state financial aid to which the department is entitled. A department receiving state aid shall submit reports as required by the division.~~]

[~~Sec. 10.~~] PUBLIC MEETING. (a) The division may not take an action under Sections 5(a)(1) through (6) [~~(2) through (7)~~] of this article relating to a community corrections facility established after August 31, 1989, unless a public meeting is held about the proposed action before the action is taken.

(b) Before the 30th day before the date of the meeting, the division, the department that the facility is to serve, or a vendor proposing to operate the facility shall:

(1) publish notice of the date, hour, place, and subject of the hearing required by Subsection (a) of this section in three consecutive issues of a newspaper of, or in newspapers that collectively have, general circulation in the county in which the proposed facility is to be located; and

(2) mail a copy of the notice to each city council member, county commissioner, state representative, and state senator who represents the area in which the proposed facility is to be located, unless the proposed facility has been previously authorized to operate at a particular location by a community justice council under Section 3, Article 42.131, of this code.

(c) If a private vendor, other than a private vendor that operates as a nonprofit corporation, proposes to operate a facility that is the subject of a public meeting under this section, the private vendor is responsible for the costs of providing notice and holding the public meeting required by this section.

(d) In describing the subject of a hearing for purposes of publishing notice under this section, the notice must specifically state the address of the facility on which a proposed action is to be taken and describe the proposed action.

(e) The division, a department, or a private vendor shall hold a public meeting required by Subsection (a) of this section [~~in the county in which~~

~~the facility on which a proposed action is to be taken is located;~~] at a site as close as practicable to the location at which the proposed action is to be taken [~~facility~~].

(f) A department, a county, a municipality, or a combination involving more than one of those entities may not take an action under Section 10, Article 42.131, of this code unless the community justice council serving the entity or entities holds a public meeting before the action is taken, with notice provided and the hearing to be held in the same manner as provided by Subsections (a)-(e) of this section.

Sec. 10 [~~11~~]. PAYMENT OF STATE AID. (a) If the division determines that a department complies with division standards and if the department or judges managing the department have submitted a community justice plan under Section 3, Article 42.131 of this code and the supporting information required by the division [~~this article~~] and the division determines the plan and supporting information are [~~is~~] acceptable, the division shall prepare and submit to the comptroller of public accounts vouchers for payment to the department as follows:

(1) for per capita funding, a per diem [~~an annual~~] amount [~~as provided in the General Appropriations Act~~] for each [~~full-time officer or each full-time equivalent employed by the department who supervises any combination of~~] felony defendant directly supervised by the department pursuant to lawful authority [~~probationers that results in a workload unit level that does not exceed 100, as determined under Subsection (c) of this section~~];

(2) for per capita funding, a per diem amount for a period not to exceed 182 days [~~as provided in the General Appropriations Act~~] for each defendant [~~misdemeanor probationer~~] supervised by the department pursuant to lawful authority, other than a felony defendant [~~misdemeanor probationer under supervision after the first anniversary of the date on which the probationer was placed on probation~~]; and

(3) for formula funding, an annual amount as computed by multiplying a [~~the~~] percentage determined by the allocation formula established under Section 499.071(b), Government Code [~~of institutional admissions allocated to the county or counties served by the department under Article 6166a-4, Revised Statutes~~], times the total amount provided in the General Appropriations Act for payments under this subdivision.

(b) The division may use discretionary grant funds to further the purposes of this chapter by contracting for services with state agencies or nonprofit organizations. The division may also make discretionary grants to departments, municipalities, or counties for the following purposes:

(1) development and operation of pretrial and presentencing services;

(2) electronic monitoring services [~~programs~~], surveillance supervision [~~probation~~] programs, and controlled substances testing services [~~programs~~];

(3) research projects to evaluate the effectiveness of community corrections programs, if the research is conducted in cooperation with the Criminal Justice Policy Council;

(4) contract services for felony defendants [~~probationers~~];

(5) residential services for misdemeanor defendants [~~probationers~~] who exhibit levels of risk or needs indicating a need for confinement and treatment, as described by Section 4(b) of this article [~~Subsection (d) of this section~~];

(6) establishment or operation of county correctional centers under Subchapter H, Chapter 351, Local Government Code, or community corrections facilities for which the division has established standards under Section 5 of this article[~~, subject to payment methods established under Subsection (c) of this section~~]; and

(7) other purposes determined appropriate by the division and approved by the board.

(c) [~~The division shall authorize payments under Subsection (a)(1) of this section only if the division determines that the department has made a reasonable effort to maintain workloads for supervising officers that do not exceed the following ratios:~~

[~~(1) one officer or full-time equivalent per 25 cases, with a workload unit value of 4 per case, for cases requiring intensive supervision;~~

[~~(2) one officer or full-time equivalent per 40 cases, with a workload unit value of 2.5 per case, for cases requiring maximum supervision;~~

[~~(3) one officer or full-time equivalent per 75 cases, with a workload unit value of 1.33 per case, for cases requiring a medium level of supervision; and~~

[~~(4) one officer or full-time equivalent per 100 cases, with a workload unit value of 1 per case, for cases requiring a minimum level of supervision.~~

[~~(d) The division annually shall evaluate its grant payments for facilities described by Section 5 of this article by applying risk assessment instruments developed by the division to determine whether persons confined exhibit levels of risk or needs that if not addressed through the confinement and treatment in a community corrections facility make it probable that the persons would pose unacceptable levels of threat to public safety through additional criminal behavior. The division shall develop risk assessment instruments for use under this section not later than September 1, 1990.~~

[~~(e) The division may fund community corrections facilities for which standards have been established under Section 5 of this article:~~

[~~(1) on a grant basis;~~

[~~(2) on a per diem basis per person confined; or~~

[~~(3) by a combination of the grant and per diem basis.~~

[~~(f) The division may make payments under Subsection (c)(2) or (c)(3) of this section only from the residential services component of state aid established in the General Appropriations Act.~~

[~~(g)~~] Each department, county, or municipality shall deposit all state aid received from the division [~~under this article~~] in a special fund of the county treasury or municipal treasury, as appropriate, to be used solely for

the provision of services, programs, and facilities under this article or Subchapter H, Chapter 351, Local Government Code.

(d) The division shall provide state aid to each department on a biennial basis, pursuant to the community justice plan for the biennium submitted by the department. A department with prior division approval may transfer funds from one program or function to another program or function.

(e) In establishing per diem payments authorized by Subsections (a)(1) and (a)(2) of this section, the division shall consider the amounts appropriated in the General Appropriations Act for basic supervision as sufficient to provide basic supervision in each year of the fiscal biennium.

Sec. 11 [~~12~~]. REFUSAL OR SUSPENSION OF STATE AID. (a) [~~The division shall adjust grant funding for facilities on the basis of annual evaluations made by the division under Section 11(d) of this article.~~

[~~(b)~~] The division shall take one or more of the following actions against a department that the division determines is not in substantial compliance with division standards or requirements adopted under Sections 2-5 of this article:

(1) a reduction, refusal, or suspension of payment of state aid to the department; or

(2) an imposition of budget control over the department.

(b) [~~(c)~~] The board shall provide for notice and a hearing in cases in which the division proposes to take an action authorized by this section. The division shall define with specificity the conduct that constitutes substantial noncompliance with division standards and shall establish the procedures to be used in imposing or waiving a sanction authorized by this section, subject to approval of the definition and the procedures by adoption by the board.

[~~Sec. 13. Pretrial Release Report. The Community Justice Assistance Division shall collect statistical information on the use of bail bonds, personal bonds and other types of pretrial release in each county of the state. The information shall be collected on an annual basis and analyzed to determine the utilization rate for each type of release method. The Division shall file a report of its findings with the Criminal Justice Division of the Governor's Office, the Lieutenant Governor, the Speaker of the House of Representatives, and the members of the Legislature not later than December 31 of each year.~~

[~~Sec. 13. PERFORMANCE REWARDS. (a) The board shall develop, adopt, and implement a performance rewards program to reward each county served by a department that successfully diverts offenders from confinement. In developing the program, the board shall consider relevant factors for each county served by a department. The factors shall include but are not limited to:~~

[~~(1) the personal bond utilization rate in the county;~~

[~~(2) the pretrial diversion rate in the county;~~

[~~(3) the deferred adjudication rate in the county;~~

[~~(4) the probation rate in the county;~~

[~~(5) the probation revocation rate in the county, with separate rates calculated for revocations based on technical grounds and revocations based on grounds other than technical;~~

[~~(6) the utilization rate of residential and nonresidential diversion programs in the county;~~

[~~(7) the institutional division commitment rate in the county;~~

[~~(8) the admission per index crimes rate in the county; and~~

[~~(9) the frequency with which and extent to which the county does not use all admissions to which the county is entitled under the allocation formula.~~

[~~(b) On January 1 of each year, the division shall make the first of four quarterly payments to a county served by a department, other than a county described by Subsection (d) of this section, on the basis of the performance record of the county during the previous state fiscal year in diverting offenders from confinement, as documented by information requested by the division and provided by the department serving the county. If a county qualifies for a reward under Subsection (a) of this section, the minimum amount that the county is entitled to receive during a state fiscal year is $50,000. Each department shall provide the information for each county served by the department in a format designed by the division, and each county participating in the performance rewards program shall provide a plan, including a budget schedule, indicating to the division the manner in which the payment is to be used for each of the purposes described by Subsection (c) of this section. The division may reject the plan, accept the plan, or make acceptance of the plan conditional on modification of the plan and monitoring of the plan by the division.~~

[~~(c) A county that receives a payment under this section shall use not less than 25 percent of the payment for substance abuse prevention and treatment programs and may use the remainder of the payment for:~~

[~~(1) any purposes for which state aid may be used under Section 11(b) of this article;~~

[~~(2) implementation of the community justice plan for that county;~~ or

[~~(3) any program serving the criminal justice needs in the county, including certified programs for youthful offenders.~~

[~~(d) The director of the institutional division shall notify the director of the community justice assistance division if a county fails to fully cooperate with employees of the institutional division who are evaluating inmates who are candidates for release on parole from the county jail. The director of the community justice assistance division may not make a payment under this section to the county described by this subsection. For the purposes of this subsection, a county fails to fully cooperate with employees of the institutional division if the county does not:~~

[~~(1) refer candidates for release on parole from jail in the manner required under guidelines established by the board;~~

[~~(2) provide for each candidate a certified packet containing all documents the county would otherwise have been required to deliver to the director of the institutional division under Section 8, Article 42.09 of this code, plus three photographs and three fingerprint cards;~~

[~~(3) hold candidates until the candidates are denied parole or released on parole, unless to do so would mean the county failed to use~~

~~all admissions allocated to the county under Section 499.071, Government Code; or~~

[~~(4) permit the employees access to inmates or inmate records or does not provide the employees with sufficient space to conduct their evaluations.~~

[~~(c) The community justice assistance division annually shall determine for each county whether the county has a successful personal bond utilization rate in the county and a successful pretrial diversion program. The division shall report its findings to the Legislative Criminal Justice Board not later than December 31 of each year.~~]

SECTION 2.02. Article 42.131, Code of Criminal Procedure, is amended to read as follows:

Art. 42.131. COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENTS

Sec. 1. DEFINITIONS. In this article:

(1) "Board" means the Texas Board of Criminal Justice.

(2) "Community supervision" has the meaning assigned by Section 2, Article 42.12, of this code.

(3) "Council" means a community justice council.

(4) [~~(3)~~] "Department" means a community supervision and corrections department established under this article.

(5) [~~(4)~~] "Division" means the community justice assistance division of the board.

Sec. 2. ESTABLISHMENT OF DEPARTMENTS. (a) The district judge or district judges trying criminal cases in each judicial district in the state shall establish a community supervision and corrections department and employ district personnel as may be necessary to conduct presentence investigations [~~and risk assessments~~], supervise and rehabilitate defendants placed on community supervision [~~probationers~~], enforce the [~~terms and~~] conditions of community supervision [~~probation~~], and staff community corrections facilities. Both the district judges trying criminal cases and the judges of statutory county courts trying criminal cases that are served by a community supervision and corrections department are entitled to participate in the management of the department.

(b) If two or more judicial districts serve a county, or a district includes more than one county, one department shall serve all courts and counties in the district. However, the board may adopt rules to allow more than one department in a judicial district that includes more than one county if providing more than one department will promote administrative convenience or economy or improve services. The board may adopt rules allowing departments to contract with one another for services and facilities.

Sec. 3. [~~Community Corrections Facilities;~~] COMMUNITY JUSTICE COUNCIL. (a) [~~Subject to Subsection (b) of this section, a department, county, municipality, or any combination involving more than one of those entities may establish community corrections facilities of the types described by Section 5, Article 42.13, of this code. A department, county, municipality, or combination involving more than one of those entities is~~

~~specifically encouraged to purchase or enter into contracts for the use of abandoned or underutilized public facilities, such as rural hospitals, for the purpose of providing treatment facilities. The division may make grants to departments that use abandoned or underutilized facilities described by this subsection.~~

[~~(b)~~] A community justice council must be established by the district judge or judges in each jurisdiction served by a department, unless a board or council exists in the community on September 1, 1991, that performs duties substantially similar to those imposed on a community justice council under this section. The council shall provide continuing policy guidance and direction for the development of community [~~criminal~~] justice plans and community corrections facilities and programs. A council should consist of the following persons or their designees:

(1) a sheriff of a county to be served by the department, chosen by the sheriffs of the counties to be served by the department;

(2) a county commissioner or a county judge from a county to be served by the department, chosen by the county commissioners and county judges of the counties to be served by the department;

(3) a city council member of the most populous municipality in a county to be served by the department, chosen by the members of the city councils of cities to be served by the department;

(4) not more than two state legislators elected from a county to be served by the department, chosen by the state legislators elected from the counties to be served by the department;

(5) the presiding judge from a judicial district to be served by the department, chosen by the district judges from the judicial districts to be served by the department;

(6) a judge of a statutory county court exercising criminal jurisdiction in a county to be served by the department, to be chosen by the judges of statutory county courts with criminal jurisdiction in the counties to be served by the department;

(7) a county attorney with criminal jurisdiction from a county to be served by the department, chosen by the county attorneys with criminal jurisdiction from the counties to be served by the department;

(8) a district attorney or criminal district attorney from a judicial district to be served by the department, chosen by the district attorneys or criminal district attorneys from the judicial districts to be served by the department; and

(9) an elected member of the board of trustees of an independent school district in a county to be served by the department, chosen by the members of the boards of trustees of independent school districts located in counties to be served by the department.

(b) [~~(c)~~] The community justice council shall appoint a community justice task force to provide support staff for the development of a community justice plan. The task force may consist of any number of members, but should include:

(1) the county or regional director of the Texas Department of Human Services with responsibility for the area to be served by the department;

(2) the chief of police of the most populous municipality to be served by the department;

(3) the chief juvenile probation officer of the juvenile probation office serving the most populous area to be served by the department;

(4) the superintendent of the most populous school district to be served by the department;

(5) the supervisor of the Department of Public Safety region closest to the department, or the supervisor's designee;

(6) the county or regional director of the Texas Department of Mental Health and Mental Retardation with responsibility for the area to be served by the department;

(7) a substance abuse treatment professional appointed by the Council of Governments serving the area to be served by the department;

(8) the department director [~~chief~~];

(9) the local or regional representative of the pardons and paroles division of the Texas Department of Criminal Justice [~~Board of Pardons and Paroles Division~~] with responsibility for the area to be served by the department;

(10) the representative of the Texas Employment Commission with responsibility for the area to be served by the department;

(11) the representative of the Texas Rehabilitation Commission with responsibility for the area to be served by the department;

(12) a licensed attorney who practices in the area to be served by the department and whose practice consists primarily of criminal law;

(13) a court administrator, if one serves the area to be served by the department;

(14) a representative of a community service organization that provides adult treatment, educational, or vocational services to the area to be served by the department; and

(15) a representative of an organization in the area to be served by the department that is actively involved in issues relating to defendants' rights, chosen by the county commissioners and county judges of the counties to be served by the department.

Sec. 4. DEPARTMENT DIRECTOR. The district judge or judges shall appoint a department director who must meet, at a minimum, the eligibility requirements for officers established under Section 5 of this article. The department director shall employ a sufficient number of officers and other employees to perform the professional and clerical work of the department.

Sec. 5. STANDARDS FOR OFFICERS. (a) Officers appointed by the department director must comply with a code of ethics developed by the division.

(b) To be eligible for appointment on or after September 1, 1989, [~~the effective date of this Act~~] as an officer who supervises defendants placed on community supervision [~~probationers~~] a person:

(1) must have acquired a bachelor's degree conferred by an institution of higher education accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and

(2) unless the bachelor's degree is in criminology, corrections, counseling, law, social work, psychology, sociology, or a related field that has been approved by the division, must have:

(A) one year of graduate study in one of those fields; or

(B) one year of experience in full-time casework, counseling, or community or group work that has been approved by the division.

(c) A person employed as a peace officer is not eligible for appointment as an officer under this section.

(d) The division may establish a waiver procedure for departments unable to hire persons meeting the requirements under Subsection (b)(2) of this section.

Sec. 6. EMPLOYEES; BENEFITS. (a) Except as provided by Subsection (c) of this section, department employees are not state employees. The department shall contract with the most populous county served by the department for insurance and retirement plans, and the employees are governed by personnel policies and benefits equal to [~~the same~~] personnel policies for and benefits of other [~~as the~~] employees of that county.

(b) The judicial districts served by a department shall pay the salaries of department employees.

(c) Department employees are state employees for the purposes of Chapter 104, Civil Practice and Remedies Code, and Article 8309g, Revised Statutes. A department is a governmental unit for the purposes of Section 101.103(a), Civil Practice and Remedies Code.

(d) The department shall provide transportation or automobile allowances for officers who supervise probationers.

Sec. 7. Public Funds [~~State Aid~~], GRANTS, GIFTS. A department may accept public funds [~~state aid~~] and grants and gifts from any source for the purpose of financing programs and facilities. A municipality, county, or other political subdivision may make grants to a department for those purposes.

Sec. 8. COUNTIES' FINANCIAL RESPONSIBILITIES. (a) The county or counties served by a department shall provide physical facilities, equipment, and utilities for a department. The division shall monitor the support a county provides under this section and determine whether a county provides support that meets the standards for minimum support established by the division. If the division determines that a county's support is insufficient, the division may impose on the department a sanction authorized by Section 11 [~~12~~], Article 42.13, of this code.

(b) If a department serves two or more counties, those counties may enter into an agreement for the distribution of the expenses of facilities, equipment, and utilities.

Sec. 9. DISTRICT'S FINANCIAL RESPONSIBILITIES. (a) The district judge or judges may expend district funds in order to provide expanded facilities, equipment, and utilities if:

(1) the department needs to increase its personnel in order to provide more effective services or to meet workload requirements established under Article 42.13 of this code;

(2) the county or counties certify to the judge or judges that they have neither adequate space in county-owned buildings nor adequate funds to lease additional physical facilities, purchase additional equipment, or pay for additional utilities required by the department; and

(3) the county or counties provide facilities, equipment, and utilities at or above the levels required by the division.

(b) The division shall set as the level of contribution a county or counties must meet or exceed to receive district funds under Subsection (a) of this section a level not lower than the average level provided by the county or counties during the fiscal year in which the funds are to be received and the four fiscal years immediately preceding that year [~~fiscal years of 1983-87~~].

Sec. 10. STATE FUNDS OR GUARANTEES FOR CORRECTIONS FACILITIES. (a) In this section:

(1) "Community corrections facility" has the meaning assigned by Section 1(b), Article 42.13, of this code.

(2) "State jail felony facility" means a facility operated or contracted for by the state jail division under Subchapter A, Chapter 507, Government Code.

(b) A department, county, municipality, or a combination involving more than one of those entities may establish a community corrections facility and are specifically encouraged to purchase or enter into a contract for the use of abandoned or underutilized public facilities, such as former military bases and rural hospitals, for the purpose of providing community corrections facilities.

(c) The district judge or judges may authorize expenditures of funds provided by the division to the department for the purposes of providing facilities, equipment, and utilities for community corrections facilities or state jail felony facilities if:

(1) the community justice council recommends the expenditures; and

(2) the division, or the state jail division in the case of a state jail felony facility, provides funds for the purpose of assisting in the establishment or improvement of the facilities.

(d) A department may acquire, hold title to, and own real property for the purpose of establishing a community corrections facility or a state jail felony facility.

(e) A department, county, municipality, or a combination involving more than one of those entities may not use a facility or real property purchased, acquired, or improved with state funds unless the division, or the state jail division in the case of a state jail felony facility, first approves the use.

(f) The division or the state jail division, in the case of a state jail felony facility, is entitled to reimbursement from an entity described by Subsection (e) of this section of all state funds used by the entity without division approval as required by Subsection (e).

Sec. 11. PRETRIAL SERVICES. (a) The department may operate programs for the supervision and rehabilitation of persons in pretrial

intervention programs. Programs may include testing for controlled substances. Persons in pretrial intervention programs may be supervised for a period not to exceed one year.

(b) The department may use money deposited in the special fund of the county treasury for the department under Article 103.004(b) of this code only for the same purposes for which state aid may be used under this article.

Sec. 12. RESTITUTION. (a) If a judge requires a defendant to make restitution to a victim of the defendant's offense, and a payment is received under this article from the defendant for transmittal to a victim of the offense, the community supervision and corrections department that receives the payment for disbursement to the victim shall immediately deposit the payment in an interest-bearing account in the department having original jurisdiction. The department shall transmit the payment to the victim as soon as practicable.

(b) If a victim cannot be located, immediately after receiving a final payment in satisfaction of an order of restitution for the victim the department shall attempt to notify the victim of that fact by certified mail, mailed to the last known address of the victim. If a victim then makes a claim for payment, the department promptly shall remit the payment to the victim. Not earlier than the fifth anniversary of the date on which the department mails notice under this subsection, if the victim has not made a claim for payment, the department shall transfer the payment from the interest-bearing account to the comptroller of public accounts, after deducting five percent of the payment as a collection fee and deducting any interest accrued on the payment. The comptroller shall deposit the payment in the state treasury to the credit of the compensation to victims of crime auxiliary fund.

(c) The collection fee under Subsection (b) of this section and the accrued interest under Subsections (a) and (b) of this section shall be deposited in the special fund of the county treasury provided by Section 10, Article 42.13, of this code to be used for the same purposes for which state aid may be used under that section. The department has a maximum of 121 days after the four-year expiration date to transfer the funds to the comptroller's office. Failure to comply with the 121-day deadline will result in a five percent collection fee penalty calculated from the total deposit and all interest attributable to the unclaimed funds.

(d) If the victim of the offense claims the payment during the four-year period in which the payment is held in the interest-bearing account, the department shall pay the victim the amount of the original payment, less any interest earned while holding the payment. After the payment has been transferred to the comptroller, the department has no liability in regard to the payment, and any claim for the payment must be made to the comptroller. If the victim makes a claim to the comptroller, the comptroller shall pay the victim the amount of the original payment, less the collection fee, from the compensation to victims of crime auxiliary fund.

Sec. 13. PROGRAM TO ASSESS AND ENHANCE DEFENDANT'S EDUCATIONAL AND VOCATIONAL SKILLS. (a) A department, with

the assistance of public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities, may establish a developmental program for a defendant under the supervision of the department on the basis of information obtained in the presentence investigation report prepared for the defendant.

(b) The developmental program may provide the defendant with the educational and vocational training necessary to:

(1) meet the average skill level of students who have completed the sixth grade in public schools in this state; and

(2) maintain employment while under the supervision of the department, to lessen the likelihood that the defendant will commit additional offenses.

(c) To decrease expenditures by community supervision and corrections departments for the educational and vocational skills assessment and enhancement program established under this section, the Texas Department of Commerce shall provide information to departments, public school districts, community and public junior colleges, public and private institutions of higher education, and other appropriate public and private entities for obtaining financial assistance through the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) and other applicable programs of public or private entities.

SECTION 2.03. (a) Section 493.003(b), Government Code, is amended to read as follows:

(b) The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals shall each appoint six members to serve as the judicial advisory council to the community justice assistance division and the board. The advisory council members serve staggered six-year terms, with the terms of four of the members expiring February 1 of each odd-numbered year. In the event of a vacancy during a term, the appointing authority for the member who vacated the office shall appoint a replacement to fill the unexpired portion of the term [~~at the will of the appointing judge~~]. The advisory council shall advise the director of the community justice assistance division and the board on matters of interest to the judiciary, and the director and the board shall carefully consider the advice. Members of the advisory council are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses in the conduct of their duties, as provided by the General Appropriations Act.

(b) The change in the terms of the members of the judicial advisory council to the community justice assistance division of the Texas Department of Criminal Justice and the Texas Board of Criminal Justice, as required by the amendment to Section 493.003(b), Government Code, made by Subsection (a) of this section, shall occur in the manner provided by this subsection. The chief justice of the Supreme Court of Texas and the presiding judge of the Texas Court of Criminal Appeals shall appoint the initial members of the six-year term advisory council on or before January 1, 1994, and on the date of appointment the terms of the members serving at-will terms expire. Of the members, the chief justice and the

presiding judge each shall appoint four to serve terms expiring February 1, 1995, four to serve terms expiring September 1, 1997, and four to serve terms expiring September 1, 1999. On expiration of those terms, the term of a member is six years, as provided by Section 493.003(b).

SECTION 2.04. (a) Subsections (a) and (d), Article 102.011, Code of Criminal Procedure, are amended to read as follows:

(a) A defendant convicted of a felony or a misdemeanor shall pay the following fees for services performed in the case by a peace officer:

(1) $5 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, or for making an arrest without a warrant;

(2) $35 for executing or processing an issued arrest warrant or capias, with the fee imposed for the services of:

(A) the law enforcement agency that executed the arrest warrant or capias, if the agency requests of the court, not later than the 15th day after the date of the execution of the arrest warrant or capias, the imposition of the fee on conviction; or

(B) the law enforcement agency that processed the arrest warrant or capias, if the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subdivision;

(3) $5 for summoning a witness;

(4) $35 for serving a writ not otherwise listed in this article;

(5) $10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) $5 for commitment or release;

(7) $5 for summoning a jury, if a jury is summoned; and

(8) $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.

(d) A defendant shall pay for the services of a sheriff or constable who serves process and attends an examining trial in a felony or a misdemeanor case the same fees allowed for those services in the trial of a felony or a misdemeanor, not to exceed $5.

(b) The change in law made by Subsection (a) of this section to Article 102.011, Code of Criminal Procedure, applies only to a service performed in a felony case on or after the effective date of this article.

SECTION 2.05. Article 103.009, Code of Criminal Procedure, is amended to read as follows:

Art. 103.009. FEE Records [~~Books~~]. (a) Each clerk of a court, county judge, justice of the peace, sheriff, constable, and marshal shall keep a fee record [~~book~~]. The record [~~fee book~~] must contain:

(1) a statement of each fee or item of cost charged for a service rendered in a criminal action or proceeding;

(2) the number and style of the action or proceeding; and

(3) the name of the officer or person who is entitled to receive the fee.

(b) Any person may inspect a fee record [~~book~~] described by Subsection (a).

(c) A statement of an item of cost in a fee record [~~book~~] is prima facie evidence of the correctness of the statement.

(d) The county shall provide [~~fee books~~] to officers required to keep a fee record [~~the books~~] by this article equipment and supplies necessary to keep the record.

SECTION 2.06. This article takes effect September 1, 1993.

ARTICLE 3

SECTION 3.01. Section 493.009, Government Code, is amended to read as follows:

Sec. 493.009. SUBSTANCE ABUSE FELONY PUNISHMENT FACILITIES. (a) The department, [~~through the community justice assistance division and the pardons and paroles division and~~] with the cooperation of the Texas Commission on Alcohol and Drug Abuse, shall establish a program to confine and treat defendants required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~punished under Section 12.422, Penal Code~~].

(b) The board shall adopt criteria to determine the suitability of candidates for participation in the program. The department and the Texas Commission on Alcohol and Drug Abuse shall jointly develop methods of screening and assessing defendants required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~inmates sentenced under Section 12.422, Penal Code~~], to determine their need for specific types of treatment for alcohol or drug abuse problems.

(c) The program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~], must consist of treatment programs that may vary in time from six months to 12 months. The department shall also establish and provide treatment programs for persons in categories described by Subsections (g)(1)-(3) who are housed in beds otherwise provided for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~].

(d) The program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~], provided under this section must contain highly structured work, education, and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The department shall establish a graded system of rewards and sanctions for defendants [~~inmates~~] who participate in the program, but a defendant required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~], is not entitled to earn awards of time for good conduct. A qualified professional, at least every 60 days, must perform an evaluation on a defendant[~~, other than a defendant whose underlying offense is an offense under Article 6701l-1, Revised Statutes,~~] that determines the defendant's treatment progress and institutional behavior. [~~The professional must perform the evaluation on a defendant whose underlying offense is an offense under Article 6701l-1, Revised Statutes, at least every 28 days.~~] Not later than three days after the date on which a four-month

evaluation is performed, [~~or in the case of a defendant whose underlying offense is an offense under Article 6701l-1, Revised Statutes, three days after the date on which a 28-day evaluation is performed,~~] the qualified professional shall establish a tentative release date for the defendant, notify the sentencing court of that fact, and include with the notice a copy of the four-month [~~or 28-day~~] evaluation[~~, as appropriate~~]. The qualified professional immediately shall notify the court if the professional determines the defendant's conduct requires a revision of the tentative release date.

(e) The department shall contract through the Texas Commission on Alcohol and Drug Abuse with [~~nonprofit~~] organizations to provide qualified professionals to implement the program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~]. For purposes of this subsection, a "qualified professional" is a person who:

(1) is a certified alcohol and drug abuse counselor;

(2) is a certified social worker or advanced clinical practitioner and who has at least two years of experience in chemical dependency counseling; or

(3) is a licensed professional counselor, physician, or psychologist and who has at least two years of experience in chemical dependency counseling.

(f)(1) The department shall adopt rules of conduct [~~for inmates participating in the program~~] for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, or required to participate in the program following modification of probation or parole [~~sentenced under Section 12.422, Penal Code~~].

(2) If the qualified professional with primary responsibility for treating a defendant and the individual in charge of security in the facility in which the defendant is housed jointly determine that the defendant is not complying with the rules or is medically or psychologically unsuitable for the program, they shall notify the department of that fact.

(3) The department, immediately on receiving notice, shall request the sentencing court to reassume custody of the defendant if the defendant was required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, or required to participate in the program following modification of probation. The court shall reassume custody before the 12th day after the date on which the department notifies the court. If the court revokes the defendant's probation, the admission of the defendant to the institutional division is an admission for which the county from which the defendant was sentenced is charged under the allocation formula established under Section 499.071.

(4) The department, immediately on receiving notice, shall request the pardons and paroles division to reassume custody of the defendant if the defendant was required to participate in the program following modification of parole. The pardons and paroles division shall immediately take action in accordance with established policies and procedures of the Board of Pardons and Paroles to remove the defendant from the program.

If a parole panel revokes the defendant's parole, the admission of the defendant to the institutional division is an admission for which the county from which the defendant was sentenced is charged under the allocation formula established under Section 499.071.

(5) If the defendant was transferred to the facility from a county jail under Subsection (l), the department shall return the defendant to the county jail.

(6) A court's recommendation that a defendant be placed in a program created under this section does not give the court the power to hold the department or any officer or employee of the department in contempt of court for failure to adhere to that recommendation.

(g) The department shall provide 12,000 beds for the purpose of operating the program for persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~], except that the beds may also be used to house the following categories of persons:

(1) persons transferred under Subchapter A, Chapter 499, Government Code, and Section 8(i), Article 42.18, Code of Criminal Procedure;

(2) persons whose probation or parole has been modified [~~or revoked~~]; and

(3) defendants [~~inmates~~] confined in county jails awaiting transfer to the institutional division.

(h) On and after the date persons are required under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code, to participate in the program established under this section~~], the department shall give priority to housing those persons over the categories of persons described by Subsections (g)(1)-(3).

(i) The department shall make quarterly reports to the Legislative Criminal Justice Board that show the ratio of persons in beds reserved under Subsection (g) who have been required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~], to persons in those beds who have been sent to the facilities by other methods.

(j) The department shall recover from a program participant the cost to the department of providing treatment, to the extent the participant has insurance that covers the treatment or is otherwise able to pay for the treatment.

(k) It is the intent of the legislature that facilities established under this section be used primarily to house persons required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure [~~sentenced under Section 12.422, Penal Code~~], except that if treatment beds are empty, this subsection does not prohibit the department from using those empty beds to treat the categories of persons listed in Subsection (g).

(l) The department shall identify defendants [~~inmates~~] confined in county jails who are awaiting transfer to the institutional division and who because of their need for treatment of drug or alcohol problems require transfer to a substance abuse felony punishment facility. The department

shall provide for the transportation of the defendant [~~may order the county to transfer an inmate~~] to such a facility. If the board finds that a county has failed to fully cooperate with the department in evaluating defendants [~~and transferring inmates~~] under this section, the board shall notify the Commission on Jail Standards of that fact. On notice from the board, the commission may reduce or suspend payments under Subchapter F, Chapter 499, or may suspend the certification of the county jail as provided by Section 511.012.

(m) Notwithstanding any other provision of this section, the department is authorized to provide substance abuse felony punishment facilities, not to exceed 500 beds, for newly provided alcohol and drug abuse beds exclusively for persons whose probation or parole has been modified [~~or revoked~~].

(n) The department shall separate participants in the program created under this section from inmates of the institutional division, except at times determined necessary by the department for the purpose of transportation or staging or for medical or security reasons.

(o) If a defendant required to participate in the program under Section 14, Article 42.12, Code of Criminal Procedure, is released after successful completion of the program, the Texas Commission on Alcohol and Drug Abuse shall contract for transportation of the participant at the expense of the commission to an appropriate continuum of care program.

(p) To the extent funds are available, the Criminal Justice Policy Council, with the assistance of the Texas Commission on Alcohol and Drug Abuse and the department, shall develop methods to evaluate the processes used by the department in providing the program and the level of success achieved by the program.

SECTION 3.02. Section 501.0931, Government Code, is amended by amending Subsections (c), (d), (g), (h), and (j), and by adding Subsection (k) to read as follows:

(c) The program must consist of a [~~three-month and a six-month~~] treatment program of indeterminate length, not to exceed 12 months. The institutional division shall make a referral of an inmate to a program based on the severity of the substance abuse problem, eligibility of the inmate, and the availability of treatment space. An inmate who has not more than 12 [~~six~~] months remaining in the inmate's sentence before the earliest date the inmate is eligible for parole is eligible for the [~~three-month~~] program. [~~An inmate who has not more than one year remaining in the inmate's sentence before the earliest date the inmate is eligible for parole is eligible for the six-month program.~~]

(d) The institutional division shall separate inmates [~~who participate in the three-month program from inmates who participate in the six-month program and shall separate inmates~~] participating in the program from the general population of the division and house the inmates in discrete units or areas within units, except during the diagnostic process or at other times determined to be necessary by the division for medical or security purposes. The institutional division shall separate an inmate who successfully completes the program from the general population of the division during any period after completion and before the inmate is

discharged or released on parole or mandatory supervision from the department.

(g) The institutional division shall adopt:

(1) a procedure for determining which eligible inmates are the best candidates for participation in the program, with priority for those eligible inmates who volunteer; and

(2) rules of conduct for inmates participating in the program.

(h) If the qualified professional implementing the program [~~institutional division~~] determines that an inmate is not complying with the rules of the program, the qualified professional shall notify the institutional division of that fact and the institutional division shall [~~may~~] end the inmate's participation in the program and transfer the inmate out of the program.

(j) Neither the institutional division nor a qualified professional implementing the program may operate the program in a manner that automatically excludes inmates who do not volunteer to participate, and the division and the treatment provider shall attempt to encourage nonvolunteer inmates to participate [~~The department shall require an inmate who participates in a treatment program to participate in a drug or alcohol abuse after-care program as a condition of parole after the inmate is released from the institutional division~~].

(k) If funding is available, the Criminal Justice Policy Council, with the assistance of the institutional division, shall develop methods to evaluate the processes used by the division in providing the program and the level of success achieved by the program.

SECTION 3.03. Section 8, Article 42.18, Code of Criminal Procedure, is amended by amending Subsection (g) and adding Subsection (g-1) to read as follows:

(g) The board [~~Texas Board of Criminal Justice~~] may adopt such other reasonable rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of prisoners for parole and mandatory supervision, the conduct of parole and mandatory supervision hearings, or conditions to be imposed upon parolees and persons released to mandatory supervision. Each person to be released on parole shall be furnished a contract setting forth in clear and intelligible language the conditions and rules of parole. The parole panel may include as a condition of parole or mandatory supervision any condition that a court may impose on a defendant placed on community supervision [~~probationer~~] under Article 42.12 of this code, including the condition that the person released submit to testing for controlled substances or submit to electronic monitoring if the parole panel determines that absent testing for controlled substances or participation in an electronic monitoring program the person would not be released on parole. Acceptance, signing, and execution of the contract by the inmate to be paroled shall be a precondition to release on parole. Persons released on mandatory supervision shall be furnished a written statement setting forth in clear and intelligible language the conditions and rules of mandatory supervision. The parole panel may also require as a condition of parole or release to mandatory supervision that the person make payments in satisfaction of damages the person is liable

for under Section 500.002, Government Code [~~Article 6184p, Revised Statutes~~]. The parole panel shall require as a condition of parole or mandatory supervision that the person register under Article 6252-13c.1, Revised Statutes. The parole panel shall require as a condition of parole or mandatory supervision that an inmate who immediately before release is a participant in the program established under Section 501.0931, Government Code, participate in a drug or alcohol abuse continuum of care treatment program.

(g-1) The Texas Commission on Alcohol and Drug Abuse shall develop the continuum of care treatment program.

SECTION 3.04. This article takes effect September 1, 1993.

ARTICLE 4

SECTION 4.01. Section 499.0021(b), Government Code, is amended to read as follows:

(b) The pardons and paroles division may assume custody of an inmate who is eligible for transfer under this section not earlier than one year before the inmate's presumptive parole date. The inmate becomes a pre-parolee on the date the pardons and paroles division assumes custody, and the pardons and paroles division immediately shall transfer the pre-parolee to a facility under contract with the division, which may be a community residential facility, a community corrections facility listed in Section 1(b) [~~6(b)~~], Article 42.13, Code of Criminal Procedure, or a county correctional facility. A pre-parolee transferred under this section is considered to be in the actual physical custody of the pardons and paroles division.

SECTION 4.02. Section 499.003(d), Government Code, is amended to read as follows:

(d) The pardons and paroles division may request of a sheriff that the sheriff forward to the pardons and paroles division copies of any records possessed by the sheriff that are relevant to the pardons and paroles division in its determination as to whether to transfer a person from the county jail to a secure community residential facility, and the pardons and paroles division shall request the sheriff to forward to the institutional division and to the pardons and paroles division the information relating to the defendant the sheriff would be required under Section 8, Article 42.09, Code of Criminal Procedure, to deliver to the institutional division had the defendant been transferred to the institutional division. The pardons and paroles division shall determine whether the information forwarded by the sheriff contains a thumbprint taken [~~fingerprint~~] from the person in the manner provided by Article 38.33, Code of Criminal Procedure, and, if not, the pardons and paroles division shall obtain a thumbprint in the manner provided by that article [~~10-finger print from the person, either by use of the ink-rolled print method or by use of a live-scanning device that prints the fingerprint on paper~~], and shall forward the thumbprint [~~10-finger print~~] to the institutional division for inclusion with the information sent by the sheriff. The sheriff shall comply with a request from the pardons and paroles division made under this subsection.

SECTION 4.03. The section heading of Section 499.052, Government Code, is amended to read as follows:

Sec. 499.052. STATE BOOT CAMP [~~ALTERNATIVE INCARCERATION~~] PROGRAM [~~For Probationers~~].

SECTION 4.04. The subchapter heading of Subchapter D, Chapter 499, Government Code, is amended to read as follows:

SUBCHAPTER D. ALLOCATION FORMULAS [~~FORMULA~~]

SECTION 4.05. Section 499.071, Government Code, is amended to read as follows:

Sec. 499.071. ALLOCATION FORMULA. (a) The board shall [~~develop,~~] adopt[~~,~~] and enforce an allocation formula that fairly and equitably allocates to each county [~~or group of counties served by a community corrections and supervision department~~] the number of institutional division admissions allocated to the county [~~or counties~~] until sufficient capacity is available in the institutional division. In devising the formula, the board shall consider relevant factors for each county [~~or group of counties~~] served by a department and shall assign weights to those factors as determined appropriate by the board. The factors shall include but are not limited to:

(1) the percentage of prison admissions for the entire state that were used by the county [~~or counties~~] in the preceding 12 months;

(2) the percentage of the state's violent index crime that occurred in the county [~~or counties~~] in the preceding 12 months;

(3) the percentage of the state's total index crime that occurred in the county [~~or counties~~] in the preceding 12 months;

(4) the percentage of the state's total arrests under Chapter 481, Health and Safety Code, that occurred in the county [~~or counties~~] in the preceding 12 months;

(5) the percentage of the state's population residing in the county [~~or counties~~];

(6) the percentage of the state's total unemployment in the county [~~or counties~~]; and

(7) the percentage of all defendants serving sentences for felonies who were paroled from the institutional division, a jail in this state, a federal correctional institution, or a jail or correctional institution in another state in the preceding 12 months and who were released to reside in the county [~~or counties~~].

(b) The board shall adopt and enforce an allocation formula that fairly and equitably allocates community corrections program funding to each community supervision and corrections department, in the manner provided by Section 10(a)(3), Article 42.13, Code of Criminal Procedure. In devising the formula, the board shall use the factors listed in Subsection (a), but may assign different weights to those factors than those used in developing the admissions allocation formula. The board also may use factors not listed in Subsection (a) in devising the formula under this subsection.

(c) If the board is unable to obtain for a factor listed in Subsection (a) information for the preceding 12-month period, the board shall consider the most recent information available for that factor.

(d) [~~(c)~~] The board shall revise each [~~the~~] formula annually.

SECTION 4.06. Section 5(a), 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. 5. (a) The Authority may issue revenue bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions including facilities authorized by Section 495.001 (a), Government Code, facilities authorized by Section 495.021 (a), Government Code, criminal justice facilities for the Texas Department of Criminal Justice, including youth corrections institutions, and mental health and mental retardation institutions. The proceeds may be used to refinance an existing obligation for a purpose described by this subsection.

SECTION 4.07. Section 493.012, Government Code, is amended to read as follows:

Sec. 493.012. HISTORICALLY UNDERUTILIZED [~~DISADVANTAGED~~] BUSINESSES. (a) The board and the department each shall make a good faith effort to assist historically underutilized [~~disadvantaged~~] businesses to receive at least 30 [~~20~~] percent of the total value of:

(1) each construction contract awarded for construction, purchase of supplies, materials, services, and equipment that the board and the department expect to make; and

(2) contracts awarded for operation, maintenance, or management [~~in connection with construction funded by the issuance of bonds~~].

(b) The board and the department each shall annually report to the legislature and the governor on the level of historically underutilized [~~disadvantaged~~] business participation in board and department contracts. The report shall include:

(1) names and locations of the historically underutilized businesses participating in contracts;

(2) types of services conducted by the historically underutilized businesses participating in contracts;

(3) a description of the type of recruitment strategy used to attract historically underutilized businesses; and

(4) recommendations for the improvement of historically underutilized [~~disadvantaged~~] business opportunities with the board and the department.

(c) In this section, "historically underutilized business" means:

(1) a business entity formed for the purpose of making a profit of which at least 51 percent is owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including women, African Americans, Hispanic Americans, Native Americans, and Asian Americans, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; or

(2) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned by one or more persons described by Subdivision (1). Those persons must have proportionate interest in the control, operation, and management of the corporation's affairs,

[~~"disadvantaged business" has the meaning assigned by Section 1.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).~~]

SECTION 4.08. Chapter 494, Government Code, is amended by adding Section 494.011 to read as follows:

Sec. 494.011. SEAL OF INSTITUTIONAL DIVISION. (a) The institutional division shall use an official seal to certify documents received by the director under Sections 8(a) and (c), Article 42.09, Code of Criminal Procedure.

(b) The official seal must contain an engraved, five-pointed star in the center with the words "Texas Department of Criminal Justice—Institutional Division" around the margin.

SECTION 4.09. This article takes effect September 1, 1993.

ARTICLE 5

SECTION 5.01. Article 42.18, Code of Criminal Procedure, is amended by adding Section 8A to read as follows:

Sec. 8A. (a) In addition to other conditions imposed by a parole panel under this article, the panel shall require as a condition of parole or release to mandatory supervision that the defendant reside during the period of parole or mandatory supervision in the county in which:

(1) the defendant resided at the time of committing the offense for which the defendant was sentenced to the institutional division; or

(2) the defendant committed the offense for which the defendant was sentenced to the institutional division, but only if the defendant was not a resident of this state at the time of committing the offense.

(b) A parole panel may require a defendant to reside in a county other than the county required by Subsection (a) of this section to:

(1) protect the life or safety of a victim of the defendant's offense, the defendant, a witness in the case, or any other person; or

(2) increase the likelihood of the defendant's successful completion of parole or mandatory supervision, because of:

(A) written expressions of significant public concern in the county in which the defendant would otherwise be required to reside;

(B) the presence of family members or friends in the other county who have expressed a willingness to assist the defendant in successfully completing the terms and conditions of the defendant's release on parole or mandatory supervision;

(C) the verified existence of a job offer in the other county; or

(D) the availability of treatment programs, educational programs, or other social service programs in the other county that are not available in the county in which the defendant would otherwise be required to reside.

(c) At any time after a defendant is released on parole or mandatory supervision, a parole panel may modify the conditions of parole or release on mandatory supervision to require the defendant to reside in a county other than the county required by the original conditions. In making a decision under this subsection, a parole panel must consider the factors listed in Subsection (b) of this section.

(d) If a parole panel initially requires the defendant to reside in a county other than the county required by Subsection (a) of this article, the parole panel shall subsequently require the person to reside in the county described by Subsection (a) of this article if the requirement that the defendant reside in the other county was based on:

(1) the verified existence of a job offer under Subsection (b)(2)(C) of this article and the defendant is no longer employed in or actively seeking employment; or

(2) the availability of treatment programs, educational programs, or other social service programs under Subsection (b)(2)(D) of this article and the defendant:

(A) no longer regularly participates in the program as required by a term or condition of parole or release to mandatory supervision; or

(B) has successfully completed the program but has violated another term or condition of the defendant's release on parole or mandatory supervision.

(e) If a parole panel requires the defendant to reside in a county other than the county required by Subsection (a) of this section, the panel shall state the reason for its decision in writing, and place the statement in the defendant's permanent record.

(f) This section does not apply to a decision by a parole panel to require a defendant to serve the period of parole or mandatory supervision in another state.

SECTION 5.02. Chapter 413, Government Code, is amended by adding Section 413.019 to read as follows:

Sec. 413.019. REPORT ON INMATE RELEASE STATISTICS. (a) Each month the policy council shall determine the following information:

(1) the number and percentage of inmates released on parole or to mandatory supervision to each county;

(2) the number and percentage of inmates released on parole in absentia to each county; and

(3) the number of inmates released to and from a halfway house in each county, including the number of inmates who are required as a condition of release to reside in a county other than the county in which a halfway house is located.

(b) The policy council shall submit to the Texas Board of Criminal Justice an annual report that includes the following information for the preceding 12 months:

(1) the number of inmates released on parole or to mandatory supervision;

(2) the number and percentage of inmates released on parole or to mandatory supervision to each county, including the number of inmates who are required on release from a halfway house to reside in a county other than the county in which the halfway house is located;

(3) the number of inmates released on parole in absentia;

(4) the number and destination of inmates who are transferred from one county to another during the period of release or supervision; and

(5) the number and percentage of inmates released on parole in absentia to each county.

(c) The report required under this section must also include the number of persons under the supervision or custody of the Texas Department of Criminal Justice at the end of a fiscal year, including the type and status of the supervision or custody.

(d) The Texas Board of Criminal Justice shall review the information in the annual report to enable the division to make an appropriate and equitable distribution of inmates to each county.

(e) The Texas Department of Criminal Justice on a monthly basis shall provide in computer format data required by the policy council to prepare reports under this section.

SECTION 5.03. The Criminal Justice Policy Council shall make its first annual report as required by Section 413.019, Government Code, as added by this Act, not later than January 1, 1994.

SECTION 5.04. This article takes effect September 1, 1993.

ARTICLE 6

SECTION 6.01. Sections 413.009, 413.012, 413.015, 413.017, and 413.018, Chapter 413, Government Code, are amended to read as follows:

Sec. 413.009. DUTIES OF POLICY COUNCIL. To accomplish its duties the policy council shall:

(1) conduct an in-depth analysis of the criminal justice system;

(2) determine the long-range needs of the criminal justice system and recommend policy priorities for the system;

(3) identify critical problems in the criminal justice system and recommend strategies to solve those problems;

(4) assess the cost-effectiveness of the use of state and local funds in the criminal justice system;

(5) [~~recommend the goals, priorities, and standards for the allocation of criminal justice planning funds administered by the criminal justice division;~~

[~~(6)~~] recommend means to improve the deterrent and rehabilitative capabilities of the criminal justice system;

(6) [~~(7)~~] advise and assist the legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system;

(7) [~~(8)~~] make computations of daily costs and compare interagency costs on services provided by agencies that are a part of the criminal justice system;

(8) [~~(9)~~] make population computations for use in planning for the long-range needs of the criminal justice system;

(9) [~~(10)~~] determine long-range information needs of the criminal justice system and acquire that information; and

(10) [~~(11)~~] engage in other activities consistent with the responsibilities of the policy council[~~; and~~

[~~(12) implement the criminal justice data report~~].

Sec. 413.012. CONTRACTUAL AUTHORITY. [~~(a)~~] The policy council may contract with public or private entities in the performance of

[~~(b) The policy council may contract with the criminal justice center at Sam Houston State University to provide information important to the work of either council.~~]

Sec. 413.015. CRIMINAL JUSTICE PLAN; BIENNIAL [~~ANNUAL~~] REPORT. (a) The policy council biennially [~~annually~~] shall submit to the legislature a plan detailing the actions necessary to promote an effective and cohesive criminal justice system.

(b) The policy council shall include in the plan a report of its activities and the recommendations it makes under Section 413.009.

[~~Sec. 413.017. SPECIAL PROJECTS. (a) Before January 1, 1991, the policy council shall prepare and report to the legislature:~~

[~~(1) a design for conducting a comprehensive study of sentencing patterns and practices in this state;~~

[~~(2) an evaluation of formulas for the fair and equitable allocation of prison beds to local jurisdictions;~~

[~~(3) a study that develops uniform definitions of the term "recidivism" and "revocation rate"; and~~

[~~(4) an examination of the reporting requirements imposed by the state on municipal, county, and district clerk offices and justices of the peace offices that relate to criminal justice system processing, with recommendations relating to the consolidation, simplification, or elimination of requirements where appropriate.~~

[~~(b) The design prepared under Subsection (a)(1) must include:~~

[~~(1) a statement of the specific objectives of the comprehensive study;~~

[~~(2) methodology;~~

[~~(3) schedules for the study;~~

[~~(4) a description of the resources necessary for the study; and~~

[~~(5) two pilot sampling programs, capable of testing the design.~~

[~~(c) Before January 1, 1993, the policy council shall prepare a study on and report to the legislature about statewide sentencing dynamics. The report must include a detailed profile of felons sentenced to the institutional division and felons placed on probation. The policy council shall design the study to provide the legislature with information necessary to perform a proper revision of the Penal Code and statutes relating to sentencing in criminal cases.~~

[~~Sec. 413.018. CRIMINAL JUSTICE DATA REPORT. (a) Not later than September 1, 1992, the policy council shall prepare for and distribute to each district court in this state with felony jurisdiction a data collection report form.~~

[~~(b) The policy council shall design the data collection report form to collect all information relevant to a sentence in a felony case or to a pretrial diversion or grant of deferred adjudication in a felony case as well as any other information determined necessary by the policy council.~~

[~~(c) The attorney representing the state shall complete the data collection report for each felony conviction in which the defendant is sentenced to the institutional division of the Texas Department of Criminal Justice and shall include a copy of the data collection report in the documents sent to the division under Article 42.09, Code of Criminal~~

~~Procedure. In any disposition of a felony case that does not include confinement in the institutional division, the attorney representing the state shall send a copy of the report to the community supervision and corrections department serving the court.~~

[~~(d) If a sentence in a criminal case is imposed pursuant to a plea bargain, the attorney representing the state shall include that information in the data collection report.~~]

SECTION 6.02. This article takes effect September 1, 1993.

ARTICLE 7

SECTION 7.01. Article 26.051, Code of Criminal Procedure, is amended by adding Subsections (g) and (h) to read as follows:

(g) The court shall appoint an attorney other than an attorney provided by the board if the court determines for any the following reasons that a conflict of interest could arise from the use of an attorney provided by the board under Subsection (e) of this article:

(1) the case involves more than one inmate and the representation of more than one inmate could impair the attorney's effectiveness;

(2) the case is appealed and the court is satisfied that conflict of interest would prevent the presentation of a good faith allegation of ineffective assistance of counsel by a trial attorney provided by the board; or

(3) any conflict of interest exists under the Disciplinary Rules of Professional Conduct of the State Bar that precludes representation by an attorney appointed by the board.

(h) When the court appoints an attorney other than an attorney provided by the board, the county shall pay from it general fund the first $250.00 of the aggregate sum allowed and awarded by the court for the attorney's fees under Article 26.05 of this code. If the fees awarded for a court-appointed attorney in a case described by this subsection exceed $250.00, the court shall certify the amount in excess of $250.00 to the board. On request of the board, the comptroller shall issue a warrant to the court-appointed attorney in the amount certified to the board by the court.

SECTION 7.02. Article 26.051(f), Code of Criminal Procedure, is repealed.

SECTION 7.03. This article takes effect September 1, 1993.

ARTICLE 8

SECTION 8.01. In addition to other amounts appropriated for the fiscal biennium ending August 31, 1995, the balance of the economic stabilization fund, but not to exceed [~~the sum of~~] $72,000,000, is appropriated to the Texas Department of Criminal Justice for:

(1) the operation of additional capacity; and

(2) increased supervision for probation.

SECTION 8.02. This article takes effect September 1, 1993.

ARTICLE 9

SECTION 9.01. Section 21, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), is amended by adding Subsection (j) to read as follows:

(j) This Act does not apply to a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department, or to an action taken under that rule or procedure.

SECTION 9.02. Chapter 493, Government Code, is amended by adding Section 493.013 to read as follows:

Sec. 493.013. APPLICABILITY OF CERTAIN GRIEVANCE PROCEDURES. A grievance procedure of the department or a division of the department, including the procedure established under Section 501.008, applies to a grievance of an inmate or other person under the custody or control of the department relating to a rule or internal procedure of the board or department.

SECTION 9.03. This article takes effect September 1, 1993.

ARTICLE 10

SECTION 10.01. Section 6(c), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(c) To facilitate the work of the Board of Pardons and Paroles, the governor shall appoint the chairman of the board to serve as chairman of the executive committee. The chairman shall appoint six board members to serve on the executive committee. The committee members serve in that capacity at the pleasure of the chairman. The [~~and two other members of the Board of Pardons and Paroles who shall serve at the pleasure of the governor as the~~] executive committee shall [~~to~~] coordinate activities of the board, [~~and~~] assure maximum efficiency and fair distribution of the caseload, and administer other matters as required by the chairman.

SECTION 10.02. Article 42.18, Code of Criminal Procedure, is amended by adding Sections 6A and 6B to read as follows:

Sec. 6A. PERSONNEL OF BOARD. (a) The board may adopt rules as necessary for the employment and supervision of personnel of the board.

(b) The board shall employ and supervise:

(1) a general counsel to the board;

(2) an administrative assistant;

(3) hearing officers;

(4) personnel to assist in clemency matters; and

(5) secretarial or clerical personnel.

(c) The board shall develop and implement personnel policies.

Sec. 6B. GIFTS AND GRANTS. The board may apply for and accept gifts or grants from any public or private source for use in any lawful purpose of the board.

SECTION 10.03. Sections 7(c), (d), (e), and (f), Article 42.18, Code of Criminal Procedure, are amended to read as follows:

(c) The board [~~Texas Board of Criminal Justice~~] shall develop and implement a policy that clearly defines circumstances under which a board member should disqualify himself from voting on a parole decision or on a decision to revoke parole or mandatory supervision.

(d) The board [~~Texas Board of Criminal Justice~~] may provide and promulgate a written plan for the administrative review by the entire membership or a subset of the entire membership of the board of actions taken by a parole panel.

(e) Except as provided by Subsection (g) of this section, in [~~In~~] matters of parole, release to mandatory supervision, and revocation of parole or mandatory supervision, the board members shall act in panels comprised of three persons in each panel. The composition of the respective panels shall be designated by the chairman of the board. A majority of each panel shall constitute a quorum for the transaction of its business, and its decisions shall be by majority vote. The members of a panel are not required to meet as a body to perform the members' duties as prescribed by this article, except to conduct a hearing as provided by Section 14 of this article.

(f) The members of the board shall meet at least once in each quarter of the calendar year at a site determined by the chairman. The members of the board are not required to meet as a body to perform the members' duties in clemency matters [~~for the purpose of making clemency decisions. As a specific exception to Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), the board, at the call of the chair, may hold a hearing on clemency matters by telephone conference call. The portion of a meeting that is public shall be recorded and the recording made available to the public to be heard at one or more places designated by the board~~].

SECTION 10.04. Sections 8(a), (e), (f), and (h), Article 42.18, Code of Criminal Procedure, are amended to read as follows:

(a) A parole panel is authorized to release on parole any person confined in any penal or correctional institution who is eligible for parole under this section. A parole panel may consider a person for release on parole if the person has been sentenced to a term of imprisonment in the institutional division, is confined in a jail in this state, a federal correctional institution, or a jail or a correctional institution in another state, and is eligible for parole. A parole panel may release a person on parole during the [~~tentative~~] parole month established for the person if the panel determines that the person's release will not increase the likelihood of harm to the public [~~or that the person has not failed to progress in the manner required by the panel in Subsection (c) of this section~~]. The institutional division shall [~~may~~] provide the board [~~pardons and paroles division~~] with sentence time credit information on persons described in this subsection. Good [~~and the pardons and paroles division may develop its own sentence time credit information on persons described by this subsection, but in either event, good~~] time credit shall be calculated for a person as if the person were confined in the institutional division during the entire time the person was actually confined. The period of parole shall be equivalent to the maximum term for which the prisoner was sentenced less calendar time actually served on the sentence. Every prisoner while on parole shall remain in the legal custody of the pardons and paroles division and shall be amenable to conditions of supervision ordered by a parole panel under this article. All paroles shall issue upon order of a parole panel.

(e) Not later than the 120th day after the date on which a prisoner is admitted to the institutional division, the Texas Department of Criminal

Justice [~~pardons and paroles division~~] shall secure all pertinent information relating to the prisoner, including but not limited to the court judgment, any sentencing report, the circumstances of the prisoner's offense, the prisoner's previous social history and criminal record, the prisoner's physical and mental health record, a record of the prisoner's conduct, employment history, and attitude in prison, and any written comments or information provided by local trial officials or victims of the offense. The Texas Department of Criminal Justice [~~Except as otherwise provided by this subsection, within the 120-day period, the pardons and paroles division~~] shall establish [~~a tentative parole month for the prisoner based on information gathered under this subsection and~~] a proposed program of measurable institutional progress that must be submitted to the board at the time of the board's consideration of the inmate's case for release. The board shall conduct an initial review of an eligible inmate not later than the 180th day after the date of the inmate's admission to the institutional division. Before the inmate is approved for release to parole by the board, the inmate must agree to participate in the programs and activities described by the proposed program of measurable institutional progress [~~in which the pardons and paroles division determines the prisoner must agree to participate and meet the requirements before being released on parole. The pardons and paroles division is not required to establish a tentative parole month and program of progress if the pardons and paroles division determines that to do so would be inappropriate in the prisoner's case and indicates that determination in the prisoner's file. The pardons and paroles division shall notify the institutional division of each prisoner's tentative parole month and proposed program of measurable institutional progress. Within 30 days of receipt of notice from the pardons and paroles division, the institutional division shall advise the pardons and paroles division if any of the proposed programs of measurable institutional progress or the requirements of those programs cannot be achieved within the prisoner's unit of incarceration. The tentative parole month may not be a date that is earlier than the prisoner's initial parole eligibility date, as calculated or projected under Subsection (b) of this section. The pardons and paroles division may revise a tentative parole month established under this subsection at any time the pardons and paroles division determines is proper~~]. The institutional division shall work closely with the board [~~pardons and paroles division~~] to monitor the progress of the inmate [~~inmates~~] in the institutional division and shall report the progress to the board before the inmate's release.

(f)(1) In this subsection: (A) "close relative of a deceased victim" means a person who was the spouse of a deceased victim at the time of the victim's death, a parent of the deceased victim, or an adult brother, sister, or child of the deceased victim; (B) "guardian of a victim" means a person who is the legal guardian of a victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim; and (C) "victim" means a person who is a victim of sexual assault, kidnapping, or aggravated robbery or who has suffered bodily injury or death as the result of the criminal conduct of another.

(2) Before a parole panel considers for parole a prisoner who is serving a sentence for an offense in which a person was a victim, the pardons and paroles division, using the name and address provided on the victim impact statement, shall make a reasonable effort to notify a victim of the prisoner's crime or if the victim has a legal guardian or is deceased, to notify the legal guardian or close relative of the deceased victim. If the notice is sent to a guardian or close relative of a deceased victim, the notice must contain a request by the pardons and paroles division that the guardian or relative inform other persons having an interest in the matter that the prisoner is being considered for parole. If a hearing is held, the parole panel shall allow a victim, guardian of a victim, close relative of a deceased victim, or a representative of a victim or his guardian or close relative to provide a written statement. This subsection may not be construed to limit the number of persons who may provide statements for or against the release of the prisoner on parole. The parole panel shall consider the statements and the information provided in a victim impact statement in determining whether or not to recommend parole. However, the failure of the pardons and paroles division to comply with notice requirements of this subsection is not a ground for revocation of parole.

(3) If a victim, guardian of a victim, or close relative of a deceased victim would be entitled to notification of parole consideration by the pardons and paroles division but for failure by that person to provide a victim impact statement containing the person's name and address, the person is nonetheless entitled to receive notice if the person files with the pardons and paroles division a written request for that notification. After receiving such a written request, the pardons and paroles division shall grant to the person all the privileges to which the person would be entitled had the person submitted a victim impact statement. Before a prisoner is released from the institutional division on parole or on the release of a prisoner on mandatory supervision, the pardons and paroles division shall give notice of the release to any person entitled to notification of parole consideration for the prisoner because the person filed with the pardons and paroles division a victim impact statement or a request for notification of a parole consideration.

(4) Except as necessary to comply with this section, the board [~~pardons and paroles division~~] or the Texas Department of Criminal Justice [~~institutional division~~] may not disclose to any person the name or address of a victim or other person entitled to notice under this section unless the victim or that person approves the disclosure or the board [~~pardons and paroles division~~] or the department is ordered to disclose the information by a court of competent jurisdiction after the court determines that there is good cause for disclosure.

(5) Before ordering the parole of any prisoner, a parole panel may have the prisoner appear before it and interview him. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. The board [~~pardons and paroles division~~] shall develop and implement [~~standard~~] parole guidelines that shall be the basic criteria on which parole decisions are made. The parole guidelines shall be developed according

to an acceptable research method and shall be based on the seriousness of the offense and the likelihood of favorable parole outcome. The board [~~pardons and paroles division~~] shall review the parole guidelines periodically and make reports on those reviews to the Legislative Criminal Justice Board [~~any revisions considered necessary by virtue of statistical analysis of board actions using acceptable research methodology~~]. If a member of the board deviates from the parole guidelines in casting a vote on a parole decision, the member shall produce a brief written statement describing the circumstances regarding the departure from the guidelines and place a copy of the statement in the file of the inmate for whom the parole decision was made. The board shall keep a copy of each statement in a central location. A prisoner shall be placed on parole only when arrangements have been made for his employment or for his maintenance and care and when the parole panel believes that he is able and willing to fulfill the obligations of a law-abiding citizen. Every prisoner while on parole shall remain in the legal custody of the pardons and paroles division and shall be amenable to the conditions of supervision ordered under this article.

(h) It shall be the duty of the pardons and paroles division [~~board~~] at least 10 days before the board orders [~~ordering~~] the parole of any prisoner or at least 10 days after recommending the granting of executive clemency by the governor to notify the sheriff, the prosecuting attorney, and the district judge in the county where such person was convicted and the county to which the prisoner is released that such parole or clemency is being considered by the board or by the governor. For any case in which there was a change of venue, the pardons and paroles division [~~board~~] shall notify those same officials in the county in which the prosecution was originated if, no later than 30 days after the date on which the defendant was sentenced, those officials request in writing that the pardons and paroles division [~~board~~] give them notice under this section of any future release of the prisoner. Additionally, no later than the 10th day after the parole panel orders the transfer of a prisoner to a halfway house under this article, the pardons and paroles division [~~parole panel~~] shall notify the sheriff of the county in which the prisoner was convicted and shall notify the sheriff of the county in which the halfway house is located and the attorney who represents the state in the prosecution of felonies in that county. The notice must state the prisoner's name, the county in which the prisoner was convicted, and the offense for which the prisoner was convicted.

SECTION 10.05. Section 9, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 9. DUTY TO PROVIDE INFORMATION, COMPUTERS, AND OFFICES. (a) It shall be the duty of any judge, district attorney, county attorney, police officer, or other public official of the state having information with reference to any prisoner eligible for parole to send in writing such information as may be in his possession or under his control to the pardons and paroles division, upon request of any member of the Board of Pardons and Paroles or employee of the board or the pardons and paroles division.

(b) The Texas Department of Criminal Justice may, by interagency contract, provide to the board necessary computer equipment and computer access to all computerized records and physical access to all hard copy records in the custody of the department that are related to the duties and functions of the board.

(c) The Texas Department of Criminal Justice may, by interagency contract, provide to the board necessary and appropriate office space in the locations designated by the chairman of the board and utilities and communication equipment.

SECTION 10.06. Section 10, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 10. ACCESS TO PRISONERS. It shall be the duty of the institutional division to grant to the members of the board and employees of the board and the pardons and paroles division access at all reasonable times to any prisoner, to provide for the members and employees or such representatives facilities for communicating with and observing such prisoner, and to furnish to the members and employees such reports as the members and employees shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by a parole panel pertinent in determining whether such prisoner shall be paroled.

SECTION 10.07. Section 13(a), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released although not eligible for release, a resident released to a preparole or work [~~furlough~~] program, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which the person [~~he~~] was paroled, released, or pardoned may be issued by the director or a designated agent of the director [~~members of parole panels~~] in cases of parole or mandatory supervision, or by the board on order by the governor in other cases, if [~~when~~] there is reason to believe that the person [~~he~~] has been released although not eligible for release, if the person has been arrested for an offense, if there is a verified complaint stating that the person violated a rule or condition of release, or if there is reliable evidence that the person has exhibited behavior during the person's release that indicates to a reasonable person that the person poses a danger to society that warrants the person's immediate return to custody. The person may be held in custody pending a determination of all facts surrounding the alleged offense, violation of a rule or condition of release, or dangerous behavior. A designated agent of the director acts independently from a parole officer and must receive specialized training as determined by the director[~~, committed an offense against the laws of this state or of the United States, violated a condition of his parole, mandatory supervision, or conditional pardon, or when the circumstances indicate that he poses a danger to society that warrants his immediate return to incarceration~~]. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and detain and house the prisoner until a parole panel [~~the pardons and paroles division~~] orders the return of the prisoner to the institution from which he was released. Pending hearing,

as hereinafter provided, upon any charge of parole violation, ineligible release, or violation of the conditions of mandatory supervision, a prisoner returned to custody shall remain incarcerated. If the director, a board member, or a designated agent of the director or the board [~~a parole panel~~] is otherwise authorized to issue a warrant under this subsection, the pardons and paroles division may instead issue to a prisoner a summons requiring the prisoner to appear for a hearing under Section 14 of this article. The summons must state the time, place, date, and purpose of the hearing.

SECTION 10.08. Section 14, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 14. HEARINGS; SANCTIONS. (a) Whenever a prisoner or a person granted a conditional pardon is accused of a violation of his parole, mandatory supervision, or conditional pardon, on information and complaint by a law enforcement officer or parole officer, or is arrested after an ineligible release, he shall be entitled to be heard on such charges before a parole panel or a designee of the board [~~division~~] under such rules as the board [~~Texas Board of Criminal Justice~~] may adopt; provided, however, said hearing [~~shall be a public hearing and~~] shall be held within 70 days of the date of arrest under a warrant issued by the director or a designated agent of the director [~~a parole panel~~] or by the board on order by the governor and at a time and place set by that parole panel or designee. The panel or designee may hold the hearing at a date later than the date otherwise required by this section if it determines a delay is necessary to assure due process for the person, except that the authority issuing the warrant shall immediately withdraw the warrant if the hearing is not held before the 121st day after the date of arrest, regardless of whether the person agrees to delay the hearing until after that date. If a parole panel or designee determines that a parolee, mandatory supervisee, or person granted a conditional pardon has been convicted in a court of competent jurisdiction of a felony offense committed while an administrative releasee and has been sentenced by the court to a term of incarceration in a penal institution, the determination is to be considered a sufficient hearing to revoke the parole or mandatory supervision or recommend to the governor revocation of a conditional pardon without further hearing, except that the parole panel or designee shall conduct a hearing to consider mitigating circumstances if requested by the parolee, mandatory supervisee, or person granted a conditional pardon. When the parole panel or designee has heard the facts, the board [~~it~~] may recommend to the governor that the conditional pardon be continued, revoked, or modified, or it may continue, revoke, or modify the parole or mandatory supervision, in any manner warranted by the evidence. [~~The Texas Board of Criminal Justice shall develop and implement a system of sanctions that may be imposed by the pardons and paroles division on a person whose conditional pardon or release on parole or mandatory supervision is continued or modified.~~] The parole panel or designee must make its recommendation or decision no later than the 30th day after the date the hearing is concluded. When a person's parole, mandatory supervision, or conditional pardon is revoked, that person may be required to serve the

portion remaining of the sentence on which he was released, such portion remaining to be calculated without credit for the time from the date of his release to the date of revocation. When a warrant is issued charging a violation of release conditions, the sentence time credit may be suspended until a determination is made in such case and such suspended time credit may be reinstated should such parole, mandatory supervision, or conditional pardon be continued.

(b) The board [~~pardons and paroles division~~] shall develop and implement a training program for designees of the board [~~division~~] who conduct hearings under this section. The training program must assist the designees in understanding issues relating to the revocation process.

SECTION 10.09. Sections 15(b) and (c), Article 42.18, Code of Criminal Procedure, are amended to read as follows:

(b) The pardons and paroles division [~~A parole panel~~] may allow a person released on parole or mandatory supervision to serve the remainder of the person's sentence without supervision and without being required to report if:

(1) the person has been under the supervision for not less than one-half of the time that remained on the person's sentence when the person was released from imprisonment and during the period of supervision the person's parole or release on mandatory supervision has not been revoked; and

(2) the pardons and paroles division [~~parole panel~~] determines that:

(A) the person has made a good faith effort to comply with any restitution order imposed on the person by a court of competent jurisdiction; and

(B) allowing the person to serve the remainder of the person's sentence without supervision and reporting is in the best interest of society.

(c) The pardons and paroles division [~~A parole panel~~] may require a person released from supervision and reporting under Subsection (b) of this section to resubmit to supervision and resume reporting at any time, and for any reason.

SECTION 10.10. Section 17, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) At any time before setting a revocation hearing date under Section 14(a) of this article, the pardons and paroles division may withdraw a warrant and continue supervision of a released person.

SECTION 10.11. Section 24, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 24. INTENSIVE SUPERVISION. The pardons and paroles division shall establish a program to provide intensive supervision to inmates released under the provisions of Subchapter B, Chapter 498, Government Code, and other inmates determined by parole panels or the pardons and paroles division to require intensive supervision. The Texas Board of Criminal Justice shall adopt rules that establish standards for determining which inmates require intensive supervision. The program must provide the highest level of supervision provided by the pardons and paroles division.

SECTION 10.12. Section 25(g), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(g) The pardons and paroles division may enter into a contract with a public or private vendor for the financing, construction, operation, or management of community-based facilities using lease-purchase or installment sale contracts to provide or supplement housing, board, or supervision for persons placed in community-based facilities. A person housed or supervised in a facility operated by a vendor under a contract is subject to the same provisions of law as if the housing or supervision were provided directly by the pardons and paroles division.

SECTION 10.13. Section 4, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1) In determining eligibility under Subsection (a)(3) of this section, the compensation or reimbursement that a board member's spouse receives as an employee of the board or of the Texas Department of Criminal Justice may not be considered. This subsection does not affect any restriction on employment or board membership imposed by any other law.

SECTION 10.14. Section 17, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) The Texas Board of Criminal Justice, through the pardons and paroles division, may as part of a pilot program contract with the commissioners court of Travis County or the Travis County community supervision and corrections department for the supervision of inmates released on parole or mandatory supervision. The commissioners court or the community supervision and corrections department may not enter into a contract under this section without first consulting with the community justice council serving Travis County. The commissioners court or the community supervision and corrections department may subcontract with a private vendor for the provision of any or all services described in this subsection. This subsection expires on September 1, 1995.

SECTION 10.15. (a) Not later than September 1, 1994, the Board of Pardons and Paroles shall determine the appropriate qualifications of hearings officers to be employed by the board and designated to conduct hearings under Section 14, Article 42.18, Code of Criminal Procedure, as amended by this article. The board shall submit a report of the qualifications to the Legislative Budget Board and the governor's office for approval. Any new qualifications are effective not later than September 1, 1995.

(b) On September 1, 1993, an employee of the pardons and paroles division of the Texas Department of Criminal Justice described by Section 6A(b), Article 42.18, Code of Criminal Procedure, as added by this article, who performs tasks relating to the powers, duties, and obligations created under this article and assigned to the Board of Pardons and Paroles becomes an employee of the Board of Pardons and Paroles, to be assigned at the direction of the chairman of the Board of Pardons and Paroles.

(c) From funds appropriated for the fiscal years ending August 31, 1994, and August 31, 1995, by the legislature to the Texas Department of Criminal Justice for the payment of salaries, interagency contract services, travel, capital outlay, and operating expenses, the following amounts are transferred to the Board of Pardons and Paroles:

(1) on September 1, 1993, an amount not to exceed $5,785,766; and

(2) on September 1, 1994, an amount not to exceed $5,636,375.

SECTION 10.16. This article takes effect September 1, 1993.

ARTICLE 11

SECTION 11.01. Article 42.18, Code of Criminal Procedure, is amended by adding Section 4A to read as follows:

Sec. 4A. PROHIBITED REPRESENTATION. (a) This section applies to a person who is eligible to represent a person for compensation under Section 11 of this article.

(b) A person serving as a member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice may not, for a period of 10 years after the date the person ceases to be a board member or employee, represent any person in a matter before the board or a panel of the board or receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a panel of the board.

(c) A person, other than a person subject to Subsection (b) of this section, who is employed by the Texas Department of Criminal Justice may not, for a period of 10 years after the date the person terminates service with the department, represent an inmate in a matter before the board or a panel of the board or receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a panel of the board.

(d) A former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or a former employee of the Texas Department of Criminal Justice may not represent any person or receive compensation for services rendered on behalf of any person regarding a matter pending before the board or a panel of the board with which the former member or employee was directly concerned during the period of service or employment on or with either board or the department, either through personal involvement or because the matter was within the member's or employee's official responsibility while associated with the board or the department.

(e) A former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or a former employee of the department commits an offense if the former member or employee violates this section. An offense under this subsection is a Class A misdemeanor.

SECTION 11.02. Section 7, Article 42.18, Code of Criminal Procedure, is amended by adding Subsections (g) and (h) to read as follows:

(g) The board may grant parole to a person convicted of a capital felony only on a two-thirds vote of the entire membership of the board.

(h) The board shall develop for its members a comprehensive training and education program on the Texas criminal justice system, with special emphasis on the parole process. A new member may not participate in a vote of the board or a panel until the member completes the program.

SECTION 11.03. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:

(o) The pardons and paroles division shall develop and implement a comprehensive program to inform inmates, their families, and other interested parties about the parole process. The division shall update the program annually.

SECTION 11.04. Section 11, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 11. REPRESENTATION OF INMATES [~~INFORMATION AND ARGUMENTS~~]. (a) The board [~~Texas Board of Criminal Justice~~] shall adopt rules as to:

(1) the submission and presentation of information and arguments to the board, parole panels, and the pardons and paroles division for and in behalf of an inmate; and [~~any person within the jurisdiction of a panel or the division~~]

(2) the time, place, and manner of contact between a person representing an inmate and a member of the board, an employee of the board, or an employee of the pardons and paroles division.

(b) A person who represents an inmate for compensation:

(1) must be an attorney licensed in this state; and

(2) must register with the Texas Ethics Commission [~~All persons presenting information or arguments to a panel or the division shall submit therewith an affidavit stating whether any fee has been paid or is to be paid for their services in the case, the amount of such fee, if any, and by whom such fee is paid or to be paid~~].

(c) A person required to register under this section shall file a fee affidavit with the pardons and paroles division in a form prescribed by the division for each inmate the person represents for compensation before the person first contacts a member of the board, an employee of the board, or an employee of the pardons and paroles division on behalf of the inmate.

(d) The fee affidavit must be written and verified and contain:

(1) the registrant's full name and address;

(2) the registrant's normal business, business phone number, and business address;

(3) the full name of any former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or any former employee of the Texas Department of Criminal Justice with whom the person:

(A) is associated;

(B) has a relationship as an employer or employee; or

(C) maintains a contractual relationship to provide services;

(4) the full name and institutional identification number of the inmate the registrant represents;

(5) the amount of compensation the person has received or expects to receive in exchange for the representation; and

(6) the name of the person making the compensation.

(e) The division shall, not later than the third day after the date the fee affidavit is filed, place a copy of the affidavit in the file of an inmate

that a parole panel or the board reviews. The division shall also keep a copy of each fee affidavit in a central location.

(f) If a person who has registered under this section receives compensation in excess of the amount reported on the fee affidavit, the person must file with the pardons and paroles division, not later than the fifth day after the date the person receives the additional compensation, a supplemental fee affidavit in a form prescribed by the division indicating the total amount of compensation received for representing that inmate. The division shall follow the procedures in Subsection (e) of this section to process the supplemental affidavit.

(g) A person required to register under this section shall, for each calendar year the person represents an inmate, file a representation summary form with the Texas Ethics Commission on a form prescribed by the commission. The form must be filed not later than the last day of January in the first year following the reporting period and include:

(1) the registrant's full name and address;

(2) the registrant's normal business, business phone number, and business address;

(3) the full name of any former member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or any former employee of the Texas Department of Criminal Justice with whom the person:

(A) is associated;

(B) has a relationship as an employer or employee; or

(C) maintains a contractual relationship to provide services;

(4) the full name and institutional identification number of each inmate the registrant represented in the previous calendar year; and

(5) the amount of compensation the person has received for representing each inmate in the previous calendar year.

(h) A person who registers under Subsection (g) and for whom the information required for registration has changed shall, not later than the 10th day after the date the information changes, file a supplemental statement with the Texas Ethics Commission indicating the change.

(i) The Texas Ethics Commission shall submit to the pardons and paroles division a copy of each representation summary form that is filed.

(j) A person commits an offense if the person represents an inmate for compensation and the person is not an attorney licensed in this state. An offense under this subsection is a Class C misdemeanor.

(k) A person commits an offense if a person is required to register under Subsection (g) or make a filing under Subsection (c), (f), or (h) of this section and the person fails to register or make the filing. An offense under this subsection is a Class C misdemeanor.

(l) Failure to register as required by Subsections (b) and (g) of this section constitutes violation of a law administered and enforced by the Texas Ethics Commission for the purposes of Section 1.28, Chapter 304, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6252-9d.1, Vernon's Texas Civil Statutes).

(m) In this section:

(1) "Compensation" has the meaning assigned by Section 305.002, Government Code.

(2) "Inmate" includes an administrative releasee, a person imprisoned in the institutional division, and a person confined in a county jail awaiting transfer to the institutional division or awaiting a revocation hearing.

(3) "Represent" means to directly or indirectly contact in person or by telephone, facsimile transmission, or correspondence a member or employee of the board or an employee of the pardons and paroles division on behalf of an inmate.

SECTION 11.05. Section 18, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 18. CONFIDENTIAL INFORMATION. All information obtained and maintained in connection with inmates of the institutional division subject to parole, release to mandatory supervision, or executive clemency, or individuals who may be on mandatory supervision or parole and under the supervision of the pardons and paroles division, or persons directly identified in any proposed plan of release for a prisoner, including victim impact statements, lists of inmates eligible for parole, and inmates' arrest records, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the governor, [~~and~~] the members of the board, and the Criminal Justice Policy Council to perform its duties under Section 413.021, Government Code, upon request. It is further provided that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

SECTION 11.06. Chapter 413, Government Code, is amended by adding Section 413.021 to read as follows:

Sec. 413.021. REVIEW OF USE OF PAROLE GUIDELINES. The policy council shall report at least annually to the Legislative Criminal Justice Board, the Texas Board of Criminal Justice, and the Board of Pardons and Paroles on the use of the parole guidelines by each member of the board in making parole decisions.

SECTION 11.07. (a) Section 4A, Article 42.18, Code of Criminal Procedure, as added by Section 11.01 of this article, applies only to a person who ceases to be a member or employee of the Board of Pardons and Paroles or the Texas Board of Criminal Justice or an employee of the Texas Department of Criminal Justice on or after the effective date of this article.

(b) The requirement in Section 7(h), Article 42.18, Code of Criminal Procedure, as added in Section 11.02 of this article, that a new member of the Board of Pardons and Paroles attend a comprehensive training and education program on the Texas criminal justice system applies only to a member who begins service on or after the effective date of this article.

(c) The Criminal Justice Policy Council shall make its first report as required by Section 413.021, Government Code, as added by Section 11.06 of this Act, not later than January 1, 1995.

SECTION 11.08. This article takes effect September 1, 1993.

ARTICLE 12

SECTION 12.01. Notwithstanding any provision of this Act establishing an effective date for an article of this Act, this Act takes effect only if **S.B. 1067,** Acts of the 73rd Legislature, Regular Session, 1993, takes effect. If **S.B. 1067** does not take effect, this Act has no effect.

SECTION 12.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 13

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 27, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 13** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROWN	COMBS
WHITMIRE	BOMER
LUCIO	McCALL
SIBLEY	WILSON
NELSON	
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the murder of an individual under six years of age as a capital offense.

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

SECTION 1. Subsection (a), Section 19.03, Penal Code, is amended to read as follows:

(a) A person commits an offense if he commits murder as defined under Section 19.02(a)(1) of this code and:

(1) the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;

(2) the person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, or arson;

(3) the person commits the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration;

(4) the person commits the murder while escaping or attempting to escape from a penal institution;

(5) the person, while incarcerated in a penal institution, murders another who is employed in the operation of the penal institution; [~~or~~]

(6) the person murders more than one person:

(A) during the same criminal transaction; or

(B) during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct; or

(7) the person murders an individual under six years of age.

SECTION 2. (a) The change in law made by this Act applies 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 this purpose.

SECTION 3. This Act takes effect September 1, 1993.

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

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

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 724

Senator Rosson submitted the following Conference Committee Report:

Austin, Texas
May 27, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 724** have

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

ROSSON	GOODMAN
HARRIS OF TARRANT	S. THOMPSON
HENDERSON	SCHECTER
WEST	HARTNETT
BARRIENTOS	COOK
On the part of the Senate	On the part of the House

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

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 977

Senator Turner submitted the following Conference Committee Report:

Austin, Texas
May 26, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 977** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

TURNER	OAKLEY
SIMS	STILES
SIBLEY	HIGHTOWER
MONTFORD	McCALL
CARRIKER	
On the part of the Senate	On the part of the House

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 954

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 27, 1993

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 954** have met

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

BROWN	GALLEGO
SHAPIRO	EARLEY
SHELLEY	KUBIAK
SIBLEY	RANGEL
ZAFFIRINI	DELCO
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to operation of court reporter proprietary schools and programs.

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

SECTION 1. 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. Before a school conducts a course of instruction in court reporting, the school must produce evidence that the school has obtained approval for the curriculum from the Court Reporters Certification Board.

(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 2. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0513 to read as follows:

Sec. 61.0513. COURT REPORTER PROGRAMS. The board may not certify a court reporter program under Section 61.051(f) of this code unless the program has received approval from the Court Reporters Certification Board.

SECTION 3. Subsection (b), Section 52.013, Government Code, is amended to read as follows:

(b) The board may:

(1) appoint any necessary or proper subcommittee;

(2) hire necessary employees; [~~and~~]

(3) pay all reasonable expenses from available funds;

(4) approve curriculum for court reporter proprietary schools as provided by Section 32.33, Education Code; and

(5) approve court reporter programs in technical institutes and public community colleges for purposes of certification under Section 61.051, Education Code.

SECTION 4. This Act takes effect September 1, 1993, and applies only to certificates of approval issued or renewed under Chapter 32 or 61, Education Code, on or after that date. A certificate of approval issued or renewed before the effective date of this Act is covered by the law in effect when the certificate was issued or renewed, and that law is continued in effect for that purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

MEMORIAL RESOLUTIONS

H.C.R. 151 - (Ratliff): In memory of Roy Walton Johnson.

S.R. 1085 - By Parker: In memory of Henry Wehmeyer of Calhoun County.

S.R. 1088 - By Turner: In memory of Angus Gray Nixon of Bryan.

S.R. 1092 - By Patterson: In memory of Clement "Clem" Wallace Barron of Houston.

S.R. 1106 - By Turner: In memory of Aulsie Ray Sims of Groesbeck.

S.R. 1109 - By Turner: In memory of Weda Dorothea Ringener Winkelmann of Brenham.

S.R. 1111 - By Haley: In memory of Horace G. Stubblefield, Jr., and his wife, Beth, of Diboll.

S.R. 1112 - By Haley: In memory of Dr. LaRied Stephen Oates, Sr., of Shelby County.

S.R. 1115 - By Haley: In memory of Oscar Johnson, Jr., of Conroe.

CONGRATULATORY RESOLUTIONS

H.C.R. 10 - (Montford): Commending the City of Lubbock for its initiative in presenting a competitive application to encourage the Department of Defense to locate a Finance and Accounting Services facility in Texas.

H.C.R. 66 - (Ellis): Honoring Spike Lee for his contributions as a film director.

H.C.R. 141 - (Madla): Recognizing the Texas horned lizard as the State Reptile of Texas.

H.C.R. 146 - (West): Inviting Abia, Nigeria, to join with Texas in a sister state relationship.

H.C.R. 155 - (Montford): Honoring the City of Hale Center on the occasion of its centennial celebration.

H.C.R. 157 - (Truan): Urging the Defense Base Closure and Realignment Commission not to recommend closure of naval facilities in and near Corpus Christi.

H.C.R. 163 - (Truan): Honoring Paul Vazaldua for his involvement in the political arena and for his contributions to voter education.

S.R. 1060 - By Luna: Congratulating Marlen Whitley, who was selected as one of 10 finalists in the 36th annual San Antonio Express-News Outstanding Teen Contest.

S.R. 1080 - By Ellis: Recognizing the attendees and convention delegates of the 42nd Biennial National Convention of the Chinese American Citizens Alliance.

S.R. 1081 - By Ellis: Recognizing Dr. John Q. A. Webb for his contributions to the Houston community.

S.R. 1082 - By Ellis: Commending the Texas Council on Economic Education and its university centers for their contribution to the future of Texas by their investment in the education of our Texas youth.

S.R. 1083 - By Parker: Congratulating the students of Austin Middle School of Beaumont for winning first place in the middle school division of the H.E.B./General Land Office Environmental Challenge.

S.R. 1084 - By Parker: Commending Coach Bennie Clay of Port Arthur, who is retiring after 25 years of service with the Port Arthur Independent School District.

S.R. 1086 - By Parker: Recognizing Robert Eugene Moore of Houston for his artistry as a cabinetmaker.

S.R. 1087 - By Turner: Recognizing Dr. Harry Shafer of College Station, who was recently named Archeologist of the Year by the Texas Historical Commission.

S.R. 1089 - By Turner: Congratulating Mr. and Mrs. James L. Matthews of Marlin on the occasion of their 50th wedding anniversary.

S.R. 1090 - By Turner: Congratulating Oscar and Lillie Dietrich of Burton on the occasion of their 70th wedding anniversary.

S.R. 1093 - By West: Joining with the residents of Dallas in declaring June 5, 1993, Deborah Thomas Day, in tribute to her achievements in her community.

S.R. 1094 - By Whitmire: Congratulating Mr. and Mrs. Horton F. Steinmeyer of Denver, Colorado, on the occasion of their 44th wedding anniversary.

S.R. 1095 - By Montford: Congratulating the Finck Cigar Company of San Antonio on the occasion of its 100th anniversary.

S.R. 1097 - By Zaffirini: Congratulating Mr. and Mrs. Gregorio Pina, Jr., of Laredo on the occasion of their 50th wedding anniversary.

S.R. 1101 - By Wentworth, Turner: Commending the Stockton family for their generosity and concern in preserving and protecting the Stockton Cemetery in Bell County, which will receive an Official Texas Historical Marker.

S.R. 1102 - By Turner: Congratulating Mr. and Mrs. Lee Andrew White, Sr., of Taylor on the occasion of their 52nd wedding anniversary.

S.R. 1103 - By Turner: Congratulating Mr. and Mrs. John McElvany of Berryville on the occasion of their 50th wedding anniversary.

S.R. 1104 - By Turner: Recognizing Doris Davidson, who has been selected as the 1993 Secretary of the Year by The Madisonville Meteor.

S.R. 1105 - By Turner: Congratulating Ruth and Alton Giesenschlag on the occasion of their 50th wedding anniversary.

S.R. 1107 - By Turner: Recognizing Pat Pittman of Mexia, who was named outstanding club member of the year by the Mexia Woman's Friday Club.

S.R. 1108 - By Turner: Congratulating Mr. and Mrs. John Castaneda of Palestine on the occasion of their 51st wedding anniversary.

S.R. 1110 - By Turner: Congratulating Mr. and Mrs. Garnett Fletcher on the occasion of their 66th wedding anniversary.

S.R. 1113 - By Haley: Recognizing Baxter Healthcare Corporation, which was awarded the first annual Governor's Award for Environmental Excellence in the nontechnical business category.

S.R. 1114 - By Haley: Recognizing Steve T. Parmley for his years of service to the citizens of East Texas.

S.R. 1116 - By West: Recognizing the appointment of the Reverend Robert L. Asberry of Dallas County to the office of Administrative Assistant to Bishop J. Neaul Haynes.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 6:36 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

SENT TO COMPTROLLER
(May 27, 1993)

S.B. 86
S.B. 251