

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-EIGHTH DAY

(Saturday, May 26, 2007)

The Senate met at 11:26 a.m. pursuant to adjournment and was called to order by Dean Whitmire.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Gallegos.

The Presiding Officer announced that a quorum of the Senate was present.

Senator Craig Estes offered the invocation as follows:

Dear Lord, why do the nations conspire and the peoples plot in vain? The kings of the Earth take their stand and the rulers gather together against the Lord and against His anointed one. Let us break their chains, they say, and throw off their fetters. The One enthroned in heaven laughs; the Lord scoffs at them. Then He rebukes them in His anger and terrifies them in His wrath, saying, I have installed my king on Zion, my holy hill. I will proclaim the decree of the Lord: He said to me, You are my son; today I have become your father. Ask of me, and I will make the nations your inheritance, the ends of the Earth your possession. You will rule them with an iron scepter; you will dash them to pieces like pottery. Therefore, you kings, be wise; be warned, you rulers of the Earth. Serve the Lord with fear and rejoice with trembling. Kiss the son, lest He be angry and you be destroyed in your way, for His wrath can flare up in a moment. Blessed are all who take refuge in Him. (Psalm 2) Amen.

(President in Chair)

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVE OF ABSENCE

On motion of Senator Wentworth, Senator Gallegos was granted leave of absence for today on account of illness.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 26, 2007

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 269, In memory of Elizabeth Robertson Boatner of Mount Pleasant.

HCR 270, In memory of Ashantay Renee Gray Bouchon of Paris.

HCR 271, In memory of Dean Vincent Grossnickle.

SCR 80, Commending the Texas State Board of Pharmacy for 100 years of service to the citizens of Texas.

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

HB 15 (113 Yeas, 30 Nays, 1 Present, not voting)

HB 470 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 556 (140 Yeas, 0 Nays, 2 Present, not voting)

HB 735 (138 Yeas, 0 Nays, 2 Present, not voting)

HB 814 (135 Yeas, 6 Nays, 2 Present, not voting)

HB 860 (132 Yeas, 0 Nays, 3 Present, not voting)

HB 866 (140 Yeas, 0 Nays, 2 Present, not voting)

HB 914 (138 Yeas, 0 Nays, 2 Present, not voting)

HB 946 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 1503 (136 Yeas, 0 Nays, 2 Present, not voting)

HB 1526 (126 Yeas, 7 Nays, 3 Present, not voting)

HB 1751 (112 Yeas, 21 Nays, 1 Present, not voting)

HB 1960 (140 Yeas, 0 Nays, 2 Present, not voting)

HB 2300 (136 Yeas, 1 Nays, 2 Present, not voting)

HB 2532 (141 Yeas, 0 Nays, 2 Present, not voting)

HB 2566 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 2605 (136 Yeas, 0 Nays, 2 Present, not voting)

HB 2884 (137 Yeas, 0 Nays, 3 Present, not voting)

HB 3107 (138 Yeas, 0 Nays, 2 Present, not voting)

HB 3475 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 3554 (133 Yeas, 0 Nays, 2 Present, not voting)

HB 3630 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 3692 (142 Yeas, 0 Nays, 2 Present, not voting)

HB 3699 (135 Yeas, 0 Nays, 2 Present, not voting)

HB 3837 (134 Yeas, 0 Nays, 2 Present, not voting)

HB 4029 (137 Yeas, 0 Nays, 2 Present, not voting)

HB 4032 (143 Yeas, 0 Nays, 1 Present, not voting)

HB 4053 (140 Yeas, 0 Nays, 1 Present, not voting)

HB 4113 (122 Yeas, 8 Nays, 1 Present, not voting)

HJR 19 (142 Yeas, 0 Nays, 1 Present, not voting)

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

HB 3 (non-record vote)

House Conferees: Puente - Chair/Guillen/Hilderbran/Morrison/Straus

HB 4 (non-record vote)

House Conferees: Puente - Chair/Creighton/Guillen/Laubenberg/McClendon

HB 610 (non-record vote)

House Conferees: Brown, Fred - Chair/Brown, Betty/Hancock/Howard, Donna/Isett, Carl

HB 828 (non-record vote)

House Conferees: Hochberg - Chair/Branch/Eissler/Olivo/Patrick, Diane

HB 1113 (non-record vote)

House Conferees: Turner - Chair/Bailey/Bolton/Dutton/Madden

HB 1168 (non-record vote)

House Conferees: Menendez - Chair/Davis, John/Kolkhorst/McClendon/Veasey

HB 1565 (non-record vote)

House Conferees: Puente - Chair/Corte, Frank/Flores/Guillen/Leibowitz

HB 1919 (non-record vote)

House Conferees: Smith, Todd - Chair/Davis, John/Farabee/Hancock/Smithee

HB 2006 (non-record vote)

House Conferees: Woolley - Chair/Callegari/Cook, Robby/Corte, Frank/Pena

HB 2237 (non-record vote)

House Conferees: Eissler - Chair/Hochberg/Krusee/Miles/Patrick, Diane

HB 2644 (non-record vote)

House Conferees: Rose - Chair/Corte, Frank/Delisi/Hartnett/King, Susan

HB 2667 (non-record vote)

House Conferees: Latham - Chair/Chisum/Davis, John/Driver/Paxton

HB 2833 (non-record vote)

House Conferees: Driver - Chair/Bonnen/Latham/Taylor/West, George "Buddy"

HB 3154 (non-record vote)

House Conferees: Laubenberg - Chair/Coleman/Taylor/Thompson/Zerwas

HB 3200 (non-record vote)

House Conferees: Madden - Chair/Haggerty/Hochberg/McReynolds/Zedler

HB 3315 (non-record vote)

House Conferees: Keffer, Jim - Chair/Cook, Robby/Davis, Yvonne/McReynolds/Paxton

HB 3382 (non-record vote)

House Conferees: Naishtat - Chair/Berman/Howard, Donna/Leibowitz/McCall

HB 3438 (non-record vote)

House Conferees: Flores - Chair/Gonzales/Guillen/Pena/Raymond

HB 3560 (non-record vote)

House Conferees: Swinford - Chair/Chisum/Gallego/Ritter/Woolley

HB 3609 (non-record vote)

House Conferees: Talton - Chair/Davis, John/Geren/Hodge/Pitts

HB 3613 (non-record vote)

House Conferees: Latham - Chair/Driver/O'Day/Ortiz, Jr./Vo

HB 3674 (non-record vote)

House Conferees: Davis, John - Chair/Gonzales/Hopson/Noriega, Rick/Taylor

HB 3693 (non-record vote)

House Conferees: Straus - Chair/Anchia/Crabb/King, Phil/Talton

HB 3826 (non-record vote)

House Conferees: Morrison - Chair/Brown, Fred/Howard, Donna/McCall/Patrick, Diane

HB 3838 (non-record vote)

House Conferees: Gonzalez Toureilles - Chair/Chisum/Escobar/Gonzales/Hardcastle

HB 3851 (non-record vote)

House Conferees: Morrison - Chair/Aycock/Brown, Fred/Patrick, Diane/Rose

HB 3873 (non-record vote)

House Conferees: Menendez - Chair/Bailey/Chisum/Cook, Byron/Talton

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 2265 (non-record vote)**HB 3581** (non-record vote)

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

SB 1604 (non-record vote)

House Conferees: Bonnen - Chair/Driver/Escobar/King, Tracy/Kuempel

THE HOUSE HAS DISCHARGED ITS CONFEREES AND APPOINTED NEW CONFEREES ON THE FOLLOWING MEASURES:

HB 12 (non-record vote)

House Conferees: Hilderbran - Chair/Flores/Gattis/Howard, Donna/O'Day

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 3314

The House refuses to concur in Senate Amendments and requests the appointment of a conference committee with instructions to adjust the differences between the two houses:

House Conferees: Keffer, Jim - Chair/Bonnen/Crownover/Pena/Ritter

HB 3319

The House refuses to concur in Senate Amendments and requests the appointment of a conference committee with instructions to adjust the differences between the two houses:

House Conferees: Keffer, Jim - Chair/Bonnen/Davis, Yvonne/Hill/Ritter

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILLS SIGNED

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

HB 3011, HB 3017, HB 3024, HB 3038, HB 3093, HB 3098, HB 3114, HB 3131, HB 3147, HB 3171, HB 3182, HB 3195, HB 3210, HB 3211, HB 3225, HB 3236, HB 3261, HB 3266, HB 3270, HB 3273, HB 3290, HB 3291, HB 3295, HB 3300, HB 3352, HB 3353, HB 3355, HB 3367, HB 3392, HB 3407, HB 3435, HB 3439, HB 3457, HB 3470, HB 3485, HB 3495, HB 3502, HB 3558, HB 3593, HB 3619, HB 3647.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1498 ADOPTED**

Senator Eltife called from the President's table the Conference Committee Report on **HB 1498**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1060 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **HB 1060**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

(Senator Eltife in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 1386

Senator Fraser called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1386** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1386** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Fraser, Chair; Eltife, Watson, Carona, and West.

CONFERENCE COMMITTEE ON HOUSE BILL 2094

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2094** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2094** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Ellis, Estes, Wentworth, and Whitmire.

CONFERENCE COMMITTEE ON HOUSE BILL 3693

Senator Fraser called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3693** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3693** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Fraser, Chair; Van de Putte, Estes, Shapiro, and Seliger.

CONFERENCE COMMITTEE ON HOUSE BILL 2207

Senator Watson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2207** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2207** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Harris, Duncan, Hinojosa, and Carona.

SENATE BILL 776 WITH HOUSE AMENDMENT

Senator Jackson called **SB 776** 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 **SB 776** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to certain educational requirements applicable to the regulation of the practice of chiropractic.

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

SECTION 1. Subsection (a), Section 201.052, Occupations Code, is amended to read as follows:

(a) A person is not eligible to serve as a member of the board if the person:

(1) is a member of the faculty or board of trustees of a chiropractic school or a doctor of chiropractic degree program;

(2) is a stockholder in a chiropractic school or college; or

(3) has a financial interest in a chiropractic school or college.

SECTION 2. Subsection (a), Section 201.159, Occupations Code, is amended to read as follows:

(a) The board shall preserve a record of its proceedings in a register that contains:

(1) the name, age, place, and duration of residence of each applicant for a license;

(2) the amount of time spent by the applicant in the study of chiropractic in respective doctor of chiropractic degree programs ~~[schools]~~; and

(3) other information the board desires to record.

SECTION 3. Subsections (a) and (d), Section 201.302, Occupations Code, are amended to read as follows:

(a) An applicant for a license by examination must present satisfactory evidence to the board that the applicant:

- (1) is at least 18 years of age;
- (2) is of good moral character;
- (3) has completed 90 semester hours of college courses ~~[at a school]~~ other than courses included in a doctor of chiropractic degree program [school]; and
- (4) is either a graduate or a final semester student of a bona fide reputable doctor of chiropractic degree program [school].

(d) Notwithstanding Subsection (a)(3), if the Council on Chiropractic Education or another national chiropractic education accreditation organization recognized by the board requires a number of semester hours of college courses ~~[at a school]~~ other than courses included in a doctor of chiropractic degree program [school] that is greater or less than the number of hours specified by that subsection to qualify for admission to a doctor of chiropractic degree program [school], the board may adopt the requirement of that organization if the board determines that requirement to be appropriate.

SECTION 4. Subsection (d), Section 201.303, Occupations Code, is amended to read as follows:

(d) A bona fide reputable doctor of chiropractic degree program [school] that satisfies Section 201.302(a)(4) is one that:

- (1) has entrance requirements and a course of instruction as high as those of a better class of doctor of chiropractic degree programs [schools] in the United States;
- (2) maintains a resident course of instruction equivalent to:
 - (A) not less than four terms of eight months each; or
 - (B) not less than the number of semester hours required by The University of Texas for a bachelor of arts or bachelor of science degree;
- (3) provides a course of instruction in the fundamental subjects listed in Section 201.305(b); and
- (4) has the necessary teaching staff and facilities for proper instruction in all of the fundamental subjects listed in Section 201.305(b).

SECTION 5. Section 201.309, Occupations Code, is amended to read as follows:

Sec. 201.309. LICENSE ISSUANCE TO CERTAIN OUT-OF-STATE APPLICANTS. The board shall issue a license to practice chiropractic to an out-of-state applicant who:

- (1) submits a written application to the board on a form prescribed by the board, accompanied by the application fee set by the board and any other information requested by the board;
- (2) is licensed in good standing to practice chiropractic in another state or foreign country that has licensing requirements substantially equivalent to the requirements of this chapter;
- (3) has not been the subject of a disciplinary action and is not the subject of a pending investigation in any jurisdiction in which the applicant is or has been licensed;

(4) has graduated from a doctor of chiropractic degree program ~~[school]~~ accredited by the Council on Chiropractic Education and approved by rule by the board;

(5) has passed a national or other examination recognized by the board relating to the practice of chiropractic;

(6) has passed the board's jurisprudence examination;

(7) has practiced chiropractic:

(A) for at least the three years immediately preceding the date of the application under this section; or

(B) as a chiropractic educator in ~~[a]~~ a doctor of chiropractic degree program ~~[school]~~ accredited by the Council on Chiropractic Education for at least the three years immediately preceding the date of the application under this section; and

(8) meets any other requirements adopted by rule by the board under this chapter.

SECTION 6. The change in law made by this Act applies to an applicant who files an application for a license under Chapter 201, Occupations Code, on or after the effective date of this Act. An applicant who files an application before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 776**.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1973 ADOPTED

Senator Nelson called from the President's table the Conference Committee Report on **HB 1973**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 759 ADOPTED

Senator Nelson called from the President's table the Conference Committee Report on **SB 759**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 36 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 36**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

SENATE RESOLUTION 1170

Senator Nelson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, 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 **SB 993** (nursing peer review and the regulation of the practice of nursing) to consider and take action on the following matters:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add new text to Subsection (a), Section 301.355, Occupations Code, to read as follows:

(a) The president of a medical and dental unit, as defined by Section 61.003, Education Code, shall determine whether a nurse who is employed by the unit for practice in patient care or in clinical activities is a full-time employee for purposes of:

(1) employees group benefits under Chapter 1551 or 1601, Insurance Code;

(2) leave under Chapter 661 or 662, Government Code; and

(3) longevity pay under Section 659.043, Government Code.

Explanation: The change is necessary to require the president of a medical or dental unit to determine whether certain nurses are full-time employees for purposes of employees group benefits under Chapter 1601, Insurance Code, and leave under Chapter 662, Government Code.

SR 1170 was read and was adopted without objection.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 993 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 993**. The Conference Committee Report was filed with the Senate on Thursday, May 24, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3849 ADOPTED**

Senator Hinojosa called from the President's table the Conference Committee Report on **HB 3849**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate family members of the late Clifford Antone: his sisters, Susan Antone and Janelle Raad; his niece, Georgette Raad; and his nephew, Jamal Raad.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Shapleigh, on behalf of Senator Ellis, was recognized and introduced to the Senate students from Pro-Vision School in Houston, accompanied by their teachers and parents.

The Senate welcomed its guests.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 126 ADOPTED

Senator Harris, on behalf of Senator Seliger, called from the President's table the Conference Committee Report on **HB 126**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1383 ADOPTED

Senator Harris, on behalf of Senator Seliger, called from the President's table the Conference Committee Report on **SB 1383**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1714 ADOPTED

Senator Harris, on behalf of Senator Seliger, called from the President's table the Conference Committee Report on **SB 1714**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE ON HOUSE BILL 442

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 442** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 442** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Hinojosa, Eltife, Seliger, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 1801

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1801** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1801** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Seliger, Hinojosa, Deuell, and Nichols.

CONFERENCE COMMITTEE ON HOUSE BILL 2006

Senator Janek called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2006** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2006** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Janek, Chair; Duncan, Carona, Shapleigh, and Eltife.

CONFERENCE COMMITTEE ON HOUSE BILL 3385

Senator Janek called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3385** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3385** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Janek, Chair; Fraser, Estes, Averitt, and Watson.

CONFERENCE COMMITTEE ON HOUSE BILL 3838

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3838** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3838** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Duncan, Estes, Uresti, and Hinojosa.

HOUSE CONCURRENT RESOLUTION 265

The Presiding Officer, Senator Eltife in Chair, laid before the Senate the following resolution:

WHEREAS, Major James R. Stegall (Ret.) of Austin rendered exceptional service to this country as an aviator in two wars and as a career officer in the United States Army; and

WHEREAS, Born in Bullard on February 6, 1922, and raised in East Austin, Major Stegall enlisted in the Texas Army National Guard directly after his graduation from Austin High School in 1940; he was mobilized into federal service on November 25, 1940, as part of the 36th Infantry Division; and

WHEREAS, Major Stegall shipped out with the 36th Infantry for North Africa in April 1943 and saw his first combat the following September, when American forces established a beachhead at Salerno, Italy; appointed as a liaison pilot, Major Stegall served as a forward observer for the artillery, spotting targets and adjusting artillery fire to increase its effectiveness exponentially; he performed this duty flying at 55 miles per hour in unarmed, single-engine Piper Cub L-4s, known as Grasshoppers, which measured a mere 21 feet in length and 35 feet from wing tip to wing tip; Major Stegall's tour of duty in Italy extended into 1944 and included service at Rapido River; and

WHEREAS, At the conclusion of World War II, Major Stegall decided to make the army his career; subsequently designated an army aviator, he saw combat again in the Korean War, flying Grasshoppers once more in support of artillery; after landing with the 7th Infantry Division at Incheon in September 1950, he took part in the push to the Yalu River, in fighting near the Chosin Reservoir, and later in the drive back to the 38th parallel; and

WHEREAS, Time and again, Major Stegall demonstrated unflinching courage and tenacity; once in Italy, a group of German fighters shot his wing strut in half, but he was able to land his plane, jump into another, and continue his mission; in Korea, when the Chinese overran American troops and some of the latter were left behind, encircled by the enemy, Major Stegall returned to the trapped soldiers seven times to bring out the wounded, in spite of intense ground fire; and

WHEREAS, Major Stegall was awarded the Silver Star with one Oak Leaf Cluster, the Distinguished Flying Cross with one Oak Leaf Cluster, the Air Medal with 25 Oak Leaf Clusters, the Army Commendation Ribbon, and a host of service medals and appendages; and

WHEREAS, This valiant Texan retired from the service in 1961; he and his wife, Doris, now make their home in East Austin, where they have long resided; and

WHEREAS, In recognition of his outstanding military record, the Texas Aviation Association has nominated Major Stegall for induction into the Texas Aviation Hall of Fame at the Lone Star Flight Museum in Galveston; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby extend to Major James R. Stegall its profound appreciation for a job well done and recommend that he be inducted into the Texas Aviation Hall of Fame; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Major Stegall and forwarded to the Texas Aviation Hall of Fame and the Lone Star Flight Museum as an expression of high regard by the Texas House of Representatives and Senate.

WATSON

HCR 265 was read.

On motion of Senator Watson and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Gallegos.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate Major James R. Stegall of Austin and his wife, Doris.

The Senate welcomed its guests.

CONFERENCE COMMITTEE ON HOUSE BILL 3154

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3154** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3154** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Janek, Van de Putte, Hinojosa, and Seliger.

RECESS

On motion of Senator Brimer, the Senate at 12:52 p.m. recessed until 1:30 p.m. today.

AFTER RECESS

The Senate met at 1:35 p.m. and was called to order by the President.

RECESS

On motion of Senator Whitmire, the Senate at 1:40 p.m. recessed until 2:30 p.m. today.

AFTER RECESS

The Senate met at 2:45 p.m. and was called to order by the President.

CONFERENCE COMMITTEE ON HOUSE BILL 3

Senator Averitt called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Eltife, Shapiro, Hegar, and Hinojosa.

CONFERENCE COMMITTEE ON HOUSE BILL 4

Senator Averitt called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 4** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Seliger, Deuell, Uresti, and Nichols.

CONFERENCE COMMITTEE ON HOUSE BILL 610

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 610** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 610** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Nichols, Patrick, Watson, and West.

CONFERENCE COMMITTEE ON HOUSE BILL 2833

Senator Seliger called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2833** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2833** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Van de Putte, Hegar, Deuell, and Williams.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1522 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **HB 1522**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 548 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 548**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1594 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 1594**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3105 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 3105**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

SENATE BILL 1833 WITH HOUSE AMENDMENT

Senator Duncan called **SB 1833** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1833** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the administration and powers of the Canadian River Municipal Water Authority.

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

SECTION 1. Section 5(b), Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953, is amended to read as follows:

(b). The Board of Directors shall hold regular meetings, the date thereof to be established in the District's bylaws or by resolution. The President or any three members may call such special meetings as may be necessary in the administration of the District's business, provided that at least five days prior to the meeting date, the Secretary shall have mailed notice thereof to the address which each member shall file with the Secretary. Notices of special meetings may be waived in writing by any Director. The Board of Directors or Board committees may hold meetings by telephone conference call, videoconference call, or through communications over the Internet, in accordance with procedures provided by Subchapter F, Chapter 551, Government Code, if determined to be necessary or convenient by the President or any three members. Each Director shall receive a fee as provided by general law ~~of not more than Fifty (\$50.00) Dollars for each attendance at a Board meeting and a fee of not more than Fifty (\$50.00) Dollars]~~ for each day devoted to District business

~~[other than a Board meeting]~~. Each Director is also entitled to reimbursement for actual expenses incurred in carrying out District business, including attending a Board meeting. Payment to a Director for services performed and expenses incurred is subject to the approval of a majority of the Board.

SECTION 2. Section 13, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953, is amended to read as follows:

Sec. 13. DISTRICT POWERS. In addition to those herein otherwise mentioned, the District shall be and is hereby authorized to exercise the following powers, rights, privileges and functions:

(a) To store, control, conserve, protect, distribute and utilize within or without the District or within or without the state the storm and flood waters and unappropriated flow of the Canadian River and its tributaries, and to prevent the escape of any such waters without first obtaining therefrom a maximum of public benefit, by the construction of a dam or dams across said river and its tributaries, or otherwise, by complying with Chapter 11, Water Code, and in such manner as shall fully recognize and be in harmony with the limitations of use of the waters of said river provided in the "Canadian River Compact" appearing as Chapter 43, Water Code. The District is also empowered to provide by purchase, contract, lease, gift, or in any other lawful manner, and to develop all facilities within or without the District or within or without the state deemed necessary or useful for the purpose of storing, controlling, conserving, protecting, distributing, processing and utilizing such surface water and the transportation thereof to the cities and areas comprising the District for municipal, domestic, industrial and other useful purposes permitted by law.

(b) To acquire and develop within or without the District or within or without the state any other available source of surface, storm, flood, underground, or other water supply and to construct, acquire and develop all facilities deemed necessary or useful with respect thereto.

(c) To acquire, construct, develop, operate, and maintain any and all property of any kind, real, personal, or mixed, or any interest in property whether within or without the District or within or without the state and to enter into any contracts with any person or legal entity and take all actions necessary or convenient in order to protect and preserve, and to prevent, eliminate, reduce, or minimize the pollution, contamination, or deterioration of the quality of, the water of the Canadian River or any of its tributaries or the water of any other source of water supply to the District in order to facilitate the use of the water for any lawful purpose.

(d) To acquire, construct, develop, operate, and maintain any facilities or systems for drilling, pumping, capturing, reducing, intercepting, eliminating, impounding, controlling, using, injecting or otherwise capturing and disposing of brine, brackish water, saltwater, saline water, or other water contaminated by any type of chlorine, sodium, sulfates, or other chemical condition or characteristic detrimental to the quality of the water, whether the source of contaminated water is groundwater or surface water, within or without the District or within or without the state, and whether the facilities or systems are located within or without the District or within or without the state.

(e) To acquire or utilize surface or underground water rights and to develop surface or underground water resources in any manner in furtherance of the purposes described in Subsections (c) and (d) of this section.

(f) To declare any facilities or system acquired or constructed under Subsections (a) through (e) of this section to be a part of the District's water supply system.

(g) To acquire by purchase, construction, lease, gift, or in any other lawful manner, and to maintain, use and operate any and all property of any kind, real, personal or mixed, or any interest therein, within or without the boundaries of the District or within or without the state, necessary or convenient to the exercise of the powers, rights, privileges and functions possessed by the District under this Act.

(h) To acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the District, necessary or convenient to the exercise of the powers, rights, privileges and functions possessed by the District, in the manner provided by Chapter 21, Property Code, relating to eminent domain. The amount of and character of the property thus to be acquired shall be determined by the Board of Directors, provided that the District shall not have the right to so condemn any property which may be owned by any other political subdivision, city or town; provided, however, that as against persons, firms, and corporations, or receivers or trustees thereof, who have the power of eminent domain, the fee title may not be condemned, but the District may condemn only an easement. It is specifically provided, however, that the District does not have the authority to condemn underground water rights.

(i) To sell or otherwise dispose of any surplus property of any kind, real, personal, or mixed, or any interest therein, which shall not be necessary to the operation of the District in accordance with general law applicable to a municipality or to a district created under Section 59, Article XVI, Texas Constitution; provided, however, that in all cases in which the Board of Directors considers the value of surplus real ~~such~~ property to be in excess of One Thousand ~~(\$1,000.00)~~ Dollars, the property ~~same~~ shall be sold only upon advertisement and competitive bids.

(j) To require the relocation of roads and highways in the manner and to the extent permitted to Districts organized under Section 59 of Article XVI of the Texas Constitution; the cost of relocation of any roads, highways or railroads or telephone or telegraph properties or facilities made necessary by this Act and any reasonable actual damage incurred in changing and adjusting the lines and grades of railroads or such highways or roads or telephone or telegraph properties or facilities shall be paid by the District.

(k) To make contracts with any person or legal entity, including the United States, the state, any political subdivision or body politic and corporate of the state, any other state, any political subdivision or body politic and corporate within any other state, and any interstate compact commission or similar organization, necessary or convenient to the exercise of the powers, rights, privileges and functions of the District and to take all actions and execute all instruments necessary or convenient to the exercise of the powers, rights, privileges and functions of the District.

(l) To make or cause to be made surveys and engineering investigations for the information of the District, to facilitate the accomplishment of the purposes for which it is created.

(m) To borrow money for its corporate purposes, and without limitation of the generality of the foregoing to borrow money and accept grants, gratuities or other support from the United States of America or the State of Texas, or from any corporation or agency created or designated by the United States of America or the State of Texas, and, in connection with any such loan, grant, or other support, to enter into such arrangement with the United States of America or the State of Texas or such corporation or agency, of either as the District may deem advisable.

(n) To make and issue its negotiable bonds for moneys borrowed in the manner and to the extent provided in this Act and with reference thereto or otherwise to contract in any manner it shall see fit and as may be required by any law pertaining to loans, grants or other support received from the United States of America or the State of Texas or from any corporation or agency, of either of them.

(o) To make such contracts in the issuance of bonds as may be considered necessary or convenient to insure the marketability thereof.

(p) To sue or be sued in its corporate name, provided that if the District prevails in a suit against a person or governmental entity entitled to recover attorney's fees, costs for expert witnesses, or any other related costs, the District is entitled to recover those fees and costs according to the same terms that would have governed recovery for the other person or governmental entity if the District had not prevailed.

(q) To adopt, use and alter a corporate seal.

(r) To make by-laws for the management and regulation of its affairs.

(s) To fix and collect charges and rates for water services furnished by it and to impose penalties for failure to pay such charges and rates when due, provided that such charges, rates and penalties shall be fixed only by unanimous vote of the members of the Board of Directors constituting a quorum and who are present at a regular meeting.

(t) To cooperate and to enter into contracts with cities, persons, firms, corporations and public agencies for the purpose of supplying and selling them surface, storm, flood, underground, and other water for municipal, domestic, industrial, and other useful purposes permitted by law, provided that cities and areas constituting the District shall be accorded priority in the allocation of the District's available surface, storm, flood, underground, and other water, and the Board of Directors shall prescribe rules to effectuate this provision. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until the District's bonds specified therein and refunding bonds issued in lieu of such bonds are fully paid. The authority of each member or other city to enter into any contract with the District for the sale of water or other services or for any other purpose within the powers, rights, privileges, and functions of the District is vested exclusively in the governing body of each member or other city notwithstanding any provision of any home rule charter or any local ordinance of such member or other city, or of any other provision of any other law placing any restriction, limitation, or requirement on the authority of the governing body of any member or other city to enter into any such contract. No provision of the home rule charter or of any other ordinance of any member or other city, and no provision of any other law in conflict herewith will invalidate or impair, in whole or in part, the enforceability and validity of any contract entered into by the District with any

member or other city pursuant to the powers, rights, and privileges or functions of the district. In the event the District shall have contracted with the United States Government or any of its agencies for a source of water supply or for the furnishing of any facilities necessary or useful to the District in carrying out its purposes, any such contract entered into under authority hereof may provide that it shall continue until the District has fully discharged all obligations incurred by it under the terms of its contract with the United States Government or its agencies. The District is also authorized to purchase surface, storm, flood, underground, and other water supply from any person, firm, corporation or public agency, or from the United States Government or any of its agencies.

(u) To operate and maintain with the consent of the governing body of any city or town located within the District, any works, plants or facilities of any such city deemed necessary or convenient to the accomplishment of the purposes for which the District is created.

(v) To levy, assess and collect ad valorem taxes to provide funds necessary to construct or acquire, maintain and operate improvements, works, plants and facilities deemed essential and beneficial to the District upon a favorable majority vote of the qualified property taxpaying electors voting at an election held for that purpose within the District; and also, when so authorized, to levy, assess and collect taxes to provide funds adequate to defray the cost of the maintenance and operation and administration of the District. Elections for the voting of such taxes shall be ordered by the Board of Directors and shall be held and conducted as provided herein for elections for the issuance of bonds and the levy of taxes in support thereof. When so levied such taxes, as well as taxes hereinafter provided to be levied in support of bond indebtedness, shall constitute a lien on the property against which such taxes are levied and assessed, and limitations shall not bar the collection and enforcement thereof.

(w) To do any and all acts and things necessary or convenient to the exercise of the powers, rights, privileges or functions conferred upon or permitted the District by any other law.

SECTION 3. Section 14, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953, is amended to read as follows:

Sec. 14. ~~[Awarding Construction or Purchase]~~ Contracts. The District may negotiate, enter, and modify a contract in accordance with general law applicable to a municipality or to a district created under Section 59, Article XVI, Texas Constitution ~~[Any contract requiring an expenditure of more than Twenty five Thousand (\$25,000.00) Dollars shall not be made until after publication of a notice to bidders once each week for two weeks before awarding the contract. Such notice shall be sufficient if it states the time and place when and where the bids will be opened, the general nature of the work to be done, or the material, equipment or supplies to be purchased, and states when and upon what terms copies of the plans and specifications may be obtained. The publication shall be in a newspaper published in the District designated by the Board of Directors].~~

SECTION 4. Section 13, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953, as amended by this Act, applies only to a suit filed on or after the effective date of this Act. A suit filed before that date is governed by the law in effect on the date the suit is filed, and that law is continued in effect for that purpose.

SECTION 5. Section 14, Chapter 243, Acts of the 53rd Legislature, Regular Session, 1953, as amended by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before that date is governed by the law in effect on the date of the contract, and that law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2007.

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 1833**.

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

Absent-excused: Gallegos.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 26, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS APPOINTED CONFEREES ON THE FOLLOWING MEASURES:

HB 2265

House Conferees: Haggerty - Chair/Chavez/Pickett/Quintanilla/Talton

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

SB 3 (non-record vote)

House Conferees: Puente - Chair/Callegari/Hamilton/Hartnett/Laubenberg

SB 11 (non-record vote)

House Conferees: Corte, Frank - Chair/Burnam/Escobar/Herrero/Isett, Carl

SB 101 (non-record vote)

House Conferees: Morrison - Chair/Branch/Howard, Donna/Villarreal/Woolley

SB 228 (non-record vote)

House Conferees: Eiland - Chair/Bonnen/Dutton/Gonzalez Toureilles/Strama

SB 406 (non-record vote)

House Conferees: Hartnett - Chair/Gonzales/Goolsby/Hopson/Hughes

SB 530 (non-record vote)

House Conferees: Eissler - Chair/Delisi/Hochberg/Patrick, Diane/Zedler

SB 718 (non-record vote)

House Conferees: Gattis - Chair/Cook, Robby/Hopson/Kolkhorst/Van Arsdale

SB 758 (non-record vote)

House Conferees: Rose - Chair/Davis, John/King, Susan/Naishtat/Parker

SB 765 (non-record vote)

House Conferees: Frost - Chair/Cook, Robby/Heflin/Kolkhorst/Otto

SB 909 (non-record vote)

House Conferees: Madden - Chair/Hochberg/Jones, Delwin/McReynolds/Oliveira

SB 960 (non-record vote)

House Conferees: Haggerty - Chair/Chavez/Pickett/Quintanilla/Talton

SB 964 (non-record vote)

House Conferees: Hill - Chair/Alonzo/Davis, Yvonne/Hartnett/Krusee

SB 965 (non-record vote)

House Conferees: Hill - Chair/Alonzo/Davis, Yvonne/Hartnett/Krusee

SB 1058 (non-record vote)

House Conferees: Noriega, Rick - Chair/Corte, Frank/Escobar/Garcia/Herrero

SB 1119 (non-record vote)

House Conferees: Murphy - Chair/Bailey/Delisi/Elkins/Hill

SB 1266 (non-record vote)

House Conferees: Krusee - Chair/Haggerty/Hill/Phillips/Pickett

SB 1332 (non-record vote)

House Conferees: Chavez - Chair/Branch/Deshotel/Dutton/Frost

SB 1436 (non-record vote)

House Conferees: Creighton - Chair/Gattis/Guillen/O'Day/Pickett

SB 1731 (non-record vote)

House Conferees: Isett, Carl - Chair/Delisi/Gattis/Rose/Taylor

SB 1871 (non-record vote)

House Conferees: Hochberg - Chair/Eissler/Kolkhorst/Mowery/Olivo

SB 1879 (non-record vote)

House Conferees: Hamilton - Chair/Creighton/Delisi/Frost/Hopson

SB 1908 (non-record vote)

House Conferees: Menendez - Chair/Bailey/Chisum/Swinford/Thompson

SB 2003 (non-record vote)

House Conferees: Phillips - Chair/Gonzalez Toureilles/King, Tracy/Parker/Puente

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1594 (144 Yeas, 0 Nays, 2 Present, not voting)

SB 792 (127 Yeas, 19 Nays, 2 Present, not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1610 (139 Yeas, 1 Nays, 2 Present, not voting)

HB 3275 (142 Yeas, 0 Nays, 2 Present, not voting)

HB 3838 (146 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 1267, The House has refused to concur in Senate amendments to the following measure and requests the appointment of a conference committee to adjust the differences between the two houses:

House Conferees with instructions: Pena - Chair/Escobar/Gattis/Hartnett/Talton

SB 9, The House grants the request of the Senate and appoints the following conferees:

House Conferees with instructions: Branch - Chair/ Eissler/ Madden/ McReynolds/ Morrison

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL 839 WITH HOUSE AMENDMENT

Senator Duncan called **SB 839** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 839** (House committee printing) as follows:

(1) In SECTION 5 of the bill, in amended Subsection (a)(1), Section 614.017, Health and Safety Code (page 5, line 8), between "continuity of care" and "~~[this chapter]~~", insert "and services".

(2) In SECTION 5 of the bill, in amended Subsection (a)(2), Section 614.017, Health and Safety Code (page 5, line 15), between "continuity of care" and "~~[this chapter]~~", insert "and services".

(3) In SECTION 5 of the bill, in proposed Subsection (e), Section 614.017, Health and Safety Code (page 7, line 12), strike "other than as authorized by this section or other law or without" and substitute:

for purposes other than continuity of care and services, except as authorized by other law or by

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 839**.

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

Absent-excused: Gallegos.

SENATE BILL 1232 WITH HOUSE AMENDMENTS

Senator Zaffirini called **SB 1232** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 1232** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the manner of payment of higher education tuition and fees and to the repayment of emergency student loans.

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

SECTION 1. Section 54.007, Education Code, is amended by amending Subsections (a), (b), and (d), by amending and relettering Subsection (f), as added by Chapter 888, Acts of the 79th Legislature, Regular Session, 2005, as Subsection (g), and by adding Subsection (b-1) to read as follows:

(a) The governing board of each institution of higher education shall provide for the payment of tuition and fees for ~~[during]~~ the fall and spring semesters through one of the following alternatives:

(1) except as provided by Subsection (b-1), full payment of tuition and fees in advance of the beginning of the semester; or

(2) [one-half] payment in installments under one or more payment plan options that require the first payment to be made [of tuition and fees] in advance of the beginning of the semester and the final payment to be made before the last day of the semester~~[- one quarter payment prior to the start of the sixth class week, and the final one quarter payment before the beginning of the eleventh class week].~~

(b) The governing board of each institution of higher education ~~shall~~ provide for ~~[may permit]~~ the payment of tuition and fees for ~~[during]~~ a summer term through one of the following alternatives:

(1) except as provided by Subsection (b-1), full ~~[for a student enrolled for a summer term of 12 weeks or longer that is not covered by Subdivision (2), one-half] payment of tuition and fees in advance of the beginning of the summer term~~~~[- one quarter payment before the beginning of the fifth class week, and the final one quarter payment before the beginning of the ninth class week];~~

(2) ~~[for a student enrolled for a summer term of 16 weeks or longer, one-half]~~ payment in installments under one or more payment plan options that require the first payment to be made [of tuition and fees] in advance of the beginning of the summer term and the final payment to be made before the last day of the term~~[- one quarter payment before the beginning of the sixth class week, and the final one quarter payment before the beginning of the 11th class week]; or [and]~~

(3) for a student enrolled for a summer term ~~[not covered by Subdivision (1) or (2)]~~ in a public junior college, public technical institute, or public state college, one-half payment of tuition and fees in advance of the beginning of the summer term and the remaining amount in one or two later payments to be made in the percentages

and by the dates determined by the governing board of the college or institute, provided that the final payment must be made before the beginning of the last week of the summer term.

(b-1) A student who owes a balance of tuition and fees as a result of a change in the student's class schedule or who owes a balance of tuition and fees of less than \$100 after making an insufficient payment of tuition and fees previously due shall pay the balance owed not later than the next payment date established by the governing board under a payment plan adopted under Subsection (a)(2) or (b)(2), as applicable.

(d) A student who fails to make a full payment of the required amount of tuition and fees, including any incidental fees, by the due date may be prohibited from registering for classes until full payment is made. A student who fails to make full payment prior to the end of the semester or summer term may be denied credit for the work done that semester or term. The governing board may not impose on a student any sanction authorized by this subsection unless the governing board includes in any written or electronic agreement authorized ~~[promissory note signed]~~ by the [a] student the following statement printed in bold-faced type or in capital letters: "A STUDENT WHO FAILS TO MAKE FULL PAYMENT OF TUITION AND FEES, INCLUDING ANY INCIDENTAL FEES, BY THE DUE DATE MAY BE PROHIBITED FROM REGISTERING FOR CLASSES UNTIL FULL PAYMENT IS MADE. A STUDENT WHO FAILS TO MAKE FULL PAYMENT PRIOR TO THE END OF THE SEMESTER OR TERM MAY BE DENIED CREDIT FOR THE WORK DONE THAT SEMESTER OR TERM." The governing board shall notify a student of any delinquent tuition or fee payment as soon as practicable. The institution's records may be adjusted to reflect the student's failure to have properly enrolled for that semester.

(g) ~~(f)~~ The governing board shall require a student who elects to pay tuition and fees by installment under this section to enter into a written or electronic agreement reflecting the terms and conditions required by this section for the installment plan provided for the student by the governing board.

SECTION 2. Section 56.053(a), Education Code, as amended by Chapters 80 and 655, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) The governing board of each institution shall adopt rules providing for the terms of the loan, subject to the following:

(1) the loan must be repaid over a period not to exceed 90 days for a loan made for a regular semester or long summer session or over a proportionately shorter period for loans made for a six-week summer session;

(2) the loan must be evidenced by a written or electronic agreement providing for one of the following:

(A) ~~[promissory note that bears]~~ interest on the loan at a rate of not more than five percent per year; or

(B) an origination fee of not more than three percent of the amount of the loan; and

(3) the ~~[maximum]~~ loan amount per student may not exceed ~~[be greater than]~~ an amount equal to the tuition and mandatory ~~[required]~~ fees for the courses in which the student is actually enrolling.

~~[(3) the maximum loan amount per student may not be less than an amount equal to the tuition and required fees for the courses in which the student is actually enrolling, unless the institution determines that a lower amount would be in the best interest of the student.]~~

SECTION 3. (a) The change in law made by this Act applies to payment of tuition and fees and to emergency student loans for an academic period beginning with the 2007 fall semester unless this Act takes effect after July 1, 2007, in which event the change in law applies beginning with the 2008 spring semester.

(b) Payment of tuition and fees and emergency student loans for an academic period before the semester provided by Subsection (a) of this section are covered by the applicable law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Floor Amendment No. 1

Amend **CSSB 1232** (House committee printing) in SECTION 2 of the bill, in amended Subsection (a)(2)(B), Section 56.053, Education Code (page 4, line 17), by striking "three" and substituting "1.25".

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to **SB 1232**.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE ON HOUSE BILL 3613

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3613** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3613** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Van de Putte, Hinojosa, Eltife, and Seliger.

CONFERENCE COMMITTEE ON HOUSE BILL 1267

Senator Seliger called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1267** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1267** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Ellis, Duncan, Hinojosa, and Harris.

CONFERENCE COMMITTEE ON HOUSE BILL 3560

Senator Janek called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3560** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3560** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Janek, Chair; Williams, Ellis, Fraser, and Brimer.

CONFERENCE COMMITTEE ON HOUSE BILL 2644

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2644** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2644** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Carona, Deuell, Janek, and Ellis.

CONFERENCE COMMITTEE ON HOUSE BILL 1168

Senator Shapleigh called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1168** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1168** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Shapleigh, Chair; Nelson, Duncan, Ogden, and Williams.

CONFERENCE COMMITTEE ON HOUSE BILL 3315

Senator Duncan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3315** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3315** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Ogden, Williams, Whitmire, and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 3438

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3438** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3438** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Hinojosa, Averitt, Brimer, and Carona.

CONFERENCE COMMITTEE ON HOUSE BILL 3674

Senator Jackson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3674** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3674** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Jackson, Chair; Deuell, Harris, Patrick, and West.

CONFERENCE COMMITTEE ON HOUSE BILL 1113

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1113** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1113** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Hinojosa, Seliger, Hegar, and Deuell.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1123 ADOPTED

Senator Ellis called from the President's table the Conference Committee Report on **SB 1123**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE ON SENATE BILL 1436 DISCHARGED

On motion of Senator Ellis and by unanimous consent, the Senate conferees on **SB 1436** were discharged.

Question — Shall the Senate concur in the House amendments to **SB 1436**?

Senator Ellis moved to concur in the House amendments to **SB 1436**.

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

Nays: Williams.

Absent-excused: Gallegos.

SENATE RESOLUTION 1160

Senator Wentworth offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, 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 **SB 593** (proof of, and providing notice to certain beneficiaries under, a decedent's will) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add a SECTION to the bill to amend Section 6.02, House Bill No. 391, Acts of the 80th Legislature, Regular Session, 2007, to read as follows:

SECTION 5. Section 6.02, H.B. No. 391, Acts of the 80th Legislature, Regular Session, 2007, as effective September 1, 2007, is amended to read as follows:

SECTION 6.02. The changes in law made by this article apply only to[~~—~~

~~(1) the estate of a decedent who dies before the effective date of this article, if the probate or administration of the estate is pending on or commenced on or after the effective date of this article; and~~

~~(2)~~ the estate of a decedent who dies on or after the effective date of this article.

Explanation: The addition of the SECTION to the bill is necessary to make a technical change in the applicability of an amendment made by SECTION 6.01, House Bill No. 391, Acts of the 80th Legislature, Regular Session, 2007, to Section 85, Texas Probate Code.

(2) Senate Rule 12.03(1) is suspended to permit the committee to change the text of the SECTION of the bill that is renumbered in the conference committee report as SECTION 6 to read as follows:

SECTION 6. The changes in law made by Sections 1, 2, 3, and 4 of this Act apply only to the estate of a decedent who dies on or after the effective date of this Act. The estate of a decedent who dies before the effective date of this Act is governed by the law in effect on the date of the decedent's death, and the former law is continued in effect for that purpose.

Explanation: The change to the applicability provision of the bill is necessary to reflect the addition of SECTION 5 to the conference committee report and to avoid having the applicability provision affect that added SECTION.

SR 1160 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 593 ADOPTED

Senator Wentworth called from the President's table the Conference Committee Report on **SB 593**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 26, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

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

SB 1951 (non-record vote)

House Conferees: Hartnett - Chair/Gonzales/Goolsby/Hopson/Hughes

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3928 ADOPTED

Senator Ogden called from the President's table the Conference Committee Report on **HB 3928**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

SENATE RULE 8.02 SUSPENDED (Referral to Committee)

Senator Hinojosa moved to suspend Senate Rule 8.02 to take up for consideration **HCR 121** at this time.

The motion prevailed.

HOUSE CONCURRENT RESOLUTION 121

The President laid before the Senate the following resolution:

WHEREAS, The Texas Legislative Medal of Honor was established to honor gallant and intrepid service by a member of the state or federal military forces, and through his courageous actions in Vietnam, Sergeant Alfredo "Freddy" Gonzalez distinguished himself as a worthy recipient of this prestigious honor; and

WHEREAS, Born May 23, 1946, in Edinburg and a graduate of Edinburg High School, Sergeant Gonzalez enlisted in the U.S. Marine Corps in May 1965; after his first tour of duty in Vietnam, he was chosen to train new marines for guerilla warfare; and

WHEREAS, A few months later, Sergeant Gonzalez learned of an ambush in which men who had served under him had been killed; impelled by a strong sense of duty to his fellow marines and to his country, he volunteered for a second tour in Vietnam; and

WHEREAS, When, at the end of January 1968, North Vietnamese and Viet Cong troops launched the massive Tet Offensive, Sergeant Gonzalez and his platoon were ordered to Hue to relieve the pressure on that city; en route to Hue, the platoon's convoy was hit by heavy fire on several occasions; during one such encounter, Sergeant Gonzalez saw an injured marine lying in the road ahead and ran through enemy fire to carry the man to cover, receiving fragmentation wounds in the rescue; and

WHEREAS, With the column halted by withering fire from a fortified machine-gun bunker, Sergeant Gonzalez proceeded to guide his men to a protective dike; he then moved out onto a road being raked by the gun and destroyed the bunker with hand grenades; later, on February 3, Sergeant Gonzalez was seriously wounded but continued to refuse medical treatment and to lead his men in their attack; and

WHEREAS, During fighting in Hue on February 4, his platoon of some 35 troops was again pinned down by a ferocious barrage; telling his unit to stay behind shelter, Sergeant Gonzalez moved forward aggressively with hand grenades and small antitank rockets, firing numerous rounds against enemy emplacements; and

WHEREAS, Entering a church, where the North Vietnamese were heavily fortified, he succeeded in suppressing virtually all of their fire; before the last of it could be silenced, however, he was mortally wounded; and

WHEREAS, Because he succeeded in destroying so many North Vietnamese positions, Sergeant Gonzalez was credited with saving the lives of the men in his platoon; the following year, in consequence of his extraordinary and selfless action, he was posthumously awarded the Medal of Honor, becoming the only marine in combat during the Tet Offensive to receive that award; and

WHEREAS, For those with whom he served, the heroism displayed by Sergeant Gonzalez was completely in character; "it seemed like he was everywhere all the time," one remembered; "he was always there in the front, never in the back . . . he was always there for us"; and

WHEREAS, Among the awards subsequently conferred on Sergeant Gonzalez were three Purple Hearts, four Presidential Unit Citations, and a Combat Action Ribbon, Good Conduct Medal, National Defense Medal, and Cold War Certificate; in addition, he was the posthumous recipient of two South Vietnamese decorations—the Vietnam Cross of Gallantry with gold palm and star and the Vietnam Service Medal with four bronze stars; in 1996, the U.S. Navy commissioned a new guided missile-destroyer in his honor; and

WHEREAS, Through his unhesitating selflessness and his unfaltering devotion to duty, honor, and his country, Sergeant Alfredo Gonzalez embodied the highest ideals of the armed service, and he most assuredly merits the award of this state's supreme military medal; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby posthumously confer the Texas Legislative Medal of Honor on Sergeant Alfredo "Freddy" Gonzalez in recognition of his heroic service and express to his family its deepest appreciation on behalf of all his fellow Texans; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the family of Sergeant Gonzalez as an expression of highest regard by the Texas House of Representatives and Senate.

HINOJOSA

HCR 121 was read.

On motion of Senator Hinojosa and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Gallegos.

CONFERENCE COMMITTEE ON HOUSE BILL 3249

Senator Brimer called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3249** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3249** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Brimer, Chair; Whitmire, Deuell, Harris, and Hegar.

CONFERENCE COMMITTEE ON HOUSE BILL 3609

Senator Ellis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3609** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3609** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Brimer, Whitmire, Williams, and Harris.

CONFERENCE COMMITTEE ON HOUSE BILL 1137

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1137** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1137** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Watson, Eltife, Hegar, and Shapiro.

CONFERENCE COMMITTEE ON HOUSE BILL 12

Senator Estes called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 12** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 12** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Ogden, Brimer, Hinojosa, and Jackson.

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **SB 792**.

AT EASE

The President at 3:40 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Eltife at 4:37 p.m. called the Senate to order as In Legislative Session.

CONFERENCE COMMITTEE ON HOUSE BILL 2237

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2237** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2237** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Janek, West, Williams, and Van de Putte.

CONFERENCE COMMITTEE ON HOUSE BILL 539

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 539** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 539** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Lucio, Nichols, Patrick, and Wentworth.

CONFERENCE COMMITTEE ON HOUSE BILL 2265

Senator Averitt called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2265** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2265** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Lucio, Van de Putte, Carona, and Nelson.

CONFERENCE COMMITTEE ON HOUSE BILL 2383

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2383** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2383** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Averitt, Hegar, Shapiro, and Van de Putte.

CONFERENCE COMMITTEE ON HOUSE BILL 1919

Senator Van de Putte called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1919** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1919** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Williams, Duncan, Ellis, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 1565

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1565** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1565** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Averitt, Van de Putte, Wentworth, and Hegar.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

May 26, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 275, In memory of Herriford "John" Williams of New Waverly.

HCR 279, In memory of Lloyd R. Smith of Collinsville.

HCR 280, Honoring Dr. Charles Florio of Mt. Pleasant on his retirement as president of Northeast Texas Community College.

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

SB 1846 (non-record vote)

House Conferees: Truitt - Chair/Kolkhorst/McClendon/Otto/Villarreal

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 548 (76 Yeas, 56 Nays, 2 Present, not voting)

SB 993 (139 Yeas, 0 Nays, 2 Present, not voting)

SB 1123 (141 Yeas, 1 Nays, 2 Present, not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 2006 (125 Yeas, 11 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 3851

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3851** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3851** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Nelson, West, Carona, and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 3319

Senator Duncan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3319** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3319** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Ogden, Whitmire, Williams, and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 3382

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3382** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3382** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Zaffirini, Williams, Janek, and Shapiro.

CONFERENCE COMMITTEE ON HOUSE BILL 3826

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3826** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3826** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Averitt, Shapiro, Van de Putte, and Janek.

CONFERENCE COMMITTEE ON HOUSE BILL 3314

Senator Duncan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3314** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3314** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Ogden, Whitmire, Williams, and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 3200

Senator Whitmire called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3200** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3200** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Hinojosa, Seliger, Ogden, and Hegar.

CONFERENCE COMMITTEE ON HOUSE BILL 828

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 828** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 828** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Nelson, Carona, Shapleigh, and Williams.

HOUSE CONCURRENT RESOLUTION 272

The Presiding Officer, Senator Eltife in Chair, laid before the Senate the following resolution:

WHEREAS, **HB 4061** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains technical and typographical errors that should be corrected; now, therefore, be it

RESOLVED by the 80th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

In SECTION 2 of the house engrossment (page 8, line 4), strike "South 68°24' East", and substitute "South 68°24'25" East".

ESTES

HCR 272 was read.

On motion of Senator Estes and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Gallegos.

CONFERENCE COMMITTEE ON HOUSE BILL 2667

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2667** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2667** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Nelson, Hinojosa, Lucio, and Van de Putte.

CONFERENCE COMMITTEE ON HOUSE BILL 3581

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3581** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3581** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Nichols, West, Patrick, and Carona.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1270 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 1270**. The Conference Committee Report was filed with the Senate on Friday, May 18, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 155 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **HB 155**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3066 ADOPTED**

Senator Patrick called from the President's table the Conference Committee Report on **HB 3066**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2207 ADOPTED**

Senator Watson called from the President's table the Conference Committee Report on **HB 2207**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1562 ADOPTED**

Senator Hinojosa called from the President's table the Conference Committee Report on **SB 1562**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

SENATE BILL 1217 WITH HOUSE AMENDMENTS

Senator Whitmire, on behalf of Senator Gallegos, called **SB 1217** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 1217** (House committee printing) as follows:

(1) In existing SECTION 5 of the bill (page 4, line 9), strike "The changes in law" and substitute "Except as otherwise provided by this Act, the changes in law".

(2) Insert the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 28.04(d), Alcoholic Beverage Code, is amended to read as follows:

(d) This section does not apply to a change in corporate control:

(1) brought about by the death of a shareholder if the shareholder's ~~[his]~~ surviving spouse or descendants are the shareholder's ~~[his]~~ successors in interest; or

(2) brought about when legal or beneficial ownership of over 50 percent of the stock of the corporation has been transferred:

(A) to a person who possesses the qualifications required of other applicants for permits and is currently an officer of the corporation and has been an officer of the corporation ever since the date the original permit was issued; or

(B) if the permittee ~~[pays a fee of \$500 and]~~ notifies the commission, on completed forms and attachments prescribed by the commission, of the proposed transfer ~~[at least 10 days]~~ prior to the date the transfer is to become effective and the commission does not find that circumstances exist that would be grounds for the denial of a renewal of the permit under Section 11.46 ~~[of this code]~~ and provided the ownership of the corporation immediately after the transfer satisfies the requirements of this code.

SECTION _____. The change in law made by this Act to Section 28.04, Alcoholic Beverage Code, applies to renewal of a mixed beverage permit that expires on or after the effective date of this Act, regardless of when legal or beneficial ownership of the corporation holding the permit changed.

Amendment No. 1 on Third Reading

Amend **SB 1217** on third reading as follows:

(1) Insert the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 11.40, Alcoholic Beverage Code, is repealed.

The amendments were read.

Senator Whitmire, on behalf of Senator Gallegos, moved to concur in the House amendments to **SB 1217**.

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

Nays: Patrick.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1499 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 1499**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

SENATE CONCURRENT RESOLUTION 86

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, **SB 222** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 80th Legislature of the State of Texas, That the enrolling clerk of the senate be instructed to correct Senate Bill No. 222 by striking SECTION 6 of the bill and substituting the following:

SECTION 6. This Act takes effect September 1, 2007.

ELLIS

SCR 86 was read.

On motion of Senator Ellis and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Gallegos.

(Senator Brimer in Chair)

(Senator Eltife in Chair)

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 119 ADOPTED**

Senator Ogden called from the President's table the Conference Committee Report on **HB 119**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

May 26, 2007

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 126 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 1060 (145 Yeas, 0 Nays, 2 Present, not voting)

HB 1090 (139 Yeas, 4 Nays, 2 Present, not voting)

HB 1457 (141 Yeas, 0 Nays, 2 Present, not voting)

HB 1498 (140 Yeas, 0 Nays, 2 Present, not voting)

HB 1973 (143 Yeas, 1 Nays, 2 Present, not voting)

HB 2096 (142 Yeas, 1 Nays, 2 Present, not voting)

HB 3105 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 3849 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 3928 (136 Yeas, 5 Nays, 3 Present, not voting)

SB 593 (143 Yeas, 0 Nays, 2 Present, not voting)

SB 759 (145 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RULE 8.01 SUSPENDED**(Procedural Rules)**

Senator Van de Putte moved to suspend Senate Rule 8.01 to take up for consideration **HCR 1** at this time.

The motion prevailed.

HOUSE CONCURRENT RESOLUTION 1

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, Military veterans who have served their country honorably and who were promised and have earned health care and benefits from the federal government through the Department of Veterans Affairs are now in need of these benefits; and

WHEREAS, Federal discretionary funding is controlled by the executive branch and the United States Congress through the budget and appropriations process; and

WHEREAS, Direct funding provides the Department of Veterans Affairs with a reliable, predictable, and consistent source of funding to provide timely, efficient, and high-quality health care for our veterans; and

WHEREAS, Currently almost 90 percent of federal health care spending is direct rather than discretionary, and only the funding for health care for active duty military, Native Americans, and veterans is subject to the discretion of the United States Congress; and

WHEREAS, Discretionary funding for health care lags behind both medical inflation and the increased demand for services; for example, the enrollment for veterans' health care increased 134 percent between fiscal years 1996 and 2004 yet funding increased only 34 percent during the same period when adjusted to 1996 dollars; and

WHEREAS, The Department of Veterans Affairs is the largest integrated health care system in the United States and has four critical health care missions: to provide health care to veterans, to educate and train health care personnel, to conduct medical research, and to serve as a backup to the United States Department of Defense and support communities in times of crisis; and

WHEREAS, The Department of Veterans Affairs operates 157 hospitals, with at least one in each of the contiguous states, Puerto Rico, and the District of Columbia; and

WHEREAS, The Department of Veterans Affairs operates more than 850 ambulatory care and community-based outpatient clinics, 132 nursing homes, 42 residential rehabilitation treatment programs, and 88 home care programs; and

WHEREAS, The Department of Veterans Affairs provides a wide range of specialized services to meet the unique needs of veterans, including spinal cord injury and dysfunction care and rehabilitation, blind rehabilitation, traumatic brain injury care, post-traumatic stress disorder treatment, amputee care and prosthetics programs, mental health and substance abuse programs, and long-term care programs; and

WHEREAS, The Department of Veterans Affairs health care system is severely underfunded, and had funding for the department's medical programs been allowed to grow proportionately as the system sought to admit newly eligible veterans following

the eligibility reform legislation in 1996, the current veterans' health care budget would be approximately \$10 billion more; and

WHEREAS, In a spirit of bipartisan accommodation, members of the United States Congress should collectively resolve the problem of discretionary funding and jointly fashion an acceptable formula for funding the medical programs of the Department of Veterans Affairs; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby express its profound gratitude for the sacrifices made by veterans, including those suffering from various medical issues resulting from injuries that occurred while serving in the United States Armed Forces at home or abroad; and, be it further

RESOLVED, That the legislature hereby respectfully urge the Congress of the United States to support legislation for veterans' health care budget reform to allow assured funding; and, be it further

RESOLVED, That the Texas secretary of state forward official copies of this resolution to the secretary of veterans affairs, to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

VAN DE PUTTE

HCR 1 was read.

On motion of Senator Van de Putte and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE ON
SENATE BILL 964 DISCHARGED**

On motion of Senator Shapiro and by unanimous consent, the Senate conferees on **SB 964** were discharged.

Question — Shall the Senate concur in the House amendments to **SB 964**?

Senator Shapiro moved to concur in the House amendments to **SB 964**.

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

Absent-excused: Gallegos.

SENATE BILL 1985 WITH HOUSE AMENDMENT

Senator Averitt called **SB 1985** 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 **SB 1985** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation of the McLennan County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8821 to read as follows:

CHAPTER 8821. MCLENNAN COUNTY GROUNDWATER
CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8821.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the McLennan County Groundwater Conservation District.

Sec. 8821.002. NATURE OF DISTRICT. The district is a groundwater conservation district in McLennan County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8821.003. CONFIRMATION ELECTION REQUIRED. (a) If the creation of the district is not confirmed at a confirmation election held before September 1, 2012:

(1) the district is dissolved on September 1, 2012, except that the district shall:

(A) pay any debts incurred;

(B) transfer to McLennan County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires on September 1, 2012.

(b) This section expires on September 1, 2012.

Sec. 8821.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of McLennan County, Texas.

Sec. 8821.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Sec. 8821.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8821.007-8821.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8821.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this chapter, five temporary directors shall be appointed as follows:

(1) the McLennan County Commissioners Court shall appoint one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of McLennan County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board, the authority who appointed the temporary director whose position is vacant shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8821.024; or

(2) the date this chapter expires under Section 8821.003.

Sec. 8821.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the McLennan County Courthouse.

Sec. 8821.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b), (c), and (e)-(i), Water Code, and the Election Code. Section 36.017(d), Water Code, does not apply to the confirmation election.

(d) The ballot for the election must be printed in accordance with the Election Code and provide for voting for or against the proposition: "The creation of the McLennan County Groundwater Conservation District."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may call and hold a subsequent confirmation election. The subsequent election may not be held before the first anniversary of the date on which the previous election was held.

(f) The district may contract with the elections administrator of McLennan County to conduct an election under this section.

Sec. 8821.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8821.023, the temporary directors become the initial directors and serve for the terms provided by Subsection (b).

(b) The initial directors representing commissioners precincts 2 and 4 serve a term expiring on December 31 following the expiration of two years after the date of the confirmation election, and the initial directors representing commissioners precincts 1 and 3 and the at-large director serve a term expiring on December 31 following the expiration of four years after the date of the confirmation election.

Sec. 8821.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

[Sections 8821.026-8821.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8821.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms, with two or three directors' terms expiring December 31 of each even-numbered year.

(c) A director may not serve more than three consecutive terms.

Sec. 8821.052. APPOINTMENT OF DIRECTORS. (a) The McLennan County Commissioners Court shall appoint one director from each of the four commissioners precincts and one director to represent the district at large.

(b) Except as provided by Subsection (c), to be eligible to serve as director at large, a person must be a registered voter in the district. To serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(c) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which appointed even though the change in boundaries places the person's residence outside the precinct for which the person was appointed.

[Sections 8821.053-8821.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8821.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8821.102. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8821.103. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8821.104. ADOPTION OF RULES AND ISSUANCE OF PERMITS. Before the district adopts a management plan, the district may adopt rules and issue permits.

Sec. 8821.105. CONTRACTS WITH OTHER GOVERNMENTAL ENTITIES. The district and another governmental entity, including a river authority located in the district, may contract for the performance by that entity of a district function.

Sec. 8821.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 8821.107. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2011, the district boundaries must include at least one county adjacent to McLennan County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the Texas Commission on Environmental Quality determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

[Sections 8821.108-8821.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8821.151. REVENUE. To pay the maintenance and operating costs of the district and to pay any bonds or notes issued by the district, the district may:

(1) assess fees for services or for water withdrawn from nonexempt wells;
or

(2) solicit and accept grants from any private or public source.

Sec. 8821.152. FEES. The district may impose a user fee to pay for the creation and operation of the district, including permit hearings. The district may not impose a fee for agricultural use that is more than 20 percent of the rate for municipal use.

[Sections 8821.153-8821.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 8821.201. ELECTION FOR DISSOLUTION. (a) If the district has no outstanding bond or other long-term indebtedness, the district may be dissolved by a favorable vote of a majority of the registered voters of the district at an election held for that purpose.

(b) The board shall hold a dissolution election if the board receives a petition for dissolution signed by at least 50 percent of the registered voters in the district as computed by using the list of registered voters for McLennan County.

(c) If the district is dissolved under this section, the board shall:

(1) notify the Texas Commission on Environmental Quality and the secretary of state of the dissolution; and

(2) transfer title to any assets of the district to McLennan County.

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Averitt moved to concur in the House amendment to **SB 1985**.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3613 ADOPTED

Senator Deuell called from the President's table the Conference Committee Report on **HB 3613**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3693 ADOPTED

Senator Fraser called from the President's table the Conference Committee Report on **HB 3693**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

SENATE RESOLUTION 1172

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, 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 **SB 1031** (public school accountability and the administration of certain assessment instruments in public schools; providing a criminal penalty) to consider and take action on the following matters:

(1) Senate Rule 12.03(3) is suspended to permit the committee to change the text of amended Subsection (c), Section 39.023, Education Code, to add the following language:

If a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course.

Explanation: The change is necessary to clarify that a school district is not required to use a student's performance on the subsequent administration or administrations of end-of-course assessment instruments to determine a student's final grade for a course.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add new Subsections (b-1) and (b-2) to amended Section 39.025, Education Code, to read as follows:

(b-1) A school district shall provide each student who fails to achieve a score of at least 70 on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.

(b-2) If a school district determines that a student, on completion of grade 11, is unlikely to achieve the cumulative score requirements for one or more subjects prescribed by Subsection (a) for receiving a high school diploma, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. A student who enrolls in a college preparatory course described by this subsection shall be administered an end-of-course assessment instrument for the course, with the end-of-course assessment instrument scored on a scale of 40. A student may use the student's score on the end-of-course assessment instrument for the college preparatory course towards satisfying the cumulative score requirements prescribed by Subsection (a).

Explanation: The change is necessary to require a school district to provide accelerated instruction to a student who fails to score at least 70 on an end-of-course assessment instrument and to require certain students who appear unlikely to achieve the cumulative score required for graduation to enroll in an appropriate college preparatory course.

(3) Senate Rule 12.04(4) is suspended to permit the committee to add the following language in the SECTION of the bill that is renumbered in the conference committee report as SECTION 11 to read as follows:

Sec. 39.0262. ADMINISTRATION OF LOCAL ASSESSMENT INSTRUMENTS IN CERTAIN SUBJECT AREAS. (a) In a subject area for which assessment instruments are administered under Section 39.023, a school district may not administer local assessment instruments to any student on more than 10 percent of the instructional days in any school year.

(b) The prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, an advanced placement test, an international baccalaureate examination, or an assessment instrument administered under Section 39.023.

Explanation: The change is necessary to prohibit a school district from administering certain assessment instruments to a student on more than 10 percent of the instructional days in a school year.

SR 1172 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1031 ADOPTED

Senator Shapiro called from the President's table the Conference Committee Report on **SB 1031**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

SENATE RESOLUTION 1174

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, 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 **SB 1154** (registration and regulation of metal recycling entities; providing penalties) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to change the text of SECTION 2 of the bill by adding new Subdivision (3), Section 1956.002, Occupations Code, to read as follows:

(3) the transport or hauling of recyclable materials to or from the metal recycling entity.

Explanation: The addition of the subdivision is necessary to provide that the chapter does not apply to the transport or hauling of recyclable materials to or from the metal recycling entity.

Senate Rule 12.03(4) is suspended to permit the committee to change the text of SECTION 2 of the bill by adding new Subsections (b-1), (c), (d), and (e), Section 1956.003, Occupations Code, to read as follows:

(b-1) A municipality or political subdivision of this state, other than a county, may not increase the local license or permit fee imposed on a metal recycling facility to an amount that exceeds 25 percent of the fee charged by the municipality or political subdivision on January 1, 2007. This subsection expires January 1, 2010.

(c) A county, municipality, or political subdivision of this state that issues a license or permit to a business as authorized under Subsection (b) shall submit to the department in the manner required by the department information on each business that is issued a license or permit.

(d) A municipality or political subdivision of this state, other than a county, may not increase the local license or permit fee imposed on a metal recycling facility unless the increase is approved by the local governing body. A request for an increase in the local license or permit fee must be based on the costs associated with law enforcement and administration of the licensing or permitting program. The municipality or political subdivision must submit a report to the department on the law enforcement and administrative costs associated with the fee increase.

(e) A county may increase the local license or permit fee imposed on a metal recycling facility one additional time before the second anniversary of the date of the initial fee increase. The fee increase must be based on the average cost charged by municipalities statewide.

Explanation: The addition of the provisions to the bill is necessary to authorize and regulate local metal recycling entity licenses and permits.

Senate Rule 12.03(4) is suspended to permit the committee to change the text of SECTION 2 of the bill by adding new Subchapters A-1 and A-2, Chapter 1956, Occupations Code, to read as follows:

SUBCHAPTER A-1. POWERS AND DUTIES

Sec. 1956.011. ADMINISTRATION OF CHAPTER. The department shall administer this chapter.

Sec. 1956.012. DEPARTMENT STAFF. The department may employ administrative and clerical staff as necessary to carry out this chapter.

Sec. 1956.013. RULES. The commission may adopt rules to administer this chapter, including rules:

(1) establishing minimum requirements for registration under this chapter;
and

(2) adopting forms required by this chapter.

Sec. 1956.014. FEES; REPORTS. (a) The commission by rule shall prescribe fees in reasonable amounts sufficient to cover the costs of administering this chapter, including fees for:

(1) an initial application for a certificate of registration;

(2) issuance of a certificate of registration;

(3) issuance of a renewal certificate of registration; and

(4) issuance of a duplicate certificate of registration or duplicate renewal certificate of registration.

(b) The commission may not impose a fee for issuance of a certificate of registration that exceeds \$250 annually. The department shall report annually to the legislature, not later than December 1, any costs associated with administering this chapter that are not covered by the fees assessed under this chapter.

(c) The department annually shall submit to both houses of the legislature a report on the number of metal recycling entities who have complied with the registration requirements under this chapter and the total number of metal recycling

entities identified statewide. The report must include the information on metal recycling entities submitted to the department by municipalities, counties, and other political subdivisions of this state.

(d) Not later than March 1, 2008, the department shall submit to both houses of the legislature a report on the actual costs incurred by the department in administering this chapter. This subsection expires January 1, 2009.

Sec. 1956.015. STATEWIDE ELECTRONIC REPORTING SYSTEM. (a) The department shall establish a statewide electronic reporting system to track the sales of regulated metal reported to the department under Section 1956.036.

(b) The department shall post a summary of the reports provided to the department under Section 1956.036 on the department's Internet website. The summary must include by county or region the frequency with which a person presents regulated materials for sale to a metal recycling entity. The summary may not identify any person to which the metal recycling entity sells the regulated materials.

(c) Subsection (b) does not apply to regulated material sold by a utility company, municipality, manufacturer, railroad, cemetery, cable or satellite entity, or other business entity that routinely has access to regulated metal.

(d) The department shall maintain the confidentiality of information provided under this section that relates to the financial condition or business affairs of a metal recycling entity or that is otherwise commercially sensitive. The confidential information is not subject to disclosure under Chapter 552, Government Code.

[Sections 1956.016-1956.020 reserved for expansion]

SUBCHAPTER A-2. CERTIFICATE OF REGISTRATION

Sec. 1956.021. REGISTRATION REQUIRED. A person may not act as a metal recycling entity or represent to the public that the person is a metal recycling entity unless the person is registered under this chapter.

Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS. (a) The department shall issue a certificate of registration to an applicant who:

(1) applies and pays a registration fee; and

(2) presents any relevant evidence relating to the applicant's qualifications as required by commission rule.

(b) The commission by rule may establish qualifications for the holder of a certificate of registration under this chapter, which may include accepting copies of a license or permit issued by a county or municipality authorizing a metal recycling entity to conduct business in that county or municipality.

Sec. 1956.023. TERM OF CERTIFICATE. (a) A certificate of registration is valid for two years after the date of issuance.

(b) The department shall adopt a system under which certificates of registration expire and are renewed on various dates.

(c) Not later than the 45th day before the date a person's certificate of registration is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

(d) A person whose certificate of registration has expired may not make a representation for which a certificate of registration is required under Section 1956.021 or perform collections services until the certificate has been renewed.

Sec. 1956.024. RENEWAL OF CERTIFICATE. (a) To renew a certificate of registration, a person must submit an application for renewal in the manner prescribed by the department.

(b) A person who is otherwise eligible to renew a certificate of registration may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate.

(c) A person whose certificate of registration has been expired for 90 days or less may renew the certificate by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(d) A person whose certificate of registration has been expired for more than 90 days but less than one year may renew the certificate by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(e) A person whose certificate of registration has been expired for one year or more may not renew the certificate. The person may obtain a new certificate of registration by complying with the requirements and procedures, including the examination requirements, for an original certificate.

Explanation: The addition of the subchapters is necessary to authorize the Texas Department of Public Safety and Public Safety Commission to administer the chapter, employ staff, adopt rules, prescribe fees, issue reports, establish a statewide electronic reporting system, and register metal recycling entities.

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

SECTION 4. Chapter 1956, Occupations Code, is amended by adding Subchapters D and E to read as follows:

SUBCHAPTER D. DISCIPLINARY PROCEDURES

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration;

(3) violates a rule adopted under this chapter; or

(4) violates Section 1956.021.

Sec. 1956.152. INVESTIGATION. Within the limits of available resources, the department may investigate:

(1) a person who engages in a practice that violates this chapter; and

(2) a complaint filed with the department against a person registered under this chapter.

Sec. 1956.153. HEARING. (a) A person whose application for a certificate of registration is denied, whose certificate of registration is suspended or revoked, or who is reprimanded is entitled to a hearing before the department if the person submits to the department a written request for the hearing.

(b) A hearing is governed by department rules for a contested hearing and by Chapter 2001, Government Code.

[Sections 1956.154-1956.200 reserved for expansion]

SUBCHAPTER E. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1956.201. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a) The department, the attorney general, or the district, county, or city attorney for the county or municipality in which an alleged violation of this chapter occurs may, on receipt of a verified complaint, bring an appropriate administrative or judicial proceeding to enforce this chapter or a rule adopted under this chapter.

(b) The attorney general or an attorney representing the state may initiate an action for an injunction to prohibit a person from violating this chapter or a rule adopted under this chapter.

Sec. 1956.202. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted under this chapter is liable to this state for a civil penalty of not more than \$1,000 for each violation.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation; and

(4) any other matter that justice may require.

(c) The attorney general may sue to collect a civil penalty under this section. In the suit the attorney general may recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

Sec. 1956.203. CRIMINAL PENALTY FOR CERTAIN SOLICITATION. (a) A person commits an offense if the person solicits the purchase of regulated material at a location other than a business location at which the material is produced as a by-product in the ordinary course of that business.

(b) An offense under this section is a Class B misdemeanor.

Explanation: The addition of the subchapters is necessary to authorize the Texas Department of Public Safety to take disciplinary action and to conduct an investigation and to provide for the imposition of penalties and enforcement provisions.

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

SECTION 5. Subdivision (1), Section 1956.101, Occupations Code, is repealed.

Explanation: The repeal of a definition applicable to a subchapter is necessary to conform to the addition of a definition applicable to the entire subchapter.

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

SECTION 6. (a) Not later than January 1, 2008, the Public Safety Commission shall adopt the rules necessary to implement the changes in law made by this Act to Chapter 1956, Occupations Code.

(b) Not later than April 1, 2008, the Department of Public Safety of the State of Texas shall establish the statewide reporting system to track the sales of regulated metal as required under Chapter 1956, Occupations Code, as amended by this Act.

Explanation: The addition of SECTION 6 is necessary to reflect the addition of SECTION 5 to the conference committee report.

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

SECTION 7. Notwithstanding Section 1956.021, Occupations Code, as added by this Act, a person is not required to hold a certificate of registration as a metal recycling entity under Chapter 1956, Occupations Code, as amended by this Act, before April 1, 2008.

Explanation: The addition is necessary to reflect the addition of the registration provisions to the conference committee report.

SR 1174 was read and was adopted without objection.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1154 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 1154**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2542 ADOPTED**

Senator Estes called from the President's table the Conference Committee Report on **HB 2542**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

On motion of Senator Estes, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2819 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **HB 2819**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2034 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 2034**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Patrick.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 4139 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 4139**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2823 ADOPTED**

Senator Patrick called from the President's table the Conference Committee Report on **HB 2823**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 899 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 899**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 26, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 36 (142 Yeas, 1 Nays, 2 Present, not voting)

SB 1031 (141 Yeas, 0 Nays, 2 Present, not voting)

SB 1383 (136 Yeas, 0 Nays, 2 Present, not voting)

SB 1714 (143 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 463 (140 Yeas, 1 Nays, 2 Present, not voting)

HB 2120 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 3694 (143 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND APPOINTED NEW CONFEREES ON THE FOLLOWING MEASURES:

SB 1846 (non-record vote)

House Conferees: Truitt - Chair/Keffer, Jim/Kolkhorst/McClendon/Otto

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1638 ADOPTED

Senator Jackson called from the President's table the Conference Committee Report on **HB 1638**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1879 ADOPTED

Senator Williams called from the President's table the Conference Committee Report on **SB 1879**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1266 ADOPTED

Senator Brimer called from the President's table the Conference Committee Report on **SB 1266**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 960 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **SB 960**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

**SENATE RULE 8.01 SUSPENDED
(Procedural Rules)**

Senator Van de Putte moved to suspend Senate Rule 8.01 to take up for consideration **HCR 198** at this time.

The motion prevailed.

HOUSE CONCURRENT RESOLUTION 198

The Presiding Officer, Senator Eltife in Chair, laid before the Senate the following resolution:

WHEREAS, The Texas Residential Construction Commission (TRCC) was created in 2003 to provide homeowners and residential builders with the opportunity to resolve their differences through a state-sponsored inspection and dispute resolution process by the enactment of the Texas Residential Construction Commission Act (Title 16, Property Code); and

WHEREAS, The mission of the TRCC is to promote quality construction in Texas by registering builders and residential construction projects, providing information and education to homeowners and industry members, and reviewing consumer complaints regarding alleged postconstruction defects; as part of its governing philosophy, the TRCC is committed to addressing the needs of consumers and industry members in a fair and efficient manner, promoting collaboration between consumers and builders when disputes arise; and

WHEREAS, The San Antonio Housing Authority (SAHA) receives funds from the U.S. Department of Housing and Urban Development to build and maintain affordable housing in San Antonio communities; one of SAHA's principal goals is to increase home ownership in the city for first-time homebuyers and low-income residents; and

WHEREAS, In 2000, SAHA constructed the 159 single-family dwellings that comprise the Mirasol Homes project to give low-income families the opportunity to own their own homes through a lease-to-purchase program; to date, more than 80 of the homes have been purchased, and approximately 20 additional homes are occupied by families under a lease-to-purchase agreement; and

WHEREAS, In recent months, several owners and tenants of Mirasol Homes properties have contacted SAHA to voice their concerns about the structural viability of their dwellings, including problems that may be the result of postconstruction defects; some of those residents have asked the housing authority to make repairs on their homes; and

WHEREAS, TRCC is uniquely positioned to draw on its expertise within the residential construction industry and coordinate with SAHA as the housing authority addresses the concerns of the Mirasol residents; working together, TRCC and SAHA could develop and implement a plan for the inspection of potentially defective dwellings, the repair and reinspection of any defects found, and the establishment of procedures to provide mediation between SAHA and the Mirasol homeowners and tenants; and

WHEREAS, As a political subdivision of the state, however, SAHA is exempt from TRCC oversight under provisions of the Property Code; additionally, because the Mirasol properties were constructed and sold before TRCC was created, the commission lacks the authority to assist SAHA with the Mirasol Homes construction disputes; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby respectfully request the Texas Residential Construction Commission to work in cooperation with the San Antonio Housing Authority to create and implement an inspection and mediation plan that would address the concerns of the homeowners and tenants of certain Mirasol Homes properties; and, be it further

RESOLVED, That the secretary of state forward an official copy of this resolution to the chair and the executive director of the Texas Residential Construction Commission, to the chair and the president and chief executive officer of the San Antonio Housing Authority, and to the mayor of the City of San Antonio.

VAN DE PUTTE

HCR 198 was read.

On motion of Senator Van de Putte and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Gallegos.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 26, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

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

HB 3678 (107 Yeas, 28 Nays, 2 Present, not voting)

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 2458 (137 Yeas, 2 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 1177

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, 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 **SB 344** (additional exit conference required following inspection, survey, or investigation of, and temporary change of ownership licenses for, certain facilities) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 2. Section 242.0336, Health and Safety Code, is amended by amending Subsections (a) and (c) through (g) and adding Subsections (b-1) through (b-5), (c-1), and (d-1) to read as follows:

(a) For purposes of this section, a temporary change of ownership license is a temporary 90-day license issued to an applicant who proposes to become the new operator of an institution existing on the date the application is filed.

(b-1) Except as provided by Subsection (b-2), the department may not issue a temporary change of ownership license before the 31st day after the date the department has received both:

(1) the application for the license; and

(2) notification, in writing, of the intent of the institution's existing license holder to transfer operation of the institution to the applicant beginning on a date specified by the applicant.

(b-2) Notwithstanding Section 242.0335, the department shall establish criteria under which the department may waive the 30-day requirement or the notification requirement of Subsection (b-1). The criteria may include the occurrence of forcible entry and detainer, death, or divorce or other events that affect the ownership of the institution by the existing license holder.

(b-3) After receipt of an application or written notification described by Subsection (b-1), the department may place a hold on payments to the existing license holder in an amount not to exceed the average of the monthly vendor payments paid to the facility, as determined by the department. The department shall release funds to the previous license holder not later than the 120th day after the date on which the final reporting requirements are met and any resulting informal reviews or formal appeals are resolved. The department may reduce the amount of funds released to the previous license holder by the amount owed to the department or the Health and Human Services Commission under the previous license holder's Medicaid contract or license.

(b-4) The executive commissioner of the Health and Human Services Commission shall adopt rules for the department that define a change of ownership. In adopting the rules, the executive commissioner shall consider:

(1) the proportion of ownership interest that is being transferred to another person;

(2) the addition or removal of a stockholder, partner, owner, or other controlling person;

(3) the reorganization of the license holder into a different type of business entity; and

(4) the death or incapacity of a stockholder, partner, or owner.

(b-5) The executive commissioner may adopt rules for the department that require a license holder to notify the department of any change, including a change that is not a change of ownership, as that term is defined by rules adopted under Subsection (b-4). Nothing in this section prevents the department from acting under Section 242.061 or any other provision of this chapter.

(c) The department shall issue or deny a temporary change of ownership license not later than the 31st ~~[30th]~~ day after the date of receipt of the completed application. The effective date of a temporary change of ownership license issued under this section is the date requested in the application unless:

(1) the department does not receive the application and written notification described by Subsection (b-1) at least 30 days before that date; and

(2) no waiver under Subsection (b-2) applies.

(c-1) If the department does not receive the application and written notification required by Subsection (b-1) at least 30 days before the effective date requested in the application and Subsection (b-2) does not apply, the effective date of the temporary change of ownership license is the 31st day after the date the department receives both the application and the notification.

(d) Except as provided in Subsection (d-1), after ~~[After]~~ the department issues a temporary change of ownership license to the applicant, the department shall conduct an inspection or survey of the nursing facility under Section 242.043 as soon as reasonably possible. During the period between the issuance of the temporary license and the inspection or survey of the nursing facility or desk review under Subsection (d-1), the department may not place a hold on vendor payments to the temporary license holder.

(d-1) The department shall establish criteria under which a desk review of the facility's compliance with applicable requirements may be substituted for the on-site inspection or survey under Subsection (d).

(e) After conducting an inspection or survey under Subsection (d) or a desk review under Subsection (d-1), the department shall issue a license under Section 242.033 to the temporary change of ownership license holder if the nursing facility passes the desk review, inspection, or survey and the applicant meets the requirements of Section 242.033. If the nursing facility fails to pass the desk review, inspection, or survey or the applicant fails to meet the requirements of Section 242.033, the department may:

(1) place a hold on vendor payments to the temporary change of ownership license holder; and

(2) take any other action authorized under this chapter.

(f) If the applicant meets the requirements of Section 242.033 and the nursing facility passes a desk review, [an] initial inspection, or [a] subsequent inspection before the temporary change of ownership license expires, the license issued under Section 242.033 is considered effective on the date the department determines under Subsection (c) or (c-1) [requested in the application for a temporary change of ownership].

(g) A temporary change of ownership license issued under Subsection (b) expires on the 90th [91st] day after the effective date established under Subsection (c) or (c-1) [date the license was issued].

Explanation: The addition of the SECTION to the bill is necessary to address a temporary change of ownership licenses for certain facilities.

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add the following:

SECTION 7. (a) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 242.0336, Health and Safety Code, as amended by this Act.

(b) The changes in law made by this Act to Section 242.0336, Health and Safety Code, apply only to a temporary change of ownership license application received by the Department of Aging and Disability Services on or after September 1, 2007. An application received by the department before September 1, 2007, is governed by the law in effect at the time the application is received, and the former law is continued in effect for that purpose.

Explanation: The addition of this provision is necessary to properly implement the addition of SECTION 2 to the conference committee report.

SR 1177 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 344 ADOPTED

Senator Carona called from the President's table the Conference Committee Report on **SB 344**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

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

Absent-excused: Gallegos.

SENATE RESOLUTION 1185

Senator Wentworth offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rules 12.03(3) and (4) be suspended as provided by Senate Rule 12.08 to enable the conference committee appointed to resolved the differences on **HB 1251** (the authority of a public agency, political subdivision,

county, or municipality to enforce a solid waste collection and transportation services franchise or contract) to consider and take action on the addition to Section 1 of the bill of a new Subsection (h), Section 364.034, Health and Safety Code, to read:

(h) This section does not apply to a private entity that contracts to provide temporary solid waste disposal services to a construction project.

Explanation: The addition of the above Subsection (h) is necessary to prevent requirements concerning the use of solid waste collection and transportation services from being applied to those who may use temporary services for a construction project.

SR 1185 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1251 ADOPTED

Senator Wentworth called from the President's table the Conference Committee Report on **HB 1251**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2007.

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

Absent-excused: Gallegos.

SENATE RESOLUTION 1175

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 1623**, relating to certain offenses and fees imposed for operating a motor vehicle or vessel in violation of law, to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 8. Section 521.457, Transportation Code, is amended by amending Subsections (e) and (f) and adding Subsection (f-1) to read as follows:

(e) Except as provided by Subsections ~~[Subsection]~~ (f) and (f-1), an offense under this section is a Class C misdemeanor ~~[punishable by:~~

~~[(1) a fine of not less than \$100 or more than \$500; and~~

~~[(2) confinement in county jail for a term of not less than 72 hours or more than six months].~~

(f) If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section or an offense under Section 601.371(a), as that law existed before September 1, 2003, the offense is a Class B ~~[A]~~ misdemeanor.

(f-1) If it is shown on the trial of an offense under this section that the license of the person has previously been suspended as the result of an offense involving the operation of a motor vehicle while intoxicated, the offense is a Class B misdemeanor.

Explanation: The change is necessary to add a provision to the bill related to the penalty for the offense of driving while license invalid due to the operation of a motor vehicle while intoxicated.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 9. Subchapter D, Chapter 542, Transportation Code, is amended by adding Sections 542.405 and 542.406 to read as follows:

Sec. 542.405. AMOUNT OF CIVIL PENALTY; LATE PAYMENT PENALTY.
If a local authority enacts an ordinance to enforce compliance with the instructions of a traffic-control signal by the imposition of a civil or administrative penalty, the amount of:

(1) the civil or administrative penalty may not exceed \$75; and

(2) a late payment penalty may not exceed \$25.

Sec. 542.406. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES. (a) In this section, "photographic traffic signal enforcement system" means a system that:

(1) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal;

(2) is capable of producing one or more recorded photographic or digital images that depict the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal; and

(3) is designed to enforce compliance with the instructions of the traffic-control signal by imposition of a civil or administrative penalty against the owner of the motor vehicle.

(b) This section applies only to a civil or administrative penalty imposed on the owner of a motor vehicle by a local authority that operates or contracts for the operation of a photographic traffic signal enforcement system with respect to a highway under its jurisdiction or that operates or contracts for the operation of any other type of electronic traffic law enforcement system consisting of a camera system that automatically produces one or more recorded photographs or digital images of the license plate on a motor vehicle or the operator of a motor vehicle.

(c) Not later than the 60th day after the end of a local authority's fiscal year, after deducting amounts the local authority is authorized by Subsection (d) to retain, the local authority shall:

(1) send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this section to the comptroller for deposit to the credit of the regional trauma account established under Section 782.002, Health and Safety Code; and

(2) deposit the remainder of the revenue in a special account in the local authority's treasury that may be used only to fund traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement.

(d) A local authority may retain an amount necessary to cover the costs of:

(1) purchasing or leasing equipment that is part of or used in connection with the photographic traffic signal enforcement system in the local authority;

(2) installing the photographic traffic signal enforcement system at sites in the local authority, including the costs of installing cameras, flashes, computer equipment, loop sensors, detectors, utility lines, data lines, poles and mounts, networking equipment, and associated labor costs;

(3) operating the photographic traffic signal enforcement system in the local authority, including the costs of creating, distributing, and delivering violation notices, review of violations conducted by employees of the local authority, the processing of fine payments and collections, and the costs associated with administrative adjudications and appeals; and

(4) maintaining the general upkeep and functioning of the photographic traffic signal enforcement system.

(e) Chapter 133, Local Government Code, applies to fee revenue described by Subsection (c)(1).

(f) If under Section 133.059, Local Government Code, the comptroller conducts an audit of a local authority and determines that the local authority retained more than the amounts authorized by this section or failed to deposit amounts as required by this section, the comptroller may impose a penalty on the local authority equal to twice the amount the local authority:

(1) retained in excess of the amount authorized by this section; or

(2) failed to deposit as required by this section.

Explanation: This change is necessary to provide for the administration of a civil or administrative penalty imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 13. Section 133.004, Local Government Code, is amended to read as follows:

Sec. 133.004. CIVIL FEES. This chapter applies to the following civil fees:

(1) the consolidated fee on filing in district court imposed under Section 133.151;

(2) the filing fee in district court for basic civil legal services for indigents imposed under Section 133.152;

(3) the filing fee in courts other than district court for basic civil legal services for indigents imposed under Section 133.153;

(4) the filing fees for the judicial fund imposed in certain statutory county courts under Section 51.702, Government Code;

(5) the filing fees for the judicial fund imposed in certain county courts under Section 51.703, Government Code;

(6) the filing fees for the judicial fund imposed in certain statutory probate courts under Section 51.704, Government Code;

(7) fees collected under Section 118.015;

(8) marriage license fees for the family trust fund collected under Section 118.018;

(9) marriage license or declaration of informal marriage fees for the child abuse and neglect prevention trust fund account collected under Section 118.022;
[and]

(10) the filing fee for the judicial fund imposed in district court, statutory county court, and county court under Section 133.154; and

(11) the portion of the civil or administrative penalty described by Section 542.406(c)(1), Transportation Code, imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

Explanation: This change is necessary to provide for the administration of a civil or administrative penalty imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

(4) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 14. Subtitle B, Title 9, Health and Safety Code, is amended by adding Chapter 782 to read as follows:

CHAPTER 782. REGIONAL EMERGENCY MEDICAL SERVICES

Sec. 782.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 782.002. REGIONAL TRAUMA ACCOUNT. (a) The regional trauma account is created as a dedicated account in the general revenue fund of the state treasury. Money in the account may be appropriated only to the commission to make distributions as provided by Section 782.003.

(b) The account is composed of money deposited to the credit of the account under Section 542.406, Transportation Code, and the earnings of the account.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the account.

Sec. 782.003. PAYMENTS FROM THE REGIONAL TRAUMA ACCOUNT.

(a) The commissioner shall use money appropriated from the regional trauma account established under Section 782.002 to fund uncompensated care of designated trauma facilities and county and regional emergency medical services located in the area served by the trauma service area regional advisory council that serves the local authority submitting money under Section 542.406, Transportation Code.

(b) In any fiscal year, the commissioner shall use:

(1) 96 percent of the money appropriated from the account to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by the Department of State Health Services;

(2) two percent of the money appropriated from the account for county and regional emergency medical services;

(3) one percent of the money appropriated from the account for distribution to the 22 trauma service area regional advisory councils; and

(4) one percent of the money appropriated from the account to fund administrative costs of the commission.

(c) The money under Subsection (b) shall be distributed in proportion to the amount deposited to the account from the local authority.

Explanation: This change is necessary to provide that money from civil or administrative penalties imposed by a local authority to enforce compliance with the instructions of a traffic-control signal is to be used for regional emergency medical services.

(5) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 15. Section 542.406, Transportation Code, as added by this Act, and Section 782.002, Health and Safety Code, as added by this Act, apply to revenue received by a local authority unit of this state from the imposition of a civil or administrative penalty on or after the effective date of this Act, regardless of whether the penalty was imposed before, on, or after the effective date of this Act.

Explanation: This change is necessary to implement the changes in law that provide for the administration of a civil or administrative penalty imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

(6) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 16. Not later than December 1, 2007, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement Chapter 782, Health and Safety Code, as added by this Act.

Explanation: This change is necessary to implement the changes in law that provide for the use of money from civil or administrative penalties imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

(7) Senate Rules 12.03(3) and (4) are suspended to permit the conference committee to add the following:

SECTION 18. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Sections 9, 13, 14, 15, and 16 of this Act take effect only if Senate Bill No. 1119, Acts of the 80th Legislature, Regular Session, 2007, is enacted and becomes law.

Explanation: The change to the applicability provision of the bill is necessary to reflect the addition of SECTIONS 9, 13, 14, 15, and 16 to the conference committee report and to make the effectiveness of those SECTIONS contingent on the passage of Senate Bill No. 1119, Acts of the 80th Legislature, Regular Session, 2007.

SR 1175 was read and was adopted without objection.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1623 ADOPTED

Senator Carona called from the President's table the Conference Committee Report on **HB 1623**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2007.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 2.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Harris, Patrick.

Absent-excused: Gallegos.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 119**

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 119** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

OGDEN
ELLIS
HEGAR
LUCIO

F. BROWN
HANCOCK
ISETT
D. HOWARD
HERNANDEZ

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 119** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2096**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas
May 24, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2096** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI
HINOJOSA
LUCIO
SHAPLEIGH
ZAFFIRINI

On the part of the Senate

QUINTANILLA
T. KING
LUCIO
PENA
PICKETT

On the part of the House

The Conference Committee Report on **HB 2096** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1154

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1154** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CARONA
HINOJOSA
SELIGER
WEST
WILLIAMS

On the part of the Senate

PHILLIPS
HANCOCK
KUEMPEL
PENA
SOLOMONS

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to the registration and regulation of metal recycling entities; providing penalties.

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

SECTION 1. The heading to Chapter 1956, Occupations Code, is amended to read as follows:

CHAPTER 1956. [~~SALES TO METAL DEALERS AND~~] METAL RECYCLING ENTITIES

SECTION 2. Chapter 1956, Occupations Code, is amended by amending Subchapter A and adding Subchapters A-1, A-2, and A-3 to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS [~~SALE OF ALUMINUM, BRONZE, OR COPPER OR BRASS MATERIAL TO SECONDHAND METAL DEALERS~~]

Sec. 1956.001. DEFINITIONS. In this chapter [~~subchapter~~]:

(1) "Aluminum material" means a product made from aluminum, an aluminum alloy, or an aluminum by-product. The term includes aluminum wiring and an aluminum beer keg but does not include another type of aluminum can used to contain a food or beverage.

(2) "Bronze material" means:

- (A) a cemetery vase, receptacle, or memorial made from bronze;
- (B) bronze statuary; or
- (C) material readily identifiable as bronze, including bronze wiring.

(3) "Commission" means the Public Safety Commission.

(4) "Copper or brass material" means:

(A) insulated or noninsulated copper wire or cable of the type used by a public utility or common carrier that contains copper or an alloy of copper or zinc [consists of at least 50 percent copper]; ~~[or]~~

(B) a copper or brass item of a type commonly used in construction or by a public utility; or

(C) copper pipe or copper tubing.

(5) ~~(4)~~ "Department" means the Texas Department of Public Safety.

(6) "Director" means the public safety director.

(7) "Metal recycling entity" means a business that is operated from a fixed location and is predominantly engaged in:

(A) performing the manufacturing process by which scrap, used, or obsolete ferrous or nonferrous metal is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;

(B) the use of raw material products described under Paragraph (A) in the manufacture of producer or consumer goods; or

(C) purchasing or otherwise acquiring scrap, used, or obsolete ferrous or nonferrous metals for the eventual use of the metal for the purposes described by Paragraph (A) or (B).

(8) ~~(5)~~ "Personal identification document" means:

(A) a valid driver's license issued by a state in the United States;

(B) a United States military identification card; or

(C) ~~[a passport issued by the United States or by another country and recognized by the United States; or~~

~~(D)]~~ a personal identification certificate issued by the department under Section 521.101, Transportation Code, or a corresponding card or certificate issued by another state.

(9) ~~(6)~~ "Regulated material" means:

(A) aluminum material;

(B) bronze material; ~~[or]~~

(C) copper or brass material; or

(D) regulated metal.

(10) "Regulated metal" means:

(A) manhole covers;

(B) guardrails;
(C) metal cylinders designed to contain compressed air, oxygen, gases,
or liquids;
(D) beer kegs made from metal other than aluminum;
(E) historical markers or cemetery vases, receptacles, or memorials
made from metal other than aluminum;
(F) unused rebar;
(G) street signs;
(H) drain gates;
(I) safes;
(J) communication, transmission, and service wire or cable;
(K) condensing or evaporator coils for heating or air conditioning units;
(L) utility structures, including the fixtures and hardware;
(M) aluminum or stainless steel containers designed to hold propane for
fueling forklifts; and
(N) metal railroad equipment, including tie plates, signal houses,
control boxes, signs, signals, traffic devices, traffic control devices, traffic control
signals, switch plates, e-clips, and rail tie functions

[(7) "Secondhand metal dealer" means:

[(A) an auto wrecker, a scrap metal processor, or another person or
organization that purchases, collects, or solicits regulated material; or

[(B) a person who operates or maintains a scrap metal yard or other
place in which scrap metal or cast off regulated material is collected or kept for
shipment, sale, or transfer].

Sec. 1956.002. EXCEPTION. This chapter ~~[subchapter]~~ does not apply to:

(1) a purchase of regulated material from a public utility or a manufacturing,
industrial, ~~[or other]~~ commercial, retail, or other seller ~~[vendor]~~ that sells regulated
material in the ordinary course of the seller's ~~[vendor's]~~ business;

(2) a purchase of regulated material by a manufacturer whose primary
business is the manufacture of iron and steel products made from melting scrap iron
and scrap steel; or

(3) the transport or hauling of recyclable materials to or from the metal
recycling entity.

Sec. 1956.003. LOCAL LAW. (a) A county, municipality, or political
subdivision of this state may adopt a rule, charter, or ordinance or issue an order or
impose standards that are more stringent than but do not conflict with this chapter or
rules adopted under this chapter.

(b) A county, municipality, or political subdivision of this state may issue a
license or permit to a business to allow the business to act as a metal recycling entity
in that county or municipality and may impose a fee not to exceed \$250 for the
issuance or renewal of the license or permit.

(b-1) A municipality or political subdivision of this state, other than a county,
may not increase the local license or permit fee imposed on a metal recycling facility
to an amount that exceeds 25 percent of the fee charged by the municipality or
political subdivision on January 1, 2007. This subsection expires January 1, 2010.

(c) A county, municipality, or political subdivision of this state that issues a license or permit to a business as authorized under Subsection (b) shall submit to the department in the manner required by the department information on each business that is issued a license or permit.

(d) A municipality or political subdivision of this state, other than a county, may not increase the local license or permit fee imposed on a metal recycling facility unless the increase is approved by the local governing body. A request for an increase in the local license or permit fee must be based on the costs associated with law enforcement and administration of the licensing or permitting program. The municipality or political subdivision must submit a report to the department on the law enforcement and administrative costs associated with the fee increase.

(e) A county may increase the local license or permit fee imposed on a metal recycling facility one additional time before the second anniversary of the date of the initial fee increase. The fee increase must be based on the average cost charged by municipalities statewide.

[Sections 1956.004-1956.010 reserved for expansion]

SUBCHAPTER A-1. POWERS AND DUTIES

Sec. 1956.011. ADMINISTRATION OF CHAPTER. The department shall administer this chapter.

Sec. 1956.012. DEPARTMENT STAFF. The department may employ administrative and clerical staff as necessary to carry out this chapter.

Sec. 1956.013. RULES. The commission may adopt rules to administer this chapter, including rules:

(1) establishing minimum requirements for registration under this chapter;
and

(2) adopting forms required by this chapter.

Sec. 1956.014. FEES; REPORTS. (a) The commission by rule shall prescribe fees in reasonable amounts sufficient to cover the costs of administering this chapter, including fees for:

(1) an initial application for a certificate of registration;

(2) issuance of a certificate of registration;

(3) issuance of a renewal certificate of registration; and

(4) issuance of a duplicate certificate of registration or duplicate renewal certificate of registration.

(b) The commission may not impose a fee for issuance of a certificate of registration that exceeds \$250 annually. The department shall report annually to the legislature, not later than December 1, any costs associated with administering this chapter that are not covered by the fees assessed under this chapter.

(c) The department annually shall submit to both houses of the legislature a report on the number of metal recycling entities who have complied with the registration requirements under this chapter and the total number of metal recycling entities identified statewide. The report must include the information on metal recycling entities submitted to the department by municipalities, counties, and other political subdivisions of this state.

(d) Not later than March 1, 2008, the department shall submit to both houses of the legislature a report on the actual costs incurred by the department in administering this chapter. This subsection expires January 1, 2009.

Sec. 1956.015. STATEWIDE ELECTRONIC REPORTING SYSTEM. (a) The department shall establish a statewide electronic reporting system to track the sales of regulated metal reported to the department under Section 1956.036.

(b) The department shall post a summary of the reports provided to the department under Section 1956.036 on the department's Internet website. The summary must include by county or region the frequency with which a person presents regulated materials for sale to a metal recycling entity. The summary may not identify any person to which the metal recycling entity sells the regulated materials.

(c) Subsection (b) does not apply to regulated material sold by a utility company, municipality, manufacturer, railroad, cemetery, cable or satellite entity, or other business entity that routinely has access to regulated metal.

(d) The department shall maintain the confidentiality of information provided under this section that relates to the financial condition or business affairs of a metal recycling entity or that is otherwise commercially sensitive. The confidential information is not subject to disclosure under Chapter 552, Government Code.

[Sections 1956.016-1956.020 reserved for expansion]

SUBCHAPTER A-2. CERTIFICATE OF REGISTRATION

Sec. 1956.021. REGISTRATION REQUIRED. A person may not act as a metal recycling entity or represent to the public that the person is a metal recycling entity unless the person is registered under this chapter.

Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS. (a) The department shall issue a certificate of registration to an applicant who:

(1) applies and pays a registration fee; and

(2) presents any relevant evidence relating to the applicant's qualifications as required by commission rule.

(b) The commission by rule may establish qualifications for the holder of a certificate of registration under this chapter, which may include accepting copies of a license or permit issued by a county or municipality authorizing a metal recycling entity to conduct business in that county or municipality.

Sec. 1956.023. TERM OF CERTIFICATE. (a) A certificate of registration is valid for two years after the date of issuance.

(b) The department shall adopt a system under which certificates of registration expire and are renewed on various dates.

(c) Not later than the 45th day before the date a person's certificate of registration is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

(d) A person whose certificate of registration has expired may not make a representation for which a certificate of registration is required under Section 1956.021 or perform collections services until the certificate has been renewed.

Sec. 1956.024. RENEWAL OF CERTIFICATE. (a) To renew a certificate of registration, a person must submit an application for renewal in the manner prescribed by the department.

(b) A person who is otherwise eligible to renew a certificate of registration may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate.

(c) A person whose certificate of registration has been expired for 90 days or less may renew the certificate by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(d) A person whose certificate of registration has been expired for more than 90 days but less than one year may renew the certificate by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(e) A person whose certificate of registration has been expired for one year or more may not renew the certificate. The person may obtain a new certificate of registration by complying with the requirements and procedures, including the examination requirements, for an original certificate.

[Sections 1956.025-1956.030 reserved for expansion]

SUBCHAPTER A-3. PRACTICE BY CERTIFICATE HOLDERS

Sec. 1956.031 ~~[1956.003]~~. NOTICE TO SELLERS. (a) A metal recycling entity ~~[secondhand metal dealer]~~ shall at all times maintain in a prominent place in the entity's ~~[dealer's]~~ place of business, in open view to a seller of regulated material, a notice in two-inch lettering that:

(1) includes the following language:

"A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL MUST PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF OWNERSHIP REQUIRED BY STATE LAW."

"WARNING: STATE LAW PROVIDES A CRIMINAL PENALTY FOR A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR OTHER FALSE INFORMATION TO A METAL RECYCLING ENTITY ~~[SECONDHAND METAL DEALER]~~ WHILE ATTEMPTING TO SELL ANY REGULATED MATERIAL."; and

(2) states the metal recycling entity's ~~[secondhand metal dealer's]~~ usual business hours.

(b) The notice required by this section may be contained on a sign that contains another notice if the metal recycling entity ~~[secondhand metal dealer]~~ is required to display another notice under applicable law.

Sec. 1956.032 ~~[1956.004]~~. INFORMATION PROVIDED BY SELLER. (a) Except as provided by Subsection (f), a ~~[A]~~ person attempting to sell regulated material to a metal recycling entity ~~[secondhand metal dealer]~~ shall:

(1) display to the metal recycling entity ~~[secondhand metal dealer]~~ the person's personal identification document ~~[or sign a statement that the person does not possess such a document]; and~~

(2) provide to the metal recycling entity the make, model, and license plate number of the motor vehicle used to transport the regulated material; and

(3) either:

(A) present written documentation evidencing that the person is the legal owner or is lawfully entitled to sell the regulated material; or

(B) sign a written statement provided by the metal recycling entity [secondhand metal dealer] that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale.

(b) A person required by a municipality to prepare a signed statement consisting of the information required by Subsection (a)(3) [(a)(1) or (2)] may use the statement required by the municipality to comply with Subsection (a)(3) [(a)(1) or (2)].

(c) The metal recycling entity [secondhand metal dealer] or the entity's [dealer's] agent shall visually verify the accuracy of the identification presented by the seller at the time of the purchase of regulated material and make a copy of the identification to be maintained by the entity in the entity's records, except as otherwise provided by Subsection (f).

(d) The metal recycling entity or the entity's agent for recordkeeping purposes may photograph the seller's entire face, not including any hat, and obtain the name of the seller's employer.

(e) The metal recycling entity or the entity's agent for recordkeeping purposes may take a photograph of the motor vehicle of the seller in which the make, model, and license plate number of the motor vehicle are identifiable in lieu of the information required under Subsection (a)(3).

(f) The metal recycling entity is not required to make a copy of the identification as required under Subsection (c) or collect the information required under Subsection (a)(3) if:

(1) the seller signs the written statement as required under Subsection (a)(3);

(2) the seller has previously provided the information required under

Subsection (a); and

(3) the previously provided information has not changed.

Sec. 1956.033 [1956.005]. RECORD OF PURCHASE. (a) Each metal recycling entity [A secondhand metal dealer] in this state shall keep an accurate electronic record or an accurate and legible written record of each purchase made in the course of the entity's [dealer's] business from an individual of:

(1) copper or brass material [in excess of 50 pounds];

(2) bronze material; [or]

(3) aluminum material; or

(4) regulated metal [in excess of 40 pounds].

(b) The record must be in English and include:

(1) the place and date of the purchase;

(2) the name and address of each individual from whom the regulated material is purchased or obtained;

(3) the identifying number of the seller's personal identification document;

(4) a description made in accordance with the custom of the trade of the type and quantity of regulated material purchased; and

(5) the information [statement] required by Section 1956.032(a)(3) [1956.004(a)(2)].

Sec. 1956.034 [~~1956.006~~]. PRESERVATION OF RECORDS. A metal recycling entity [~~secondhand metal dealer~~] shall preserve each record required by Sections 1956.032 and 1956.033 [~~Section 1956.005~~] until the third anniversary of the date the record was made.

Sec. 1956.035 [~~1956.007~~]. INSPECTION OF RECORDS BY PEACE OFFICER. (a) On request, a metal recycling entity [~~secondhand metal dealer~~] shall permit a peace officer of this state to inspect, during the entity's [~~dealer's~~] usual business hours:

- (1) a record required by Section 1956.033 [~~1956.005~~]; or
- (2) regulated material in the entity's [~~dealer's~~] possession.

(b) The inspecting officer shall inform the entity [~~dealer~~] of the officer's status as a peace officer.

Sec. 1956.036 [~~1956.008~~]. FURNISHING OF REPORT TO DEPARTMENT. (a) Except as provided by Subsection (b), not later than the seventh day after the date of the purchase or other acquisition of material for which a record is required under Section 1956.033 [~~1956.005~~], a metal recycling entity [~~secondhand metal dealer~~] shall send by facsimile or electronic mail to or file with the department a report containing the information required to be recorded under that section.

(b) If a metal recycling entity [~~secondhand metal dealer~~] purchases bronze material that is a cemetery vase, receptacle, memorial, or statuary or a pipe that can reasonably be identified as aluminum irrigation pipe, the entity [~~dealer~~] shall:

- (1) not later than the close of business on the entity's [~~dealer's~~] first working day after the purchase date, orally [~~orally~~] notify the department; and
- (2) not later than the fifth day after the purchase date, mail to or file with the department a report containing the information required to be recorded under Section 1956.033 [~~1956.005~~].

(c) Subsection (b) does not apply to a purchase from:

- (1) the manufacturer or fabricator of the material or pipe;
- (2) a seller bearing a bill of sale for the material or pipe; or
- (3) the owner of the material or pipe.

Sec. 1956.037 [~~1956.009~~]. PLACEMENT OF ITEMS ON HOLD. (a) A metal recycling entity may not dispose of, process, sell, or remove from the premises an item of regulated metal unless:

- (1) the entity acquired the item more than 72 hours, excluding weekends and holidays, before the disposal, processing, sale, or removal; or
- (2) the entity purchased the item from a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of its business.

(b) A peace officer who has reasonable suspicion to believe that an item of regulated material in the possession of a metal recycling entity [~~secondhand metal dealer~~] is stolen may place the item on hold by issuing to the entity [~~dealer~~] a written notice that:

- (1) specifically identifies the item alleged to be stolen and subject to the hold; and
- (2) informs the entity [~~dealer~~] of the requirements of Subsection (c) [~~(b)~~].

(c) ~~(b)~~ On receiving the notice, the entity ~~[dealer]~~ may not, except as provided by Subsection (e), process or remove from the entity's ~~[dealer's]~~ premises the identified item before the 60th ~~[11th]~~ day after the date the notice is issued unless the hold is released at an earlier time in writing by a peace officer of this state or a court order.

(d) ~~(c)~~ After the holding period expires, the entity ~~[dealer]~~ may dispose of the item unless disposition violates a court order.

(e) If a hold is placed on a purchase of regulated material, a metal recycling entity may not dispose of, process, sell, or remove from the premises any item from the purchased material unless the hold on the material is released.

Sec. 1956.038 ~~[1956.040]~~. PROHIBITED ACTS. A person may not, with the intent to deceive:

(1) display to a metal recycling entity ~~[secondhand metal dealer]~~ a false or invalid personal identification document in connection with the person's attempted sale of regulated material; ~~[or]~~

(2) make a false, material statement or representation to a metal recycling entity ~~[secondhand metal dealer]~~ in connection with:

(A) that person's execution of a written statement required by Section 1956.032(a)(3) ~~[1956.004(a)(1) or (2)]~~; or

(B) the entity's ~~[dealer's]~~ efforts to obtain the information required under Section 1956.033(b); or

(3) display or provide to a metal recycling entity any information required under Section 1956.032 that the person knows is false or invalid ~~[1956.005(b)]~~.

Sec. 1956.039. HOURS FOR PURCHASING MATERIAL. (a) Subject to Subsection (b), a county, municipality, or political subdivision may establish the hours during which a metal recycling entity may purchase regulated material.

(b) A metal recycling entity may not purchase from the general public regulated material:

(1) more than 15 consecutive hours in one day; or

(2) later than 9 p.m.

Sec. 1956.040 ~~[1956.041]~~. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly violates Section 1956.038 ~~[this subchapter]~~. An

~~[(b) Except as provided by Subsection (c), an]~~ offense under this subsection ~~[section]~~ is a Class A ~~[B]~~ misdemeanor unless it is shown on trial of the offense that[-

~~[(c) An offense under this section is a Class A misdemeanor if]~~ the person has previously been convicted of a violation of this subchapter, in which event the offense is a state jail felony ~~[within the 36 months preceding the date of the offense]~~.

(b) A person commits an offense if the person knowingly buys stolen regulated material. An offense under this subsection is a Class A misdemeanor unless it is shown on trial of the offense that the person has previously been convicted under this subsection, in which event the offense is a state jail felony.

(c) A person commits an offense if the person knowingly sells stolen regulated material. An offense under this subsection is a state jail felony unless it is shown on trial of the offense that the person has previously been convicted under this subsection, in which event the offense is a third degree felony.

(d) On the conviction of a metal recycling entity [~~secondhand metal dealer~~] for an offense punishable under Subsection (b) [~~(e)~~], a court, in addition to imposing any other applicable penalty, may order that the entity [~~dealer~~] cease doing business as a metal recycling entity [~~secondhand metal dealer~~] for a period not to exceed:

(1) 30 days from the date of the order for each violation that forms the basis of the conviction for a first offense; and

(2) 180 days from the date of the order for each violation that forms the basis of the conviction if it is shown on trial of the offense that the person has previously been convicted under this section.

(e) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

SECTION 3. The heading to Subchapter C, Chapter 1956, Occupations Code, is amended to read as follows:

SUBCHAPTER C. RESTRICTIONS ON SALE OF CERTAIN ITEMS TO METAL RECYCLING ENTITIES

SECTION 4. Chapter 1956, Occupations Code, is amended by adding Subchapters D and E to read as follows:

SUBCHAPTER D. DISCIPLINARY PROCEDURES

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration;

(3) violates a rule adopted under this chapter; or

(4) violates Section 1956.021.

Sec. 1956.152. INVESTIGATION. Within the limits of available resources, the department may investigate:

(1) a person who engages in a practice that violates this chapter; and

(2) a complaint filed with the department against a person registered under this chapter.

Sec. 1956.153. HEARING. (a) A person whose application for a certificate of registration is denied, whose certificate of registration is suspended or revoked, or who is reprimanded is entitled to a hearing before the department if the person submits to the department a written request for the hearing.

(b) A hearing is governed by department rules for a contested hearing and by Chapter 2001, Government Code.

[Sections 1956.154-1956.200 reserved for expansion]

SUBCHAPTER E. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1956.201. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a) The department, the attorney general, or the district, county, or city attorney for the county or municipality in which an alleged violation of this chapter occurs may, on receipt of a verified complaint, bring an appropriate administrative or judicial proceeding to enforce this chapter or a rule adopted under this chapter.

(b) The attorney general or an attorney representing the state may initiate an action for an injunction to prohibit a person from violating this chapter or a rule adopted under this chapter.

Sec. 1956.202. CIVIL PENALTY. (a) Except as provided by Subsection (d), a person who violates this chapter or a rule adopted under this chapter is liable to this state for a civil penalty of not more than \$1,000 for each violation.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation; and

(4) any other matter that justice may require.

(c) The attorney general may sue to collect a civil penalty under this section. In the suit the attorney general may recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(d) A civil penalty may not be assessed under this section for conduct described by Section 1956.038.

Sec. 1956.203. CRIMINAL PENALTY FOR CERTAIN SOLICITATION.

(a) A person commits an offense if the person solicits the purchase of regulated material at a location other than a business location at which the material is produced as a by-product in the ordinary course of that business.

(b) An offense under this section is a Class B misdemeanor.

SECTION 5. Subdivision (1), Section 1956.101, Occupations Code, is repealed.

SECTION 6. (a) Not later than January 1, 2008, the Public Safety Commission shall adopt the rules necessary to implement the changes in law made by this Act to Chapter 1956, Occupations Code.

(b) Not later than April 1, 2008, the Department of Public Safety of the State of Texas shall establish the statewide reporting system to track the sales of regulated metal as required under Chapter 1956, Occupations Code, as amended by this Act.

SECTION 7. Notwithstanding Section 1956.021, Occupations Code, as added by this Act, a person is not required to hold a certificate of registration as a metal recycling entity under Chapter 1956, Occupations Code, as amended by this Act, before April 1, 2008.

SECTION 8. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before that date is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 9. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1154** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1623**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1623** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA
ELLIS
WENTWORTH
WILLIAMS

PHILLIPS
DESHOTEL
GATTIS
HARPER-BROWN
MACIAS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1623** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3066**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3066** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK
WILLIAMS
DUNCAN
URESTI

TRUITT
ANCHIA
ISETT
MENENDEZ
WOOLLEY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3066** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1562**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1562** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HINOJOSA

AVERITT

ELTIFE

VAN DE PUTTE

WHITMIRE

On the part of the Senate

P. KING

HARPER-BROWN

HUGHES

MALLORY CARAWAY

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to treatment of certain animals and training for animal control officers; creating an offense.

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

SECTION 1. Title 10, Health and Safety Code, is amended by adding Chapter 829 to read as follows:

CHAPTER 829. ANIMAL CONTROL OFFICER TRAINING

Sec. 829.001. DEFINITIONS. In this chapter:

(1) "Animal control officer" means a person who:

(A) is employed, appointed, or otherwise engaged primarily to enforce laws relating to animal control; and

(B) is not a peace officer.

(2) "Department" means the Department of State Health Services.

Sec. 829.0015. APPLICABILITY OF CHAPTER. The commissioners court of a county that has a population of 75,000 or less may adopt an order exempting the county from the application of this chapter. This chapter does not apply within the boundaries of a county for which an order is adopted under this section.

Sec. 829.002. TRAINING REQUIRED. A person may not perform the duties of an animal control officer unless:

(1) the person:

(A) completes a basic animal control course under this chapter not later than the first anniversary of the date the person assumes animal control duties; or

(B) completed a personnel training course on or before June 30, 2008, under Section 823.004 as it existed on that date; and

(2) the person completes 30 hours of continuing education under this chapter during each three-year period following:

(A) the date the person completes the basic animal control course; or

(B) June 30, 2008, if the person completed a personnel training course under Subdivision (1)(B).

Sec. 829.003. TRAINING COURSES. (a) The department shall prescribe the standards and curriculum for basic and continuing education animal control courses. The curriculum for both the basic and continuing education courses must include the following topics:

(1) state laws governing animal control and protection and animal cruelty;

(2) animal health and disease recognition, control, and prevention;

(3) the humane care and treatment of animals;

(4) standards for care and control of animals in an animal shelter;

(5) standards and procedures for the transportation of animals;

(6) principles and procedures for capturing and handling stray domestic animals and wildlife;

(7) first aid for injured animals;

(8) the documentation of animal cruelty evidence and courtroom procedures;

(9) animal shelter operations and administration;

(10) spaying and neutering, microchipping, and adoption;

(11) communications and public relations;

(12) state and federal laws for possession of controlled substances and other medications; and

(13) any other topics pertinent to animal control and animal shelter personnel.

(b) In prescribing the standards and curriculum of courses under this chapter, the department shall:

(1) determine what is considered satisfactory completion of a course;

(2) determine what is considered a passing grade on any postcourse tests and practical applications; and

(3) require that a person attend all sessions of a course.

(c) A basic animal control course must be at least 12 hours.

(d) In developing and approving the criteria and curriculum for animal control courses, the department shall consult with the Texas Animal Control Association and other animal control and animal protection organizations as the department considers appropriate.

Sec. 829.004. AVAILABILITY OF COURSES. (a) The department or the department's designee shall offer at least two basic animal control courses every calendar year in each of the department's zoonosis control regions.

(b) The department or the department's designee shall offer at least 12 hours of continuing education animal control courses each calendar year in each of the department's zoonosis control regions.

(c) The department shall ensure the additional availability of animal control courses through sponsors approved by the department, which may include the Texas Animal Control Association.

Sec. 829.005. FEE. The department and any authorized animal control course sponsor may charge reasonable fees to cover the cost of arranging and conducting an animal control course.

Sec. 829.006. ISSUANCE OF CERTIFICATE. (a) The department or the department's designee shall:

(1) maintain the training records for each person satisfactorily completing any course offered under this chapter for the purpose of documenting and ensuring that the person is in compliance with the requirements of this chapter; and

(2) issue a certificate to each person satisfactorily completing a course offered under this chapter that contains:

(A) the person's name;

(B) the name of the course; and

(C) the date the course was completed.

(b) The department or the department's designee may charge a reasonable fee to cover the cost of issuing a certificate required by Subsection (a).

Sec. 829.007. FACILITY CERTIFICATE. The department shall issue a certificate to an animal shelter inspected under Section 823.003 or a quarantine or impoundment facility inspected under Section 826.052 that the department or the veterinarian conducting the inspection, as applicable, determines complies with this chapter.

Sec. 829.008. PAYMENT OF FEE. A political subdivision of this state may require that an individual pay a fee for a course or certificate under this chapter.

Sec. 829.009. CIVIL REMEDY. A person may sue for injunctive relief to prevent or restrain a substantial violation of this chapter.

SECTION 2. Subsections (a) and (d), Section 823.003, Health and Safety Code, are amended to read as follows:

(a) Each animal shelter operated in this state shall comply with the standards for:

(1) housing and sanitation existing on September 1, 1982, and adopted under Chapter 826; and

(2) animal control officer training adopted under Chapter 829 [~~(Rabies Control Act of 1981)~~].

(d) Each person who operates an animal shelter shall employ a veterinarian at least once a year to inspect the shelter to determine whether it complies with the requirements of this chapter and Chapter 829. The veterinarian shall file copies of the veterinarian's [~~his~~] report with the person operating the shelter and with the department on forms prescribed by the department.

SECTION 3. Section 826.052, Health and Safety Code, is amended to read as follows:

Sec. 826.052. INSPECTIONS. An employee of the department, on the presentation of appropriate credentials to the local rabies control authority or the authority's designee, may conduct a reasonable inspection of a quarantine or impoundment facility at a reasonable hour to determine if the facility complies with:

(1) the minimum standards adopted by the board for those facilities; and

(2) the requirements for animal control officer training adopted under Chapter 829.

SECTION 4. Section 801.004, Occupations Code, is amended to read as follows:

Sec. 801.004. APPLICATION OF CHAPTER. This chapter does not apply to:

(1) the treatment or care of an animal in any manner by the owner of the animal, an employee of the owner, or a designated caretaker of the animal, unless the ownership, employment, or designation is established with the intent to violate this chapter;

(2) a person who performs an act prescribed by the board as an accepted livestock management practice, including:

(A) castrating a male animal raised for human consumption;

(B) docking or ear-marking an animal raised for human consumption;

(C) dehorning cattle;

(D) aiding in the nonsurgical birth process of a large animal, as defined by board rule;

(E) treating an animal for disease prevention with a nonprescription medicine or vaccine;

(F) branding or identifying an animal in any manner;

(G) artificially inseminating an animal, including training, inseminating, and compensating for services related to artificial insemination; and

(H) shoeing a horse;

(3) the performance of a cosmetic or production technique to reduce injury in poultry intended for human consumption;

(4) the performance of a duty by a veterinarian's employee if:

(A) the duty involves food production animals;

(B) the duty does not involve diagnosis, prescription, or surgery;

(C) the employee is under the direction and general supervision of the veterinarian; and

(D) the veterinarian is responsible for the employee's performance;

(5) the performance of an act by a person who is a full-time student of an accredited college of veterinary medicine or is a foreign graduate of a board-approved equivalent competency program for foreign veterinary graduates and who is participating in a board-approved extern or preceptor program if the act is performed under the direct supervision of a veterinarian employing the person;

(6) an animal shelter employee who performs euthanasia in the course and scope of the person's employment if the person has successfully completed training in accordance with Chapter 829 ~~[offered by the Texas Department of Health under Section 823.004]~~, Health and Safety Code;

(7) a person who is engaged in a recognized state-federal cooperative disease eradication or control program or an external parasite control program while the person is performing official duties required by the program;

(8) a person who, without expectation of compensation, provides emergency care in an emergency or disaster; or

(9) a consultation given to a veterinarian in this state by a person who:

(A) resides in another state; and

(B) is lawfully qualified to practice veterinary medicine under the laws of that state.

SECTION 5. Subsection (c), Section 38.151, Penal Code, is amended to read as follows:

(c) An offense under this section is:

(1) a Class C misdemeanor if the person commits an offense under Subsection (b)(1);

(2) a Class B misdemeanor if the person commits an offense under Subsection (b)(2);

(3) a Class A misdemeanor if the person commits an offense under Subsection (b)(3), (4), or (5);

(4) except as provided by Subdivision (5), a state jail felony if the person commits an offense under Subsection (b)(6) or (7) by injuring a police service animal or by engaging in conduct likely to injure the animal; or

(5) a felony of the second ~~third~~ degree if the person commits an offense under Subsection (b)(6) or (7) by:

(A) killing a police service animal or ~~by~~ engaging in conduct likely to kill the animal;

(B) injuring a police service animal in a manner that materially and permanently affects the ability of the animal to perform as a police service animal; or

(C) engaging in conduct likely to injure a police service animal in a manner that would materially and permanently affect the ability of the animal to perform as a police service animal.

SECTION 6. Effective July 1, 2008, Section 823.004, Health and Safety Code, is repealed.

SECTION 7. Not later than December 1, 2007, the Department of State Health Services shall prescribe the standards and curriculum to be used in an animal control course required under Chapter 829, Health and Safety Code, as added by this Act.

SECTION 8. The changes in law made to Subsection (c), Section 38.151, Penal Code, by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 9. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Sections 829.002 and 829.009, Health and Safety Code, as added by this Act, take effect July 1, 2008.

The Conference Committee Report on **SB 1562** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 155**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 155** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO
CARONA
VAN DE PUTTE
HEGAR
ELLIS

On the part of the Senate

PICKETT
SOLOMONS
TRUITT
QUINTANILLA
RODRIGUEZ

On the part of the House

The Conference Committee Report on **HB 155** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1499**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1499** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI
CARONA
ELLIS
HEGAR
ELTIFE
On the part of the Senate

CORTE
ESCOBAR
GARCIA
ISETT
TAYLOR
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the meeting notice that a governmental body may post in certain emergency situations.

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

SECTION 1. Section 551.045, Government Code, is amended by adding Subsection (e) to read as follows:

(e) For purposes of Subsection (b)(2), the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Section 551.047 not later than one hour before the meeting.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1499** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 344**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 344** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CARONA
NELSON
DEUELL
NICHOLS

On the part of the Senate

J. DAVIS
EISSLER
HOPSON
PARKER

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the additional exit conference required following inspection, survey, or investigation of, and the temporary change of ownership licenses for, certain facilities.

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

SECTION 1. Section 142.009, Health and Safety Code, is amended by amending Subsections (f) and (g) and adding Subsection (g-1) to read as follows:

(f) At the conclusion of a survey or complaint investigation, the [The] department shall fully inform the person who is in charge of the home and community support services agency of the preliminary findings of the survey at an exit conference and shall give the person a reasonable opportunity to submit additional facts or other information to the department's authorized representative in response to those findings. The response shall be made a part of the record of the survey for all purposes. The department's representative shall leave a written list of the preliminary findings with the agency at the exit conference.

(g) After a survey of a home and community support services agency by the department, the department shall provide to the chief executive officer of the agency:

(1) specific and timely written notice of the official ~~[preliminary]~~ findings of the survey, including:

(A) the specific nature of the survey;
(B) any alleged violations of a specific statute or rule;
(C) the specific nature of any finding regarding an alleged violation or deficiency; and

(D) if a deficiency is alleged, the severity of the deficiency;

(2) information on the identity, including the signature, of each department representative conducting, reviewing, or approving the results of the survey and the date on which the department representative acted on the matter; and

(3) if requested by the agency, copies of all documents relating to the survey maintained by the department or provided by the department to any other state or federal agency that are not confidential under state law.

(g-1) If the department or the department's authorized representative discovers any additional violations during the review of field notes or preparation of the official statement of deficiencies for a home and community support services agency, the department or the department's representative shall conduct an additional exit conference regarding the additional violations. The additional exit conference must be held in person and may not be held over the telephone, by e-mail, or by facsimile transmission.

SECTION 2. Section 242.0336, Health and Safety Code, is amended by amending Subsections (a) and (c) through (g) and adding Subsections (b-1) through (b-5), (c-1), and (d-1) to read as follows:

(a) For purposes of this section, a temporary change of ownership license is a temporary 90-day license issued to an applicant who proposes to become the new operator of an institution existing on the date the application is filed.

(b-1) Except as provided by Subsection (b-2), the department may not issue a temporary change of ownership license before the 31st day after the date the department has received both:

(1) the application for the license; and

(2) notification, in writing, of the intent of the institution's existing license holder to transfer operation of the institution to the applicant beginning on a date specified by the applicant.

(b-2) Notwithstanding Section 242.0335, the department shall establish criteria under which the department may waive the 30-day requirement or the notification requirement of Subsection (b-1). The criteria may include the occurrence of forcible entry and detainer, death, or divorce or other events that affect the ownership of the institution by the existing license holder.

(b-3) After receipt of an application or written notification described by Subsection (b-1), the department may place a hold on payments to the existing license holder in an amount not to exceed the average of the monthly vendor payments paid to the facility, as determined by the department. The department shall release funds to the previous license holder not later than the 120th day after the date on which the final reporting requirements are met and any resulting informal reviews or formal appeals are resolved. The department may reduce the amount of funds released to the previous license holder by the amount owed to the department or the Health and Human Services Commission under the previous license holder's Medicaid contract or license.

(b-4) The executive commissioner of the Health and Human Services Commission shall adopt rules for the department that define a change of ownership. In adopting the rules, the executive commissioner shall consider:

(1) the proportion of ownership interest that is being transferred to another person;

(2) the addition or removal of a stockholder, partner, owner, or other controlling person;

(3) the reorganization of the license holder into a different type of business entity; and

(4) the death or incapacity of a stockholder, partner, or owner.

(b-5) The executive commissioner may adopt rules for the department that require a license holder to notify the department of any change, including a change that is not a change of ownership, as that term is defined by rules adopted under Subsection (b-4). Nothing in this section prevents the department from acting under Section 242.061 or any other provision of this chapter.

(c) The department shall issue or deny a temporary change of ownership license not later than the 31st ~~[30th]~~ day after the date of receipt of the completed application. The effective date of a temporary change of ownership license issued under this section is the date requested in the application unless:

(1) the department does not receive the application and written notification described by Subsection (b-1) at least 30 days before that date; and

(2) no waiver under Subsection (b-2) applies.

(c-1) If the department does not receive the application and written notification required by Subsection (b-1) at least 30 days before the effective date requested in the application and Subsection (b-2) does not apply, the effective date of the temporary change of ownership license is the 31st day after the date the department receives both the application and the notification.

(d) Except as provided in Subsection (d-1), after ~~[After]~~ the department issues a temporary change of ownership license to the applicant, the department shall conduct an inspection or survey of the nursing facility under Section 242.043 as soon as reasonably possible. During the period between the issuance of the temporary license

and the inspection or survey of the nursing facility or desk review under Subsection (d-1), the department may not place a hold on vendor payments to the temporary license holder.

(d-1) The department shall establish criteria under which a desk review of the facility's compliance with applicable requirements may be substituted for the on-site inspection or survey under Subsection (d).

(e) After conducting an inspection or survey under Subsection (d) or a desk review under Subsection (d-1), the department shall issue a license under Section 242.033 to the temporary change of ownership license holder if the nursing facility passes the desk review, inspection, or survey and the applicant meets the requirements of Section 242.033. If the nursing facility fails to pass the desk review, inspection, or survey or the applicant fails to meet the requirements of Section 242.033, the department may:

(1) place a hold on vendor payments to the temporary change of ownership license holder; and

(2) take any other action authorized under this chapter.

(f) If the applicant meets the requirements of Section 242.033 and the nursing facility passes a desk review, ~~an~~ initial inspection, or ~~a~~ subsequent inspection before the temporary change of ownership license expires, the license issued under Section 242.033 is considered effective on the date the department determines under Subsection (c) or (c-1) ~~[requested in the application for a temporary change of ownership]~~.

(g) A temporary change of ownership license issued under Subsection (b) expires on the 90th ~~91st~~ day after the effective date established under Subsection (c) or (c-1) ~~[date the license was issued]~~.

SECTION 3. Subsections (b) and (c), Section 242.0445, Health and Safety Code, are amended to read as follows:

(b) At the conclusion of an inspection, survey, or investigation under Section 242.043 or 242.044, the department or the department's representative conducting the inspection, survey, or investigation shall discuss the violations with the facility's management in an exit conference. The department or the department's representative shall leave a written list of the violations with the facility at the time of the exit conference. If the department or the department's representative discovers any additional violations during the review of field notes or preparation of the official final list, the department or the department's representative shall give the facility an additional exit conference regarding the additional violations. An additional exit conference must be held in person and may not be held by telephone, e-mail, or facsimile transmission.

(c) The facility shall submit a plan to correct the violations to the regional director not later than the 10th working day after the date the facility receives the final official statement of violations.

SECTION 4. Section 247.0271, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If, after the initial exit conference, additional violations are cited, the inspector shall conduct an additional exit conference regarding the newly identified violations. An additional exit conference must be held in person and may not be held by telephone, e-mail, or facsimile transmission.

(d) The assisted living facility shall submit a plan of correction to the regional director with supervisory authority over the inspector not later than the 10th working day after the date the facility receives the final official statement of violations.

SECTION 5. Section 247.050, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The department shall permanently retain at least one copy or one electronic source of information pertaining to complaints and investigations of unlicensed assisted living facilities used to maintain a registry as required under Subsection (a)(1) and used to prepare a report under Subsection (a)(2).

SECTION 6. Subsections (b) and (c), Section 252.044, Health and Safety Code, are amended to read as follows:

(b) At the conclusion of an inspection, survey, or investigation under this chapter, the department or the department's representative conducting the inspection, survey, or investigation shall discuss the violations with the facility's management in an exit conference. The department or the department's representative shall leave a written list of the violations with the facility and the person designated by the facility to receive notice under Section 252.066 at the time of the exit conference. If the department or the department's representative discovers any additional violations during the review of field notes or preparation of the official final list, the department or the department's representative shall give the facility an additional exit conference regarding the additional violations. An additional exit conference must be held in person and may not be held by telephone, e-mail, or facsimile transmission.

(c) The facility shall submit a plan to correct the violations to the regional director not later than the 10th working day after the date the facility receives the final official statement of violations.

SECTION 7. (a) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 242.0336, Health and Safety Code, as amended by this Act.

(b) The changes in law made by this Act to Section 242.0336, Health and Safety Code, apply only to a temporary change of ownership license application received by the Department of Aging and Disability Services on or after September 1, 2007. An application received by the department before September 1, 2007, is governed by the law in effect at the time the application is received, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 344** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2207**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2207** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON
HARRIS
HINOJOSA
CARONA

GALLEGO
DARBY
SOLOMONS
MARTINEZ
STRAUS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2207** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3693**

Senator Fraser submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3693** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

FRASER
ESTES
SELIGER
SHAPIRO
VAN DE PUTTE

STRAUS
CRABB
ANCHIA
P. KING
TALTON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3693** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2034**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2034** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO
WILLIAMS
HINOJOSA
URESTI

ENGLAND
MCREYNOLDS
MADDEN
OLIVEIRA
HAGGERTY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2034** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1481**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1481** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI
HINOJOSA
WATSON
HARRIS

CASTRO
RODRIGUEZ
CHAVEZ
GATTIS
RIDDLE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1481** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 199**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 199** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
DEUELL
SHAPIRO
SHAPLEIGH

On the part of the Senate

ROSE
J. DAVIS
PARKER
PIERSON

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to certain convictions barring employment at certain facilities serving the elderly or persons with disabilities.

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

SECTION 1. Section 250.006, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) A person for whom the facility is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense listed in this subsection:

- (1) an offense under Chapter 19, Penal Code (criminal homicide);
- (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
- (3) an offense under Section 21.11, Penal Code (indecent with a child);
- (4) an offense under Section 22.011, Penal Code (sexual assault);
- (5) an offense under Section 22.02, Penal Code (aggravated assault);
- (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
- (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
- (8) an offense under Section 22.08, Penal Code (aiding suicide);
- (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
- (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);

(11) an offense under Section 28.02, Penal Code (arson);
 (12) an offense under Section 29.02, Penal Code (robbery);
 (13) an offense under Section 29.03, Penal Code (aggravated robbery); ~~[or]~~
 (14) an offense under Section 21.08, Penal Code (indecent exposure);
 (15) an offense under Section 21.12, Penal Code (improper relationship
between educator and student);
 (16) an offense under Section 21.15, Penal Code (improper photography or
visual recording);
 (17) an offense under Section 22.05, Penal Code (deadly conduct);
 (18) an offense under Section 22.021, Penal Code (aggravated sexual
assault);
 (19) an offense under Section 22.07, Penal Code (terroristic threat);
 (20) an offense under Section 33.021, Penal Code (online solicitation of a
minor);
 (21) an offense under Section 34.02, Penal Code (money laundering);
 (22) an offense under Section 35A.02, Penal Code (Medicaid fraud);
 (23) an offense under Section 42.09, Penal Code (cruelty to animals); or
 (24) a conviction under the laws of another state, federal law, or the
 Uniform Code of Military Justice for an offense containing elements that are
 substantially similar to the elements of an offense listed by this subsection ~~[under~~
~~Subdivisions (1) (13)]~~.

(b) A person may not be employed in a position the duties of which involve direct contact with a consumer in a facility before the fifth anniversary of the date the person is convicted of:

(1) an offense under Section 22.01, Penal Code (assault), that is punishable
 as a Class A misdemeanor or as a felony;
 (2) an offense under Section 30.02, Penal Code (burglary);
 (3) an offense under Chapter 31, Penal Code (theft), that is punishable as a
 felony;
 (4) an offense under Section 32.45, Penal Code (misapplication of fiduciary
 property or property of a financial institution), that is punishable as a Class A
 misdemeanor or a felony; ~~[or]~~
 (5) an offense under Section 32.46, Penal Code (securing execution of a
 document by deception), that is punishable as a Class A misdemeanor or a felony;
 (6) an offense under Section 37.12, Penal Code (false identification as peace
officer); or
 (7) an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly
conduct).

(d) For purposes of this section, a person who is placed on deferred adjudication community supervision for an offense listed in this section, successfully completes the period of deferred adjudication community supervision, and receives a dismissal and discharge in accordance with Section 5(c), Article 42.12, Code of Criminal Procedure, is not considered convicted of the offense for which the person received deferred adjudication community supervision.

SECTION 2. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 199** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1879**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1879** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WILLIAMS

DEUELL

NELSON

On the part of the Senate

HAMILTON

CREIGHTON

FROST

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of controlled substances; providing an administrative penalty.

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

SECTION 1. Subsection (a), Section 481.064, Health and Safety Code, is amended to read as follows:

(a) The director may charge a nonrefundable fee of not more than \$25 before processing an application for annual registration and may charge a late fee of not more than \$50 for each application for renewal the department receives after the date the registration expires. The director by rule shall set the amounts ~~[amount]~~ of the fees ~~[fee]~~ at the amounts ~~[amount]~~ that are ~~[is]~~ necessary to cover the cost of administering and enforcing this subchapter. Except as provided by Subsection (b), registrants shall pay the fees to the director. Not later than 60 days before the date the registration expires, the director shall send a renewal notice to the registrant at the last known address of the registrant according to department records.

SECTION 2. Section 481.074, Health and Safety Code, is amended by amending Subsections (b), (d), and (k) and adding Subsection (q) to read as follows:

(b) Except in an emergency as defined by rule of the director or as provided by Subsection (o) or Section 481.075(j) or (m), a person may not dispense or administer a controlled substance listed in Schedule II without the written prescription of a practitioner on an official prescription form that meets the requirements of and is completed by the practitioner in accordance with Section 481.075. In an emergency, a

person may dispense or administer a controlled substance listed in Schedule II on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, department registration number, and Federal Drug Enforcement Administration number of the prescribing practitioner, all information required to be provided by a practitioner under Section 481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2).

(d) Except as specified in Subsections (e) and (f) ~~[of this section]~~, the director, by rule and in consultation with the Texas Medical Board and the Texas State Board of Pharmacy, shall establish the period after the date on which the prescription is issued that a person may ~~[not]~~ fill a prescription for a controlled substance listed in Schedule II ~~[after the end of the seventh day after the date on which the prescription is issued]~~. A person may not refill a prescription for a substance listed in Schedule II.

(k) A prescription for a controlled substance must show:

(1) the quantity of the substance prescribed:

(A) numerically, followed by the number written as a word, if the prescription is written; or

(B) if the prescription is communicated orally or telephonically, as transcribed by the receiving pharmacist;

(2) the date of issue;

(3) the name, ~~[and]~~ address, and date of birth or age of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;

(4) the name and strength of the controlled substance prescribed;

(5) the directions for use of the controlled substance;

(6) the intended use of the substance prescribed unless the practitioner determines the furnishing of this information is not in the best interest of the patient; ~~[and]~~

(7) the legibly printed or stamped name, address, Federal Drug Enforcement Administration registration number, and telephone number of the practitioner at the practitioner's usual place of business;

(8) if the prescription is handwritten, the signature of the prescribing practitioner; and

(9) if the prescribing practitioner is licensed in this state, the practitioner's department registration number.

(q) Each dispensing pharmacist shall send all information required by the director, including any information required to complete the Schedule III through V prescription forms, to the director by electronic transfer or another form approved by the director not later than the 15th day after the last day of the month in which the prescription is completely filled.

SECTION 3. Subsections (a) and (c), Section 481.076, Health and Safety Code, are amended to read as follows:

(a) The director may not permit any person to have access to information submitted to the director under Section 481.074(q) or 481.075 except:

(1) an investigator for the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, or the Texas State Board of Pharmacy;

(2) an authorized officer or member of the department engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state; or

(3) if the director finds that proper need has been shown to the director:

(A) a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(B) a pharmacist or practitioner who is a physician, dentist, veterinarian, ~~or~~ podiatrist, or advanced practice nurse or physician assistant described by Section 481.002(39)(D) and is inquiring about a [the] recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity.

(c) The director by rule shall design and implement a system for submission of information to the director by electronic or other means and for retrieval of information submitted to the director under this section and Sections 481.074 and ~~[Section]~~ 481.075. The director shall use automated information security techniques and devices to preclude improper access to the information. The director shall submit the system design to the Texas State Board of Pharmacy and the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~ for review and approval or comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

SECTION 4. Subsections (a), (b), (c), and (e), Section 481.0761, Health and Safety Code, are amended to read as follows:

(a) The director shall consult with the Texas State Board of Pharmacy and by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Sections 481.074(q) and ~~[Section]~~ 481.075(i) to the director electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

(b) The director shall consult with the ~~[Texas]~~ Department of State Health Services, the Texas State Board of Pharmacy, and the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~ and by rule may:

(1) remove a controlled substance listed in Schedules ~~[Schedule]~~ II through V from the official prescription program, if the director determines that the burden imposed by the program substantially outweighs the risk of diversion of the particular controlled substance; or

(2) return a substance previously removed from ~~Schedules [Schedule]~~ II through V to the official prescription program, if the director determines that the risk of diversion substantially outweighs the burden imposed by the program on the particular controlled substance.

(c) The director by rule may:

(1) permit more than one prescription to be administered or dispensed and recorded on one ~~[official]~~ prescription form for a Schedule III through V controlled substance;

(2) remove from or return to the official prescription program any aspect of a practitioner's or pharmacist's hospital practice, including administering or dispensing;

(3) waive or delay any requirement relating to the time or manner of reporting;

(4) establish compatibility protocols for electronic data transfer hardware, software, or format;

(5) establish a procedure to control the release of information under Sections 481.074, 481.075, and 481.076; and

(6) establish a minimum level of prescription activity below which a reporting activity may be modified or deleted.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the director shall consider the economic impact of the rule on practitioners and pharmacists and, to the extent permitted by law, act to minimize any negative economic impact, including the imposition of costs related to computer hardware or software or to the transfer of information. The director may not adopt a rule relating to the electronic transfer of information under this subchapter that imposes a fee in addition to the fees ~~[fee]~~ authorized by Section 481.064.

SECTION 5. Chapter 481, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. ADMINISTRATIVE PENALTY

Sec. 481.301. IMPOSITION OF PENALTY. The department may impose an administrative penalty on a person who violates Section 481.061, 481.066, 481.067, 481.069, 481.074, 481.075, 481.077, 481.0771, 481.078, 481.080, or 481.081 or a rule or order adopted under any of those sections.

Sec. 481.302. AMOUNT OF PENALTY. (a) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$20,000.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

Sec. 481.303. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the department initially determines that a violation occurred, the department shall give written notice of the report to the person by certified mail, registered mail, personal delivery, or another manner of delivery that records the person's receipt of the notice.

(b) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 481.304. PENALTY TO BE PAID OR INFORMAL HEARING REQUESTED. (a) Before the 21st day after the date the person receives notice under Section 481.303, the person in writing may:

(1) accept the determination and recommended penalty; or

(2) make a request for an informal hearing held by the department on the occurrence of the violation, the amount of the penalty, or both.

(b) At the conclusion of an informal hearing requested under Subsection (a), the department may modify the amount of the recommended penalty.

(c) If the person accepts the determination and recommended penalty, including any modification of the amount, or if the person fails to timely respond to the notice, the director by order shall approve the determination and impose the recommended penalty.

Sec. 481.305. FORMAL HEARING. (a) The person may request a formal hearing only after participating in an informal hearing.

(b) The request must be submitted in writing and received by the department before the 21st day after the date the person is notified of the decision from the informal hearing.

(c) If a timely request for a formal hearing is not received, the director by order shall approve the determination from the informal hearing and impose the recommended penalty.

(d) If the person timely requests a formal hearing, the director shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the director and to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(e) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the director a proposal for a decision about the occurrence of the violation and the amount of any proposed penalty.

(f) If a penalty is proposed under Subsection (e), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and impose the costs, fees, and expenses on the person as part of the final order entered in the proceeding.

Sec. 481.306. DECISION. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may:

- (1) find that a violation occurred and impose a penalty; or
- (2) find that a violation did not occur.

(b) The notice of the director's order under Subsection (a) that is sent to the person in the manner provided by Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 481.307. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Before the 31st day after the date the order under Section 481.306 that imposes an administrative penalty becomes final, the person shall:

- (1) pay the penalty; or
- (2) file a petition for judicial review of the order contesting the occurrence of the violation, the amount of the penalty, or both.

Sec. 481.308. STAY OF ENFORCEMENT OF PENALTY. (a) Within the period prescribed by Section 481.307, a person who files a petition for judicial review may:

- (1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;

or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the order is final; or

- (2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the director by certified mail.

(b) Following receipt of a copy of an affidavit under Subsection (a)(2), the director may file with the court, before the sixth day after the date of receipt, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

Sec. 481.309. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Sec. 481.310. DECISION BY COURT. (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Sec. 481.311. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person before the 31st day after the date that the judgment of the court becomes final.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 481.312. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Sec. 481.313. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

Sec. 481.314. DISPOSITION OF PENALTY. The department shall send any amount collected as a penalty under this subchapter to the comptroller for deposit to the credit of the general revenue fund.

SECTION 6. Chapter 107, Occupations Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PAIN TREATMENT REVIEW COMMITTEE

Sec. 107.201. PAIN TREATMENT REVIEW COMMITTEE. (a) The following individuals shall be appointed as a review committee on pain treatment:

(1) the attorney general or the attorney general's designee;
(2) a physician who practices at a public hospital in this state;
(3) a physician who practices at a private hospital in this state;
(4) a physician who practices in this state as a psychiatrist specializing in the treatment of addictive diseases;

(5) a probate court judge licensed to practice law in this state;
(6) a member of the governing board of the American Cancer Society, Texas Division, or the member's designee;

(7) a member of the governing board of the Texas Medical Association or the member's designee;

(8) a member of the governing board of the Texas Nurses Association or the member's designee;

(9) an officer of a public hospital in this state who is a member of the governing board of the Texas Hospital Association or the member's designee;

(10) an officer of a private hospital in this state who is a member of the governing board of the Texas Hospital Association or the member's designee; and

(11) a public member who is a resident of this state.

(b) The lieutenant governor and the speaker of the house of representatives shall each appoint five of the members described by Subsections (a)(2) through (11).

(c) The following individuals serve on the committee as nonvoting resource members and are appointed by the executive director of the agency the member represents:

(1) a pharmacist member of the Texas State Board of Pharmacy;
(2) a physician member of the Texas Medical Board;
(3) a nurse member of the Board of Nurse Examiners;
(4) a representative of the Department of Aging and Disability Services; and
(5) a representative of the narcotics regulatory programs of the Department of Public Safety.

(d) The committee shall study the relevant provisions in the laws of this state that relate to the administration of prescription medication, controlled substances, and the needs of patients for effective pain control and management. The committee shall examine how the following statutes affect public health needs, the professional medical community, and persons affected by acute, chronic, or end-of-life pain:

(1) this chapter;

(2) Subtitles B, E, I, and J of this title; and

(3) Chapter 481, Health and Safety Code.

(e) The committee shall meet at least once every three months.

(f) Not later than September 1, 2008, the committee shall report any changes recommended to the statutes examined under Subsection (d) to the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees in the senate and the house of representatives that have jurisdiction over the issues studied by the committee.

(g) This section expires July 1, 2009.

SECTION 7. (a) An advisory committee is created to advise the Department of Public Safety of the State of Texas on the implementation of this Act.

(b) The advisory committee is composed of:

(1) the public safety director of the Department of Public Safety of the State of Texas or the director's designee;

(2) a physician appointed by the governor;

(3) a pharmacist appointed by the governor;

(4) a physician appointed by the lieutenant governor;

(5) a pharmacist appointed by the lieutenant governor;

(6) a physician appointed by the governor from a list of names submitted by the speaker of the house of representatives;

(7) a pharmacist appointed by the governor from a list of names submitted by the speaker of the house of representatives; and

(8) one member from each of the following boards:

(A) Texas Medical Board;

(B) Texas State Board of Pharmacy;

(C) State Board of Dental Examiners; and

(D) Board of Nurse Examiners.

(c) The public safety director or the director's designee is the presiding officer of the advisory committee. The committee shall meet at the call of the presiding officer or at the request of any three members other than the presiding officer.

(d) The advisory committee shall:

(1) develop recommendations regarding the improvement of the official prescription program established by Section 481.075, Health and Safety Code;

(2) develop recommendations regarding the implementation of an electronic controlled substance monitoring system that would be used for prescriptions of controlled substances listed in Schedules II through V as established under Subchapter B, Chapter 481, Health and Safety Code;

(3) develop recommendations as to which data should be provided to the Department of Public Safety of the State of Texas to support a controlled substance monitoring system recommended under Subdivision (2) of this subsection, including provider identification information;

(4) monitor and develop recommendations regarding the implementation and enforcement of a controlled substance monitoring system recommended under Subdivision (2) of this subsection;

(5) develop recommended procedures necessary for real-time point-of-service access for a practitioner authorized to prescribe or dispense controlled substances listed in Schedules II through V so that the practitioner may obtain:

(A) the prescription history for a particular patient; or

(B) the practitioner's own dispensing or prescribing activity; and

(6) develop recommended procedures that should be followed by the Department of Public Safety of the State of Texas and the applicable licensing authority of this state, another state, or the United States when:

(A) the department shares information related to diversion of controlled substances with a licensing authority for the purpose of licensing enforcement; or

(B) a licensing authority shares information related to diversion of controlled substances with the department for the purpose of criminal enforcement.

(e) The public safety director shall report the recommendations developed under Subsection (d) of this section to the governor, lieutenant governor, speaker of the house of representatives, and appropriate committees of the senate and the house not later than July 1, 2008.

(f) This section expires and the advisory committee is abolished on September 1, 2009.

SECTION 8. (a) The Department of Public Safety of the State of Texas, Texas Medical Board, Texas State Board of Pharmacy, State Board of Dental Examiners, and Board of Nurse Examiners shall submit to the presiding officers of the Senate Committee on Health and Human Services and the House Committee on Public Health a report that details the number and type of actions relating to the prosecution of violations of Chapter 481, Health and Safety Code, as amended by this Act.

(b) Each agency shall submit its initial report under Subsection (a) of this section not later than November 1, 2007. Each agency shall submit an update of its initial report not later than May 1 and November 1 of each year.

(c) This section expires November 1, 2011.

SECTION 9. The public safety director of the Department of Public Safety of the State of Texas shall adopt any rules necessary to administer and enforce Subchapter H, Chapter 481, Health and Safety Code, as added by this Act, not later than September 1, 2007, except that if this section does not take effect before that date, the public safety director shall adopt the rules as soon as practicable after that date.

SECTION 10. (a) Except as provided by Subsections (b), (c), and (d) of this section, this Act takes effect September 1, 2007.

(b) Section 9 of this Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 9 of this Act takes effect September 1, 2007.

(c) Except as otherwise provided by Subsection (d) of this section, the changes in law made by this Act in amending Subsection (k), Section 481.074, and Section 481.076, Health and Safety Code, and in adding Subsection (q), Section 481.074 of that code, take effect September 1, 2008. The public safety director of the Department of Public Safety of the State of Texas shall adopt any rules necessary to administer and enforce the changes in law made by those provisions not later than September 1, 2008.

(d) The change in law made by this Act in amending Subsections (b) and (k), Section 481.074, Health and Safety Code, to require the use of registration numbers issued by the Department of Public Safety of the State of Texas takes effect only after the department establishes a means by which pharmacies are able to electronically access and verify the accuracy of the registration numbers.

The Conference Committee Report on **SB 1879** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 765

Senator Eltife submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 765** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ELTIFE
AVERITT
ESTES
WATSON

On the part of the Senate

FROST
R. COOK
HEFLIN
KOLKHORST

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to the use of municipal hotel occupancy taxes for the enhancement and upgrading of sports facilities and fields by certain municipalities.

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

SECTION 1. Subsection (a), Section 351.101, Tax Code, is amended to read as follows:

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity; and

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less; ~~or~~

(ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less; or

(iii) has a population of at least 34,000 but not more than 36,000 and is located in a county that has a population of 90,000 or less; and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 765** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 899**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 899** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL
HINOJOSA
NICHOLS
VAN DE PUTTE

On the part of the Senate

W. SMITH
CALLEGARI
ESCOBAR
MACIAS
WEST

On the part of the House

The Conference Committee Report on **HB 899** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1266**

Senator Brimer submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1266** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BRIMER
CARONA
HARRIS
WATSON
WILLIAMS

On the part of the Senate

KRUSEE
HAGGERTY
HILL
PHILLIPS
PICKETT

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to pass-through financing and the designation and operation of transportation reinvestment zones.

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

SECTION 1. Section 222.104, Transportation Code, is amended by adding Subsection (d-1) and amending Subsection (e) to read as follows:

(d-1) Unless there is an insufficient number of approved proposals for projects to be developed under an agreement providing for the payment of pass-through tolls, in any state fiscal year that begins on or after September 1, 2007, the amount the department agrees to pay under agreements entered into under this section as reimbursement to a public or private entity for project costs may not be less than the yearly average of such amounts from the date of the creation by the commission of the pass-through toll program. This subsection expires September 1, 2009.

(e) The department may use any available funds for the purpose of making a pass-through toll payment under this section except funds derived from the issuance of bonds under Section 201.943.

SECTION 2. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.105, 222.106, and 222.107 to read as follows:

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

(1) promote public safety;

(2) facilitate the development or redevelopment of property;

(3) facilitate the movement of traffic; and

(4) enhance a local entity's ability to sponsor a project authorized under

Section 222.104.

Sec. 222.106. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES.

(a) In this section:

(1) the amount of a municipality's tax increment for a year is the amount of ad valorem taxes levied and collected by the municipality for that year on the captured appraised value of real property taxable by the municipality and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a municipality for a year is the total appraised value of all real property taxable by the municipality and located in a transportation reinvestment zone for that year less the tax increment base of the municipality; and

(3) the tax increment base of a municipality is the total appraised value of all real property taxable by the municipality and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

(b) This section applies only to a municipality the governing body of which intends to enter into an agreement with the department under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project described by Section 222.104 that cultivates development or redevelopment of the area.

(d) The governing body must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the governing body of the municipality proposes to adopt an ordinance designating an area as a transportation reinvestment zone under this section, the governing body must hold a public hearing on the designation of the zone and its benefits to the municipality and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone or its boundaries. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create the zone must be published in a newspaper having general circulation in the municipality.

(f) Compliance with the requirements of this section constitutes designation of an area as a transportation reinvestment zone without further hearings or other procedural requirements.

(g) The ordinance designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) establish an ad valorem tax increment account for the zone; and

(5) contain findings that promotion of the transportation project will cultivate development or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone an amount equal to the tax increment produced by the municipality.

(i) Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section.

(j) Except as provided by Subsection (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality complies with a contractual requirement, if any, that included the pledge of money deposited to a tax increment account or the repayment of money owed under the agreement under Section 222.104 in connection with which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not used the zone for the purpose for which it was designated.

(l) Any surplus remaining on termination of a zone may be used for transportation projects of the municipality in or outside of the zone.

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES; TAX ABATEMENTS; ROAD UTILITY DISTRICTS. (a) In this section:

(1) the amount of a county's tax increment for a year is the amount of ad valorem taxes levied and collected by the county for that year on the captured appraised value of real property taxable by the county and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a county for a year is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for that year less the tax increment base of the county; and

(3) the tax increment base of a county is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

(b) This section applies only to a county the commissioners court of which intends to enter into a pass-through toll agreement with the department under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project described by Section 222.104 that cultivates development or redevelopment of the area and for the purpose of abating ad valorem taxes imposed by the county on real property located in the zone.

(d) The commissioners court must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of county taxes on real property in the zone. Not later

than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution; and

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation.

(g) Compliance with the requirements of this section constitutes designation of an area as a transportation reinvestment zone without further hearings or other procedural requirements.

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate a portion of the ad valorem taxes imposed by the county on the owner's property. All abatements granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated under this section may not exceed the amount calculated under Subsection (a)(1) for that year.

(i) To assist the county in developing a project authorized under Section 222.104, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(j) In any ad valorem tax year, a road utility district formed as provided by Subsection (i) may impose taxes on property in the district at a rate that when applied to the property in the district would impose taxes in an amount equal to the amount of taxes abated by the commissioners court of the county under Subsection (h). Notwithstanding Section 441.192(a), an election is not required to approve the imposition of the taxes.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement with the county to assume the obligation, if any, of the county to fund a project under Section 222.104 or to repay funds owed to the department under Section 222.104. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge of money collected under this section.

(m) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the county has not used the zone for the purpose for which it was designated.

SECTION 3. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1266** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 945

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 945** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA
CARONA
DUNCAN
JANEK
LUCIO

On the part of the Senate

HERRERO
BRANCH
EISSLER
HOCHBERG
ZEDLER

On the part of the House

The Conference Committee Report on **HB 945** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3613

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3613** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL
ELTIFE
SELIGER
HINOJOSA

On the part of the Senate

LATHAM
DRIVER
ORTIZ
O'DAY
VO

On the part of the House

The Conference Committee Report on **HB 3613** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 568**

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 568** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS
BRIMER
CARONA
WATSON
WENTWORTH

On the part of the Senate

PUENTE
GEREN
PARKER
TURNER

On the part of the House

The Conference Committee Report on **HB 568** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3249**

Senator Brimer submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3249** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BRIMER
WHITMIRE
HEGAR
DEUELL
HARRIS

On the part of the Senate

TRUITT
FLYNN
KOLKHORST
B. COOK
MCCLENDON

On the part of the House

The Conference Committee Report on **HB 3249** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1638

Senator Jackson submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1638** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JACKSON
JANEK
BRIMER
HEGAR
WILLIAMS

On the part of the Senate

TAYLOR
MACIAS
EILAND
MARTINEZ
MURPHY

On the part of the House

The Conference Committee Report on **HB 1638** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2819

Senator Jackson submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2819** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JACKSON
ESTES
HINOJOSA
LUCIO

RITTER
R. COOK
HERRERO
ESCOBAR
ORTIZ

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2819** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2833

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2833** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER
DEUELL
HEGAR
VAN DE PUTTE
WILLIAMS

DRIVER
BONNEN
LATHAM
TAYLOR
WEST

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2833** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3674

Senator Jackson submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3674** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JACKSON
HARRIS
DEUEL

J. DAVIS
GONZALES
HOPSON
NORIEGA
TAYLOR

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3674** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 101**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 101** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHAPIRO
NELSON
ZAFFIRINI
JANEK
ELLIS

MORRISON
WOOLLEY
BRANCH
D. HOWARD

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to limitations on the automatic admission of undergraduate students to general academic teaching institutions and to fees charged to certain admitted students.

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

SECTION 1. Sections 51.803 and 51.807, Education Code, are amended to read as follows:

Sec. 51.803. AUTOMATIC ADMISSION: ALL INSTITUTIONS. (a) Subject to Subsection (c), each [Each] general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated with a grade point average in the top 10 percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and:

(1) the applicant graduated from a public or private high school in this state accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense;

(2) the applicant completed the curriculum requirements established under Section 28.025 for the recommended or advanced high school program, or an equivalent curriculum at a high school to which that section does not apply; and

(3) [~~To qualify for admission under this section, an applicant must submit an application before the expiration of any application filing deadline established by the institution and,~~ if the applicant graduated from a high school operated by the United States Department of Defense, the applicant is [must be] a Texas resident under Section 54.052 or is [be] entitled to pay tuition fees at the rate provided for Texas residents under Section 54.058(d) for the term or semester to which admitted.

(b) To qualify for admission under this section, an applicant must submit an application before the expiration of any application filing deadline established by the institution.

(c) Beginning with admissions for the 2009-2010 academic year, a general academic teaching institution is not required to admit under Subsection (a) more than 60 percent of the institution's first-time resident undergraduate students in an academic year. If the number of applicants who qualify for automatic admission to a general academic teaching institution under Subsection (a) exceeds 60 percent of the institution's enrollment capacity designated for first-time resident undergraduate students, the institution may elect to offer admission to those applicants as provided by this subsection and not as otherwise required by Subsection (a). If the institution elects to offer admission under this subsection, the institution shall offer admission to those applicants by percentile rank according to class standing based on grade point average, beginning with the top percentile rank, until the applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by the institution as sufficient to fill 50 percent of the institution's enrollment capacity designated for first-time resident undergraduate students, except that the institution must offer admission to all applicants with the same percentile rank. In addition to those admissions, until applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by the institution as sufficient to fill 60 percent of the designated enrollment capacity described by this subsection, the institution shall offer to applicants qualified for automatic admission under Subsection (a) admission in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805, except that the institution may not consider applicants other than those applicants qualified under Subsection (a). After the applicants qualified for automatic admission under Subsection (a) have been offered admission under this subsection in the number estimated in good faith as sufficient to fill 60 percent of the designated enrollment capacity described by this

subsection, the institution shall consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805.

(d) Each general academic teaching institution that elects to offer admission to applicants as permitted by Subsection (c) shall:

(1) adopt a written policy to provide for recruiting and retention efforts directed at underrepresented groups such as racial or ethnic minority groups; and

(2) seek from civic and community leaders and organizations input regarding the impact of this section on student access to and academic success in higher education.

(e) Regardless of whether a general academic teaching institution elects to offer admission under Subsection (c), if the number of applicants who qualify for automatic admission to the institution under Subsection (a) exceeds 60 percent of the institution's enrollment capacity designated for first-time resident undergraduate students, the institution shall provide to each school district, for dissemination to high school junior-level students and to the parents of those students, notice of which percentile ranks of high school senior-level students are anticipated by the institution to be automatically offered admission under Subsection (c) during the next school year if the institution elects to offer admission under that subsection.

(f) This subsection applies only to a university system that includes more than one general academic teaching institution. Notwithstanding Subsection (c), in an academic year in which a component general academic teaching institution of the university system elects to offer admission to applicants as provided by Subsection (c), if an applicant for admission as a first-time resident undergraduate student who is qualified for automatic admission under Subsection (a) is not admitted to the institution under this section because the institution offers admission to applicants under Subsection (c) and the applicant is otherwise denied admission to the institution, the university system shall:

(1) treat the application as an application for admission to any of the system's other component general academic teaching institutions that for that same academic year do not offer admission to applicants as provided by Subsection (c); and

(2) offer the applicant admission to each of those other component institutions.

(g) After admitting an applicant under this section, the institution shall review the applicant's record and any other factor the institution considers appropriate to determine whether the applicant may require additional preparation for college-level work or would benefit from inclusion in a retention program. The institution may require a student so identified to enroll during the summer immediately after the student is admitted under this section to participate in appropriate enrichment courses and orientation programs. This section does not prohibit a student who is not determined to need additional preparation for college-level work from enrolling, if the student chooses, during the summer immediately after the student is admitted under this section.

(h) Subsection (a)(2) does not apply to an applicant who graduated from a public high school that does not offer the curriculum established under Section 28.025 for the recommended or advanced high school program.

(i) An applicant who does not satisfy the curriculum requirements of Subsection (a)(2) is considered to have satisfied those requirements if the high school from which the student graduated indicates on the student's transcript that the student completed the portion of the curriculum that was available to the student but was unable to complete the curriculum solely because courses necessary to complete the curriculum were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control.

(j) A general academic teaching institution that elects to offer admission to applicants under Subsection (c) shall demonstrate by direct action a commitment to:

(1) providing opportunities for postsecondary education for members of all groups, including underrepresented groups such as racial or ethnic minority groups; and

(2) ensuring racial and ethnic diversity in the institution's faculty and administrative staff.

(k) This section expires August 31, 2015.

Sec. 51.807. RULEMAKING. (a) The Texas Higher Education Coordinating Board may adopt rules relating to the operation of admissions programs under this subchapter, including rules relating to the identification of eligible students [and the reporting requirements of Section 51.806].

(b) The Texas Higher Education Coordinating Board in consultation with the Texas Education Agency by rule shall establish standards for determining for purposes of this subchapter whether a person completed a high school curriculum that is equivalent to the curriculum established under Section 28.025 for the recommended or advanced high school program.

SECTION 2. Effective September 1, 2015, Subchapter U, Chapter 51, Education Code, is amended by adding Section 51.8031 to read as follows:

Sec. 51.8031. AUTOMATIC ADMISSION: ALL INSTITUTIONS. (a) Each general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated with a grade point average in the top 10 percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and the applicant graduated from a public or private high school in this state accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense. To qualify for admission under this section, an applicant must submit an application before the expiration of any application filing deadline established by the institution and, if the applicant graduated from a high school operated by the United States Department of Defense, must be a Texas resident under Section 54.052 or be entitled to pay tuition fees at the rate provided for Texas residents under Section 54.058(d) for the term or semester to which admitted.

(b) After admitting an applicant under this section, the institution shall review the applicant's record and any other factor the institution considers appropriate to determine whether the applicant may require additional preparation for college-level work or would benefit from inclusion in a retention program. The institution may require a student so identified to enroll during the summer immediately after the

student is admitted under this section to participate in appropriate enrichment courses and orientation programs. This section does not prohibit a student who is not determined to need additional preparation for college-level work from enrolling, if the student chooses, during the summer immediately after the student is admitted under this section.

(c) A reference in law to former Section 51.803, Education Code, is a reference to this section unless the context clearly indicates otherwise.

SECTION 3. Subchapter U, Chapter 51, Education Code, is amended by adding Section 51.8035 to read as follows:

Sec. 51.8035. AUTOMATIC ADMISSION OF APPLICANTS COMPLETING CORE CURRICULUM AT ANOTHER INSTITUTION. (a) In this section:

(1) "Core curriculum" means the core curriculum adopted by an institution of higher education under Section 61.822.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) A general academic teaching institution shall admit an applicant for admission to the institution as a transfer undergraduate student who:

(1) graduated from high school not earlier than the fourth school year before the academic year for which the applicant seeks admission and who qualified to be offered admission to the general academic teaching institution under Section 51.803(a) at the time of graduation;

(2) first enrolled in an institution of higher education not earlier than the second academic year before the academic year for which the applicant seeks admission;

(3) completed the core curriculum at an institution of higher education, other than the institution to which the applicant seeks admission, with a cumulative grade point average of at least 3.25 on a four-point scale or the equivalent; and

(4) submits an application for admission as a transfer student before the expiration of any application filing deadline established by the institution.

(c) For purposes of this section, transfer semester credit hours from a different institution of higher education and semester credit hours earned by examination shall be included in determining whether the person completed the core curriculum at an institution of higher education.

SECTION 4. Subsection (g), Section 28.025, Education Code, is amended to read as follows:

(g) If a student, other than a student permitted to take courses under the minimum high school program as provided by Subsection (b), is unable to complete the recommended or advanced high school program solely because necessary courses were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control, the school district, ~~[shall indicate that fact]~~ on the student's transcript form described by Subsection (e), shall:

(1) indicate whether the student completed those courses necessary to complete the program that were available to the student; and

(2) identify those courses necessary to complete the program that were unavailable to the student as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control.

SECTION 5. Section 28.026, Education Code, is amended to read as follows:

Sec. 28.026. NOTICE OF AUTOMATIC COLLEGE ADMISSION. (a) The board of trustees of a school district shall require each high school in the district to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of Section 51.803 regarding automatic college admission. To assist in the dissemination of this information, the school district shall:

(1) require that each high school counselor and class advisor be provided a detailed explanation of the substance of Section 51.803;

(2) provide each district student, at the time the student first registers for one or more classes required for high school graduation, with a written notification of the substance of Section 51.803;

(3) require that each high school counselor and senior class advisor explain to eligible students the substance of Section 51.803; and

(4) ~~(3)~~ provide each eligible senior student under Section 51.803, at the commencement of a class's senior year, with a written notification of the student's eligibility with a detailed explanation of the substance of Section 51.803.

(b) The commissioner shall adopt forms to use in providing notice under Subsections (a)(2) and (4). In providing notice under Subsection (a)(2) or (4), a school district shall use the appropriate form adopted by the commissioner.

(c) The commissioner shall adopt procedures to ensure that, as soon as practicable after this subsection becomes law, each school district provides written notification of the substance of Section 51.803, as amended by the 80th Legislature, Regular Session, 2007, to each district student who, for the 2007-2008 school year, registers for the first time for one or more courses required for high school graduation. The commissioner may adopt rules under this subsection in the manner provided by law for emergency rules. Each district shall comply with the procedures adopted by the commissioner under this subsection. This subsection expires September 1, 2008.

SECTION 6. Section 51.4032, Education Code, as added by Chapter 694, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 51.4032. ANNUAL REPORT OF PARTICIPATION IN HIGHER EDUCATION. Not later than December 1 ~~[July 31]~~ of each year and in the form prescribed by the coordinating board, each general academic teaching institution and medical and dental unit as defined in Section 61.003 shall provide to the Texas Higher Education Coordinating Board and shall publish on the institution's website a report describing the composition of the institution's entering class of students. The report must include a demographic breakdown of the class, including a breakdown by race, ethnicity, ~~and~~ economic status, and high school class standing. A report submitted by a general academic teaching institution or medical and dental unit as defined in Section 61.003 must include separate demographic breakdowns of the students admitted under Sections 51.803, 51.804, and 51.805 and a description of any plans, policies, or programs developed or implemented by the institution to recruit and retain students from underrepresented groups such as racial or ethnic minority groups.

SECTION 7. Except as otherwise specifically provided by this Act or a law amended or added by this Act, the change in law made by this Act applies beginning with admissions to institutions of higher education for the 2008-2009 academic year. Admissions to an institution of higher education before that academic year are governed by the law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 8. The Texas Higher Education Coordinating Board shall adopt rules relating to the admission of students under Section 51.803, Education Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 9. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 101** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1864

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1864** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA
CARONA
HARRIS
WATSON

On the part of the Senate

GONZALES
CORTE
VAN ARSDALE
VAUGHT

On the part of the House

The Conference Committee Report on **HB 1864** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2644

Senator West submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2644** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST
CARONA
DEUELL
JANEK
ELLIS

HARTNETT
S. KING
DELISI

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2644** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3385**

Senator Janek submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3385** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JANEK
AVERITT
ESTES
FRASER
WATSON

CHISUM
KEFFER
SWINFORD
D. HOWARD

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3385** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1731**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1731** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN

ELTIFE

JANEK

LUCIO

VAN DE PUTTE

On the part of the Senate

ISETT

DELISI

GATTIS

ROSE

TAYLOR

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to consumer access to health care information and consumer protection for services provided by or through health benefit plans, hospitals, ambulatory surgical centers, birthing centers, and other health care facilities, and funding for health care information services; providing penalties.

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

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is amended by adding Chapter 324 to read as follows:

CHAPTER 324. CONSUMER ACCESS TO HEALTH CARE INFORMATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 324.001. DEFINITIONS. In this chapter:

(1) "Average charge" means the mathematical average of facility charges for an inpatient admission or outpatient surgical procedure. The term does not include charges for a particular inpatient admission or outpatient surgical procedure that exceed the average by more than two standard deviations.

(2) "Billed charge" means the amount a facility charges for an inpatient admission, outpatient surgical procedure, or health care service or supply.

(3) "Costs" means the fixed and variable expenses incurred by a facility in the provision of a health care service.

(4) "Consumer" means any person who is considering receiving, is receiving, or has received a health care service or supply as a patient from a facility. The term includes the personal representative of the patient.

(5) "Department" means the Department of State Health Services.

(6) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(7) "Facility" means:

(A) an ambulatory surgical center licensed under Chapter 243;

(B) a birthing center licensed under Chapter 244; or

(C) a hospital licensed under Chapter 241.

Sec. 324.002. RULES. The executive commissioner shall adopt and enforce rules to further the purposes of this chapter.

[Sections 324.003-324.050 reserved for expansion]

SUBCHAPTER B. CONSUMER GUIDE TO HEALTH CARE

Sec. 324.051. DEPARTMENT WEBSITE. (a) The department shall make available on the department's Internet website a consumer guide to health care. The department shall include information in the guide concerning facility pricing practices and the correlation between a facility's average charge for an inpatient admission or outpatient surgical procedure and the actual, billed charge for the admission or procedure, including notice that the average charge for a particular inpatient admission or outpatient surgical procedure will vary from the actual, billed charge for the admission or procedure based on:

- (1) the person's medical condition;
- (2) any unknown medical conditions of the person;
- (3) the person's diagnosis and recommended treatment protocols ordered by the physician providing care to the person; and
- (4) other factors associated with the inpatient admission or outpatient surgical procedure.

(b) The department shall include information in the guide to advise consumers that:

(1) the average charge for an inpatient admission or outpatient surgical procedure may vary between facilities depending on a facility's cost structure, the range and frequency of the services provided, intensity of care, and payor mix;

(2) the average charge by a facility for an inpatient admission or outpatient surgical procedure will vary from the facility's costs or the amount that the facility may be reimbursed by a health benefit plan for the admission or surgical procedure;

(3) the consumer may be personally liable for payment for an inpatient admission, outpatient surgical procedure, or health care service or supply depending on the consumer's health benefit plan coverage;

(4) the consumer should contact the consumer's health benefit plan for accurate information regarding the plan structure, benefit coverage, deductibles, copayments, coinsurance, and other plan provisions that may impact the consumer's liability for payment for an inpatient admission, outpatient surgical procedure, or health care service or supply; and

(5) the consumer, if uninsured, may be eligible for a discount on facility charges based on a sliding fee scale or a written charity care policy established by the facility.

(c) The department shall include on the consumer guide to health care website:

- (1) an Internet link for consumers to access quality of care data, including:
 - (A) the Texas Health Care Information Collection website;
 - (B) the Hospital Compare website within the United States Department of Health and Human Services website;
 - (C) the Joint Commission on Accreditation of Healthcare Organizations website; and

(D) the Texas Hospital Association's Texas PricePoint website; and

(2) a disclaimer noting the websites that are not provided by this state or an agency of this state.

(d) The department may accept gifts and grants to fund the consumer guide to health care. On the department's Internet website, the department may not identify, recognize, or acknowledge in any format the donors or grantors to the consumer guide to health care.

[Sections 324.052-324.100 reserved for expansion]

SUBCHAPTER C. BILLING OF FACILITY SERVICES AND SUPPLIES

Sec. 324.101. FACILITY POLICIES. (a) Each facility shall develop, implement, and enforce written policies for the billing of facility health care services and supplies. The policies must address:

(1) any discounting of facility charges to an uninsured consumer, subject to Chapter 552, Insurance Code;

(2) any discounting of facility charges provided to a financially or medically indigent consumer who qualifies for indigent services based on a sliding fee scale or a written charity care policy established by the facility and the documented income and other resources of the consumer;

(3) the providing of an itemized statement required by Subsection (e);

(4) whether interest will be applied to any billed service not covered by a third-party payor and the rate of any interest charged;

(5) the procedure for handling complaints; and

(6) the providing of a conspicuous written disclosure to a consumer at the time the consumer is first admitted to the facility or first receives services at the facility that:

(A) provides confirmation whether the facility is a participating provider under the consumer's third-party payor coverage on the date services are to be rendered based on the information received from the consumer at the time the confirmation is provided; and

(B) informs the consumer that a physician or other health care provider who may provide services to the consumer while in the facility may not be a participating provider with the same third-party payors as the facility.

(b) For services provided in an emergency department of a hospital or as a result of an emergent direct admission, the hospital shall provide the written disclosure required by Subsection (a)(6) before discharging the patient from the emergency department or hospital, as appropriate.

(c) Each facility shall post in the general waiting area and in the waiting areas of any off-site or on-site registration, admission, or business office a clear and conspicuous notice of the availability of the policies required by Subsection (a).

(d) The facility shall provide an estimate of the facility's charges for any elective inpatient admission or nonemergency outpatient surgical procedure or other service on request and before the scheduling of the admission or procedure or service. The estimate must be provided not later than the 10th business day after the date on which the estimate is requested. The facility must advise the consumer that:

(1) the request for an estimate of charges may result in a delay in the scheduling and provision of the inpatient admission, outpatient surgical procedure, or other service;

(2) the actual charges for an inpatient admission, outpatient surgical procedure, or other service will vary based on the person's medical condition and other factors associated with performance of the procedure or service;

(3) the actual charges for an inpatient admission, outpatient surgical procedure, or other service may differ from the amount to be paid by the consumer or the consumer's third-party payor;

(4) the consumer may be personally liable for payment for the inpatient admission, outpatient surgical procedure, or other service depending on the consumer's health benefit plan coverage; and

(5) the consumer should contact the consumer's health benefit plan for accurate information regarding the plan structure, benefit coverage, deductibles, copayments, coinsurance, and other plan provisions that may impact the consumer's liability for payment for the inpatient admission, outpatient surgical procedure, or other service.

(e) A facility shall provide to the consumer at the consumer's request an itemized statement of the billed services if the consumer requests the statement not later than the first anniversary of the date the person is discharged from the facility. The facility shall provide the statement to the consumer not later than the 10th business day after the date on which the statement is requested.

(f) A facility shall provide an itemized statement of billed services to a third-party payor who is actually or potentially responsible for paying all or part of the billed services provided to a patient and who has received a claim for payment of those services. To be entitled to receive a statement, the third-party payor must request the statement from the facility and must have received a claim for payment. The request must be made not later than one year after the date on which the payor received the claim for payment. The facility shall provide the statement to the payor not later than the 30th day after the date on which the payor requests the statement. If a third-party payor receives a claim for payment of part but not all of the billed services, the third-party payor may request an itemized statement of only the billed services for which payment is claimed or to which any deduction or copayment applies.

(g) A facility in violation of this section is subject to enforcement action by the appropriate licensing agency.

(h) If a consumer or a third-party payor requests more than two copies of the statement, the facility may charge a reasonable fee for the third and subsequent copies provided. The fee may not exceed the sum of:

(1) a basic retrieval or processing fee, which must include the fee for providing the first 10 pages of the copies and which may not exceed \$30;

(2) a charge for each page of:

(A) \$1 for the 11th through the 60th page of the provided copies;

(B) 50 cents for the 61st through the 400th page of the provided copies;

and

(C) 25 cents for any remaining pages of the provided copies; and

(3) the actual cost of mailing, shipping, or otherwise delivering the provided copies.

(i) If a consumer overpays a facility, the facility must refund the amount of the overpayment not later than the 30th day after the date the facility determines that an overpayment has been made. This subsection does not apply to an overpayment subject to Section 1301.132 or 843.350, Insurance Code.

Sec. 324.102. COMPLAINT PROCESS. A facility shall establish and implement a procedure for handling consumer complaints, and must make a good faith effort to resolve the complaint in an informal manner based on its complaint procedures. If the complaint cannot be resolved informally, the facility shall advise the consumer that a complaint may be filed with the department and shall provide the consumer with the mailing address and telephone number of the department.

Sec. 324.103. CONSUMER WAIVER PROHIBITED. The provisions of this chapter may not be waived, voided, or nullified by a contract or an agreement between a facility and a consumer.

SECTION 2. Subdivision (10), Section 108.002, Health and Safety Code, is amended to read as follows:

(10) "Health care facility" means:

(A) a hospital;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) a chemical dependency treatment facility licensed under Chapter

464;

(D) a renal dialysis facility;

(E) a birthing center;

(F) a rural health clinic; [✖]

(G) a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B); or

(H) a free-standing imaging center.

SECTION 3. Subsection (k), Section 108.009, Health and Safety Code, is amended to read as follows:

(k) The council shall collect health care data elements relating to payer type, the racial and ethnic background of patients, and the use of health care services by consumers. The council shall prioritize data collection efforts on inpatient and outpatient surgical and radiological procedures from hospitals, ambulatory surgical centers, and free-standing radiology centers.

SECTION 4. Section 241.025, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (d), to the extent that money received from the fees collected under this chapter exceeds the costs to the department to conduct the activity for which the fee is imposed, the department may use the money to administer Chapter 324 and similar laws that require the department to provide information related to hospital care to the public. The department may not consider the costs of administering Chapter 324 or similar laws in adopting a fee imposed under this section.

SECTION 5. Subsection (h), Section 311.002, Health and Safety Code, is amended to read as follows:

(h) In this section, "hospital" includes:

(1) ~~a hospital licensed under Chapter 241;~~

~~[(2)]~~ a treatment facility licensed under Chapter 464; and

(2) ~~[(3)]~~ a mental health facility licensed under Chapter 577.

SECTION 6. Chapter 101, Occupations Code, is amended by adding Subchapter H, transferring Section 101.202 to Subchapter H redesignated as Section 101.351 and further amending that section, and adding Section 101.352 to read as follows:

SUBCHAPTER H. BILLING

Sec. 101.351 ~~[101.202]~~. FAILURE TO PROVIDE BILLING INFORMATION. On the written request of a patient, a health care professional shall provide, in plain language, a written explanation of the charges for professional services previously made on a bill or statement for the patient. This section does not apply to a physician subject to Section 101.352.

Sec. 101.352. BILLING POLICIES AND INFORMATION; PHYSICIANS.
(a) A physician shall develop, implement, and enforce written policies for the billing of health care services and supplies. The policies must address:

(1) any discounting of charges for health care services or supplies provided to an uninsured patient that is not covered by a patient's third-party payor, subject to Chapter 552, Insurance Code;

(2) any discounting of charges for health care services or supplies provided to an indigent patient who qualifies for services or supplies based on a sliding fee scale or a written charity care policy established by the physician;

(3) whether interest will be applied to any billed health care service or supply not covered by a third-party payor and the rate of any interest charged; and

(4) the procedure for handling complaints relating to billed charges for health care services or supplies.

(b) Each physician who maintains a waiting area shall post a clear and conspicuous notice of the availability of the policies required by Subsection (a) in the waiting area and in any registration, admission, or business office in which patients are reasonably expected to seek service.

(c) On the request of a patient who is seeking services that are to be provided on an out-of-network basis or who does not have coverage under a government program, health insurance policy, or health maintenance organization evidence of coverage, a physician shall provide an estimate of the charges for any health care services or supplies. The estimate must be provided not later than the 10th business day after the date of the request. A physician must advise the consumer that:

(1) the request for an estimate of charges may result in a delay in the scheduling and provision of the services;

(2) the actual charges for the services or supplies will vary based on the patient's medical condition and other factors associated with performance of the services;

(3) the actual charges for the services or supplies may differ from the amount to be paid by the patient or the patient's third-party payor; and

(4) the patient may be personally liable for payment for the services or supplies depending on the patient's health benefit plan coverage.

(d) For services provided in an emergency department of a hospital or as a result of an emergent direct admission, the physician shall provide the estimate of charges required by Subsection (c) not later than the 10th business day after the request or before discharging the patient from the emergency department or hospital, whichever is later, as appropriate.

(e) A physician shall provide a patient with an itemized statement of the charges for professional services or supplies not later than the 10th business day after the date on which the statement is requested if the patient requests the statement not later than the first anniversary of the date on which the health care services or supplies were provided.

(f) If a patient requests more than two copies of the statement, a physician may charge a reasonable fee for the third and subsequent copies provided. The Texas Medical Board shall by rule set the permissible fee a physician may charge for copying, processing, and delivering a copy of the statement.

(g) On the request of a patient, a physician shall provide, in plain language, a written explanation of the charges for services or supplies previously made on a bill or statement for the patient.

(h) If a patient overpays a physician, the physician must refund the amount of the overpayment not later than the 30th day after the date the physician determines that an overpayment has been made. This subsection does not apply to an overpayment subject to Section 1301.132 or 843.350, Insurance Code.

(i) In this section, "physician" means a person licensed to practice in this state.

SECTION 7. Section 154.002, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The board shall make available on the board's Internet website a consumer guide to health care. The board shall include information in the guide concerning the billing and reimbursement of health care services provided by physicians, including information that advises consumers that:

(1) the charge for a health care service or supply will vary based on:

(A) the person's medical condition;

(B) any unknown medical conditions of the person;

(C) the person's diagnosis and recommended treatment protocols; and

(D) other factors associated with performance of the health care service;

(2) the charge for a health care service or supply may differ from the amount to be paid by the consumer or the consumer's third-party payor;

(3) the consumer may be personally liable for payment for the health care service or supply depending on the consumer's health benefit plan coverage; and

(4) the consumer should contact the consumer's health benefit plan for accurate information regarding the plan structure, benefit coverage, deductibles, copayments, coinsurance, and other plan provisions that may impact the consumer's liability for payment for the health care services or supplies.

SECTION 8. Chapter 38, Insurance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. HEALTH CARE REIMBURSEMENT RATE INFORMATION

Sec. 38.351. PURPOSE OF SUBCHAPTER. The purpose of this subchapter is to authorize the department to:

(1) collect data concerning health benefit plan reimbursement rates in a uniform format; and

(2) disseminate, on an aggregate basis for geographical regions in this state, information concerning health care reimbursement rates derived from the data.

Sec. 38.352. DEFINITION. In this subchapter, "group health benefit plan" means a preferred provider benefit plan as defined by Section 1301.001 or an evidence of coverage for a health care plan that provides basic health care services as defined by Section 843.002.

Sec. 38.353. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to the issuer of a group health benefit plan, including:

(1) an insurance company;

(2) a group hospital service corporation;

(3) a fraternal benefit society;

(4) a stipulated premium company;

(5) a reciprocal or interinsurance exchange; or

(6) a health maintenance organization.

(b) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601 or any other law, and except as provided by Subsection (e), this subchapter applies to:

(1) a basic coverage plan under Chapter 1551;

(2) a basic plan under Chapter 1575;

(3) a primary care coverage plan under Chapter 1579; and

(4) basic coverage under Chapter 1601.

(c) Except as provided by Subsection (d), this subchapter applies to a small employer health benefit plan provided under Chapter 1501.

(d) This subchapter does not apply to:

(1) standard health benefit plans provided under Chapter 1507;

(2) children's health benefit plans provided under Chapter 1502;

(3) health care benefits provided under a workers' compensation insurance policy;

(4) Medicaid managed care programs operated under Chapter 533, Government Code;

(5) Medicaid programs operated under Chapter 32, Human Resources Code;

or
(6) the state child health plan operated under Chapter 62 or 63, Health and Safety Code.

(e) The commissioner by rule may exclude a type of health benefit plan from the requirements of this subchapter if the commissioner finds that data collected in relation to the health benefit plan would not be relevant to accomplishing the purposes of this subchapter.

Sec. 38.354. RULES. The commissioner may adopt rules as provided by Subchapter A, Chapter 36, to implement this subchapter.

Sec. 38.355. DATA CALL; STANDARDIZED FORMAT. (a) Each health benefit plan issuer shall submit to the department, at the time and in the form and manner required by the department, aggregate reimbursement rates by region paid by the health benefit plan issuer for health care services identified by the department.

(b) The department shall require that data submitted under this section be submitted in a standardized format, established by rule, to permit comparison of health care reimbursement rates. To the extent feasible, the department shall develop the data submission requirements in a manner that allows collection of reimbursement rates as a dollar amount and not by comparison to other standard reimbursement rates, such as Medicare reimbursement rates.

(c) The department shall specify the period for which reimbursement rates must be filed under this section.

(d) The department may contract with a private third party to obtain the data under this subchapter. If the department contracts with a third party, the department may determine the aggregate data to be collected and published under Section 38.357 if consistent with the purposes of this subchapter described in Section 38.351. The department shall prohibit the third party contractor from selling, leasing, or publishing the data obtained by the contractor under this subchapter.

Sec. 38.356. CONFIDENTIALITY OF DATA. Except as provided by Section 38.357, data collected under this subchapter is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 38.357. PUBLICATION OF AGGREGATE HEALTH CARE REIMBURSEMENT RATE INFORMATION. The department shall provide to the Department of State Health Services for publication, for identified regions of this state, aggregate health care reimbursement rate information derived from the data collected under this subchapter. The published information may not reveal the name of any health care provider or health benefit plan issuer. The department may make the aggregate health care reimbursement rate information available through the department's Internet website.

Sec. 38.358. PENALTIES. A health benefit plan issuer that fails to submit data as required in accordance with this subchapter is subject to an administrative penalty under Chapter 84. For purposes of penalty assessment, each day the health benefit plan issuer fails to submit the data as required is a separate violation.

SECTION 9. Section 843.155, Insurance Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The report shall:

- (1) be verified by at least two principal officers;
- (2) be in a form prescribed by the commissioner; and
- (3) include:

(A) a financial statement of the health maintenance organization, including its balance sheet and receipts and disbursements for the preceding calendar year, certified by an independent public accountant;

(B) the number of individuals enrolled during the preceding calendar year, the number of enrollees as of the end of that year, and the number of enrollments terminated during that year;

(C) a statement of:

- (i) an evaluation of enrollee satisfaction;
- (ii) an evaluation of quality of care;
- (iii) coverage areas;
- (iv) accreditation status;

- (v) premium costs;
- (vi) plan costs;
- (vii) premium increases;
- (viii) the range of benefits provided;
- (ix) copayments and deductibles;
- (x) the accuracy and speed of claims payment by the organization;
- (xi) the credentials of physicians of the organization; and
- (xii) the number of providers;

(D) updated financial projections for the next calendar year of the type described in Section 843.078(e), until the health maintenance organization has had a net income for 12 consecutive months; and

(E) ~~(D)~~ other information relating to the performance of the health maintenance organization as necessary to enable the commissioner to perform the commissioner's duties under this chapter and Chapter 20A.

(d) The annual report filed by the health maintenance organization shall be made publicly available on the department's Internet website in a user-friendly format that allows consumers to make direct comparisons of the financial and other data reported by health maintenance organizations under this section.

SECTION 10. Subchapter A, Chapter 1301, Insurance Code, is amended by adding Section 1301.009 to read as follows:

Sec. 1301.009. ANNUAL REPORT. (a) Not later than March 1 of each year, an insurer shall file with the commissioner a report relating to the preferred provider benefit plan offered under this chapter and covering the preceding calendar year.

(b) The report shall:

- (1) be verified by at least two principal officers;
- (2) be in a form prescribed by the commissioner; and
- (3) include:

(A) a financial statement of the insurer, including its balance sheet and receipts and disbursements for the preceding calendar year, certified by an independent public accountant;

(B) the number of individuals enrolled during the preceding calendar year, the number of enrollees as of the end of that year, and the number of enrollments terminated during that year; and

(C) a statement of:

- (i) an evaluation of enrollee satisfaction;
- (ii) an evaluation of quality of care;
- (iii) coverage areas;
- (iv) accreditation status;
- (v) premium costs;
- (vi) plan costs;
- (vii) premium increases;
- (viii) the range of benefits provided;
- (ix) copayments and deductibles;
- (x) the accuracy and speed of claims payment by the insurer for the

plan;

(xi) the credentials of physicians who are preferred providers; and

(xii) the number of preferred providers.

(c) The annual report filed by the insurer shall be made publicly available on the department's website in a user-friendly format that allows consumers to make direct comparisons of the financial and other data reported by insurers under this section.

(d) An insurer providing group coverage of \$10 million or less in premiums or individual coverage of \$2 million or less in premiums is not required to report the data required under Subsection (b)(3)(C).

SECTION 11. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1456 to read as follows:

CHAPTER 1456. DISCLOSURE OF PROVIDER STATUS

Sec. 1456.001. DEFINITIONS. In this chapter:

(1) "Balance billing" means the practice of charging an enrollee in a health benefit plan that uses a provider network to recover from the enrollee the balance of a non-network health care provider's fee for service received by the enrollee from the health care provider that is not fully reimbursed by the enrollee's health benefit plan.

(2) "Enrollee" means an individual who is eligible to receive health care services through a health benefit plan.

(3) "Facility-based physician" means a radiologist, an anesthesiologist, a pathologist, an emergency department physician, or a neonatologist:

(A) to whom the facility has granted clinical privileges; and

(B) who provides services to patients of the facility under those clinical privileges.

(4) "Health care facility" means a hospital, emergency clinic, outpatient clinic, birthing center, ambulatory surgical center, or other facility providing health care services.

(5) "Health care practitioner" means an individual who is licensed to provide and provides health care services.

(6) "Provider network" means a health benefit plan under which health care services are provided to enrollees through contracts with health care providers and that requires those enrollees to use health care providers participating in the plan and procedures covered by the plan. The term includes a network operated by:

(A) a health maintenance organization;

(B) a preferred provider benefit plan issuer; or

(C) another entity that issues a health benefit plan, including an insurance company.

Sec. 1456.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to any health benefit plan that:

(1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

(A) an insurance company;

(B) a group hospital service corporation operating under Chapter 842;

(C) a fraternal benefit society operating under Chapter 885;

(D) a stipulated premium company operating under Chapter 884;

(E) a health maintenance organization operating under Chapter 843;

(F) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

(G) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844; or

(H) an entity not authorized under this code or another insurance law of this state that contracts directly for health care services on a risk-sharing basis, including a capitation basis; or

(2) provides health and accident coverage through a risk pool created under Chapter 172, Local Government Code, notwithstanding Section 172.014, Local Government Code, or any other law.

(b) This chapter applies to a person to whom a health benefit plan contracts to:

(1) process or pay claims;

(2) obtain the services of physicians or other providers to provide health care services to enrollees; or

(3) issue verifications or preauthorizations.

(c) This chapter does not apply to:

(1) Medicaid managed care programs operated under Chapter 533, Government Code;

(2) Medicaid programs operated under Chapter 32, Human Resources Code;
or

(3) the state child health plan operated under Chapter 62 or 63, Health and Safety Code.

Sec. 1456.003. REQUIRED DISCLOSURE: HEALTH BENEFIT PLAN.

(a) Each health benefit plan that provides health care through a provider network shall provide notice to its enrollees that:

(1) a facility-based physician or other health care practitioner may not be included in the health benefit plan's provider network; and

(2) a health care practitioner described by Subdivision (1) may balance bill the enrollee for amounts not paid by the health benefit plan.

(b) The health benefit plan shall provide the disclosure in writing to each enrollee:

(1) in any materials sent to the enrollee in conjunction with issuance or renewal of the plan's insurance policy or evidence of coverage;

(2) in an explanation of payment summary provided to the enrollee or in any other analogous document that describes the enrollee's benefits under the plan; and

(3) conspicuously displayed, on any health benefit plan website that an enrollee is reasonably expected to access.

(c) A health benefit plan must clearly identify any health care facilities within the provider network in which facility-based physicians do not participate in the health benefit plan's provider network. Health care facilities identified under this subsection must be identified in a separate and conspicuous manner in any provider network directory or website directory.

(d) Along with any explanation of benefits sent to an enrollee that contains a remark code indicating a payment made to a non-network physician has been paid at the health benefit plan's allowable or usual and customary amount, a health benefit plan must also include the number for the department's consumer protection division for complaints regarding payment.

Sec. 1456.004. REQUIRED DISCLOSURE: FACILITY-BASED PHYSICIANS. (a) If a facility-based physician bills a patient who is covered by a health benefit plan described in Section 1456.002 that does not have a contract with the facility-based physician, the facility-based physician shall send a billing statement that:

(1) contains an itemized listing of the services and supplies provided along with the dates the services and supplies were provided;

(2) contains a conspicuous, plain-language explanation that:

(A) the facility-based physician is not within the health plan provider network; and

(B) the health benefit plan has paid a rate, as determined by the health benefit plan, which is below the facility-based physician billed amount;

(3) contains a telephone number to call to discuss the statement, provide an explanation of any acronyms, abbreviations, and numbers used on the statement, or discuss any payment issues;

(4) contains a statement that the patient may call to discuss alternative payment arrangements;

(5) contains a notice that the patient may file complaints with the Texas Medical Board and includes the Texas Medical Board mailing address and complaint telephone number; and

(6) for billing statements that total an amount greater than \$200, over any applicable copayments or deductibles, states, in plain language, that if the patient finalizes a payment plan agreement within 45 days of receiving the first billing statement and substantially complies with the agreement, the facility-based physician may not furnish adverse information to a consumer reporting agency regarding an amount owed by the patient for the receipt of medical treatment.

(b) A patient may be considered by the facility-based physician to be out of substantial compliance with the payment plan agreement if payments are not made in compliance with the agreement for a period of 90 days.

Sec. 1456.005. DISCIPLINARY ACTION AND ADMINISTRATIVE PENALTY. (a) The commissioner may take disciplinary action against a licensee that violates this chapter, in accordance with Chapter 84.

(b) A violation of this chapter by a facility-based physician is grounds for disciplinary action and imposition of an administrative penalty by the Texas Medical Board.

(c) The Texas Medical Board shall:

(1) notify a facility-based physician of a finding by the Texas Medical Board that the facility-based physician is violating or has violated this chapter or a rule adopted under this chapter; and

(2) provide the facility-based physician with an opportunity to correct the violation without penalty or reprimand.

Sec. 1456.006. COMMISSIONER RULES; FORM OF DISCLOSURE. The commissioner by rule may prescribe specific requirements for the disclosure required under Section 1456.003. The form of the disclosure must be substantially as follows:

NOTICE: "ALTHOUGH HEALTH CARE SERVICES MAY BE OR HAVE BEEN PROVIDED TO YOU AT A HEALTH CARE FACILITY THAT IS A MEMBER OF THE PROVIDER NETWORK USED BY YOUR HEALTH BENEFIT PLAN, OTHER PROFESSIONAL SERVICES MAY BE OR HAVE BEEN PROVIDED AT OR THROUGH THE FACILITY BY PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS WHO ARE NOT MEMBERS OF THAT NETWORK. YOU MAY BE RESPONSIBLE FOR PAYMENT OF ALL OR PART OF THE FEES FOR THOSE PROFESSIONAL SERVICES THAT ARE NOT PAID OR COVERED BY YOUR HEALTH BENEFIT PLAN."

Sec. 1456.0065. STUDY OF NETWORK ADEQUACY AND CONTRACTS OF HEALTH PLANS. (a) In this section:

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

(2) "Health benefit plan" means an insurance policy or a contract or evidence of coverage issued by a health maintenance organization or an employer or employee sponsored health plan.

(b) The commissioner shall appoint an advisory committee to study facility-based provider network adequacy of health benefit plans.

(c) The advisory committee shall be composed of:

(1) one or more physician representatives;

(2) one or more hospital representatives;

(3) one or more health benefit plan representatives, to equal the total number of physician and hospital representatives; and

(4) one representative each from associations representing physicians, hospitals, and health benefit plans.

(d) The advisory committee periodically and not later than December 1, 2008, shall advise the following of its findings:

(1) the governor;

(2) the lieutenant governor;

(3) the speaker of the house of representatives;

(4) the commissioner; and

(5) the chairs of the standing committees of the senate and house of representatives that have primary jurisdiction over health benefit plans.

(e) Members of the advisory committee serve without compensation.

(f) The advisory committee is abolished and this section expires January 1, 2009.

Sec. 1456.007. HEALTH BENEFIT PLAN ESTIMATE OF CHARGES. A health benefit plan that must comply with this chapter under Section 1456.002 shall, on the request of an enrollee, provide an estimate of payments that will be made for any health care service or supply and shall also specify any deductibles, copayments, coinsurance, or other amounts for which the enrollee is responsible. The estimate must be provided not later than the 10th business day after the date on which the estimate was requested. A health benefit plan must advise the enrollee that:

(1) the actual payment and charges for the services or supplies will vary based upon the enrollee's actual medical condition and other factors associated with performance of medical services; and

(2) the enrollee may be personally liable for the payment of services or supplies based upon the enrollee's health benefit plan coverage.

SECTION 12. Section 843.201, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) A health maintenance organization shall provide to an enrollee on request information on:

(1) whether a physician or other health care provider is a participating provider in the health maintenance organization's network;

(2) whether proposed health care services are covered by the health plan; and

(3) what the enrollee's personal responsibility will be for payment of applicable copayment or deductible amounts.

SECTION 13. Subchapter F, Chapter 843, Insurance Code, is amended by adding Section 843.211 to read as follows:

Sec. 843.211. APPLICABILITY OF SUBCHAPTER TO ENTITIES CONTRACTING WITH HEALTH MAINTENANCE ORGANIZATION. This subchapter applies to a person to whom a health maintenance organization contracts to:

(1) process or pay claims;

(2) obtain the services of physicians or other providers to provide health care services to enrollees; or

(3) issue verifications or preauthorizations.

SECTION 14. Section 1301.158, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) An insurer shall provide to an insured on request information on:

(1) whether a physician or other health care provider is a participating provider in the insurer's preferred provider network;

(2) whether proposed health care services are covered by the health insurance policy;

(3) what the insured's personal responsibility will be for payment of applicable copayment or deductible amounts; and

(4) coinsurance amounts owed based on the provider's contracted rate for in-network services or the insurer's usual and customary reimbursement rate for out-of-network services.

SECTION 15. Subchapter D, Chapter 1301, Insurance Code, is amended by adding Section 1301.163 to read as follows:

Sec. 1301.163. APPLICABILITY OF SUBCHAPTER TO ENTITIES CONTRACTING WITH INSURER. This subchapter applies to a person to whom an insurer contracts to:

(1) process or pay claims;

(2) obtain the services of physicians or other providers to provide health care services to enrollees; or

(3) issue verifications or preauthorizations.

SECTION 16. Section 1506.007, Insurance Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) A health benefit plan issuer, employer, or other person who is required to provide notice to an individual of the individual's ability to continue coverage in accordance with Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.) (COBRA), shall, at the time that that notice is required, also provide notice to the individual of the availability of coverage under the pool.

(a-2) A health benefit plan issuer who is providing coverage to an individual in accordance with Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.) (COBRA), shall, not later than the 45th day before the date that coverage expires, notify the individual of the availability of coverage under the pool.

SECTION 17. This Act applies to an insurance policy, certificate, or contract or an evidence of coverage delivered, issued for delivery, or renewed on or after the effective date of this Act. A policy, certificate, or contract or evidence of coverage delivered, issued for delivery, or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 18. Except as provided by Section 19 of this Act, the Department of State Health Services, Texas Medical Board, and Texas Department of Insurance shall adopt rules as necessary to implement this Act not later than May 1, 2008.

SECTION 19. Not later than December 31, 2007, the commissioner of insurance shall adopt rules as necessary to implement Subchapter H, Chapter 38, Insurance Code, as added by this Act. The rules must require that each health benefit plan issuer subject to that subchapter make the initial submission of data under that subchapter not later than the 60th day after the effective date of the rules.

SECTION 20. (a) The commissioner of insurance by rule shall require each health benefit plan issuer subject to Chapter 1456, Insurance Code, as added by this Act, to submit information to the Texas Department of Insurance concerning the use of non-network providers by health benefit plan enrollees and the payments made to those providers. The information collected must cover a 12-month period specified by the commissioner of insurance. The commissioner of insurance shall work with the network adequacy study group to develop the data collection and evaluate the information collected.

(b) A health benefit plan issuer that fails to submit data as required in accordance with this section is subject to an administrative penalty under Chapter 84, Insurance Code. For purposes of penalty assessment, each day the health benefit plan issuer fails to submit the data as required is a separate violation.

SECTION 21. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1731** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3438**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate
Honorable Tom Craddick
Speaker of the House of Representatives
Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3438** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO
AVERITT
BRIMER
HINOJOSA
On the part of the Senate

FLORES
GONZALES
GUILLEN
PENA
On the part of the House

The Conference Committee Report on **HB 3438** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2814**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate
Honorable Tom Craddick
Speaker of the House of Representatives
Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2814** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE
JANEK
OGDEN
SHAPIRO
ZAFFIRINI
On the part of the Senate

EISSLER
ZEDLER
DELISI
HOCHBERG
PATRICK
On the part of the House

The Conference Committee Report on **HB 2814** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 960**

Senator Shapleigh submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 960** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHAPLEIGH

ELTIFE

SHAPIRO

URESTI

VAN DE PUTTE

On the part of the Senate

HAGGERTY

CHAVEZ

PICKETT

QUINTANILLA

MORENO

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the administration of exit-level state assessment instruments to transfer students who are dependents of military personnel.

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

SECTION 1. Section 39.025, Education Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding any other provision of this section, the commissioner shall allow a student who is the dependent of a person serving in the military to satisfy the requirements of Subsection (a) and qualify for a high school diploma through satisfactory performance on one or more alternative nationally recognized norm-referenced assessment instruments if the student, as a result of a military transfer or deployment of the person serving in the military, transfers into the public school system of this state after completion of the student's sophomore year in high school.

(g) For purposes of Subsection (f), the commissioner, in order to ensure that a student described by that subsection may satisfy the requirements of Subsection (a) solely through performance on one or more alternative assessment instruments, shall establish required performance levels for the alternative assessment instrument or instruments that correspond to the performance levels otherwise required under Subsection (a) on the secondary exit-level assessment instruments for English language arts, mathematics, social studies, and science.

SECTION 2. Section 39.025, Education Code, as amended by this Act, applies beginning with students enrolled in public high schools in this state as juniors or seniors during the 2006-2007 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 960** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1267**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1267** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER
ELLIS
HINOJOSA
DUNCAN
HARRIS

On the part of the Senate

PENA
ESCOBAR
GATTIS
HARTNETT
TALTON

On the part of the House

The Conference Committee Report on **HB 1267** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1801**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1801** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR
DEUELL
NICHOLS

ZERWAS
ESCOBAR
PENA
PIERSON
VAUGHT

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1801** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3560**

Senator Janek submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3560** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JANEK
WILLIAMS
ELLIS
FRASER
BRIMER
On the part of the Senate

SWINFORD
RITTER
GALLEGO
WOOLLEY
CHISUM
On the part of the House

The Conference Committee Report on **HB 3560** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2823**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2823** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK
BRIMER
CARONA
JACKSON
URESTI

On the part of the Senate

BOHAC
ANCHIA
BERMAN
FARIAS
C. HOWARD

On the part of the House

The Conference Committee Report on **HB 2823** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 6

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 24, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 6** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI
HINOJOSA
CARONA
ELTIFE
AVERITT

On the part of the Senate

PENA
EISSLER
GUILLEN
RIDDLE

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to the apprehension, prosecution, and punishment of individuals committing or attempting to commit certain sex offenses, to the placement by public schools of certain students who are sex offenders, and to the notification requirements concerning certain offenses committed by students.

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

SECTION 1. Article 15.27, Code of Criminal Procedure, is amended by adding Subsections (a-1) and (j) and amending Subsections (b) and (c) to read as follows:

(a-1) The superintendent or a person designated by the superintendent in the school district may send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a) if the superintendent or the person designated by the superintendent determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or on the next school day. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, ~~[promptly]~~ notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, ~~[or]~~ probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the pardons and paroles division of the Texas Department of Criminal Justice, and the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment notify the new school officials of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The new school officials shall, within 24 hours of receiving notification under this subsection, ~~[promptly]~~ notify all instructional and support personnel who have regular contact with the student.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

SECTION 2. Title 1, Code of Criminal Procedure, is amended by adding Chapter 24A to read as follows:

CHAPTER 24A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER
COURT ORDERS; PRESERVING CERTAIN INFORMATION
SUBCHAPTER A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER
COURT ORDERS

Art. 24A.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a subpoena, search warrant, or other court order that:

(1) relates to the investigation or prosecution of a criminal offense under Section 33.021, Penal Code; and

(2) is served on or issued with respect to an Internet service provider that provides service in this state.

Art. 24A.002. RESPONSE REQUIRED; DEADLINE FOR RESPONSE.

(a) Except as provided by Subsection (b), not later than the 10th day after the date on which an Internet service provider is served with or otherwise receives a subpoena, search warrant, or other court order described by Article 24A.001, the Internet service provider shall:

(1) fully comply with the subpoena, warrant, or order; or

(2) petition a court to excuse the Internet service provider from complying with the subpoena, warrant, or order.

(b) As soon as is practicable, and in no event later than the second business day after the date the Internet service provider is served with or otherwise receives a subpoena, search warrant, or other court order described by Article 24A.001, the Internet service provider shall fully comply with the subpoena, search warrant, or order if the subpoena, search warrant, or order indicates that full compliance is necessary to address a situation that threatens a person with death or other serious bodily injury.

(c) For the purposes of Subsection (a)(1), full compliance with the subpoena, warrant, or order includes:

(1) producing or providing, to the extent permitted under federal law, all documents or information requested under the subpoena, warrant, or order; or

(2) providing, to the extent permitted under federal law, electronic access to all documents or information requested under the subpoena, warrant, or order.

Art. 24A.003. DISOBEYING SUBPOENA, WARRANT, OR ORDER. An Internet service provider that disobeys a subpoena, search warrant, or other court order described by Article 24A.001 and that was not excused from complying with the subpoena, warrant, or order under Article 24A.002(a)(2) may be punished in any manner provided by law.

[Articles 24A.004-24A.050 reserved for expansion]

SUBCHAPTER B. PRESERVING CERTAIN INFORMATION

Art. 24A.051. PRESERVING INFORMATION. (a) On written request of a law enforcement agency in this state or a federal law enforcement agency and pending the issuance of a subpoena or other court order described by Article 24A.001, an Internet service provider that provides service in this state shall take all steps necessary to preserve all records or other potential evidence in a criminal trial that is in the possession of the Internet service provider.

(b) Subject to Subsection (c), an Internet service provider shall preserve information under Subsection (a) for a period of 90 days after the date the Internet service provider receives the written request described by Subsection (a).

(c) An Internet service provider shall preserve information under Subsection (a) for the 90-day period immediately following the 90-day period described by Subsection (b) if the requesting law enforcement agency in writing requests an extension of the preservation period.

SECTION 3. Chapter 37, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS

Sec. 37.301. DEFINITION. In this subchapter, "board of trustees" includes the board's designee.

Sec. 37.302. APPLICABILITY. This subchapter:

(1) applies to a student who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) does not apply to a student who is no longer required to register as a sex offender under Chapter 62, Code of Criminal Procedure, including a student who receives an exemption from registration under Subchapter H, Chapter 62, Code of Criminal Procedure, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, Code of Criminal Procedure.

Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A, on receiving notice under Article 15.27, Code of Criminal Procedure, or Chapter 62, Code of Criminal Procedure, that a student is required to register as a sex offender under that chapter, a school district shall remove the student from the regular classroom and determine the appropriate placement of the student in the manner provided by this subchapter.

Sec. 37.304. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS UNDER COURT SUPERVISION. (a) A school district shall place a student to whom this subchapter applies and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program as provided by Section 37.309 for at least one semester.

(b) If a student transfers to another school district during the student's mandatory placement in an alternative education program under Subsection (a), the district to which the student transfers may:

(1) require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester under Section 37.306; or

(2) count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement under Subsection (a).

Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS NOT UNDER COURT SUPERVISION. A school district may place a student to whom this subchapter applies and who is not under any form of court supervision in the appropriate alternative education program as provided by Section 37.309 for one

semester or in the regular classroom. The district may not place the student in the regular classroom if the district board of trustees determines that the student's presence in the regular classroom:

- (1) threatens the safety of other students or teachers;
- (2) will be detrimental to the educational process; or
- (3) is not in the best interests of the district's students.

Sec. 37.306. REVIEW OF PLACEMENT IN ALTERNATIVE EDUCATION PROGRAM. (a) At the end of the first semester of a student's placement in an alternative education program under Section 37.304 or 37.305, the school district board of trustees shall convene a committee to review the student's placement in the alternative education program. The committee must be composed of:

- (1) a classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;
- (2) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;
- (3) an instructor from the alternative education program to which the student is assigned;
- (4) a school district designee selected by the board of trustees; and
- (5) a counselor employed by the school district.

(b) The committee by majority vote shall determine and recommend to the school district board of trustees whether the student should be returned to the regular classroom or remain in the alternative education program.

(c) If the committee recommends that the student be returned to the regular classroom, the board of trustees shall return the student to the regular classroom unless the board determines that the student's presence in the regular classroom:

- (1) threatens the safety of other students or teachers;
- (2) will be detrimental to the educational process; or
- (3) is not in the best interests of the district's students.

(d) If the committee recommends that the student remain in the alternative education program, the board of trustees shall continue the student's placement in the alternative education program unless the board determines that the student's presence in the regular classroom:

- (1) does not threaten the safety of other students or teachers;
- (2) will not be detrimental to the educational process; and
- (3) is not contrary to the best interests of the district's students.

(e) If, after receiving a recommendation under Subsection (b), the school district board of trustees determines that the student should remain in an alternative education program, the board shall before the beginning of each school year convene the committee described by Subsection (a) to review, in the manner provided by Subsections (b), (c), and (d), the student's placement in an alternative education program.

Sec. 37.307. PLACEMENT AND REVIEW OF STUDENT WITH DISABILITY. (a) The placement under this subchapter of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(b) The review under Section 37.306 of the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. The admission, review, and dismissal committee may request that the board of trustees convene a committee described by Section 37.306(a) to assist the admission, review, and dismissal committee in conducting the review.

Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except as provided by Section 37.304(b), a school district shall determine whether to place a student to whom this subchapter applies and who transfers to the district in the appropriate alternative education program as provided by Section 37.309 or in a regular classroom. The school district shall follow the procedures specified under Section 37.306 in making the determination.

Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) Except as provided by Subsection (b), a school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a disciplinary alternative education program.

(b) A school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a juvenile justice alternative education program if:

(1) the memorandum of understanding entered into between the school district and juvenile board under Section 37.011(k) provides for the placement of students to whom this subchapter applies in the juvenile justice alternative education program; or

(2) a court orders the placement of the student in a juvenile justice alternative education program.

Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice alternative education program is entitled to funding for a student who is placed in the program under this subchapter in the same manner as a juvenile justice alternative education program is entitled to funding under Section 37.012 for a student who is expelled and placed in a juvenile justice alternative education program for conduct for which expulsion is permitted but not required under Section 37.007.

Sec. 37.311. CONFERENCE. (a) A student or the student's parent or guardian may appeal a decision by a school district board of trustees to place the student in an alternative education program under this subchapter by requesting a conference among the board of trustees, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) If the school district board of trustees determines at the conclusion of the conference that the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, the student is subject to placement in an alternative education program in the manner provided by this subchapter.

(c) A decision by the board of trustees under this section is final and may not be appealed.

Sec. 37.312. LIABILITY. This subchapter does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

Sec. 37.313. CONFLICTS OF LAW. To the extent of any conflict between a provision of this subchapter and a provision of Subchapter A, this subchapter prevails.

SECTION 4. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.0281 to read as follows:

Sec. 402.0281. INTERNET SERVICE PROVIDER DATABASE. (a) The attorney general shall establish a computerized database containing contact information for all Internet service providers providing service in this state. The contact information must include:

(1) the name and physical address of the person authorized to accept service of process for the Internet service provider; and

(2) the physical address of the Internet service provider's principal place of business in this state.

(b) At the request of a district attorney, criminal district attorney, county attorney, law enforcement agency of this state, or local law enforcement agency, the attorney general shall allow the requestor access to the database to expedite the information-gathering process of a criminal investigation conducted by the requestor concerning an offense under Section 33.021, Penal Code.

SECTION 5. Section 414.005, Government Code, is amended to read as follows:

Sec. 414.005. DUTIES. The council shall:

(1) encourage, advise, and assist in the creation of crime stoppers organizations;

(2) foster the detection of crime and encourage persons to report information about criminal acts;

(3) encourage news and other media to broadcast reenactments and to inform the public of the functions of crime stoppers organizations' operations and programs;

(4) promote the process of crime stoppers organizations to forward information about criminal acts to the appropriate law enforcement agencies; ~~and~~

(5) help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies;

(6) create specialized programs targeted at detecting specific crimes or types of crimes, including at least one program that:

(A) encourages individuals to report sex offenders who have failed to register under Chapter 62, Code of Criminal Procedure; and

(B) financially rewards each individual who makes a report described by Paragraph (A) that leads or substantially contributes to the arrest or apprehension of a sex offender who has failed to register under Chapter 62, Code of Criminal Procedure; and

(7) encourage, advise, and assist crime stoppers organizations in implementing any programs created under Subdivision (6), including a program specifically described by Subdivision (6).

SECTION 6. Subsection (b), Section 3.03, Penal Code, is amended to read as follows:

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2) an offense:

(A) under Section 33.021 or an offense under Section 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section; or

(3) an offense:

(A) under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections.

SECTION 7. Subsection (f), Section 33.021, Penal Code, is amended to read as follows:

(f) An offense under Subsection (b) is a ~~[state jail]~~ felony of the third degree, except that the offense is a felony of the second degree if the minor is younger than 14 years of age or is an individual whom the actor believes to be younger than 14 years of age at the time of the commission of the offense. ~~An~~[- and an] offense under Subsection (c) is a felony of the ~~second~~ second ~~[third]~~ degree~~[- except that an offense under Subsection (b) or (e) is a felony of the second degree if the minor is younger than 14 years of age or is an individual whom the actor believes to be younger than 14 years of age].~~

SECTION 8. Subsection (d), Article 15.27, Code of Criminal Procedure, is repealed.

SECTION 9. Subchapter I, Chapter 37, Education Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. The attorney general shall ensure that the database required under Section 402.0281, Government Code, as added by this Act, is fully operational not later than April 1, 2008, and not later than June 1, 2008, shall begin allowing requesting parties access to that database as described by that section.

SECTION 11. Subsection (b), Section 3.03, and Subsection (f), Section 33.021, Penal Code, as amended by this Act, apply only to an offense committed on or after September 1, 2007. An offense committed before September 1, 2007, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before September 1, 2007, if any element of the offense occurred before that date.

SECTION 12. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 6** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1604

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1604** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN
AVERITT
HEGAR
JACKSON
SELIGER

On the part of the Senate

BONNEN
DRIVER
KUEMPEL

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to responsibilities of certain state agencies concerning radioactive substances; imposing fees and surcharges; providing administrative and civil penalties.

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

SECTION 1. Section 401.003, Health and Safety Code, is amended by amending Subdivisions (2), (4), (5), and (6) and by adding Subdivision (12-a) to read as follows:

(2) "Board" means the executive commissioner of the Health and Human Services Commission ~~[Texas Board of Health]~~.

(4) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(5) "Commissioner" means the commissioner of state ~~[public]~~ health services.

(6) "Department" means the ~~[Texas]~~ Department of State Health Services or other department designated by the executive commissioner of the Health and Human Services Commission.

(12-a) "Gross receipts" includes, with respect to an entity or affiliated members, owners, shareholders, or limited or general partners, all receipts from the entity's disposal operations in Texas licensed under this chapter including any bonus, commission, or similar payment received by the entity from a customer, contractor, subcontractor, or other person doing business with the entity or affiliated members, owners, shareholders, or limited or general partners. This term does not include receipts from the entity's operations in Texas, or affiliated members, owners, shareholders, or limited or general partners, for capital reimbursements, bona fide storage and processing, and federal or state taxes or fees on waste received uniquely required to meet the specifications of a license or contract. The commission may promulgate rules in establishing the criteria for determining gross receipts consistent with the parameters of this definition.

SECTION 2. Subsections (a) and (b), Section 401.011, Health and Safety Code, are amended to read as follows:

(a) The department is the Texas Radiation Control Agency. The department has jurisdiction over activities and substances regulated under this chapter except as provided by Subsection (b) and Subchapters E, F, G, and K.

(b) The commission has jurisdiction to regulate and license:

(1) the disposal of radioactive substances;

(2) the processing or storage of low-level radioactive waste or naturally occurring radioactive material waste received from other persons, except oil and gas NORM;

(3) the recovery or processing of source material in accordance with Subchapter G;

(4) the processing of by-product material as defined by Section 401.003(3)(B); and

(5) sites for the disposal of:

(A) low-level radioactive waste;

(B) by-product material; or

(C) naturally occurring radioactive material waste ~~[except by-product material defined by Section 401.003(3)(B)].~~

SECTION 3. Section 401.104, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

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

(f) A separate commercial storage and processing license may be issued for a site also licensed for disposal under this chapter.

SECTION 4. Subsection (a), Section 401.106, Health and Safety Code, is amended to read as follows:

(a) The board or commission by rule may exempt a source of radiation or a kind of use or user from the licensing or registration requirements provided by this chapter and under the agency's jurisdiction if the board or commission finds that the exemption of that source of radiation or kind of use or user will not constitute a significant risk to the public health and safety and the environment.

SECTION 5. Section 401.108, Health and Safety Code, is amended to read as follows:

Sec. 401.108. FINANCIAL QUALIFICATIONS. (a) Before a license is issued or renewed by the commission, the applicant shall demonstrate to the commission that the applicant is financially qualified to conduct the licensed activity, including any required decontamination, decommissioning, reclamation, and disposal, by posting security acceptable to the commission. ~~[The board by rule shall require an applicant to demonstrate to the department that the applicant is financially qualified to conduct the licensed activity, including any required decontamination, decommissioning, reclamation, and disposal, before the department issues or renews a license.]~~

(b) A license holder shall submit to the department or commission, as appropriate, at intervals required by board or commission rules or the license, proof that the license holder has updated, as appropriate, the security posted under Subsection (a) [of the license holder's financial qualifications].

(c) The ~~[department or]~~ commission at regular intervals not to exceed five years shall reevaluate ~~[every five years]~~ the qualifications and security provided by a license holder under Subchapter F or Subchapter G. The reevaluation may coincide with license renewal procedures if renewal and reevaluation occur in the same year.

SECTION 6. Subsection (b), Section 401.109, Health and Safety Code, is amended to read as follows:

(b) The ~~[department or]~~ commission shall require a holder of a license that authorizes the disposal of radioactive substances ~~[low-level radioactive waste as provided by Subchapter F]~~ to provide security acceptable to the commission ~~[agency]~~ to assure performance of the license holder's obligations under this chapter.

SECTION 7. Section 401.111, Health and Safety Code, is amended to read as follows:

Sec. 401.111. CRITERIA FOR CERTAIN UNSUITABLE NEW SITES.

(a) The ~~[board and]~~ commission ~~[each]~~, in adopting rules for the issuance of licenses under the commission's jurisdiction ~~[their respective jurisdictions]~~ for new sites for processing or disposal of radioactive substances ~~[low level radioactive waste]~~ from other persons, shall adopt criteria for the designation of unsuitable sites, including:

- (1) flood hazard areas;
- (2) areas with characteristics of discharge from or recharge of a groundwater aquifer system; or
- (3) areas in which soil conditions make spill cleanup impracticable.

(b) The ~~[board and]~~ commission ~~[each]~~ shall consult with the Texas Water Development Board, the State Soil and Water Conservation Board, the Bureau of Economic Geology, and other appropriate state agencies in developing proposed rules. The ~~[board and]~~ commission ~~[each]~~ by rule shall:

- (1) require selection of sites in areas in which natural conditions minimize potential contamination of surface water and groundwater; and
- (2) prohibit issuance of licenses for unsuitable sites as defined by the rules.

SECTION 8. Section 401.112, Health and Safety Code, is amended to read as follows:

Sec. 401.112. LOW-LEVEL RADIOACTIVE WASTE PROCESSING OR DISPOSAL LICENSE APPLICATION AND CONSIDERATIONS. (a) The ~~[department or]~~ commission~~[-, within its jurisdiction]~~, in making a licensing decision on a specific license application to process or dispose of low-level radioactive waste from other persons, shall consider:

(1) site suitability, geological, hydrological, and meteorological factors, and natural ~~[natural]~~ hazards;

- (2) compatibility with present uses of land near the site;
- (3) socioeconomic effects on surrounding communities of operation of the licensed activity and of associated transportation of low-level radioactive waste;
- (4) the need for and alternatives to the proposed activity, including an alternative siting analysis prepared by the applicant;
- (5) the applicant's qualifications, including:

(A) financial and technical qualifications and compliance history under the method for evaluation of compliance history developed by the commission under Section 5.754, Water Code, for an application to the commission; and

(B) the demonstration of financial qualifications under Section 401.108 ~~[or the requirements of Section 401.110(b) for an application to the department];~~

- (6) background monitoring plans for the proposed site;
- (7) suitability of facilities associated with the proposed activities;
- (8) chemical, radiological, and biological characteristics of the low-level radioactive waste and waste classification under Section 401.053;
- (9) adequate insurance of the applicant to cover potential injury to any property or person, including potential injury from risks relating to transportation;
- (10) training programs for the applicant's employees;
- (11) a monitoring, record-keeping, and reporting program;
- (12) spill detection and cleanup plans for the licensed site and related to associated transportation of low-level radioactive waste;

(13) decommissioning and postclosure care plans;
(14) security plans;
(15) worker monitoring and protection plans;
(16) emergency plans; and
(17) a monitoring program for applicants that includes prelicense and postlicense monitoring of background radioactive and chemical characteristics of the soils, groundwater, and vegetation.

(b) An applicant for the specific license must submit with the application information necessary for the commission [~~issuing agency~~] to consider the factors under Subsection (a).

(c) The [~~board and~~] commission [~~each within its jurisdiction~~] by rule shall provide specific criteria for the different types of licensed low-level radioactive waste activities for the listed factors and may include additional factors and criteria that the [~~board or~~] commission [~~as appropriate~~] determines necessary for full consideration of a license.

SECTION 9. Subsections (a) and (b), Section 401.113, Health and Safety Code, are amended to read as follows:

(a) Before a hearing under Section 401.114 begins, the commission [~~agency holding the hearing~~] shall prepare or have prepared a written analysis of the effect on the environment of a proposed licensed activity that the commission [~~agency~~] determines has a significant effect on the human environment.

(b) The commission [~~agency~~] shall make the analysis available to the public not later than the 31st day before the date of a hearing under Section 401.114.

SECTION 10. Section 401.114, Health and Safety Code, is amended to read as follows:

Sec. 401.114. NOTICE AND HEARING. (a) Before the [~~department or~~] commission [~~within its jurisdiction~~] grants or renews a license to process or dispose of low-level radioactive waste from other persons, the commission [~~agency~~] shall give notice and shall provide an opportunity for a public hearing in the manner provided by the commission's [~~agency's~~] formal hearing procedure and Chapter 2001, Government Code.

(b) In addition to other notice, the commission [~~agency~~] shall publish notice of the hearing in the manner provided by Chapter 313, Government Code, in the county in which the proposed facility is to be located. The notice shall state the subject and the time, place, and date of the hearing.

(c) The commission [~~agency~~] shall mail, by certified mail in the manner provided by the commission's [~~agency's~~] rules, written notice to each person who owns property adjacent to the proposed site. The notice must be mailed not later than the 31st day before the date of the hearing and must include the same information that is in the published notice. If true, the commission [~~agency~~] or the applicant must certify that the notice was mailed as required by this subsection, and at the hearing the certificate is conclusive evidence of the mailing.

SECTION 11. Section 401.117, Health and Safety Code, is amended to read as follows:

Sec. 401.117. CONSTRUCTION LIMITATION. The ~~[department or]~~ commission shall prohibit major construction relating to activities to be permitted under a license issued by the commission ~~[agency]~~ to process or dispose of low-level radioactive waste from other persons until the requirements in Sections 401.113 and 401.114 are completed.

SECTION 12. Subsection (a), Section 401.202, Health and Safety Code, is amended to read as follows:

(a) The commission ~~[or department, within its respective jurisdiction,]~~ may grant, deny, renew, revoke, suspend, or withdraw licenses for the disposal of low-level radioactive waste from other persons and for the processing of that waste.

SECTION 13. Section 401.262, Health and Safety Code, is amended to read as follows:

Sec. 401.262. MANAGEMENT OF CERTAIN BY-PRODUCT MATERIAL. The commission ~~[department]~~ has sole and exclusive authority to assure that processing and disposal sites are closed and that by-product material is managed and disposed of in compliance with:

- (1) the federal commission's applicable standards; and
- (2) closure criteria the federal commission and the United States Environmental Protection Agency have determined are protective of human health and safety and the environment.

SECTION 14. Section 401.2625, Health and Safety Code, is amended to read as follows:

Sec. 401.2625. LICENSING AUTHORITY. The commission ~~[commissioner]~~ has sole and exclusive authority to grant, deny, renew, revoke, suspend, amend, or withdraw licenses for source material recovery and processing or for storage, processing, or disposal of by-product material.

SECTION 15. Subsections (a) and (c) through (f), Section 401.263, Health and Safety Code, are amended to read as follows:

(a) If the commission ~~[department]~~ is considering the issuance, renewal, or amendment of a license to process materials that produce by-product materials or a license to dispose of by-product material and the commission ~~[department]~~ determines that the licensed activity will have a significant impact on the human environment, the commission ~~[department]~~ shall prepare or have prepared a written environmental analysis.

(c) The commission ~~[department]~~ shall give notice of the analysis as provided by commission ~~[board]~~ rule and shall make the analysis available to the public for written comment not later than the 31st day before the date of the hearing on the license.

(d) After notice is given, the commission ~~[department]~~ shall provide an opportunity for written comments by persons affected.

(e) The analysis shall be included as part of the record of the commission's ~~[department's]~~ proceedings.

(f) The commission ~~[board]~~ by rule shall prohibit major construction with respect to an activity that is to be licensed until the requirements of Subsections (a), (b), (c), and (e) are completed.

SECTION 16. Subsections (a), (c), and (d), Section 401.264, Health and Safety Code, are amended to read as follows:

(a) The commission ~~[department]~~ on its own motion may or on the written request of a person affected shall provide an opportunity for a public hearing on an application over which the commission ~~[department]~~ has jurisdiction to determine whether to issue, renew, or amend a license to process materials that produce by-product materials or a license to dispose of by-product materials in the manner provided by Chapter 2001, Government Code, and permit appearances with or without counsel and the examination and cross-examination of witnesses under oath.

(c) The commission ~~[department]~~ shall make a record of the proceedings and provide a transcript of the hearing on request of, and payment for, the transcript or provision of a sufficient deposit to assure payment by any person requesting the transcript.

(d) The commission ~~[department]~~ shall provide an opportunity to obtain a written determination of action to be taken. The determination must be based on evidence presented to the commission ~~[department]~~ and include findings. The written determination is available to the public.

SECTION 17. Section 401.265, Health and Safety Code, is amended to read as follows:

Sec. 401.265. CONDITIONS OF CERTAIN BY-PRODUCT MATERIAL LICENSES. The commission ~~[department]~~ shall prescribe conditions in a radioactive substances ~~[material]~~ license issued, renewed, or amended for an activity that results in production of by-product material to minimize or, if possible, eliminate the need for long-term maintenance and monitoring before the termination of the license, including conditions that:

(1) the license holder will comply with the applicable decontamination, decommissioning, reclamation, and disposal standards that are prescribed by the commission ~~[board]~~ and that are compatible with the federal commission's standards for sites at which those ores were processed and at which the by-product material is deposited; and

(2) the ownership of a disposal site, other than a disposal well covered by a permit issued under Chapter 27, Water Code, and the by-product material resulting from the licensed activity are transferred, subject to Sections 401.266-401.269, to:

(A) the state; or

(B) the federal government if the state declines to acquire the site, the by-product material, or both the site and the by-product material.

SECTION 18. Subsection (a), Section 401.266, Health and Safety Code, is amended to read as follows:

(a) The commission ~~[board]~~ by rule or ~~[order or the department by]~~ order may require that before a license covering land used for the disposal of by-product material is terminated, the land, including any affected interests in the land, must be transferred to the federal government or to the state unless:

(1) the federal commission determines before the license terminates that the transfer of title to the land and the by-product material is unnecessary to protect the public health, safety, or welfare or to minimize danger to life or property; or

(2) the land is held in trust by the federal government for an Indian tribe, is owned by an Indian tribe subject to a restriction against alienation imposed by the federal government, is owned by the federal government, or is owned by the state.

SECTION 19. Section 401.267, Health and Safety Code, is amended to read as follows:

Sec. 401.267. ACQUISITION AND SALE OF CERTAIN BY-PRODUCT MATERIALS AND SITES. (a) The commission [~~department~~] may acquire by-product material and fee simple title in land, affected mineral rights, and buildings at which that by-product material is disposed of and abandoned so that the by-product material and property can be managed in a manner consistent with protecting public health, safety, and the environment.

(b) The commission [~~department~~] may sell land acquired under this section at the land's fair market value after the commission [~~department~~] has taken corrective action to restore the land to a condition that does not compromise the public health or safety or the environment. The General Land Office shall negotiate and close a transaction under this subsection on behalf of the commission [~~department~~] using procedures under Section 31.158(c), Natural Resources Code. Proceeds from the transaction shall be deposited in the Texas capital trust fund.

SECTION 20. Section 401.269, Health and Safety Code, is amended to read as follows:

Sec. 401.269. MONITORING, MAINTENANCE, AND EMERGENCY MEASURES. (a) The commission [~~department~~] may undertake monitoring, maintenance, and emergency measures in connection with by-product material and property for which it has assumed custody under Section 401.267 that are necessary to protect the public health and safety and the environment.

(b) The commission [~~department~~] shall maintain the by-product material and property transferred to it in a manner that will protect the public health and safety and the environment.

SECTION 21. Subsections (a), (b), (e), and (f), Section 401.270, Health and Safety Code, are amended to read as follows:

(a) If the commission [~~department~~] finds that by-product material or the operation by which that by-product material is derived threatens the public health and safety or the environment, the commission [~~department~~] by order may require any action, including a corrective measure, that is necessary to correct or remove the threat.

(b) The commission [~~department~~] may issue an emergency order to a person responsible for an activity, including a past activity, concerning the recovery or processing of source material or the disposal of by-product material if it appears that there is an actual or threatened release of source material or by-product material that presents an imminent and substantial danger to the public health and safety or the environment, regardless of whether the activity was lawful at the time. The emergency order may be issued without notice or hearing.

(e) The commission [~~department~~] shall use the security provided by the license holder to pay the costs of actions that are taken or that are to be taken under this section. The commission [~~department~~] shall send to the comptroller a copy of its order together with necessary written requests authorizing the comptroller to:

- (1) enforce security supplied by the licensee;
- (2) convert an amount of security into cash, as necessary; and
- (3) disburse from the security in the perpetual care account the amount

necessary to pay the costs.

(f) If an order issued by the commission ~~[department]~~ under this section is adopted without notice or hearing, the order shall set a time, at least 10 but not more than 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 ~~[board]~~. As a result of this hearing, the commission ~~[department]~~ 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 ~~[department]~~.

SECTION 22. Subchapter G, Chapter 401, Health and Safety Code, is amended by adding Sections 401.271 and 401.272 to read as follows:

Sec. 401.271. STATE FEE ON RADIOACTIVE SUBSTANCES. (a) A holder of a license issued by the commission under this chapter that authorizes the disposal of a radioactive substance from other persons shall remit each quarter an amount equal to 10 percent of the license holder's gross receipts received from disposal operations under a license issued under this chapter that occur after the effective date of the Act enacting this section as follows:

(1) five percent shall be remitted to the comptroller for deposit to the credit of the general revenue fund; and

(2) five percent shall be remitted to the host county in accordance with Sections 401.244(b) and (d).

(b) Subsection (a) does not apply to compact waste or federal facility waste as defined by Section 401.2005 or industrial solid waste as defined by Section 361.003.

Sec. 401.272. AUDIT AUTHORITY. The commission may audit a license holder's financial records and waste manifest information to ensure that the fees imposed under this chapter are accurately paid. The license holder shall comply with the commission's audit-related requests for information.

SECTION 23. Section 401.301, Health and Safety Code, is amended to read as follows:

Sec. 401.301. LICENSE AND REGISTRATION FEES ~~[COLLECTED BY DEPARTMENT]~~. (a) The commission and department may collect a fee for each license and registration the agency ~~[#]~~ issues.

(b) The commission and the board each by rule shall set the fee in an amount that may not exceed the actual expenses annually incurred to:

- (1) process applications for licenses or registrations;
- (2) amend or renew licenses or registrations;
- (3) make inspections of license holders and registrants; and
- (4) enforce this chapter and rules, orders, licenses, and registrations under

this chapter.

(c) The commission and department may collect a fee, in addition to the annual license and registration fee, of not less than 20 percent of the amount of the annual license and registration fee nor more than \$10,000 per annum from each licensee or registrant who fails to pay the fees authorized by this section.

(d) The commission and department may require that each person who holds a specific license issued by the agency [~~department~~] annually pay to the agency [~~department~~] an additional five percent of the appropriate annual fee set under Subsection (b). Fees collected under this subsection shall be deposited to the credit of the perpetual care account. The fees are not refundable.

(e) The commission and department shall suspend assessment of a fee imposed under Subsection (d) if the amount of fees collected under that subsection reaches \$500,000. If the balance of fees collected subsequently is reduced to \$350,000 or less, the commission and department shall reinstitute assessment of the fee until the balance reaches \$500,000.

(f) The commission may assess and collect additional fees from the applicant to recover the costs the commission incurs for administrative review, technical review, and hearings on the application.

SECTION 24. Subsection (a), Section 401.302, Health and Safety Code, is amended to read as follows:

(a) The department, in coordination with the commission, may set and collect an annual fee from the operator of each nuclear reactor or other fixed nuclear facility in the state that uses special nuclear material.

SECTION 25. Subsections (c), (e), (f), and (g), Section 401.305, Health and Safety Code, are amended to read as follows:

(c) Money and security in the perpetual care account may be administered by the department or commission only for the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive substances [~~material~~] for the protection of the public health and safety and the environment under this chapter and for refunds under Section 401.303.

(e) The department or commission may use money in the perpetual care account to pay for measures:

(1) to prevent or mitigate the adverse effects of abandonment of radioactive substances [~~materials~~], default on a lawful obligation, insolvency, or other inability by the holder of a license issued by the department or commission to meet the requirements of this chapter or of department or commission rules; and

(2) to assure the protection of the public health and safety and the environment from the adverse effects of ionizing radiation.

(f) The department or commission may provide, by the terms of a contract or lease entered into between the department or commission and any person or by the terms of a license issued by the department or commission to any person, for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site or facility subject to department or commission jurisdiction under this chapter as needed to carry out the purpose of this chapter.

(g) The existence of the perpetual care account does not make the department or commission liable for the costs of decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive substances [~~material~~] arising from a license holder's abandonment of radioactive substances [~~material~~], default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or of department or commission rules.

SECTION 26. Section 401.343, Health and Safety Code, is amended to read as follows:

Sec. 401.343. RECOVERY OF SECURITY. (a) The department or commission shall seek reimbursement, either by an order of the department or commission or a suit filed by the attorney general at the ~~[department's]~~ request of the department or commission, of security from the perpetual care account used by the department or commission to pay for actions, including corrective measures, to remedy spills or contamination by radioactive substances ~~[material]~~ resulting from a violation of this chapter relating to an activity under the ~~[department's]~~ jurisdiction of the department or commission or a violation of a rule, license, registration, or order adopted or issued by the department or commission under this chapter.

(b) On request by the department or commission, the attorney general shall file suit to recover security under this section.

SECTION 27. The heading to Subchapter K, Chapter 401, Health and Safety Code, is amended to read as follows:

SUBCHAPTER K. LICENSING AUTHORITY OF TEXAS ~~[NATURAL RESOURCE CONSERVATION]~~ COMMISSION ON ENVIRONMENTAL QUALITY AND THE RAILROAD COMMISSION OF TEXAS

SECTION 28. Subsections (a) and (b), Section 401.412, Health and Safety Code, are amended to read as follows:

(a) Notwithstanding any other provision of this chapter and subject to Sections 401.102 and 401.415, the commission has sole and exclusive authority to directly regulate and to grant, deny, renew, revoke, suspend, amend, or withdraw licenses for the disposal of radioactive substances. ~~[In this subsection, "radioactive substance" does not include by-product material as defined by Section 401.003(3)(B).]~~

(b) Notwithstanding any other provision of this chapter, the commission ~~[commissioner]~~ has the sole and exclusive authority to grant, deny, renew, revoke, suspend, amend, or withdraw licenses for the recovery and processing of source material or disposal of by-product material under Subchapter G.

SECTION 29. Section 401.413, Health and Safety Code, is amended to read as follows:

Sec. 401.413. COMMISSION DISPOSAL LICENSE REQUIRED. A person required by another section of this chapter to obtain a license for the disposal of a radioactive substance is required to obtain the license from the commission and not from the department. ~~[This section does not apply to a person required to obtain a license for recovery or processing of source material or for recovery, processing, or disposal of by-product material as defined by Section 401.003(3)(B).]~~

SECTION 30. Section 401.414, Health and Safety Code, is amended to read as follows:

Sec. 401.414. MEMORANDA ~~[MEMORANDUM]~~ OF UNDERSTANDING. The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality, the Health and Human Services Commission, and the Railroad Commission of Texas ~~[and the board of health]~~ by rule shall adopt memoranda ~~[a memorandum]~~ of understanding defining their respective duties under this chapter.

SECTION 31. Section 361.015, Health and Safety Code, is amended to read as follows:

Sec. 361.015. JURISDICTION: RADIOACTIVE WASTE. (a) The commission is the state agency under Chapter 401 that licenses and regulates radioactive waste storage, processing, and disposal activities not preemptively regulated by the federal government.

(b) Except as provided by Subsection (a), the Health and Human Services Commission, acting through the Department of State Health Services or other department as designated by the executive commissioner of the Health and Human Services Commission, [The Texas Department of Health] is the state agency under Chapter 401 that regulates radioactive waste activities~~[excluding disposal]~~, not preemptively regulated by the federal government.

SECTION 32. Subchapter D, Chapter 27, Water Code, is amended by adding Section 27.0513 to read as follows:

Sec. 27.0513. AREA PERMITS AND PRODUCTION AREAS FOR URANIUM MINING. (a) The commission may issue a permit pursuant to Section 27.011 that authorizes the construction and operation of two or more similar injection wells within a specified area for mining of uranium. An application for a new permit issued pursuant to Section 27.011, a major amendment of such a permit, or a renewal of such a permit for mining of uranium is subject to the public notice requirements and opportunity for contested case hearing provided under Section 27.018.

(b) For a permit for mining of uranium issued on or after September 1, 2007, pursuant to Section 27.011, the term of the permit to authorize injection for recovery of uranium shall be 10 years. The holder of a permit for mining of uranium issued by the commission before September 1, 2007, pursuant to Section 27.011, must submit an application to the commission before September 1, 2012, for renewal of the permit to authorize construction and operation of injection wells for mining of uranium. Authority to construct or operate injection wells for recovery of uranium under a permit issued before September 1, 2007, pursuant to Section 27.011, expires on September 1, 2012, if an application for renewal of the permit is not submitted to the commission before September 1, 2012. Expiration of authority under this subsection does not relieve the permit holder from obligations under the permit or applicable rules, including obligations to restore groundwater and to plug and abandon wells in accordance with the requirements of the permit and applicable rules.

(c) The commission may issue a holder of a permit issued pursuant to Section 27.011 for mining of uranium an authorization that allows the permit holder to conduct mining and restoration activities in production zones within the boundary established in the permit. The commission by rule shall establish application requirements, technical requirements, including the methods for determining restoration table values, and procedural requirements for any authorization.

(d) Notwithstanding Sections 5.551, 5.556, 27.011, and 27.018, an application for an authorization submitted after September 1, 2007, is an uncontested matter not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code, unless the authorization seeks any of the following:

(1) an amendment to a restoration table value;

(2) an amendment to the establishment of monitoring wells for any area covered by the authorization, including the location, number, depth, spacing, and design of the monitoring wells, in a manner which the executive director deems to provide inadequate or less effective assurance of containment of mine zone fluids; or

(3) an amendment to the type or amount of bond required by Section 27.073 to assure that there are sufficient funds available to the state for plugging of abandoned wells in the area by a third-party contractor if the executive director determines the permittee is at risk of bankruptcy or will otherwise not be available to plug the abandoned wells.

(e) An application seeking approval under Subsections (d)(1)-(3) is subject to the public notice and contested hearing requirements provided in Section 27.018.

SECTION 33. (a) On the effective date of this Act, the following rights, powers, duties, obligations, functions, activities, property, programs, and appropriations are transferred to the Texas Commission on Environmental Quality:

(1) all rights, powers, duties, obligations, functions, and activities:

(A) that Chapter 401, Health and Safety Code, assigns to the Texas Department of Health, the Texas Board of Health, or their successor agencies or to the governing body, officers, or employees of that department, that board, or their successor agencies, including the Health and Human Services Commission and the Department of State Health Services; and

(B) that are related to licensing and regulation of:

(i) radioactive substances recovery, storage, processing, and disposal; or

(ii) long-term care of decommissioned sites for disposal of by-product material;

(2) all equipment, information, documents, facilities, and other property of the Health and Human Services Commission or the Department of State Health Services pertaining to licensing and regulation of:

(A) radioactive substances recovery, storage, processing, and disposal under the jurisdiction of the Texas Commission on Environmental Quality as provided by Subsection (b), Section 401.011, Health and Safety Code, as amended by this Act; or

(B) long-term care of decommissioned sites for disposal of by-product material;

(3) all appropriations for the state fiscal biennium that begins September 1, 2007, made to the Health and Human Services Commission or the Department of State Health Services for activities related to licensing and regulation of:

(A) radioactive substances recovery, storage, processing, and disposal under the jurisdiction of the Texas Commission on Environmental Quality as provided by Subsection (b), Section 401.011, Health and Safety Code, as amended by this Act; or

(B) long-term care of decommissioned sites for disposal of by-product material; and

(4) the unexpended and unobligated portions of the appropriations for the state fiscal biennium beginning September 1, 2005, made to the Health and Human Services Commission or the Department of State Health Services for activities described by Subdivision (3) of this subsection.

(b) Appropriations transferred under Subdivision (4), Subsection (a), of this section are transferred for the remainder of that state fiscal biennium.

(c) The Texas Commission on Environmental Quality, as of the date of the transfer prescribed by Subsection (a) of this section, has full responsibility for the administration and enforcement of laws related to licensing or regulation of radioactive substances recovery, storage, processing, and disposal under the jurisdiction of the commission as provided by Subsection (b), Section 401.011, Health and Safety Code, as amended by this Act, and licensing or regulation of long-term care of decommissioned sites for the disposal of by-product material. The Texas Commission on Environmental Quality shall carry out all related duties, responsibilities, functions, and activities as provided by law, including those assigned by any other Acts of the 80th Legislature, Regular Session, 2007.

(d) The transfer of rights, powers, duties, obligations, functions, activities, property, and programs of the Health and Human Services Commission or the Department of State Health Services to the Texas Commission on Environmental Quality made by this Act does not affect or impair any act done or obligation, right, license, permit, requirement, or penalty accrued or existing under the former law; that law remains in effect for the purposes of any action concerning such an act done or obligation, right, license, permit, requirement, or penalty. The Texas Commission on Environmental Quality shall continue a proceeding of the Health and Human Services Commission or the Department of State Health Services that is related to a responsibility, duty, activity, function, or program transferred by this Act, including processing an application for a license or other authorization and including enforcing the requirements of Chapter 401, Health and Safety Code, or a rule adopted under that chapter. A rule of the Health and Human Services Commission or the Department of State Health Services related to a responsibility, duty, activity, function, or program transferred by this Act is enforceable as a rule of the Texas Commission on Environmental Quality until the Texas Commission on Environmental Quality adopts other rules.

(e) Control of and title to all property and material acquired by this state or an agency of this state under Section 401.267, Health and Safety Code, before the effective date of this Act shall be transferred to the Texas Commission on Environmental Quality on this state's behalf as soon as practicable. This subsection does not apply to property or material sold by the state under Subsection (b) of that section before the effective date of this Act.

(f) The Texas Commission on Environmental Quality shall provide an opportunity for employees of the Health and Human Services Commission or the Department of State Health Services who have performed duties related to a right, power, duty, obligation, responsibility, function, activity, or program transferred by this Act to request a transfer to commission employment. In making employment decisions under this subsection, the Texas Commission on Environmental Quality shall:

(1) ensure that state and federal requirements are met by commission employees; and

(2) consider the value of maintaining continuity in the personnel staffing relevant programs.

(g) The Texas Commission on Environmental Quality, the Health and Human Services Commission, and the Department of State Health Services shall cooperate in preventing any delay that may be caused by or may occur in the transfer of property or personnel or a right, power, duty, obligation, responsibility, function, activity, or program made by this Act.

(h) To expedite the transfers made by this Act of rights, powers, duties, obligations, functions, activities, property, and programs, and to prevent delays related to any of the rights, powers, duties, obligations, functions, activities, property, or programs, the Texas Commission on Environmental Quality may contract with any person to assist the commission. The commission may assess and collect additional fees from an applicant affected by performance under a contract under this subsection to recover the commission's contracting costs.

(i) The transfers made by this Act do not affect any matter that is the subject of a court proceeding pending on the effective date of this Act.

(j) The Texas Commission on Environmental Quality shall continue any applications review or processing and any hearings that concern a matter subject to transfer under Subsection (a) of this section that, on the date of the transfer, is being conducted by the Health and Human Services Commission or the Department of State Health Services or their successor agencies. The agencies shall cooperate and consult with each other to ensure that any delay necessitated by the transfer is minimized to the greatest extent possible. The Texas Commission on Environmental Quality shall utilize progress made on any technical review or environmental analysis conducted by the department prior to the effective date of this Act.

(k) An application for a new license to dispose of by-product material that is filed with the Department of State Health Services on or before January 1, 2007, and that has not been referred to the State Office of Administrative Hearings by the department before the effective date of this Act shall be processed by the Texas Commission on Environmental Quality following the effective date of this Act as follows:

(1) a license application subject to this subsection shall be governed only by the technical rules and regulations of the department that are effective on the effective date of this Act;

(2) the commission shall complete any technical review of a license application subject to this subsection and determine whether a draft license shall be issued on or before October 1, 2007. The commission shall utilize progress made on any technical review or environmental analysis conducted by the department before the effective date of this Act. In order to meet the deadline provided by this subdivision, the commission may contract with the department or other entities for completion of any portion of the technical review that has not been completed upon the effective date of this Act. The commission may assess and collect additional fees from the applicant to recover costs the commission incurs for technical review of a license application subject to this subsection;

(3) the commission shall render a final decision on a license application subject to this subsection on or before December 31, 2008; and

(4) a contested case hearing held on a license application subject to this subsection that was filed with the department on or before January 1, 2007, may not exceed one year in duration, measured from the date of referral by the commission of the application to the State Office of Administrative Hearings until the commission makes a final decision on the application. Discovery in such a hearing shall be limited to not more than 60 days in order to meet this limitation. Notice of hearing shall be provided to the applicant, the office of public interest counsel, the executive director of the commission, and the person who timely requested a contested case hearing by mail at least 10 days in advance of the hearing.

(l) This subsection applies only to an applicant for a license subject to Subsection (k) of this section. Notwithstanding rules adopted under Subsection (f), Section 401.263, Health and Safety Code, as amended by this Act, and to the extent not prohibited under federal law, the applicant, at the applicant's own risk, may begin major construction related to the activities for which the license application was made at the time technical review of the application has been made and an environmental analysis is prepared under Section 401.263, Health and Safety Code. The Texas Commission on Environmental Quality may oversee and govern the construction authorized by this subsection in the same manner and to the same extent as if the construction were authorized by a license issued by the commission, and the construction is subject to relevant commission rules as if the construction were authorized by a license issued by the commission.

SECTION 34. (a) This Act does not impair, delay, or affect the priority established by law for processing and review of the application for a license to dispose of low-level radioactive waste that was filed with the Texas Commission on Environmental Quality before January 1, 2007.

(b) The Texas Commission on Environmental Quality shall give priority to the processing and review of the license application described by Subsection (a) of this section over all other applications that pertain to radioactive substances or radioactive waste pending before the commission except for those applications the executive director of the Texas Commission on Environmental Quality determines are necessarily of a higher priority to avert or address an emergency concerning the public health or safety.

(c) Subject to the priority given under Subsection (b) of this section to the application, the Texas Commission on Environmental Quality shall give priority to the review and processing of:

- (1) an application for the commercial disposal of by-product material;
- (2) an application for termination of a license to recover or process source material and dispose of associated by-product material generated in this state; and
- (3) a new application for a permit to recover or process source material and dispose of associated by-product material generated in this state.

SECTION 35. Notwithstanding other law or any rule on the subject of timeliness of an applicant providing information pertaining to an application for a license from the Texas Commission on Environmental Quality, the applicant for a license shall assist the commission in meeting any deadlines imposed by Chapter 401,

Health and Safety Code, by submitting to the commission any information the commission requires regarding the application in a prompt and timely manner. The deadlines imposed by this Act and by Chapter 401, Health and Safety Code, as amended by this Act, are based on the assumptions that the applicant timely submits a complete application and that all requirements are met.

SECTION 36. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The Conference Committee Report on **SB 1604** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 228

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 228** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HARRIS
HINOJOSA
WATSON

WENTWORTH
WILLIAMS

On the part of the Senate

EILAND
BONNEN
DUTTON

GONZALEZ TOUREILLES
STRAMA

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to suits affecting the parent-child relationship, including proceedings for the establishment, modification, and enforcement of child support, parentage, and possession of and access to a child; providing a civil penalty.

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

SECTION 1. Chapter 101, Family Code, is amended by adding Section 101.0255 to read as follows:

Sec. 101.0255. RECORD. "Record" means information that is:

(1) inscribed on a tangible medium or stored in an electronic or other medium; and

(2) retrievable in a perceivable form.

SECTION 2. Subsection (d), Section 102.009, Family Code, is amended to read as follows:

(d) If the petition requests the establishment, termination, modification, or enforcement of a support right assigned to the Title IV-D agency under Chapter 231 or the rescission of a voluntary acknowledgment of paternity under Chapter 160, notice shall be given to the Title IV-D agency in a manner provided by Rule 21a, Texas Rules of Civil Procedure.

SECTION 3. Subsection (g), Section 105.006, Family Code, is amended to read as follows:

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and ~~[- when established, to]~~ the state case registry under Chapter 234 the information required under this section.

SECTION 4. Section 108.001, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by this chapter, the clerk of the court shall transmit to the bureau of vital statistics a certified record of the order rendered in a suit, together with the name and all prior names, birth date, and place of birth of the child ~~[prepared by the petitioner]~~ on a form provided by the bureau. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(d) In a Title IV-D case, the Title IV-D agency may transmit the record and information specified by Subsection (a) to the bureau of vital statistics, with a copy to the clerk of the court on request by the clerk. The record and information are not required to be certified if transmitted by the Title IV-D agency under this subsection.

SECTION 5. Section 108.004, Family Code, is amended to read as follows:

Sec. 108.004. TRANSMITTAL OF FILES ON LOSS OF JURISDICTION. On the loss of jurisdiction of a court under Chapter 155, 159, or 262, the clerk of the court shall transmit to the central registry of the bureau of vital statistics a certified record, on a form provided by the bureau, stating that jurisdiction has been lost, the reason for the loss of jurisdiction, and the name and all previous names, date of birth, and place of birth of the child.

SECTION 6. Subsection (b), Section 151.001, Family Code, is amended to read as follows:

(b) The duty of a parent to support his or her child exists while the child is an unemancipated minor and continues as long as the child is fully enrolled in a ~~[an accredited]~~ secondary school in a program leading toward a high school diploma and complies with attendance requirements described by Section 154.002(a)(2) ~~[until the end of the school year in which the child graduates].~~

SECTION 7. Subchapter A, Chapter 153, Family Code, is amended by adding Section 153.015 to read as follows:

Sec. 153.015. ELECTRONIC COMMUNICATION WITH CHILD BY CONSERVATOR. (a) In this section, "electronic communication" means any communication facilitated by the use of any wired or wireless technology via the Internet or any other electronic media. The term includes communication facilitated by the use of a telephone, electronic mail, instant messaging, videoconferencing, or webcam.

(b) If a conservator of a child requests the court to order periods of electronic communication with the child under this section, the court may award the conservator reasonable periods of electronic communication with the child to supplement the conservator's periods of possession of the child. In determining whether to award electronic communication, the court shall consider:

(1) whether electronic communication is in the best interest of the child;

(2) whether equipment necessary to facilitate the electronic communication is reasonably available to all parties subject to the order; and

(3) any other factor the court considers appropriate.

(c) If a court awards a conservator periods of electronic communication with a child under this section, each conservator subject to the court's order shall:

(1) provide the other conservator with the e-mail address and other electronic communication access information of the child;

(2) notify the other conservator of any change in the e-mail address or other electronic communication access information not later than 24 hours after the date the change takes effect; and

(3) if necessary equipment is reasonably available, accommodate electronic communication with the child, with the same privacy, respect, and dignity accorded all other forms of access, at a reasonable time and for a reasonable duration subject to any limitation provided by the court in the court's order.

(d) The court may not consider the availability of electronic communication as a factor in determining child support. The availability of electronic communication under this section is not intended as a substitute for physical possession of or access to the child where otherwise appropriate.

(e) In a suit in which the court's order contains provisions related to a finding of family violence in the suit, including supervised visitation, the court may award periods of electronic communication under this section only if:

(1) the award and terms of the award are mutually agreed to by the parties;
and

(2) the terms of the award:

(A) are printed in the court's order in boldfaced, capitalized type; and

(B) include any specific restrictions relating to family violence or supervised visitation, as applicable, required by other law to be included in a possession or access order.

SECTION 8. Section 153.3161, Family Code, is amended to read as follows:

Sec. 153.3161. ~~[LIMITED]~~ POSSESSION DURING MILITARY DEPLOYMENT. (a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child;
and

(2) is serving in a location where access to the person's child is not reasonably possible.

(b) In addition to the general terms and conditions of possession required by Section 153.316, if a possessory conservator or a joint managing conservator of the child without the exclusive right to designate the primary residence of the child is currently a member of the armed forces of the state or the United States or is reasonably expected to join those forces, the court shall:

(1) permit that conservator to designate a person who may exercise ~~[limited]~~ possession of the child on behalf of that conservator during any period that the conservator is deployed under a military deployment ~~[outside of the United States]~~; and

(2) if the conservator elects to designate a person under Subdivision (1), provide in the order for ~~[limited]~~ possession of the child by the designated person under those circumstances, subject to the court's determination that the ~~[limited]~~ possession is in the best interest of the child.

(c) ~~(b)~~ If the court determines that the ~~[limited]~~ possession is in the best interest of the child, the court shall provide in the order that during periods of military deployment:

(1) the designated person has the right to possession of the child for the periods and in the manner in which the deployed conservator would be entitled to exercise possession if not deployed [on the first weekend of each month beginning at 6 p.m. on Friday and ending at 6 p.m. on Sunday];

(2) ~~[the other parent shall surrender the child to the designated person at the beginning of each period of possession at the other parent's residence;~~

~~[(3) the designated person shall return the child to the other parent's residence at the end of each period of possession;~~

~~[(4) the child's other parent and the designated person are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator~~ [Sections 153.316(5) (9)];

(3) [(5)] the designated person has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the person has possession of the child; and

(4) [(6)] the designated person is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(d) [(e)] After the military deployment is concluded, and the deployed parent returns to that parent's usual residence, the designated person's right to ~~[limited]~~ possession under this section terminates and the rights of all affected parties are governed by the terms of any court order applicable when a parent is not deployed.

SECTION 9. (a) Subsection (a), Section 154.006, Family Code, is amended to read as follows:

(a) Unless otherwise agreed in writing or expressly provided in the order or as provided by Subsection (b), the child support order terminates on:

- (1) the marriage of the child;
- (2) the removal of the child's disabilities for general purposes;
- (3) the death of:
 - (A) the child; or
 - (B) a parent ordered to pay child support; ~~[or]~~
- (4) a finding by a court that the child:

(A) is 18 years of age or older; and

(B) has failed to comply with the enrollment or attendance requirements described by Section 154.002(a); or

(5) if the child enlists in the armed forces of the United States, the date on which the child begins active service as defined by 10 U.S.C. Section 101.

(b) The change in law made by this Act to Subsection (a), Section 154.006, Family Code, applies to an order for child support regardless of whether the order was rendered before, on, or after the effective date of this Act.

SECTION 10. Section 154.127, Family Code, is amended to read as follows:

Sec. 154.127. PARTIAL TERMINATION OF SUPPORT OBLIGATION. (a) A child support order for more than one child shall provide that, on the termination of support for a child, the level of support for the remaining child or children is in accordance with the child support guidelines.

(b) A child support order is in compliance with the requirement imposed by Subsection (a) if the order contains a provision that specifies:

(1) the events, including a child reaching the age of 18 years or otherwise having the disabilities of minority removed, that have the effect of terminating the obligor's obligation to pay child support for that child; and

(2) the reduced total amount that the obligor is required to pay each month after the occurrence of an event described by Subdivision (1).

SECTION 11. (a) Section 154.131, Family Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding any other provision of this subtitle, the court retains jurisdiction to render an order for retroactive child support in a suit if a petition requesting retroactive child support is filed not later than the fourth anniversary of the date of the child's 18th birthday.

(b) The change in law made by this Act by the enactment of Subsection (f), Section 154.131, Family Code, applies only to a petition in a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 12. Subsections (a) and (b), Section 154.186, Family Code, are amended to read as follows:

(a) The obligee, obligor, or a child support agency of this state or another state may send to the employer a copy of the order requiring an employee to provide health insurance coverage for a child or may include notice of the medical support order in an order or writ of withholding sent to the employer in accordance with Chapter 158.

(b) In an appropriate Title IV-D case, the Title IV-D agency of this state or another state shall send to the employer the national medical support notice required under Part D, Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.), as amended. The notice may be used in any other suit in which an obligor is ordered to provide health insurance coverage for a child.

SECTION 13. Subsection (c), Section 155.301, Family Code, is amended to read as follows:

(c) Except as otherwise provided by this subsection, if [H] a transfer of continuing, exclusive jurisdiction is sought under this section, the procedures for determining and effecting a transfer of proceedings provided by this chapter apply. If the parties submit to the court an agreed order for transfer, the court shall sign the order without the need for other pleadings.

SECTION 14. Section 156.105, Family Code, is amended to read as follows:

Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY DEPLOYMENT. (a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child; and
(2) is serving in a location where access to the person's child is not reasonably possible.

(b) The military deployment [outside this country] of a person who is a possessory conservator or a joint managing conservator without the exclusive right to designate the primary residence of the child is a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child.

(c) [H] If the court determines that modification is in the best interest of the child, the court may modify the order or decree to provide in a manner consistent with Section 153.3161 for [limited] possession of the child during the period of the military deployment by a person designated by the deployed conservator.

SECTION 15. Subsection (b), Section 156.401, Family Code, is amended to read as follows:

(b) A support order may be modified with regard to the amount of support ordered only as to obligations accruing after the earlier of:

- (1) the date of service of citation; or
- (2) an appearance in the suit to modify.

SECTION 16. Section 156.409, Family Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) The [If the sole managing conservator of a child or the joint managing conservator who has the exclusive right to determine the primary residence of the child has voluntarily relinquished the primary care and possession of the child to another person for at least six months, the] court shall, on the motion of a party or a [the other] person having physical possession of the child, modify an order providing for the support of the child to provide that the [other] person having physical possession of the child for at least six months shall have the right to receive and give receipt for payments of support for the child and to hold or disburse money for the benefit of the child if the sole managing conservator of the child or the joint managing conservator who has the exclusive right to determine the primary residence of the child has:

- (1) voluntarily relinquished the primary care and possession of the child;
- (2) been incarcerated or sentenced to be incarcerated for at least 90 days; or
- (3) relinquished the primary care and possession of the child in a proceeding under Title 3 or Chapter 262.

(a-1) If the court modifies a support order under this section, the court shall order the obligor to pay the person or entity having physical possession of the child any unpaid child support that is not subject to offset or reimbursement under Section 157.008 and that accrues after the date the sole or joint managing conservator:

(1) relinquishes possession and control of the child, whether voluntarily or in a proceeding under Title 3 or Chapter 262; or

(2) is incarcerated.

(a-2) This section does not affect the ability of the court to render a temporary order for the payment of child support that is in the best interest of the child.

(a-3) An order under this section that modifies a support order because of the incarceration of the sole or joint managing conservator of a child must provide that on the conservator's release from incarceration the conservator may file an affidavit with the court stating that the conservator has been released from incarceration, that there has not been a modification of the conservatorship of the child during the incarceration, and that the conservator has resumed physical possession of the child. A copy of the affidavit shall be delivered to the obligor and any other party, including the Title IV-D agency if appropriate. On receipt of the affidavit, the court on its own motion shall order the obligor to make support payments to the conservator.

SECTION 17. Subsection (a), Section 157.005, Family Code, is amended to read as follows:

(a) The court retains jurisdiction to render a contempt order for failure to comply with the child support order if the motion for enforcement is filed not later than the second anniversary of [sixth month after] the date:

(1) the child becomes an adult; or

(2) on which the child support obligation terminates under the order or by operation of law.

SECTION 18. Subsection (a), Section 157.065, Family Code, is amended to read as follows:

(a) If a party has been ordered under Chapter 105 to provide the court and the state case registry with the party's current mailing address, notice of a hearing on a motion for enforcement may be served by mailing a copy of the notice to the respondent, together with a copy of the motion, by first class mail to the last mailing address of the respondent on file with the court and the registry.

SECTION 19. Section 157.102, Family Code, is amended to read as follows:

Sec. 157.102. CAPIAS OR WARRANT; DUTY OF LAW ENFORCEMENT OFFICIALS. Law enforcement officials shall treat a [the] capias or arrest warrant ordered under this chapter in the same manner as an arrest warrant for a criminal offense and shall enter the capias or warrant in the computer records for outstanding warrants maintained by the local police, sheriff, and Department of Public Safety. The capias or warrant shall be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

SECTION 20. Section 157.268, Family Code, is amended to read as follows:

Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Child support collected shall be applied in the following order of priority:

(1) current child support;

(2) non-delinquent child support owed;

- (3) interest on the principal amounts specified in Subdivisions (4) and (5);
- (4) the principal amount of child support that has not been confirmed and reduced to money judgment;
- (5) the principal amount of child support that has been confirmed and reduced to money judgment; and
- (6) the amount of any ordered attorney's fees or costs, or Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible.

SECTION 21. Subsections (a) and (c), Section 157.105, Family Code, are amended to read as follows:

(a) If the respondent is taken into custody and not released on bond, the respondent shall be brought before the court that issued the capias on or before the third ~~first~~ working day after the arrest. The court shall determine whether the respondent's appearance in court at a designated time and place can be assured by a method other than by posting the bond or security previously established.

(c) If the court is not satisfied that the respondent's appearance in court can be assured and the respondent remains in custody, a hearing on the alleged contempt shall be held as soon as practicable, but not later than the seventh ~~fifth~~ day after the date that the respondent was taken into custody, unless the respondent and the respondent's attorney waive the accelerated hearing.

SECTION 22. Section 157.212, Family Code, is amended to read as follows:

Sec. 157.212. TERM OF COMMUNITY SUPERVISION. The initial period of community supervision ~~period~~ may not exceed 10 years. The court may continue the community supervision beyond 10 years until the earlier of:

(1) the second anniversary of the date on which the community supervision first exceeded 10 years; or

(2) the date on which all child support, including arrearages and interest, has been paid.

SECTION 23. Subsections (a) and (b), Section 157.216, Family Code, are amended to read as follows:

(a) The court shall hold a hearing without a jury not later than ~~on or before~~ the third ~~first~~ working day after the date the respondent is arrested under Section 157.215. If the court is unavailable for a hearing on that date, the hearing shall be held not later than the third ~~first~~ working day after the date the court becomes available.

(b) The hearing under this section may not be held later than the seventh ~~third~~ working day after the date the respondent is arrested.

SECTION 24. Subsection (c), Section 157.263, Family Code, is amended to read as follows:

(c) If the amount of arrearages confirmed by the court reflects a credit to the obligor for support arrearages collected from a federal tax refund under 42 U.S.C. Section 664, ~~[as amended]~~, and, subsequently, the amount of that credit is reduced because the refund was adjusted because of an injured spouse claim by a jointly filing spouse, the tax return was amended, the return was audited by the Internal Revenue Service, or for another reason permitted by law ~~[based on a joint return under which another person was entitled to a share of the refund under 42 U.S.C. Section 664, as amended]~~, the court shall render a new cumulative judgment to include as arrearages an amount equal to the amount by which the credit was reduced.

SECTION 25. Subsection (b), Section 157.264, Family Code, is amended to read as follows:

(b) The court shall ~~may~~ render an order requiring[=

~~[(1) that income be withheld from the disposable earnings of the obligor in an amount sufficient to discharge the judgment in not more than two years; or~~

~~[(2) if the obligor is not subject to income withholding,] that the obligor make periodic payments on the judgment, including by income withholding under Chapter 158 if the obligor is subject to income withholding [to the obligee in an amount sufficient to discharge the judgment within a reasonable time].~~

SECTION 26. Section 157.269, Family Code, is amended to read as follows:

Sec. 157.269. RETENTION OF JURISDICTION. A court that renders an order providing for the payment of child support ~~[arrearages]~~ retains continuing jurisdiction to enforce the order, including by adjusting the amount of the periodic payments to be made by the obligor or the amount to be withheld from the obligor's disposable earnings, until all current support and medical support and child support arrearages, including interest and any applicable fees and costs, have been paid.

SECTION 27. Section 157.313, Family Code, is amended by amending Subsections (a), (c), and (e) and adding Subsection (f) to read as follows:

(a) Except as provided by Subsection (e), a child support lien notice must contain:

- (1) the name and address of the person to whom the notice is being sent;
- (2) the style, docket or cause number, and identity of the tribunal of this or another state having continuing jurisdiction of the child support action and, if the case is a Title IV-D case, the case number;
- (3) the full name, address, and, if known, the birth date, driver's license number, social security number, and any aliases of the obligor;
- (4) the full name and, if known, social security number of the obligee;
- (5) the amount of the current or prospective child support obligation, the frequency with which current or prospective child support is ordered to be paid, and the amount of child support arrearages owed by the obligor and the date of the signing of the court order, administrative order, or writ that determined the arrearages or the date and manner in which the arrearages were determined;
- (6) the rate of interest specified in the court order, administrative order, or writ or, in the absence of a specified interest rate, the rate provided for by law;
- (7) the name and address of the person or agency asserting the lien;
- (8) the motor vehicle identification number as shown on the obligor's title if the property is a motor vehicle;
- (9) a statement that the lien attaches to all nonexempt real and personal property of the obligor that is located or recorded in the state, including any property specifically identified in the notice and any property acquired after the date of filing or delivery of the notice;
- (10) a statement that any ordered child support not timely paid in the future constitutes a final judgment for the amount due and owing, including interest, and accrues up to an amount that may not exceed the lien amount; and

(11) a statement that the obligor is being provided a copy of the lien notice and that the obligor may dispute the arrearage amount by filing suit under Section 157.323.

(c) Except as provided by Subsection (e), the ~~[The]~~ lien notice must be verified.

(e) A notice of a lien for child support under this section may be in the form authorized by federal law or regulation. The federal form of lien notice does not require verification when used by the Title IV-D agency.

(f) The requirement under Subsections (a)(3) and (4) to provide a social security number, if known, does not apply to a lien notice for a lien on real property.

SECTION 28. Subsection (a-1), Section 157.317, Family Code, is amended to read as follows:

(a-1) A lien attaches to all property owned or acquired on or after the date the lien notice or abstract of judgment is filed with the county clerk of the county in which the property is located, with the court clerk as to property or claims in litigation, or, as to property of the obligor in the possession or control of a third party, from the date the lien notice is delivered to ~~[filed with]~~ that party.

SECTION 29. Subsection (a), Section 157.318, Family Code, is amended to read as follows:

(a) A lien is effective until all current support and child support arrearages, including interest, ~~[and]~~ any costs and reasonable attorney's fees, and any Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid or the lien is otherwise released as provided by this subchapter.

SECTION 30. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. **LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN.** A person who knowingly disposes of property subject to a child support lien ~~or~~ who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court ~~[or administrative order]~~ under this subchapter~~[-, or who fails to comply with a notice of levy under this subchapter]~~ is liable to the claimant in an amount equal to the value of the property disposed of or not surrendered, not to exceed the amount of the child support arrearages for which the lien~~[-, notice of levy,]~~ or foreclosure judgment was issued.

SECTION 31. Section 157.327, Family Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) The notice under this section must:

(1) identify the amount of child support arrearages owing at the time the amount of arrearages was determined or, if the amount is less, the amount of arrearages owing at the time the notice is prepared and delivered to the financial institution; and

(2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor that are held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

(A) the institution is notified by the claimant that the obligor has paid the arrearages or made arrangements satisfactory to the claimant for the payment of the arrearages;

(B) the obligor or another person files a suit under Section 157.323 requesting a hearing by the court; or

(C) if the claimant is the Title IV-D agency, the obligor has requested an agency review under Section 157.328.

(f) A financial institution may deduct the fees and costs identified in Subsection (c) from the obligor's assets before paying the appropriate amount to the claimant.

SECTION 32. Section 157.330, Family Code, is amended to read as follows:

Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LEVY. (a) A person who possesses or has a right to property that is the subject of a notice of levy delivered to the person and who refuses to surrender the property or right to property to the claimant on demand is liable to the claimant in an amount equal to the value of the property or right to property not surrendered but that does not exceed the amount of the child support arrearages for which the notice of levy has been filed.

(b) A claimant may recover costs and reasonable attorney's fees incurred in an action under this section.

SECTION 33. Subchapter C, Chapter 158, Family Code, is amended by adding Section 158.214 to read as follows:

Sec. 158.214. WITHHOLDING FROM SEVERANCE PAY. (a) In this section, "severance pay" means income paid on termination of employment in addition to the employee's usual earnings from the employer at the time of termination.

(b) An employer receiving an order or writ of withholding under this chapter shall withhold from any severance pay owed an obligor an amount equal to the amount the employer would have withheld under the order or writ if the severance pay had been paid as the obligor's usual earnings as a current employee.

(c) The total amount that may be withheld under this section is subject to the maximum amount allowed to be withheld under Section 158.009.

SECTION 34. Subchapter C, Chapter 158, Family Code, is amended by adding Section 158.215 to read as follows:

Sec. 158.215. WITHHOLDING FROM LUMP-SUM PAYMENTS. (a) In this section, "lump-sum payment" means income in the form of a bonus or commission or an amount paid in lieu of vacation or other leave time. The term does not include an employee's usual earnings or an amount paid as severance pay on termination of employment.

(b) This section applies only to an employer who receives an administrative writ of withholding in a Title IV-D case that requires that an obligor's income be withheld for child support arrearages.

(c) An employer to whom this section applies may not make a lump-sum payment to the obligor in the amount of \$500 or more without first notifying the Title IV-D agency that issued the writ to determine whether all or a portion of the payment should be applied to the child support arrearages.

(d) After notifying the Title IV-D agency in compliance with Subsection (c), the employer may not make the lump-sum payment before the earlier of:

(1) the 10th day after the date on which the employer notified the Title IV-D agency; or

(2) the date on which the employer receives authorization from the Title IV-D agency to make the payment.

(e) If the employer receives a timely authorization from the Title IV-D agency under Subsection (d)(2), the employer may make the payment only in accordance with the terms of that authorization.

SECTION 35. Subsection (a), Section 158.502, Family Code, is amended to read as follows:

(a) An administrative writ of withholding under this subchapter may be issued by the Title IV-D agency at any time until all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid. The writ issued under this subsection may be based on an obligation in more than one support order.

SECTION 36. Section 158.506, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If a review under this section fails to resolve any issue in dispute, the obligor ~~[is entitled to the remedies provided by Section 158.317 for cases in which a notice of an application for judicial writ of withholding was not received. The obligor]~~ may file a motion with the court to withdraw the administrative writ of withholding and request a hearing with the court not later than the 30th day after receiving notice of the agency's determination. Income withholding may not be interrupted pending a hearing by the court.

(d) If an administrative writ of withholding issued under this subchapter is based on an order of a tribunal of another state that has not been registered under Chapter 159, the obligor may file a motion with an appropriate court in accordance with Subsection (c).

SECTION 37. Section 158.507, Family Code, is amended to read as follows:

Sec. 158.507. ADMINISTRATIVE WRIT TERMINATING WITHHOLDING. An administrative writ to terminate withholding may be issued and delivered to an employer by the Title IV-D agency when all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid.

SECTION 38. Subdivision (23), Section 159.102, Family Code, is amended to read as follows:

(23) "Support order" means a judgment, decree, ~~[or]~~ order, or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse that provides for monetary support, health care, arrearages, or reimbursement and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

SECTION 39. Subdivision (6), Section 160.102, Family Code, is amended to read as follows:

(6) "Donor" means an individual who provides ~~[produces]~~ eggs or sperm to a licensed physician to be used for assisted reproduction, regardless of whether the eggs or sperm are provided ~~[production is]~~ for consideration. The term does not include:

(A) a husband who provides sperm or a wife who provides eggs to be used for assisted reproduction by the wife; ~~[or]~~

(B) a woman who gives birth to a child by means of assisted reproduction; or

(C) an unmarried man who, with the intent to be the father of the resulting child, provides sperm to be used for assisted reproduction by an unmarried woman, as provided by Section 160.7031.

SECTION 40. Subchapter H, Chapter 160, Family Code, is amended by adding Section 160.7031 to read as follows:

Sec. 160.7031. UNMARRIED MAN'S PATERNITY OF CHILD OF ASSISTED REPRODUCTION. (a) If an unmarried man, with the intent to be the father of a resulting child, provides sperm to a licensed physician and consents to the use of that sperm for assisted reproduction by an unmarried woman, he is the father of a resulting child.

(b) Consent by an unmarried man who intends to be the father of a resulting child in accordance with this section must be in a record signed by the man and the unmarried woman and kept by a licensed physician.

SECTION 41. Subsection (a), Section 160.704, Family Code, is amended to read as follows:

(a) Consent by a married woman to assisted reproduction must be in a record signed by the woman and her husband and kept by a licensed physician. This requirement does not apply to the donation of eggs by a married woman for assisted reproduction by another woman.

SECTION 42. Section 160.706, Family Code, is amended to read as follows:

Sec. 160.706. EFFECT OF DISSOLUTION OF MARRIAGE. (a) If a marriage is dissolved before the placement of eggs, sperm, or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a record kept by a licensed physician that if assisted reproduction were to occur after a divorce the former spouse would be a parent of the child.

(b) The consent of a former spouse to assisted reproduction may be withdrawn by that individual in a record kept by a licensed physician at any time before the placement of eggs, sperm, or embryos.

SECTION 43. Section 160.707, Family Code, is amended to read as follows:

Sec. 160.707. PARENTAL STATUS OF DECEASED SPOUSE. If a spouse dies before the placement of eggs, sperm, or embryos, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record kept by a licensed physician that if assisted reproduction were to occur after death the deceased spouse would be a parent of the child.

SECTION 44. Section 161.206, Family Code, is amended by adding Subsection (d) to read as follows:

(d) An order rendered under this section must include a finding that:

(1) a request for identification of a court of continuing, exclusive jurisdiction has been made as required by Section 155.101; and

(2) all parties entitled to notice, including the Title IV-D agency, have been notified.

SECTION 45. Subsection (b), Section 231.006, Family Code, is amended to read as follows:

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) ~~[or a child support obligor ineligible to receive payments under Subsection (a-1)]~~ remains ineligible until:

- (1) all arrearages have been paid;
- (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or
- (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

SECTION 46. The heading to Section 231.012, Family Code, is amended to read as follows:

Sec. 231.012. CHILD SUPPORT ~~[COUNTY ADVISORY]~~ WORK GROUP.

SECTION 47. Subsections (a), (b), and (c), Section 231.012, Family Code, are amended to read as follows:

(a) The director of the Title IV-D agency may convene ~~[shall establish]~~ a ~~[county advisory]~~ work group representing public and private entities with an interest in child support enforcement in this state to work with ~~[assist]~~ the director ~~[Title IV-D agency]~~ in developing strategies to improve ~~[and changing]~~ child support enforcement in this state ~~[programs that affect counties. The work group shall consist of at least one of each of the following:~~

- ~~[(1) county judge;~~
- ~~[(2) county commissioner;~~
- ~~[(3) district clerk;~~
- ~~[(4) domestic relations officer;~~
- ~~[(5) associate judge for Title IV-D cases; and~~
- ~~[(6) district court judge].~~

(b) The director of the Title IV-D agency shall appoint the members of the work group after consulting with appropriate public and private entities ~~[the relevant professional or trade associations of the professions that are represented on the work group. The director of the Title IV-D agency shall determine the number of members of the work group and shall designate the presiding officer of the group].~~

(c) The work group shall meet as convened by the director of the Title IV-D agency and consult with[-

~~[(1) advise] the director on matters relating to [of the Title IV-D agency of the impact on counties that a proposed] child support enforcement in this state, including the delivery of Title IV-D services [program or a change in a program may have;~~

- ~~[(2) establish a state county child support improvement plan;~~
- ~~[(3) advise the Title IV-D agency on the operation of the state disbursement unit;~~
- ~~[(4) plan for monetary incentives for county partnership programs;~~
- ~~[(5) expand the number of agreements with counties for enforcement services; and~~
- ~~[(6) work with relevant statewide associations on a model partnership agreement].~~

SECTION 48. Section 231.103, Family Code, is amended by amending Subsection (f) and adding Subsection (g-1) to read as follows:

(f) The state disbursement unit established and operated by the Title IV-D agency under Chapter 234 may collect a monthly service fee of \$3 in each case in which [deducted from] support payments are processed through the unit [in a case for which the Title IV-D agency is not providing services].

(g-1) A fee authorized under this section for providing child support enforcement services is part of the child support obligation if the obligor is responsible for the fee, and may be enforced against the obligor through any method available for the enforcement of child support, including contempt.

SECTION 49. Section 231.202, Family Code, is amended to read as follows:

Sec. 231.202. AUTHORIZED COSTS AND FEES IN TITLE IV-D CASES. In a Title IV-D case filed under this title, including a case filed under Chapter 159, the Title IV-D agency shall pay:

(1) filing fees and fees for issuance and service of process as provided by Chapter 110 of this code and by Sections 51.317, 51.318(b)(2), and 51.319(2), Government Code;

(2) fees for transfer as provided by Chapter 110;

(3) fees for the issuance and delivery of orders and writs of income withholding in the amounts provided by Chapter 110;

(4) the fee that sheriffs and constables are authorized to charge for serving process under Section 118.131, Local Government Code, for each item of process to each individual on whom service is required, including service by certified or registered mail, to be paid to a sheriff, constable, or clerk whenever service of process is required; ~~and~~

(5) the fee for filing an administrative writ of withholding under Section 158.503(d); and

(6) the fee for issuance of a subpoena as provided by Section 51.318(b)(1), Government Code.

SECTION 50. Subdivisions (1), (2), and (3), Section 232.001, Family Code, are amended to read as follows:

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority;

(B) is subject before expiration to renewal, suspension, revocation, forfeiture, or termination by a [the issuing] licensing authority; and

(C) a person must obtain to:

(i) practice or engage in a particular business, occupation, or profession;

(ii) operate a motor vehicle on a public highway in this state; or

(iii) engage in any other regulated activity, including hunting, fishing, or other recreational activity for which a license or permit is required.

(2) "Licensing authority" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues or renews a license or that otherwise has authority to suspend or refuse to renew a license.

(3) "Order suspending license" means an order issued by the Title IV-D agency or a court directing a licensing authority to suspend or refuse to renew a license.

SECTION 51. Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. Unless otherwise restricted or exempted, all ~~[The following are]~~ licensing authorities are subject to this chapter[~~:-~~]

- ~~[(1) Department of Agriculture;~~
- ~~[(2) Texas Alcoholic Beverage Commission;~~
- ~~[(3) Texas Appraiser Licensing and Certification Board;~~
- ~~[(4) Texas Board of Architectural Examiners;~~
- ~~[(5) Texas Board of Chiropractic Examiners;~~
- ~~[(6) Comptroller of Public Accounts;~~
- ~~[(7) Court Reporters Certification Board;~~
- ~~[(8) State Board of Dental Examiners;~~
- ~~[(9) Texas State Board of Examiners of Dietitians;~~
- ~~[(10) Texas Funeral Service Commission;~~
- ~~[(11) Department of State Health Services;~~
- ~~[(12) Department of Aging and Disability Services;~~
- ~~[(13) Texas Board of Professional Land Surveying;~~
- ~~[(14) Texas Department of Licensing and Regulation;~~
- ~~[(15) Texas State Board of Examiners of Marriage and Family Therapists;~~
- ~~[(16) Texas State Board of Medical Examiners;~~
- ~~[(17) Midwifery Board;~~
- ~~[(18) Texas Commission on Environmental Quality;~~
- ~~[(19) Board of Nurse Examiners;~~
- ~~[(20) Texas Board of Occupational Therapy Examiners;~~
- ~~[(21) Texas Optometry Board;~~
- ~~[(22) Parks and Wildlife Department;~~
- ~~[(23) Texas State Board of Examiners of Perfusionists;~~
- ~~[(24) Texas State Board of Pharmacy;~~
- ~~[(25) Texas Board of Physical Therapy Examiners;~~
- ~~[(26) Texas State Board of Plumbing Examiners;~~
- ~~[(27) Texas State Board of Podiatric Medical Examiners;~~
- ~~[(28) Polygraph Examiners Board;~~
- ~~[(29) Texas Private Security Board;~~
- ~~[(30) Texas State Board of Examiners of Professional Counselors;~~
- ~~[(31) Texas Board of Professional Engineers;~~
- ~~[(32) Department of Family and Protective Services;~~
- ~~[(33) Texas State Board of Examiners of Psychologists;~~
- ~~[(34) Texas State Board of Public Accountancy;~~
- ~~[(35) Department of Public Safety of the State of Texas;~~
- ~~[(36) Public Utility Commission of Texas;~~
- ~~[(37) Railroad Commission of Texas;~~
- ~~[(38) Texas Real Estate Commission;~~
- ~~[(39) State Bar of Texas;~~
- ~~[(40) Texas State Board of Social Worker Examiners;~~
- ~~[(41) State Board of Examiners for Speech Language Pathology and Audiology;~~

~~[(42) Texas Structural Pest Control Board;~~
~~[(43) Board of Tax Professional Examiners;~~
~~[(44) Secretary of State;~~
~~[(45) Supreme Court of Texas;~~
~~[(46) Texas Transportation Commission;~~
~~[(47) State Board of Veterinary Medical Examiners;~~
~~[(48) Texas Ethics Commission;~~
~~[(49) Advisory Board of Athletic Trainers;~~
~~[(50) State Committee of Examiners in the Fitting and Dispensing of~~
~~Hearing Instruments;~~
~~[(51) Texas Board of Licensure for Professional Medical Physicians;~~
~~[(52) Texas Department of Insurance;~~
~~[(53) Texas Board of Orthotics and Prosthetics;~~
~~[(54) savings and loan commissioner;~~
~~[(55) Texas Juvenile Probation Commission; and~~
~~[(56) Texas Lottery Commission under Chapter 466, Government Code].~~

SECTION 52. Chapter 232, Family Code, is amended by adding Section 232.0022 to read as follows:

Sec. 232.0022. SUSPENSION OR NONRENEWAL OF MOTOR VEHICLE REGISTRATION. (a) The Texas Department of Transportation is the appropriate licensing authority for suspension or nonrenewal of a motor vehicle registration under this chapter.

(b) The suspension or nonrenewal of a motor vehicle registration under this chapter does not:

(1) encumber the title to the motor vehicle or otherwise affect the transfer of the title to the vehicle; or

(2) affect the sale, purchase, or registration of the motor vehicle by a person who holds a general distinguishing number issued under Chapter 503, Transportation Code.

SECTION 53. Subsection (a), Section 232.004, Family Code, is amended to read as follows:

(a) A child support agency or obligee may file a petition to suspend, as provided by this chapter, a license of an obligor who has an arrearage equal to or greater than the total support due for three months ~~[90 days]~~ under a support order.

SECTION 54. Subsections (b) and (c), Section 232.006, Family Code, are amended to read as follows:

(b) Notice under this section may be served:

(1) if the party has been ordered under Chapter 105 to provide the court and registry with the party's current mailing address, by mailing a copy of the notice to the respondent, together with a copy of the petition, by first class mail to the last mailing address of the respondent on file with the court and the state case registry; or

(2) as in civil cases generally.

(c) The notice must contain the following prominently displayed statement in boldfaced type, capital letters, or underlined:

"AN ACTION TO SUSPEND ONE OR MORE LICENSES ISSUED TO YOU HAS BEEN FILED AS PROVIDED BY CHAPTER 232, TEXAS FAMILY CODE. YOU MAY EMPLOY AN ATTORNEY TO REPRESENT YOU IN THIS ACTION. IF YOU OR YOUR ATTORNEY DO NOT REQUEST A HEARING BEFORE THE 21ST DAY AFTER THE DATE OF SERVICE OF THIS NOTICE, AN ORDER SUSPENDING YOUR ~~[OF]~~ LICENSE ~~[SUSPENSION]~~ MAY BE RENDERED."

SECTION 55. Chapter 232, Family Code, is amended by adding Section 232.0135 to read as follows:

Sec. 232.0135. DENIAL OF LICENSE RENEWAL. (a) A child support agency, as defined by Section 101.004, may provide notice to a licensing authority concerning an obligor who has failed to pay child support for six months or more that requests the authority to refuse to accept an application for renewal of the license of the obligor.

(b) A licensing authority that receives the information described by Subsection (a) shall refuse to accept an application for renewal of the license of the obligor until the authority is notified by the child support agency that the obligor has:

(1) paid all child support arrearages;
(2) established with the agency a satisfactory repayment schedule or is in compliance with a court order for payment of the arrearages;

(3) been granted an exemption from this subsection as part of a court-supervised plan to improve the obligor's earnings and child support payments;
or

(4) successfully contested the denial of renewal of license under Subsection (d).

(c) On providing a licensing authority with the notice described by Subsection (a), the child support agency shall send a copy to the obligor by first class mail and inform the obligor of the steps the obligor must take to permit the authority to accept the obligor's application for license renewal.

(d) An obligor receiving notice under Subsection (c) may request a review by the child support agency to resolve any issue in dispute regarding the identity of the obligor or the existence or amount of child support arrearages. The agency shall promptly provide an opportunity for a review, either by telephone or in person, as appropriate to the circumstances. After the review, if appropriate, the agency may notify the licensing authority that it may accept the obligor's application for renewal of license. If the agency and the obligor fail to resolve any issue in dispute, the obligor, not later than the 30th day after the date of receiving notice of the agency's determination from the review, may file a motion with the court to direct the agency to withdraw the notice under Subsection (a) and request a hearing on the motion. The obligor's application for license renewal may not be accepted by the licensing authority until the court rules on the motion. If, after a review by the agency or a hearing by the court, the agency withdraws the notice under Subsection (a), the agency shall reimburse the obligor the amount of any fee charged the obligor under Section 232.014.

(e) If an obligor enters into a repayment agreement with the child support agency under this section, the agency may incorporate the agreement in an order to be filed with and confirmed by the court in the manner provided for agreed orders under Chapter 233.

(f) In this section, "licensing authority" does not include the State Securities Board.

SECTION 56. Section 232.014, Family Code, is amended to read as follows:

Sec. 232.014. FEE BY LICENSING AUTHORITY. (a) A licensing authority may charge a fee to an individual who is the subject of an order suspending license or of an action of a child support agency under Section 232.0135 to deny renewal of license in an amount sufficient to recover the administrative costs incurred by the authority under this chapter.

(b) A fee collected by the Texas Department of Transportation or the Department of Public Safety shall be deposited to the credit of the state highway fund.

SECTION 57. Section 233.019, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A child support order issued by a tribunal of another state and filed with an agreed review order as an exhibit to the agreed review order shall be treated as a confirmed order without the necessity of registration under Subchapter G, Chapter 159.

SECTION 58. Subsection (c), Section 234.001, Family Code, is amended to read as follows:

(c) The state disbursement unit shall:

(1) receive, maintain, and furnish records of child support payments in Title IV-D cases and other cases as authorized by law;

(2) forward child support payments as authorized by law;

(3) maintain records of child support payments [~~payment records~~] made through the state disbursement unit; and

(4) make available to a local registry each day in a manner determined by the Title IV-D agency [~~with the assistance of the work group established under Section 234.003~~] the following information:

(A) the cause number of the suit under which withholding is required;

(B) the payor's name and social security number;

(C) the payee's name and, if available, social security number;

(D) the date the disbursement unit received the payment;

(E) the amount of the payment; and

(F) the instrument identification information.

SECTION 59. Section 234.006, Family Code, is amended to read as follows:

Sec. 234.006. RULEMAKING [~~EFFECTIVE DATE AND PROCEDURES~~]. The Title IV-D agency [~~in cooperation with the work group established under Section 234.003~~] may adopt rules in compliance with federal law for the operation of the state case registry and the state disbursement unit.

SECTION 60. Subsection (a), Section 234.008, Family Code, is amended to read as follows:

(a) Not ~~[Except as provided by Subsection (c) or (d), not]~~ later than the second business day after the date the state disbursement unit receives a child support payment, the state disbursement unit shall distribute the payment to the Title IV-D agency or the obligee.

SECTION 61. Subchapter A, Chapter 234, Family Code, is amended by adding Section 234.012 to read as follows:

Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE REGISTRY. Unless prohibited by a court in accordance with Section 105.006(c), the state case registry shall, on request and to the extent permitted by federal law, provide the information required under Sections 105.006 and 105.008 in any case included in the registry under Section 234.001(b) to:

- (1) any party to the proceeding;
- (2) an amicus attorney;
- (3) an attorney ad litem;
- (4) a friend of the court;
- (5) a guardian ad litem;
- (6) a domestic relations office;
- (7) a prosecuting attorney or juvenile court acting in a proceeding under

Title 3; or

- (8) a governmental entity or court acting in a proceeding under Chapter 262.

SECTION 62. Subchapter B, Chapter 234, Family Code, is amended by adding Section 234.105 to read as follows:

Sec. 234.105. CIVIL PENALTY. (a) In addition to any other remedy provided by law, an employer who knowingly violates a procedure adopted under Section 234.104 for reporting employee information may be liable for a civil penalty as permitted by Section 453A(d) of the federal Social Security Act (42 U.S.C. Section 653a).

(b) The amount of the civil penalty may not exceed:

(1) \$25 for each occurrence in which an employer fails to report an employee; or

(2) \$500 for each occurrence in which the conduct described by Subdivision (1) is the result of a conspiracy between the employer and an employee to not supply a required report or to submit a false or incomplete report.

(c) The attorney general may sue to collect the civil penalty. A penalty collected under this section shall be deposited in a special fund in the state treasury.

SECTION 63. Subsections (a) and (d), Section 207.093, Labor Code, are amended to read as follows:

(a) The commission shall withhold from the benefits payable to an individual that owes a child support obligation an amount equal to:

(1) any amount required to be withheld under legal process properly served on the commission;

(2) if Subdivision (1) does not apply, the amount determined under an agreement submitted to the commission under Section 454(19)(B)(i) ~~[454(20)(B)(i)]~~ of the Social Security Act (42 U.S.C. Section 654) by the state or local child support enforcement agency; or

(3) if neither Subdivision (1) or (2) applies, the amount the individual specifies to the commission to be withheld.

(d) In this section, "legal process" has the meaning assigned by Section 459(i)(5) [~~462(e)~~] of the Social Security Act (42 U.S.C. Section 659 [~~662~~]).

SECTION 64. Subdivision (9), Section 501.002, Transportation Code, is amended to read as follows:

(9) "Lien" means:

(A) a lien provided for by the constitution or statute in a motor vehicle;

[or]

(B) a security interest, as defined by Section 1.201, Business & Commerce Code, in a motor vehicle, other than an absolute title, created by any written security agreement, as defined by Section 9.102, Business & Commerce Code, including a lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, or reservation of title; or

(C) a child support lien under Chapter 157, Family Code.

SECTION 65. The following provisions of the Family Code are repealed:

(1) Subsection (a-1), Section 231.006;

(2) Section 231.011;

(3) Subsection (d), Section 231.103;

(4) Section 231.310;

(5) Subsections (c), (d), and (e), Section 234.008; and

(6) Chapter 235.

SECTION 66. (a) The change in law made by this Act relating to a court order establishing paternity or the obligation to pay child support applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act relating to the modification or enforcement of a child support order rendered before the effective date of this Act applies only to a proceeding for modification or enforcement that is commenced on or after the effective date of this Act. A proceeding for modification or enforcement that is commenced before the effective date of this Act is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act by the enactment of Section 234.105, Family Code, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before that date is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 67. (a) Subsection (f), Section 157.327, Family Code, as added by this Act, applies only to a financial institution that receives a notice of levy under that section on or after the effective date of this Act. A financial institution that receives a notice of levy under that section before the effective date of this Act is governed by the law in effect on the date the notice of levy is received, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Section 158.506, Family Code, apply only to an administrative writ of withholding issued on or after the effective date of this Act. An administrative writ of withholding issued before the effective date of this Act is governed by the law in effect at the time the administrative writ is issued, and the former law is continued in effect for that purpose.

(c) The changes in law made by this Act to Section 231.103, Family Code, apply only to fees that are incurred on or after the date that the rules adopted in accordance with that section take effect.

SECTION 68. Section 153.3161, Family Code, as amended by this Act, applies only to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 69. Section 156.105, Family Code, as amended by this Act, applies only to an action to modify an order in a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

SECTION 70. The change in law made by this Act to Chapter 160, Family Code, applies to a motion or other request for relief made in a parentage or paternity proceeding that is commenced on or after the effective date of this Act. A motion or other request for relief made in a parentage or paternity proceeding commenced before the effective date of this Act is governed by the law in effect at the time the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 71. In the event another Act of the 80th Legislature, Regular Session, 2007, includes a provision adopting Section 153.015, Family Code, relating to electronic communications between a parent and a child, and that provision is not identical to Section 153.015, Family Code, as provided in this Act, the provision in this Act shall prevail and any such provision in any other Act that is not identical to the provision in this Act shall not become effective.

SECTION 72. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 228** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1168

Senator Shapleigh submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1168** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPLEIGH
DUNCAN
NELSON
WILLIAMS

MENENDEZ
KOLKHORST
J. DAVIS
PICKETT
VEASEY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1168** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 9**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

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

SHAPIRO
HINOJOSA
JANEK
OGDEN
VAN DE PUTTE

BRANCH
MADDEN
EISSLER
MORRISON

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the disclosure or dissemination of criminal history record information, child abuse investigation reports, and school district audit working papers for certain purposes, including the certification and employment of educators and other public school employees who engage in certain misconduct.

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

SECTION 1. Subchapter B, Chapter 8, Education Code, is amended by adding Section 8.057 to read as follows:

Sec. 8.057. ASSISTANCE WITH CRIMINAL HISTORY RECORD INFORMATION. The agency may require a regional education service center to assist in collecting information needed for a criminal history record information review under Subchapter C, Chapter 22.

SECTION 2. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1059 to read as follows:

Sec. 12.1059. AGENCY APPROVAL REQUIRED FOR CERTAIN EMPLOYEES. A person may not be employed by or serve as a teacher, librarian, educational aide, administrator, or counselor for an open-enrollment charter school unless the person has been approved by the agency following a review of the person's national criminal history record information as provided by Section 22.0832.

SECTION 3. Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.007 to read as follows:

Sec. 21.007. NOTICE ON CERTIFICATION RECORD OF ALLEGED MISCONDUCT. (a) In this section, "board" means the State Board for Educator Certification.

(b) The board shall adopt a procedure for placing a notice of alleged misconduct on an educator's public certification records. The procedure adopted by the board must provide for immediate placement of a notice of alleged misconduct on an educator's public certification records if the alleged misconduct presents a risk to the health, safety, or welfare of a student or minor as determined by the board.

(c) The board must notify an educator in writing when placing a notice of an alleged incident of misconduct on the public certification records of the educator.

(d) The board must provide an opportunity for an educator to show cause why the notice should not be placed on the educator's public certification records. The board shall propose rules establishing the length of time that a notice may remain on the educator's public certification records before the board must:

(1) initiate a proceeding to impose a sanction on the educator on the basis of the alleged misconduct; or

(2) remove the notice from the educator's public certification records.

(e) If it is determined that the educator has not engaged in the alleged incident of misconduct, the board shall immediately remove the notice from the educator's public certification records.

(f) The board shall propose rules necessary to administer this section.

SECTION 4. Section 21.048, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under Chapter 552, Government Code, unless:

(1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or

(2) the educator has failed the examination more than five times.

SECTION 5. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.060 to read as follows:

Sec. 21.060. ELIGIBILITY OF PERSONS CONVICTED OF CERTAIN OFFENSES. The board may suspend or revoke the certificate or permit held by a person under this subchapter, impose other sanctions against the person, or refuse to issue a certificate or permit to a person under this subchapter if the person has been convicted of a felony or misdemeanor offense relating to the duties and responsibilities of the education profession, including:

(1) an offense involving moral turpitude;

(2) an offense involving a form of sexual or physical abuse of a minor or student or other illegal conduct in which the victim is a minor or student;

(3) a felony offense involving the possession, transfer, sale, or distribution of or conspiracy to possess, transfer, sell, or distribute a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(4) an offense involving the illegal transfer, appropriation, or use of school district funds or other district property; or

(5) an offense involving an attempt by fraudulent or unauthorized means to obtain or alter a professional certificate or license issued under this subchapter.

SECTION 6. Sections 22.081 and 22.082, Education Code, are amended to read as follows:

Sec. 22.081. DEFINITIONS ~~[DEFINITION]~~. In this subchapter:

(1) "Department" means the Department of Public Safety.

(2) "National criminal history record information" means criminal history record information obtained from the department under Subchapter F, Chapter 411, Government Code, and from the Federal Bureau of Investigation under Section 411.087, Government Code.

(3) "Private[, ~~private~~] school" means a school that:

(A) ~~[(4)]~~ offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(B) ~~[(2)]~~ is not operated by a governmental entity.

Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE BOARD FOR EDUCATOR CERTIFICATION. The State Board for Educator Certification shall subscribe to the criminal history clearinghouse as provided by Section 411.0845, Government Code, and may obtain from any law enforcement or criminal justice agency all criminal history record information and all records contained in any closed criminal investigation file that relate ~~[relates]~~ to a specific ~~[an]~~ applicant for or holder of a certificate issued under Subchapter B, Chapter 21.

SECTION 7. The heading to Section 22.083, Education Code, is amended to read as follows:

Sec. 22.083. ACCESS TO CRIMINAL HISTORY RECORDS OF EMPLOYEES BY LOCAL AND REGIONAL EDUCATION AUTHORITIES.

SECTION 8. Section 22.083, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A school district, open-enrollment charter school, ~~[private school, regional education service center,]~~ or shared services arrangement shall ~~[may]~~ obtain ~~[from any law enforcement or criminal justice agency all]~~ criminal history record information that relates to a person who is not subject to a national criminal history record information review under this subchapter and who is an employee of:

(1) ~~[whom]~~ the district or~~;~~ school~~[, service center, or shared services arrangement intends to employ in any capacity]~~; or

(2) a shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present ~~[who has indicated, in writing, an intention to serve as a volunteer with the district, school, service center, or shared services arrangement]~~.

(a-1) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information from:

- (1) the department;
- (2) a law enforcement or criminal justice agency; or
- (3) a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.).

(a-2) A shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who is not subject to Subsection (a) and whom the shared services arrangement intends to employ in any capacity.

(b) A private school or regional education service center may ~~[An open-enrollment charter school shall]~~ obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person whom the school or service center intends to employ in any capacity; or

(2) an employee of or applicant for employment by a person that contracts with the school or service center to provide services, if:

(A) the employee or applicant has or will have continuing duties related to the contracted services; and

(B) the employee or applicant has or will have direct contact with students ~~[a person who has indicated, in writing, an intention to serve as a volunteer with the school].~~

SECTION 9. Subchapter C, Chapter 22, Education Code, is amended by adding Sections 22.0831 through 22.0837 to read as follows:

Sec. 22.0831. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTIFIED EDUCATORS. (a) In this section, "board" means the State Board for Educator Certification.

(b) This section applies to a person who is an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who is employed by or is an applicant for employment by a school district, open-enrollment charter school, or shared services arrangement.

(c) The board shall review the national criminal history record information of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review.

(d) The board shall place an educator's certificate on inactive status for failure to comply with a deadline for submitting information required under this section.

(e) The board may allow a person who is applying for a certificate under Subchapter B, Chapter 21, and who currently resides in another state to submit the person's fingerprints and other required information in a manner that does not impose an undue hardship on the person.

(f) The board may propose rules to implement this section, including rules establishing:

(1) deadlines for a person to submit fingerprints and photographs in compliance with this section; and

(2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of a certificate or refusal to issue a certificate.

(g) The board by rule shall establish a schedule for obtaining and reviewing the information a certified educator must provide the board under this section. Not later than September 1, 2011, the board must obtain all national criminal history record information on all certified educators. This subsection expires October 1, 2011.

Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL EMPLOYEES. (a) The agency shall review the national criminal history record information of an employee of an open-enrollment charter school to whom Section 12.1059 applies in the same manner as the State Board for Educator Certification reviews certified educators under Section 22.0831. If the agency determines that, based on information contained in an employee's criminal history record information, the employee would not be eligible for educator certification under Subchapter B, Chapter 21, the agency shall notify the open-enrollment charter school in writing that the person may not be employed by the school or serve in a capacity described by Section 12.1059.

(b) An open-enrollment charter school must provide the agency with any information requested by the agency to enable the agency to complete a review under Subsection (a). Failure of an open-enrollment charter school to provide information under this subsection is a material violation of the school's charter.

Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF NONCERTIFIED EMPLOYEES. (a) This section applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by:

(1) a school district or open-enrollment charter school; or

(2) a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

(b) A person to whom this section applies must submit to a national criminal history record information review under this section before being employed or serving in a capacity described by Subsection (a).

(c) Before or immediately after employing or securing the services of a person to whom this section applies, a school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs.

(d) The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(e) Each school district, open-enrollment charter school, and shared services arrangement shall obtain all criminal history record information that relates to a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code, and shall subscribe to the criminal history record information of the person.

(f) The school district, open-enrollment charter school, or shared services arrangement may require a person to pay any fees related to obtaining criminal history record information under this section.

(g) A school district, open-enrollment charter school, or shared services arrangement shall provide the agency with the name of a person to whom this section applies. The agency shall obtain all criminal history record information of the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The agency shall examine the criminal history record information of the person and notify the district, school, or shared services arrangement if the person may not be hired or must be discharged as provided by Section 22.085.

(h) The agency, the State Board for Educator Certification, school districts, open-enrollment charter schools, and shared services arrangements may coordinate as necessary to ensure that criminal history reviews authorized or required under this subchapter are not unnecessarily duplicated.

(i) The department in coordination with the commissioner may adopt rules necessary to implement this section.

Sec. 22.0834. CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTAIN CONTRACT EMPLOYEES. (a) This subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

(1) the employee or applicant has or will have continuing duties related to the contracted services; and

(2) the employee or applicant has or will have direct contact with students.

(b) A person to whom Subsection (a) applies must submit to a national criminal history record information review under this section before being employed or serving in a capacity described by that subsection.

(c) Before or immediately after employing or securing the services of a person to whom Subsection (a) applies, the entity contracting with a school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs. The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(d) An entity contracting with a school district, open-enrollment charter school, or shared services arrangement shall obtain all criminal history record information that relates to a person to whom Subsection (a) applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The entity shall certify to the school district that the entity has received all criminal history record information relating to a person to whom Subsection (a) applies.

(e) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f) In the event of an emergency, a school district may allow a person to whom Subsection (a) or (g) applies to enter school district property if the person is accompanied by a district employee. A school district may adopt rules regarding an emergency situation under this subsection.

(g) An entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Subsection (b) if:

(1) the employee has continuing duties related to the contracted services;
and

(2) the employee has direct contact with students.

(h) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (g) applies.

(i) An entity shall certify to a school district that it has received all criminal history record information required by Subsection (g).

(j) The commissioner may adopt rules as necessary to implement this section.

Sec. 22.0835. ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION AUTHORITIES. (a) A school district, open-enrollment charter school, or shared services arrangement shall obtain from the department and may obtain from any other law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to:

(1) a person participating in an internship consisting of student teaching to receive a teaching certificate; or

(2) a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the district, school, or shared services arrangement.

(b) A private school or regional education service center may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who volunteers or has indicated, in writing, an intention to serve as a volunteer with the school or service center.

(c) A person to whom Subsection (a) or (b) applies must provide to the school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government.

(d) A person to whom Subsection (a) applies may not perform any student teaching or volunteer duties until all requirements under Subsections (a) and (c) have been satisfied.

(e) Subsections (a) and (c) do not apply to a person who volunteers or is applying to volunteer with a school district, open-enrollment charter school, or shared services arrangement if the person:

(1) is the parent, guardian, or grandparent of a child who is enrolled in the district or school for which the person volunteers or is applying to volunteer;

(2) will be accompanied by a school district employee while on a school campus; or

(3) is volunteering for a single event on the school campus.

(f) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (e) applies.

(g) A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may require a student teacher, volunteer, or volunteer applicant to pay any costs related to obtaining criminal history record information under this section.

Sec. 22.0836. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF SUBSTITUTE TEACHERS. (a) This section applies to a person who is a substitute teacher for a school district, open-enrollment charter school, or shared services arrangement.

(b) A person to whom this section applies must submit to a national criminal history record information review under this section.

(c) A school district, open-enrollment charter school, or shared services arrangement shall send or ensure that a person to whom this section applies sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs.

(d) The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(e) Each school district, open-enrollment charter school, and shared services arrangement shall obtain all criminal history record information that relates to a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f) The school district, open-enrollment charter school, or shared services arrangement may require a person to pay any fees related to obtaining criminal history record information under this section.

(g) A school district, open-enrollment charter school, or shared services arrangement shall provide the agency with the name of a person to whom this section applies. The agency shall obtain all criminal history record information of the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The agency shall examine the criminal history record information and certification records of the person and notify the district, school, or shared services arrangement if the person:

(1) may not be hired or must be discharged as provided by Section 22.085;

or

(2) may not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

(h) The commissioner may adopt rules to implement this section, including rules establishing deadlines for a school district, open-enrollment charter school, or shared services arrangement to require a person to whom this section applies to submit fingerprints and photographs in compliance with this section and the circumstances under which a person may not continue to be employed as a substitute teacher.

(i) The agency shall establish a schedule for obtaining and reviewing the information a school district, open-enrollment charter school, or shared services arrangement and a substitute teacher must provide under this section. Not later than September 1, 2011, the agency must obtain all national criminal history record information on all substitute teachers. This subsection expires October 1, 2011.

(j) The department in coordination with the commissioner may adopt rules necessary to implement this section.

Sec. 22.0837. FEE FOR NATIONAL CRIMINAL HISTORY RECORD INFORMATION. The agency by rule shall require a person submitting to a national criminal history record information review under Section 22.0832, 22.0833, or 22.0836 to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an applicant for certification under Subchapter B, Chapter 21, for a national criminal history record information review under Section 22.0831. The agency or the department may require an entity authorized to collect information for a national criminal history record information review to collect the fee required under this section and to remit the funds collected to the agency.

SECTION 10. Section 22.085, Education Code, is amended to read as follows:

Sec. 22.085. ~~[DISCHARGE OF]~~ EMPLOYEES AND APPLICANTS CONVICTED OF CERTAIN OFFENSES. (a) A school district, open-enrollment charter school, or shared services arrangement shall discharge or refuse to hire an employee or applicant for employment if the district, school, or shared services arrangement obtains information through a criminal history record information review that:

(1) the employee or applicant has been convicted of:

(A) a felony offense under Title 5, Penal Code;

(B) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(C) an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and

(2) at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(b) Subsection (a) does not apply if the employee or applicant for employment committed an offense under Title 5, Penal Code and:

(1) the date of the offense is more than 30 years before:

(A) the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007, in the case of a person employed by a school district, open-enrollment charter school, or shared services arrangement as of that date; or

(B) the date the person's employment will begin, in the case of a person applying for employment with a school district, open-enrollment charter school, or shared services arrangement after the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007; and

(2) the employee or applicant for employment satisfied all terms of the court order entered on conviction.

(c) A school district, open-enrollment charter school, or shared services arrangement may not allow a person who is an employee of or applicant for employment by an entity that contracts with the district, school, or shared services arrangement to serve at the district or school or for the shared services arrangement if the district, school, or shared services arrangement obtains information described by Subsection (a) through a criminal history record information review concerning the employee or applicant. A school district, open-enrollment charter school, or shared services arrangement must ensure that an entity that the district, school, or shared services arrangement contracts with for services has obtained all criminal history record information as required by Section 22.0834.

(d) A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the State Board for Educator Certification or the district, school, service center, or shared services arrangement. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

(e) The State Board for Educator Certification may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been convicted of an offense described by Subsection (a).

(f) Each school year, the superintendent of a school district or chief operating officer of an open-enrollment charter school shall certify to the commissioner that the district or school has complied with this section.

SECTION 11. Subchapter C, Chapter 22, Education Code, is amended by adding Section 22.087 to read as follows:

Sec. 22.087. NOTIFICATION TO STATE BOARD FOR EDUCATOR CERTIFICATION. The superintendent of a school district or the director of an open-enrollment charter school, private school, regional education service center, or shared services arrangement shall promptly notify the State Board for Educator Certification in writing if the person obtains or has knowledge of information showing that an applicant for or holder of a certificate issued under Subchapter B, Chapter 21, has a reported criminal history.

SECTION 12. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.022 to read as follows:

Sec. 38.022. SCHOOL VISITORS. (a) A school district may require a person who enters a district campus to display the person's driver's license or another form of identification containing the person's photograph issued by a governmental entity.

(b) A school district may establish an electronic database for the purpose of storing information concerning visitors to district campuses. Information stored in the electronic database may be used only for the purpose of school district security and may not be sold or otherwise disseminated to a third party for any purpose.

(c) A school district may verify whether a visitor to a district campus is a sex offender registered with the computerized central database maintained by the Department of Public Safety as provided by Article 62.005, Code of Criminal Procedure, or any other database accessible by the district.

(d) The board of trustees of a school district shall adopt a policy regarding the action to be taken by the administration of a school campus when a visitor is identified as a sex offender.

SECTION 13. Section 261.308, Family Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The department shall release information regarding a person alleged to have committed abuse or neglect to persons who have control over the person's access to children, including, as appropriate, the Texas Education Agency, the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, or the school principal or director if the department determines that:

(1) the person alleged to have committed abuse or neglect poses a substantial and immediate risk of harm to one or more children outside the family of a child who is the subject of the investigation; and

(2) the release of the information is necessary to assist in protecting one or more children from the person alleged to have committed abuse or neglect.

(e) On request, the department shall release information about a person alleged to have committed abuse or neglect to the State Board for Educator Certification if the board has a reasonable basis for believing that the information is necessary to assist the board in protecting children from the person alleged to have committed abuse or neglect.

SECTION 14. Subsection (b), Section 261.406, Family Code, is amended to read as follows:

(b) The department shall send a copy of the completed ~~written~~ report of the department's investigation~~[as appropriate,]~~ to the Texas Education Agency, the State Board for Educator Certification ~~[agency responsible for teacher certification]~~, the local school board or the school's governing body, the superintendent of the school district, and the school principal or director, unless the principal or director is alleged to have committed the abuse or neglect, for appropriate action. On request, the department shall provide a copy of the report of investigation to the parent, managing conservator, or legal guardian of a child who is the subject of the investigation and to the person alleged to have committed the abuse or neglect. The report of investigation shall be edited to protect the identity of the persons who made the report of abuse or neglect. Other than the persons authorized by the section to receive a copy of the report, Section 261.201(b) applies to the release of the report ~~[confidential information]~~ relating to the investigation of ~~[a report of]~~ abuse or neglect under this section and to the identity of the person who made the report of abuse or neglect.

SECTION 15. Section 411.042, Government Code, is amended by amending Subsections (b) and (g) and adding Subsection (h) to read as follows:

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including a statistical breakdown of those offenses in which family violence was involved;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense; ~~and~~

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders. Information in the law enforcement information system relating to an active protective order shall include:

(A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C) the name and county of residence of the person protected by the order;

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code;

(F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed; and

(G) the date the order expires; and

(7) grant access to criminal history record information in the manner authorized under Subchapter F.

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records;

(3) reports of criminal history information submitted to the department;
[and]

(4) active protective orders issued under Chapter 71, Family Code, and reporting procedures that ensure that information relating to the issuance of an active protective order and to the dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system; and

(5) a system for providing criminal history record information through the criminal history clearinghouse under Section 411.0845.

(h) The department may contract with private vendors as necessary in implementing this section.

SECTION 16. Subsection (i), Section 411.081, Government Code, is amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical [State] Board [~~of Medical Examiners~~];
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Board of Nurse Examiners;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and loan commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission; [and]
- (23) the Department of Aging and Disability Services; and

(24) the Texas Education Agency.

SECTION 17. Subsections (b) and (c), Section 411.083, Government Code, are amended to read as follows:

(b) The department shall grant access to criminal history record information to:

- (1) criminal justice agencies;
- (2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;
- (3) the person who is the subject of the criminal history record information;
- (4) a person working on a research or statistical project that:

(A) is funded in whole or in part by state funds; or

(B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department;

(5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph

(A), (B), or (C) is violated;

(6) an individual or an agency that has a specific agreement with a noncriminal justice agency to provide services related to the use of criminal history record information disseminated under this subchapter, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph

(A), (B), or (C) is violated;

(7) a county or district clerk's office; and

(8) [the] the Office of Court Administration of the Texas Judicial System.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4), (5), or (6) ~~or (b)(5)~~ only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(7) [(b)(6)] only to the extent necessary for a county or district clerk to perform a duty imposed by law to collect and report criminal court disposition information. Criminal history record information disseminated to a clerk under Subsection (b)(7) [(b)(6)] may be used by the clerk only to ensure that information reported by the clerk to the department is accurate and complete. The dissemination of information to a clerk under Subsection (b)(7) [(b)(6)] does not affect the authority of the clerk to disclose or use information submitted by the clerk to the department. The department may disseminate criminal history record information under Subsection (b)(8) [(b)(7)] only to the extent necessary for the office of court administration to

perform a duty imposed by law to compile court statistics or prepare reports. The office of court administration may disclose criminal history record information obtained from the department under Subsection (b)(8) ~~[(b)(7)]~~ in a statistic compiled by the office or a report prepared by the office, but only in a manner that does not identify the person who is the subject of the information.

SECTION 18. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0845 to read as follows:

Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The department shall establish an electronic clearinghouse and subscription service to provide criminal history record information to a particular person entitled to receive criminal history record information and updates to a particular record to which the person has subscribed under this subchapter.

(b) On receiving a request for criminal history record information from a person entitled to such information under this subchapter, the department shall provide through the electronic clearinghouse:

(1) the criminal history record information reported to the department or the Federal Bureau of Investigation relating to the individual who is the subject of the request; or

(2) a statement that the individual who is the subject of the request does not have any criminal history record information reported to the department or the Federal Bureau of Investigation.

(c) If the department provides information received from the Federal Bureau of Investigation, the department must include with the information the date the department received information from the Federal Bureau of Investigation.

(d) The department shall ensure that the information described by Subsection (b) is provided only to a person otherwise entitled to obtain criminal history record information under this subchapter. Information collected under this section is confidential and is not subject to disclosure under Chapter 552.

(e) A person entitled to receive criminal history record information under this section must provide the department with the following information regarding the person who is the subject of the criminal history record information requested:

(1) the person's full name, date of birth, sex, Texas driver's license number or personal identification certificate number, and social security number;

(2) a recent electronic digital image photograph of the person and a complete set of the person's fingerprints as required by the department; and

(3) any other information required by the department.

(f) The department shall maintain an Internet website for the administration of the clearinghouse and an electronic subscription service to provide notice of updates to a particular criminal history record to each person entitled under this subchapter to receive criminal history record information updates to that particular record. The department shall update clearinghouse records as a result of any change in information discovered by the department. Within 48 hours after the department becomes aware that a person's criminal history record information in a clearinghouse record has changed, the department shall provide notice of the updated information only to each subscriber to that specific record.

(g) As soon as practicable, a subscriber who is no longer entitled to receive criminal history record information relating to a particular person shall notify the department. The department shall cancel the person's subscription to that record and may not notify the former subscriber of any updated information to that record.

(h) A person who is the subject of the criminal history record information requested under this section must consent to the release of the information.

(i) The release under this section of any criminal history record information maintained by the Federal Bureau of Investigation is subject to federal law and regulations, federal executive orders, and federal policy.

(j) The department may charge a fee for subscription services to cover the costs of administering this section.

(k) A governmental agency may coordinate with the department regarding the collection of a fee for the criminal history record information through the fingerprinting fee collection process.

SECTION 19. Section 411.087, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The department may provide access to state and national criminal history record information to nongovernmental entities entitled to that information under 42 U.S.C. Section 5119a. The department must follow federal law and regulation, federal executive orders, and federal policy in releasing information under this subsection.

SECTION 20. Section 411.090, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department.

SECTION 21. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0901 to read as follows:

Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:

(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

(2) is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present; or

(3) is employed or is an applicant for employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement if:

(A) the employee or applicant has or will have continuing duties relating to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

SECTION 22. The heading to Section 411.097, Government Code, is amended to read as follows:

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES [SCHOOL DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION SHARED SERVICES ARRANGEMENT].

SECTION 23. Subsections (a) and (b), Section 411.097, Government Code, are amended to read as follows:

(a) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement, or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, ~~or~~ shared services arrangement, or entity is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is:

(1) an applicant for employment by the district, school, service center, or shared services arrangement; ~~or~~

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district, school, service center, or shared services arrangement to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported; or

(3) an employee of or applicant for employment by an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section 22.0834, Education Code.

(b) A school district, charter school, private school, regional education service center, or education shared services arrangement is entitled to obtain from the department~~[, no more than twice each year,]~~ criminal history record information maintained by the department that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer, student teacher, or employee of the district, school, service center, or shared services arrangement.

SECTION 24. Subsection (a), Section 552.116, Government Code, is amended to read as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

SECTION 25. Subdivision (1), Subsection (b), Section 552.116, Government Code, is amended to read as follows:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

SECTION 26. Section 730.007, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) Personal information obtained by an agency under Section 411.0845, Government Code, in connection with a motor vehicle record may be disclosed as provided by that section.

SECTION 27. Subsections (c) and (d), Section 22.083, Education Code, are repealed.

SECTION 28. Section 21.007, Education Code, as added by this Act, applies only to a report for misconduct filed with the State Board for Educator Certification on or after September 1, 2007, regardless of whether the conduct or act that is the subject of the report occurred or was committed before, on, or after that date.

SECTION 29. As soon as practicable after the effective date of this Act, the State Board for Educator Certification, the Texas Education Agency, a school district, an open-enrollment charter school, or a shared services arrangement shall, in the manner prescribed by Sections 22.0831, 22.0832, 22.0833, and 22.0836, Education Code, as added by this Act, begin obtaining national criminal history record information for employees and applicants for employment who are subject to a national criminal history record information review under those sections.

SECTION 30. As soon as practicable after the effective date of this Act, an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement shall, in the manner prescribed by Section 22.0834, Education Code, as added by this Act, begin obtaining national criminal history record information for employees and applicants for employment who are subject to a national criminal history record information review under that section.

SECTION 31. Beginning September 1, 2007, a school district, open-enrollment charter school, or shared services arrangement shall obtain, in compliance with Section 22.0835, Education Code, as added by this Act, criminal history record information relating to each person who is a student teacher or volunteer or has indicated in writing an intention to serve as a volunteer with the district, school, or shared services arrangement in any capacity.

SECTION 32. As soon as practicable after the effective date of this Act, the Department of Public Safety of the State of Texas shall establish a criminal history clearinghouse as required by Section 411.0845, Government Code, as added by this Act.

SECTION 33. Section 552.116, Government Code, as amended by this Act, applies to an audit working paper created before, on, or after the effective date of this Act.

SECTION 34. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 9** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1058**

Senator West submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1058** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WEST
VAN DE PUTTE
OGDEN
SHAPLEIGH
ESTES

On the part of the Senate

NORIEGA
CORTE
ESCOBAR
GARCIA
HERRERO

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to reintegration counseling services and related resources for military servicemembers.

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

SECTION 1. Section 431.001, Government Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Servicemember" has the meaning assigned by Section 161.551, Health and Safety Code.

SECTION 2. Subchapter B, Chapter 431, Government Code, is amended by adding Section 431.0291 to read as follows:

Sec. 431.0291. SERVICE REFERRAL PROGRAM. (a) The department shall develop a program to provide referrals to servicemembers for reintegration services.

(b) The program shall:

(1) identify and make referrals to community-based organizations that have existing programs that provide reintegration services to servicemembers and their families;

(2) focus on early intervention and appropriate referral to promote the health of servicemembers and the children and other family members of the servicemembers;

(3) promote family cohesion and sustainability;

(4) be based on evidence-based best practices related to meeting the needs of servicemembers and the children and other family members of the servicemembers;

(5) be carried out, when appropriate, in a community setting through peer counseling and other means effective for community outreach;

(6) use existing service delivery facilities, including churches, National Guard Bureau family education facilities, and veterans centers and support facilities;

(7) use community-based and faith-based organizations;

(8) be developed and administered in a manner that promotes collaboration of service providers and results in the referral of servicemembers, their children, and other family members to the appropriate federal, state, and community services for which they are eligible; and

(9) provide information and referral services regarding the risks and consequences of trauma, including post-traumatic stress disorder, traumatic brain injury, and other conditions for which servicemembers are at risk.

(c) The department shall ensure that:

(1) each person who provides referrals to servicemembers under the referral program has received sufficient training to ensure that servicemembers receive accurate information; and

(2) servicemembers are notified in a timely manner about the service referral program.

(d) In developing the referral program, the department shall consult with the state military forces, the National Guard Bureau, the United States Veterans Health Administration, the Texas A&M Health Science Center College of Medicine, and The University of Texas Health Science Center at San Antonio.

SECTION 3. Section 434.007, Government Code, is amended to read as follows:

Sec. 434.007. DUTIES. The commission shall:

(1) compile federal, state, and local laws enacted to benefit members of the armed forces, veterans, and their families and dependents;

(2) collect information relating to services and facilities available to veterans;

(3) cooperate with veterans service agencies in the state;

(4) inform members and veterans of the armed forces, their families and dependents, and military and civilian authorities about the existence or availability of:

(A) educational training and retraining facilities;

(B) health, medical, rehabilitation, and housing services and facilities;

(C) employment and reemployment services;

(D) provisions of federal, state, and local law affording rights, privileges, and benefits to members and veterans of the armed forces and their families and dependents; and

(E) other similar, related, or appropriate matters;

(5) assist veterans and their families and dependents in presenting, proving, and establishing claims, privileges, rights, and benefits they may have under federal, state, or local law;

(6) cooperate with all government and private agencies securing services or benefits to veterans and their families and dependents;

(7) investigate, and if possible correct, abuses or exploitation of veterans or their families or dependents, and recommend necessary legislation for full correction;

(8) coordinate the services and activities of state departments and divisions having services and resources affecting veterans or their families or dependents; ~~and~~

(9) provide training and certification of veterans county service officers and assistant veterans county service officers in accordance with Section 434.038; and

(10) through surveys or other reasonable and accurate methods of estimation, collect and maintain for each county in the state the number of servicemembers and veterans residing in the county and annually update and publish the information on the commission's website.

SECTION 4. Subchapter C, Chapter 434, Government Code, is amended by adding Section 434.107 to read as follows:

Sec. 434.107. DIRECTORY OF SERVICES. (a) The commission shall collaborate with and assist the Department of State Health Services and the Health and Human Services Commission in compiling and maintaining the directory of services established under Section 161.552, Health and Safety Code.

(b) The commission shall provide the directory of services established under Section 161.552, Health and Safety Code, on the commission's website or through links appearing on the commission's website.

SECTION 5. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.093 to read as follows:

Sec. 531.093. SERVICES FOR MILITARY PERSONNEL. (a) In this section, "servicemember" has the meaning assigned by Section 161.551, Health and Safety Code.

(b) The executive commissioner shall ensure that each health and human services agency adopts policies and procedures that require the agency to:

(1) identify servicemembers who are seeking services from the agency during the agency's intake and eligibility determination process; and

(2) direct servicemembers seeking services to appropriate service providers, including the United States Veterans Health Administration, National Guard Bureau facilities, and other federal, state, and local service providers.

(c) The executive commissioner shall make the directory of resources established under Section 161.552, Health and Safety Code, accessible to each health and human services agency.

SECTION 6. Chapter 161, Health and Safety Code, is amended by adding Subchapter U to read as follows:

SUBCHAPTER U. INFORMATION REGARDING PROGRAMS FOR MILITARY PERSONNEL AND THEIR FAMILIES

Sec. 161.551. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Department of State Health Services.

(3) "Servicemember" means a resident of this state who is a member or former member of the state military forces or a component of the United States armed forces, including a reserve component. In this section, "state military forces" has the meaning assigned by Section 431.001, Government Code.

Sec. 161.552. DIRECTORY OF SERVICES. (a) The department and commission shall compile, maintain, and disseminate through the Texas Information and Referral Network and through other appropriate media, a directory of services and other resources, tools, and counseling programs available to servicemembers and their immediate family.

(b) The directory must include:

(1) information regarding counseling services that:

(A) facilitate the reintegration of the servicemember into civilian and family life;

(B) identify and treat stress disorders, trauma, and traumatic brain injury;

(C) address parenting and family well-being, employment, and substance abuse issues; and

(D) provide crisis intervention services;

(2) to the greatest degree possible in the judgment of the department, all private and public community, state, and national resources that protect and promote the health and well-being of servicemembers and their immediate family and that are accessible in the state directly or through electronic media, print media, or the Internet; and

(3) other resources that support the health of servicemembers and their families.

(c) The department and commission shall organize the directory in a manner that allows a person to locate services in a specific community in the state.

(d) The department and commission shall develop and maintain the directory in collaboration with local, state, and national private and government organizations, including:

(1) the United States Veterans Health Administration;

(2) the United States Department of Defense;

(3) the adjutant general's department;

(4) the Texas Veterans Commission; and

(5) other public and private national and community-based organizations that provide support to servicemembers and their families.

(e) The department shall provide the directory to the Texas Information and Referral Network of the commission in the time periods and in the manner and format specified by the Texas Information and Referral Network.

(f) The department shall provide the directory on the department's website or through links appearing on the department's website.

SECTION 7. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1058** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1119**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate
Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1119** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CARONA
DEUELL
ELLIS
WATSON

MURPHY
BAILEY
DELISI
ELKINS
HILL

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the authority of a local authority to implement a photographic traffic signal enforcement system; providing for the imposition of civil penalties; providing a criminal penalty.

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

SECTION 1. Subtitle I, Title 7, Transportation Code, is amended by adding Chapter 707 to read as follows:

CHAPTER 707. PHOTOGRAPHIC TRAFFIC SIGNAL
ENFORCEMENT SYSTEM

Sec. 707.001. DEFINITIONS. In this chapter:

(1) "Local authority" has the meaning assigned by Section 541.002.

(2) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country.

(3) "Photographic traffic signal enforcement system" means a system that:

(A) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal; and

(B) is capable of producing at least two recorded images that depict the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal.

(4) "Recorded image" means a photographic or digital image that depicts the front or the rear of a motor vehicle.

(5) "Traffic-control signal" has the meaning assigned by Section 541.304.

Sec. 707.002. AUTHORITY TO PROVIDE FOR CIVIL PENALTY. The governing body of a local authority by ordinance may implement a photographic traffic signal enforcement system and provide that the owner of a motor vehicle is liable to the local authority for a civil penalty if, while facing only a steady red signal displayed by an electrically operated traffic-control signal located in the local authority, the vehicle is operated in violation of the instructions of that traffic-control signal, as specified by Section 544.007(d).

Sec. 707.003. INSTALLATION AND OPERATION OF PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM. (a) A local authority that implements a photographic traffic signal enforcement system under this chapter may:

(1) contract for the administration and enforcement of the system; and

(2) install and operate the system or contract for the installation or operation of the system.

(b) A local authority that contracts for the administration and enforcement of a photographic traffic signal enforcement system may not agree to pay the contractor a specified percentage of, or dollar amount from, each civil penalty collected.

(c) Before installing a photographic traffic signal enforcement system at an intersection approach, the local authority shall conduct a traffic engineering study of the approach to determine whether, in addition to or as an alternative to the system, a design change to the approach or a change in the signalization of the intersection is likely to reduce the number of red light violations at the intersection.

(d) An intersection approach must be selected for the installation of a photographic traffic signal enforcement system based on traffic volume, the history of accidents at the approach, the number or frequency of red light violations at the intersection, and similar traffic engineering and safety criteria, without regard to the ethnic or socioeconomic characteristics of the area in which the approach is located.

(e) A local authority shall report results of the traffic engineering study required by Subsection (c) to a citizen advisory committee consisting of one person appointed by each member of the governing body of the local authority. The committee shall advise the local authority on the installation and operation of a photographic traffic signal enforcement system established under this chapter.

(f) A local authority may not impose a civil penalty under this chapter on the owner of a motor vehicle if the local authority violates Subsection (b) or (c).

(g) The local authority shall install signs along each roadway that leads to an intersection at which a photographic traffic signal enforcement system is in active use. The signs must be at least 100 feet from the intersection or located according to standards established in the manual adopted by the Texas Transportation Commission under Section 544.001, be easily readable to any operator approaching the intersection, and clearly indicate the presence of a photographic monitoring system that records violations that may result in the issuance of a notice of violation and the imposition of a monetary penalty.

(h) A local authority or the person with which the local authority contracts for the administration and enforcement of a photographic traffic signal enforcement system may not provide information about a civil penalty imposed under this chapter to a credit bureau, as defined by Section 392.001, Finance Code.

Sec. 707.004. REPORT OF ACCIDENTS. (a) In this section, "department" means the Texas Department of Transportation.

(b) Before installing a photographic traffic signal enforcement system at an intersection approach, the local authority shall compile a written report of the number and type of traffic accidents that have occurred at the intersection for a period of at least 18 months before the date of the report.

(c) Not later than six months after the date of the installation of the photographic traffic signal enforcement system at the intersection, the local authority shall provide the department a copy of the report required by Subsection (b).

(d) After installing a photographic traffic signal enforcement system at an intersection approach, the local authority shall monitor and annually report to the department the number and type of traffic accidents at the intersection to determine whether the system results in a reduction in accidents or a reduction in the severity of accidents.

(e) The report must be in writing in the form prescribed by the department.

(f) Not later than December 1 of each year, the department shall publish the information submitted by a local authority under Subsection (d).

Sec. 707.005. MINIMUM CHANGE INTERVAL. At an intersection at which a photographic traffic monitoring system is in use, the minimum change interval for a steady yellow signal must be established in accordance with the Texas Manual on Uniform Traffic Control Devices.

Sec. 707.006. GENERAL SURVEILLANCE PROHIBITED; OFFENSE. (a) A local authority shall operate a photographic traffic control signal enforcement system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.

(b) A person commits an offense if the person uses a photographic traffic signal enforcement system to produce a recorded image other than in the manner and for the purpose specified by this chapter.

(c) An offense under this section is a Class A misdemeanor.

Sec. 707.007. AMOUNT OF CIVIL PENALTY; LATE PAYMENT PENALTY. If a local authority enacts an ordinance to enforce compliance with the instructions of a traffic-control signal by the imposition of a civil or administrative penalty, the amount of:

(1) the civil or administrative penalty may not exceed \$75; and

(2) a late payment penalty may not exceed \$25.

Sec. 707.008. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES. (a) Not later than the 60th day after the end of a local authority's fiscal year, after deducting amounts the local authority is authorized by Subsection (b) to retain, the local authority shall:

(1) send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this section to the comptroller for deposit to the credit of the regional trauma account established under Section 782.002, Health and Safety Code; and

(2) deposit the remainder of the revenue in a special account in the local authority's treasury that may be used only to fund traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement.

(b) A local authority may retain an amount necessary to cover the costs of:

(1) purchasing or leasing equipment that is part of or used in connection with the photographic traffic signal enforcement system in the local authority;

(2) installing the photographic traffic signal enforcement system at sites in the local authority, including the costs of installing cameras, flashes, computer equipment, loop sensors, detectors, utility lines, data lines, poles and mounts, networking equipment, and associated labor costs;

(3) operating the photographic traffic signal enforcement system in the local authority, including the costs of creating, distributing, and delivering violation notices, review of violations conducted by employees of the local authority, the processing of fine payments and collections, and the costs associated with administrative adjudications and appeals; and

(4) maintaining the general upkeep and functioning of the photographic traffic signal enforcement system.

(c) Chapter 133, Local Government Code, applies to fee revenue described by Subsection (a)(1).

(d) If under Section 133.059, Local Government Code, the comptroller conducts an audit of a local authority and determines that the local authority retained more than the amounts authorized by this section or failed to deposit amounts as required by this section, the comptroller may impose a penalty on the local authority equal to twice the amount the local authority:

(1) retained in excess of the amount authorized by this section; or

(2) failed to deposit as required by this section.

Sec. 707.009. REQUIRED ORDINANCE PROVISIONS. An ordinance adopted under Section 707.002 must provide that a person against whom the local authority seeks to impose a civil penalty is entitled to a hearing and shall:

(1) provide for the period in which the hearing must be held;

(2) provide for the appointment of a hearing officer with authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents; and

(3) designate the department, agency, or office of the local authority responsible for the enforcement and administration of the ordinance or provide that the entity with which the local authority contracts under Section 707.003(a)(1) is responsible for the enforcement and administration of the ordinance.

Sec. 707.010. EFFECT ON OTHER ENFORCEMENT. (a) The implementation of a photographic traffic signal enforcement system by a local authority under this chapter does not:

(1) preclude the application or enforcement in the local authority of Section 544.007(d) in the manner prescribed by Chapter 543; or

(2) prohibit a peace officer from arresting a violator of Section 544.007(d) as provided by Chapter 543, if the peace officer personally witnesses the violation, or from issuing the violator a citation and notice to appear as provided by that chapter.

(b) A local authority may not impose a civil penalty under this chapter on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a peace officer for the same violation of Section 544.007(d) recorded by the photographic traffic signal enforcement system.

Sec. 707.011. NOTICE OF VIOLATION; CONTENTS. (a) The imposition of a civil penalty under this chapter is initiated by the mailing of a notice of violation to the owner of the motor vehicle against whom the local authority seeks to impose the civil penalty.

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) shall mail the notice of violation to the owner at:

(1) the owner's address as shown on the registration records of the Texas Department of Transportation; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Transportation.

(c) The notice of violation must contain:

(1) a description of the violation alleged;

(2) the location of the intersection where the violation occurred;

(3) the date and time of the violation;

(4) the name and address of the owner of the vehicle involved in the violation;

(5) the registration number displayed on the license plate of the vehicle involved in the violation;

(6) a copy of a recorded image of the violation limited solely to a depiction of the area of the registration number displayed on the license plate of the vehicle involved in the violation;

(7) the amount of the civil penalty for which the owner is liable;

(8) the number of days the person has in which to pay or contest the imposition of the civil penalty and a statement that the person incurs a late payment penalty if the civil penalty is not paid or imposition of the penalty is not contested within that period;

(9) a statement that the owner of the vehicle in the notice of violation may elect to pay the civil penalty by mail sent to a specified address instead of appearing at the time and place of the administrative adjudication hearing; and

(10) information that informs the owner of the vehicle named in the notice of violation:

(A) of the owner's right to contest the imposition of the civil penalty against the person in an administrative adjudication hearing;

(B) that imposition of the civil penalty may be contested by submitting a written request for an administrative adjudication hearing before the expiration of the period specified under Subdivision (8); and

(C) that failure to pay the civil penalty or to contest liability for the penalty in a timely manner is an admission of liability and a waiver of the owner's right to appeal the imposition of the civil penalty.

(d) A notice of violation is presumed to have been received on the fifth day after the date the notice is mailed.

Sec. 707.012. ADMISSION OF LIABILITY. A person who fails to pay the civil penalty or to contest liability for the penalty in a timely manner or who requests an administrative adjudication hearing to contest the imposition of the civil penalty against the person and fails to appear at that hearing is considered to:

(1) admit liability for the full amount of the civil penalty stated in the notice of violation mailed to the person; and

(2) waive the person's right to appeal the imposition of the civil penalty.

Sec. 707.013. PRESUMPTION. (a) It is presumed that the owner of the motor vehicle committed the violation alleged in the notice of violation mailed to the person if the motor vehicle depicted in a photograph or digital image taken by a photographic traffic signal enforcement system belongs to the owner of the motor vehicle.

(b) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in a photograph or digital image taken by a photographic traffic signal enforcement system was owned by a person in the business of selling, renting, or leasing motor vehicles or by a person who was not the person named in the notice of violation, the presumption under Subsection (a) is rebutted on the presentation of evidence establishing that the vehicle was at that time:

(1) being test driven by another person;

(2) being rented or leased by the vehicle's owner to another person; or

(3) owned by a person who was not the person named in the notice of violation.

(c) Notwithstanding Section 707.014, the presentation of evidence under Subsection (b) by a person who is in the business of selling, renting, or leasing motor vehicles or did not own the vehicle at the time of the violation must be made by affidavit, through testimony at the administrative adjudication hearing under Section 707.014, or by a written declaration under penalty of perjury. The affidavit or written declaration may be submitted by mail to the local authority or the entity with which the local authority contracts under Section 707.003(a)(1).

(d) If the presumption established by Subsection (a) is rebutted under Subsection (b), a civil penalty may not be imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.

(e) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in the photograph or digital image taken by the photographic traffic signal enforcement system was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the owner of the motor vehicle shall provide to the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) the name and address of the individual who was renting or leasing the motor vehicle depicted in the photograph or digital image and a statement of the period during which that individual was renting or leasing the vehicle. The owner shall provide the information required by this subsection not later than the 30th day after the date the notice of violation is received.

If the owner provides the required information, it is presumed that the individual renting or leasing the motor vehicle committed the violation alleged in the notice of violation and the local authority or contractor may send a notice of violation to that individual at the address provided by the owner of the motor vehicle.

Sec. 707.014. ADMINISTRATIVE ADJUDICATION HEARING. (a) A person who receives a notice of violation under this chapter may contest the imposition of the civil penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. The request for a hearing must be filed on or before the date specified in the notice of violation, which may not be earlier than the 30th day after the date the notice of violation was mailed.

(b) On receipt of a timely request for an administrative adjudication hearing, the local authority shall notify the person of the date and time of the hearing.

(c) A hearing officer designated by the governing body of the local authority shall conduct the administrative adjudication hearing.

(d) In an administrative adjudication hearing, the issues must be proven by a preponderance of the evidence.

(e) The reliability of the photographic traffic signal enforcement system used to produce the recorded image of the motor vehicle involved in the violation may be attested to by affidavit of an officer or employee of the local authority or of the entity with which the local authority contracts under Section 707.003(a)(1) who is responsible for inspecting and maintaining the system.

(f) An affidavit of an officer or employee of the local authority or entity that alleges a violation based on an inspection of the applicable recorded image is:

(1) admissible in the administrative adjudication hearing and in an appeal under Section 707.016; and

(2) evidence of the facts contained in the affidavit.

(g) At the conclusion of the administrative adjudication hearing, the hearing officer shall enter a finding of liability for the civil penalty or a finding of no liability for the civil penalty. A finding under this subsection must be in writing and be signed and dated by the hearing officer.

(h) A finding of liability for a civil penalty must specify the amount of the civil penalty for which the person is liable. If the hearing officer enters a finding of no liability, a civil penalty for the violation may not be imposed against the person.

(i) A finding of liability or a finding of no liability entered under this section may:

(1) be filed with the clerk or secretary of the local authority or with a person designated by the governing body of the local authority; and

(2) be recorded on microfilm or microfiche or using data processing techniques.

Sec. 707.015. UNTIMELY REQUEST FOR ADMINISTRATIVE ADJUDICATION HEARING. Notwithstanding any other provision of this chapter, a person who receives a notice of violation under this chapter and who fails to timely pay the amount of the civil penalty or fails to timely request an administrative adjudication hearing is entitled to an administrative adjudication hearing if:

(1) the person submits a written request for the hearing to the designated hearing officer, accompanied by an affidavit that attests to the date on which the person received the notice of violation; and

(2) the written request and affidavit are submitted to the hearing officer within the same number of days after the date the person received the notice of violation as specified under Section 707.011(c)(8).

Sec. 707.016. APPEAL. (a) The owner of a motor vehicle determined by a hearing officer to be liable for a civil penalty may appeal that determination to a judge by filing an appeal petition with the clerk of the court. The petition must be filed with:

(1) a justice court of the county in which the local authority is located; or

(2) if the local authority is a municipality, the municipal court of the municipality.

(b) The petition must be:

(1) filed before the 31st day after the date on which the administrative adjudication hearing officer entered the finding of liability for the civil penalty; and

(2) accompanied by payment of the costs required by law for the court.

(c) The court clerk shall schedule a hearing and notify the owner of the motor vehicle and the appropriate department, agency, or office of the local authority of the date, time, and place of the hearing.

(d) An appeal stays enforcement and collection of the civil penalty imposed against the owner of the motor vehicle. The owner shall file a notarized statement of personal financial obligation to perfect the owner's appeal.

(e) An appeal under this section shall be determined by the court by trial de novo.

Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle is delinquent in the payment of a civil penalty imposed under this chapter, the county assessor-collector or the Texas Department of Transportation may refuse to register a motor vehicle alleged to have been involved in the violation.

Sec. 707.018. IMPOSITION OF CIVIL PENALTY NOT A CONVICTION. The imposition of a civil penalty under this chapter is not a conviction and may not be considered a conviction for any purpose.

Sec. 707.019. FAILURE TO PAY CIVIL PENALTY. (a) If the owner of the motor vehicle fails to timely pay the amount of the civil penalty imposed against the owner:

(1) an arrest warrant may not be issued for the owner; and

(2) the imposition of the civil penalty may not be recorded on the owner's driving record.

(b) Notice of Subsection (a) must be included in the notice of violation required by Section 707.011(c).

SECTION 2. Subsection (a), Section 27.031, Government Code, is amended to read as follows:

(a) In addition to the jurisdiction and powers provided by the constitution and other law, the justice court has original jurisdiction of:

(1) civil matters in which exclusive jurisdiction is not in the district or county court and in which the amount in controversy is not more than \$5,000, exclusive of interest;

(2) cases of forcible entry and detainer; ~~and~~

(3) foreclosure of mortgages and enforcement of liens on personal property in cases in which the amount in controversy is otherwise within the justice court's jurisdiction; and

(4) cases arising under Chapter 707, Transportation Code, outside a municipality's territorial limits.

SECTION 3. Section 29.003, Government Code, is amended by adding Subsection (g) to read as follows:

(g) A municipal court, including a municipal court of record, shall have exclusive appellate jurisdiction within the municipality's territorial limits in a case arising under Chapter 707, Transportation Code.

SECTION 4. Section 133.004, Local Government Code, is amended to read as follows:

Sec. 133.004. CIVIL FEES. This chapter applies to the following civil fees:

(1) the consolidated fee on filing in district court imposed under Section 133.151;

(2) the filing fee in district court for basic civil legal services for indigents imposed under Section 133.152;

(3) the filing fee in courts other than district court for basic civil legal services for indigents imposed under Section 133.153;

(4) the filing fees for the judicial fund imposed in certain statutory county courts under Section 51.702, Government Code;

(5) the filing fees for the judicial fund imposed in certain county courts under Section 51.703, Government Code;

(6) the filing fees for the judicial fund imposed in certain statutory probate courts under Section 51.704, Government Code;

(7) fees collected under Section 118.015;

(8) marriage license fees for the family trust fund collected under Section 118.018;

(9) marriage license or declaration of informal marriage fees for the child abuse and neglect prevention trust fund account collected under Section 118.022; ~~and~~

(10) the filing fee for the judicial fund imposed in district court, statutory county court, and county court under Section 133.154; and

(11) the portion of the civil or administrative penalty described by Section 707.008(a)(1), Transportation Code, imposed by a local authority to enforce compliance with the instructions of a traffic-control signal.

SECTION 5. Subtitle B, Title 9, Health and Safety Code, is amended by adding Chapter 782 to read as follows:

CHAPTER 782. REGIONAL EMERGENCY MEDICAL SERVICES

Sec. 782.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 782.002. REGIONAL TRAUMA ACCOUNT. (a) The regional trauma account is created as a dedicated account in the general revenue fund of the state treasury. Money in the account may be appropriated only to the commission to make distributions as provided by Section 782.003.

(b) The account is composed of money deposited to the credit of the account under Section 707.008, Transportation Code, and the earnings of the account.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the account.

Sec. 782.003. PAYMENTS FROM THE REGIONAL TRAUMA ACCOUNT. (a) The commissioner shall use money appropriated from the regional trauma account established under Section 782.002 to fund uncompensated care of designated trauma facilities and county and regional emergency medical services located in the area served by the trauma service area regional advisory council that serves the local authority submitting money under Section 707.008, Transportation Code.

(b) In any fiscal year, the commissioner shall use:

(1) 96 percent of the money appropriated from the account to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by the Department of State Health Services;

(2) two percent of the money appropriated from the account for county and regional emergency medical services;

(3) one percent of the money appropriated from the account for distribution to the 22 trauma service area regional advisory councils; and

(4) one percent of the money appropriated from the account to fund administrative costs of the commission.

(c) The money under Subsection (b) shall be distributed in proportion to the amount deposited to the account from the local authority.

SECTION 6. Section 707.008, Transportation Code, as added by this Act, and Section 782.002, Health and Safety Code, as added by this Act, apply to revenue received by a local authority unit of this state from the imposition of a civil or administrative penalty on or after the effective date of this Act, regardless of whether the penalty was imposed before, on, or after the effective date of this Act.

SECTION 7. Not later than December 1, 2007, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement Chapter 782, Health and Safety Code, as added by this Act.

SECTION 8. The reporting and publication requirements imposed by Section 707.004, Transportation Code, as added by this Act, apply only to a year beginning on or after January 1, 2008.

SECTION 9. Section 707.003, Transportation Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act.

SECTION 10. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1119** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1919**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1919** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE
ELLIS
LUCIO
DUNCAN

On the part of the Senate

T. SMITH
J. DAVIS
FARABEE
HANCOCK

On the part of the House

The Conference Committee Report on **HB 1919** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2667**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2667** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL
LUCIO
VAN DE PUTTE
HINOJOSA

On the part of the Senate

LATHAM
DRIVER
PAXTON
J. DAVIS

On the part of the House

The Conference Committee Report on **HB 2667** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1871**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1871** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI
VAN DE PUTTE
CARONA
HEGAR
SELIGER
On the part of the Senate

HOCHBERG
EISSLER
KOLKHORST
MOWERY
OLIVO
On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the compilation and reporting by the Texas Education Agency of certain data regarding students enrolled in public school or in preschool programs.

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

SECTION 1. Section 28.006, Education Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) The superintendent of each school district shall:

(1) report to the commissioner and the board of trustees of the district the results of the reading instruments; ~~and~~

(2) report, in writing, to a student's parent or guardian the student's results on the reading instrument; and

(3) using the school readiness certification system provided to the school district in accordance with Section 29.161(e), report electronically each student's raw score on the reading instrument to the agency for use in the school readiness certification system.

(d-1) The agency shall contract with the State Center for Early Childhood Development to receive and use scores under Subsection (d)(3) on behalf of the agency.

SECTION 2. Subchapter B, Chapter 29, Education Code, is amended by adding Section 29.066 to read as follows:

Sec. 29.066. PEIMS REPORTING REQUIREMENTS. (a) A school district that is required to offer bilingual education or special language programs shall include the following information in the district's Public Education Information Management System (PEIMS) report:

(1) demographic information, as determined by the commissioner, on students enrolled in district bilingual education or special language programs;

(2) the number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the district; and

(3) the number and percentage of students identified as students of limited English proficiency who do not receive specialized instruction.

(b) For purposes of this section, the commissioner shall adopt rules to classify programs under this section as follows:

(1) if the program is a bilingual education program, the program must be classified under the Public Education Information Management System (PEIMS) report as:

(A) transitional bilingual/early exit: a bilingual program that serves students identified as students of limited English proficiency in both English and Spanish and transfers a student to English-only instruction not earlier than two or later than five years after the student enrolls in school;

(B) transitional bilingual/late exit: a bilingual program that serves students identified as students of limited English proficiency in both English and Spanish and transfers a student to English-only instruction not earlier than six or later than seven years after the student enrolls in school;

(C) dual language immersion/two-way: a biliteracy program that integrates students proficient in English and students identified as students of limited English proficiency in both English and Spanish and transfers a student identified as a student of limited English proficiency to English-only instruction not earlier than six or later than seven years after the student enrolls in school; or

(D) dual language immersion/one-way: a biliteracy program that serves only students identified as students of limited English proficiency in both English and Spanish and transfers a student to English-only instruction not earlier than six or later than seven years after the student enrolls in school; and

(2) if the program is a special language program, the program must be classified under the Public Education Information Management System (PEIMS) report as:

(A) English as a second language/content-based: an English program that serves students identified as students of limited English proficiency in English only by providing a full-time teacher certified under Section 29.061(c) to provide supplementary instruction for all content area instruction; or

(B) English as a second language/pull-out: an English program that serves students identified as students of limited English proficiency in English only by providing a part-time teacher certified under Section 29.061(c) to provide English language arts instruction exclusively, while the student remains in a mainstream instructional arrangement in the remaining content areas.

(c) If the school district has received a waiver and is not required to offer a bilingual education or special language program in a student's native language or if the student's parents have refused to approve the student's entry into a program as provided by Section 29.056, the program must be classified under the Public Education Information Management System (PEIMS) report as: no bilingual education or special language services provided.

SECTION 3. Section 29.161, Education Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) The system must:

(1) be reflective of research in the field of early childhood care and education;

(2) be well-grounded in the cognitive, social, and emotional development of young children; ~~and~~

(3) apply a common set of criteria to each program provider seeking certification, regardless of the type of program or source of program funding; and

(4) be capable of fulfilling the reporting and notice requirements of Sections 28.006(d) and (g).

(d) The agency shall collect each student's raw score results on the reading instrument administered under Section 28.006 from each school district using the system created under Subsection (a) and shall contract with the State Center for Early Childhood Development for purposes of this section.

(e) The State Center for Early Childhood Development shall, using funds appropriated for the school readiness certification system, provide the system created under Subsection (a) to each school district to report each student's raw score results on the reading instrument administered under Section 28.006.

(f) The agency shall:

(1) provide assistance to the State Center for Early Childhood Development in developing and adopting the school readiness certification system under this section, including providing access to data for the purpose of locating the teacher and campus of record for students; and

(2) require confidentiality and other security measures for student data provided to the State Center for Early Childhood Development as the agency's agent, consistent with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 4. Subsection (e), Section 39.027, Education Code, is amended to read as follows:

(e) The commissioner shall develop an assessment system that shall be used for evaluating the academic progress, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who is exempt from the administration of an assessment instrument under Subsection (a)(3) or (4) who achieves reading proficiency in English as determined by the assessment system developed under this subsection shall be administered the assessment instruments described by Sections 39.023(a) and (c). The performance under the assessment system developed under this subsection of students to whom Subsection (a)(3) or (4) applies shall be included in the academic excellence indicator system under Section 39.051, the performance report under Section 39.053, and the

comprehensive annual report under Section 39.182. This information shall be provided in a manner that is disaggregated by the bilingual education or special language program, if any, in which the student is enrolled.

SECTION 5. Section 39.051, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Performance on the indicators described by Subsections (b)(1), (2), (3), (8), (9), and (14) must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Section 29.052, are or former students of limited English proficiency were enrolled. If a student described by this subsection is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided.

SECTION 6. Section 39.182, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) Not later than December 1 of each year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing:

(1) an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002;

(2) an evaluation of the status of education in the state as reflected by the academic excellence indicators adopted under Section 39.051;

(3) a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(4) a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(5) a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(6) an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023;

(7) a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12;

(8) a statement of:

(A) the completion rate of students who enter grade level 9 and graduate not more than four years later;

(B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;

(C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;

(D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and

(E) the number and percentage of all students who have not been accounted for under Paragraph (A), (B), (C), or (D);

(9) a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate;

(10) a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less for the 1997-1998 school year;

(11) a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:

(A) the number and percentage of students retained; and

(B) the performance of retained students on assessment instruments required under Section 39.023(a);

(12) information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:

(A) the number of students placed in a disciplinary alternative education program established under Section 37.008;

(B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;

(C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and

(D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008;

(13) a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions;

(14) an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002;

(15) a description of all funds received by and each activity and expenditure of the agency;

(16) a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071;

(17) a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.112;

(18) a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements;

(19) a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions;

(20) a comparison of the performance of open-enrollment charter schools and school districts on the academic excellence indicators specified in Section 39.051(b) and accountability measures adopted under Section 39.051(g), with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as defined by Section 29.081(d), with the performance of school districts;

(21) a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district; ~~and~~

(22) a summary compilation of overall student performance under the assessment system developed to evaluate the longitudinal academic progress as required by Section 39.027(e), disaggregated by bilingual education or special language program instructional model, if any; and

(23) any additional information considered important by the commissioner or the State Board of Education.

(b) In reporting the information required by Subsection (a)(3) or (4), the agency may separately aggregate the performance data of students enrolled in a special education program under Subchapter A, Chapter 29~~[- or a bilingual education or special language program under Subchapter B, Chapter 29]~~.

(b-1) In reporting the information required by Subsections (a)(3), (5), and (7), the agency shall separately aggregate the longitudinal performance data of all students identified as students of limited English proficiency, as defined by Section 29.052, or former students of limited English proficiency, disaggregated by bilingual education or special language program instructional model, if any, in which the students are or were enrolled.

SECTION 7. Subsection (c), Section 42.006, Education Code, is amended to read as follows:

(c) Annually, the commissioner 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. In reviewing and revising the Public Education Information Management System, the commissioner shall develop rules to ensure that the system:

(1) provides useful, accurate, and timely information on student demographics and academic performance, personnel, and school district finances;

(2) contains only the data necessary for the legislature and the agency to perform their legally authorized functions in overseeing the public education system; and

(3) does not contain any information related to instructional methods, except as provided by Section 29.066 or required by federal law.

SECTION 8. The changes in law made by this Act apply beginning with the 2008-2009 school year.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1871** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1137

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1137** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI
WATSON
ELTIFE
HEGAR
SHAPIRO

HOCHBERG
BRANCH
EISSLER
PATRICK

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1137** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1111

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1111** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI
DEUELL
HEGAR
HINOJOSA

On the part of the Senate

TURNER
BOLTON
DUTTON
MADDEN

On the part of the House

The Conference Committee Report on **HB 1111** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2383

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2383** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO
HEGAR
SHAPIRO

VAN DE PUTTE

On the part of the Senate

LUCIO
STRAMA
CREIGHTON
HANCOCK

On the part of the House

The Conference Committee Report on **HB 2383** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 10

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 10** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
DEUEL
JANEK
LUCIO
URESTI

On the part of the Senate

DELISI
J. DAVIS
HOPSON
ISETT
TAYLOR

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the operation and financing of the medical assistance program and other programs to provide health care benefits and services to persons in this state; providing penalties.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02192 to read as follows:

Sec. 531.02192. FEDERALLY QUALIFIED HEALTH CENTER AND RURAL HEALTH CLINIC SERVICES. (a) In this section:

(1) "Federally qualified health center" has the meaning assigned by 42 U.S.C. Section 1396d(l)(2)(B).

(2) "Federally qualified health center services" has the meaning assigned by 42 U.S.C. Section 1396d(l)(2)(A).

(3) "Rural health clinic" and "rural health clinic services" have the meanings assigned by 42 U.S.C. Section 1396d(l)(1).

(b) Notwithstanding any provision of this chapter, Chapter 32, Human Resources Code, or any other law, the commission shall:

(1) promote Medicaid recipient access to federally qualified health center services or rural health clinic services; and

(2) ensure that payment for federally qualified health center services or rural health clinic services is in accordance with 42 U.S.C. Section 1396a(bb).

SECTION 2. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02413 to read as follows:

Sec. 531.02413. BILLING COORDINATION SYSTEM. (a) If cost-effective and feasible, the commission shall, on or before March 1, 2008, contract through an existing procurement process for the implementation of an acute care Medicaid billing coordination system for the fee-for-service and primary care case management delivery models that will, upon entry in the claims system, identify within 24 hours whether another entity has primary responsibility for paying the claim and submit the claim to the entity the system determines is the primary payor. The system may not increase Medicaid claims payment error rates.

(b) If cost-effective, the executive commissioner shall adopt rules for the purpose of enabling the system to identify an entity with primary responsibility for paying a claim and establish reporting requirements for any entity that may have a contractual responsibility to pay for the types of acute care services provided under the Medicaid program.

(c) An entity that holds a permit, license, or certificate of authority issued by a regulatory agency of the state must allow the contractor under Subsection (a) access to databases to allow the contractor to carry out the purposes of this section, subject to the contractor's contract with the commission and rules adopted under this section, and is subject to an administrative penalty or other sanction as provided by the law applicable to the permit, license, or certificate of authority for a violation by the entity of a rule adopted under this section.

(d) After September 1, 2008, no public funds shall be expended on entities not in compliance with this section unless a memorandum of understanding is entered into between the entity and the executive commissioner.

(e) Information obtained under this section is confidential. The contractor may use the information only for the purposes authorized under this section. A person commits an offense if the person knowingly uses information obtained under this section for any purpose not authorized under this section. An offense under this subsection is a Class B misdemeanor and all other penalties may apply.

SECTION 3. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02414 to read as follows:

Sec. 531.02414. ADMINISTRATION AND OPERATION OF MEDICAL TRANSPORTATION PROGRAM. (a) In this section, "medical transportation program" means the program that provides nonemergency transportation services to and from covered health care services, based on medical necessity, to recipients under the Medicaid program, the children with special health care needs program, and the transportation for indigent cancer patients program, who have no other means of transportation.

(b) Notwithstanding any other law, the commission shall directly supervise the administration and operation of the medical transportation program.

(c) Notwithstanding any other law, the commission may not delegate the commission's duty to supervise the medical transportation program to any other person, including through a contract with the Texas Department of Transportation for the department to assume any of the commission's responsibilities relating to the provision of services through that program.

(d) The commission may contract with a public transportation provider, as defined by Section 461.002, Transportation Code, a private transportation provider, or a regional transportation broker for the provision of public transportation services, as defined by Section 461.002, Transportation Code, under the medical transportation program.

(b) Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0057 to read as follows:

Sec. 531.0057. MEDICAL TRANSPORTATION SERVICES. (a) The commission shall provide medical transportation services for clients of eligible health and human services programs.

(b) The commission may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

SECTION 4. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.094, 531.0941, 531.097, and 531.0971 to read as follows:

Sec. 531.094. PILOT PROGRAM AND OTHER PROGRAMS TO PROMOTE HEALTHY LIFESTYLES. (a) The commission shall develop and implement a pilot program in one region of this state under which Medicaid recipients are provided positive incentives to lead healthy lifestyles, including through participating in certain health-related programs or engaging in certain health-conscious behaviors, thereby resulting in better health outcomes for those recipients.

(b) Except as provided by Subsection (c), in implementing the pilot program, the commission may provide:

(1) expanded health care benefits or value-added services for Medicaid recipients who participate in certain programs, such as specified weight loss or smoking cessation programs;

(2) individual health rewards accounts that allow Medicaid recipients who follow certain disease management protocols to receive credits in the accounts that may be exchanged for health-related items specified by the commission that are not covered by Medicaid; and

(3) any other positive incentive the commission determines would promote healthy lifestyles and improve health outcomes for Medicaid recipients.

(c) The commission shall consider similar incentive programs implemented in other states to determine the most cost-effective measures to implement in the pilot program under this section.

(d) Not later than December 1, 2010, the commission shall submit a report to the legislature that:

(1) describes the operation of the pilot program;

(2) analyzes the effect of the incentives provided under the pilot program on the health of program participants; and

(3) makes recommendations regarding the continuation or expansion of the pilot program.

(e) In addition to developing and implementing the pilot program under this section, the commission may, if feasible and cost-effective, develop and implement an additional incentive program to encourage Medicaid recipients who are younger than 21 years of age to make timely health care visits under the early and periodic screening, diagnosis, and treatment program. The commission shall provide incentives under the program for managed care organizations contracting with the commission under Chapter 533 and Medicaid providers to encourage those organizations and providers to support the delivery and documentation of timely and complete health care screenings under the early and periodic screening, diagnosis, and treatment program.

(f) This section expires September 1, 2011.

Sec. 531.0941. MEDICAID HEALTH SAVINGS ACCOUNT PILOT PROGRAM. (a) If the commission determines that it is cost-effective and feasible, the commission shall develop and implement a Medicaid health savings account pilot program that is consistent with federal law to:

(1) encourage health care cost awareness and sensitivity by adult recipients;
and

(2) promote appropriate utilization of Medicaid services by adult recipients.

(b) If the commission implements the pilot program, the commission may only include adult recipients as participants in the program.

(c) If the commission implements the pilot program, the commission shall ensure that:

(1) participation in the pilot program is voluntary; and

(2) a recipient who participates in the pilot program may, at the recipient's option and subject to Subsection (d), discontinue participation in the program and resume receiving benefits and services under the traditional Medicaid delivery model.

(d) A recipient who chooses to discontinue participation in the pilot program and resume receiving benefits and services under the traditional Medicaid delivery model before completion of the health savings account enrollment period forfeits any funds remaining in the recipient's health savings account.

Sec. 531.097. TAILORED BENEFIT PACKAGES FOR CERTAIN CATEGORIES OF THE MEDICAID POPULATION. (a) The executive commissioner may seek a waiver under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) to develop and, subject to Subsection (c), implement tailored benefit packages designed to:

(1) provide Medicaid benefits that are customized to meet the health care needs of recipients within defined categories of the Medicaid population through a defined system of care;

(2) improve health outcomes for those recipients;

(3) improve those recipients' access to services;

(4) achieve cost containment and efficiency; and

(5) reduce the administrative complexity of delivering Medicaid benefits.

(b) The commission:

(1) shall develop a tailored benefit package that is customized to meet the health care needs of Medicaid recipients who are children with special health care needs, subject to approval of the waiver described by Subsection (a); and

(2) may develop tailored benefit packages that are customized to meet the health care needs of other categories of Medicaid recipients.

(c) If the commission develops tailored benefit packages under Subsection (b)(2), the commission shall submit a report to the standing committees of the senate and house of representatives having primary jurisdiction over the Medicaid program that specifies, in detail, the categories of Medicaid recipients to which each of those packages will apply and the services available under each package. The commission may not implement a package developed under Subsection (b)(2) before September 1, 2009.

(d) Except as otherwise provided by this section and subject to the terms of the waiver authorized by this section, the commission has broad discretion to develop the tailored benefit packages under this section and determine the respective categories of Medicaid recipients to which the packages apply in a manner that preserves recipients' access to necessary services and is consistent with federal requirements.

(e) Each tailored benefit package developed under this section must include:

(1) a basic set of benefits that are provided under all tailored benefit packages; and

(2) to the extent applicable to the category of Medicaid recipients to which the package applies:

(A) a set of benefits customized to meet the health care needs of recipients in that category; and

(B) services to integrate the management of a recipient's acute and long-term care needs, to the extent feasible.

(f) In addition to the benefits required by Subsection (e), a tailored benefit package developed under this section that applies to Medicaid recipients who are children must provide at least the services required by federal law under the early and periodic screening, diagnosis, and treatment program.

(g) A tailored benefit package developed under this section may include any service available under the state Medicaid plan or under any federal Medicaid waiver, including any preventive health or wellness service.

(g-1) A tailored benefit package developed under this section must increase the state's flexibility with respect to the state's use of Medicaid funding and may not reduce the benefits available under the Medicaid state plan to any Medicaid recipient population.

(h) In developing the tailored benefit packages, the commission shall consider similar benefit packages established in other states as a guide.

(i) The executive commissioner, by rule, shall define each category of recipients to which a tailored benefit package applies and a mechanism for appropriately placing recipients in specific categories. Recipient categories must include children with special health care needs and may include:

(1) persons with disabilities or special health needs;

(2) elderly persons;

(3) children without special health care needs; and

(4) working-age parents and caretaker relatives.

(j) This section does not apply to a tailored benefit package or similar package of benefits if, before September 1, 2007:

(1) a federal waiver was requested to implement the package of benefits;

(2) the package of benefits is being developed, as directed by the legislature;

or

(3) the package of benefits has been implemented.

Sec. 531.0971. TAILORED BENEFIT PACKAGES FOR NON-MEDICAID POPULATIONS. (a) The commission shall identify state or federal non-Medicaid programs that provide health care services to persons whose health care needs could be met by providing customized benefits through a system of care that is used under a Medicaid tailored benefit package implemented under Section 531.097.

(b) If the commission determines that it is feasible and to the extent permitted by federal and state law, the commission shall:

(1) provide the health care services for persons identified under Subsection (a) through the applicable Medicaid tailored benefit package; and

(2) if appropriate or necessary to provide the services as required by Subdivision (1), develop and implement a system of blended funding methodologies to provide the services in that manner.

(b) Not later than September 1, 2008, the Health and Human Services Commission shall implement the pilot program under Section 531.094, Government Code, as added by this section.

SECTION 5. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0972 to read as follows:

Sec. 531.0972. PILOT PROGRAM TO PREVENT THE SPREAD OF CERTAIN INFECTIOUS OR COMMUNICABLE DISEASES. The commission may provide guidance to the local health authority of Bexar County in establishing a pilot program funded by the county to prevent the spread of HIV, hepatitis B, hepatitis C, and other infectious and communicable diseases. The program may include a disease control program that provides for the anonymous exchange of used hypodermic needles and syringes.

SECTION 6. (a) Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.1112 to read as follows:

Sec. 531.1112. STUDY CONCERNING INCREASED USE OF TECHNOLOGY TO STRENGTHEN FRAUD DETECTION AND DETERRENCE; IMPLEMENTATION. (a) The commission and the commission's office of inspector general shall jointly study the feasibility of increasing the use of technology to strengthen the detection and deterrence of fraud in the state Medicaid program. The study must include the determination of the feasibility of using technology to verify a person's citizenship and eligibility for coverage.

(b) The commission shall implement any methods the commission and the commission's office of inspector general determine are effective at strengthening fraud detection and deterrence.

(b) Not later than December 1, 2008, the Health and Human Services Commission shall submit to the legislature a report detailing the findings of the study required by Section 531.1112, Government Code, as added by this section. The report must include a description of any method described by Subsection (b), Section 531.1112, Government Code, as added by this section, that the commission has implemented or intends to implement.

SECTION 7. (a) Chapter 531, Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. TEXAS HEALTH OPPORTUNITY POOL TRUST FUND

Sec. 531.501. DEFINITION. In this subchapter, "fund" means the Texas health opportunity pool trust fund established under Section 531.503.

Sec. 531.502. DIRECTION TO OBTAIN FEDERAL WAIVER. (a) The executive commissioner may seek a waiver under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) to the state Medicaid plan to allow the commission to more efficiently and effectively use federal money paid to this state

under various programs to defray costs associated with providing uncompensated health care in this state by using that federal money, appropriated state money to the extent necessary, and any other money described by this section for purposes consistent with this subchapter.

(b) The executive commissioner may include the following federal money in the waiver:

(1) all money provided under the disproportionate share hospitals and upper payment limit supplemental payment programs;

(2) money provided by the federal government in lieu of some or all of the payments under those programs;

(3) any combination of funds authorized to be pooled by Subdivisions (1) and (2); and

(4) any other money available for that purpose, including federal money and money identified under Subsection (c).

(c) The commission shall seek to optimize federal funding by:

(1) identifying health care related state and local funds and program expenditures that, before September 1, 2007, are not being matched with federal money; and

(2) exploring the feasibility of:

(A) certifying or otherwise using those funds and expenditures as state expenditures for which this state may receive federal matching money; and

(B) depositing federal matching money received as provided by Paragraph (A) with other federal money deposited as provided by Section 531.504, or substituting that federal matching money for federal money that otherwise would be received under the disproportionate share hospitals and upper payment limit supplemental payment programs as a match for local funds received by this state through intergovernmental transfers.

(d) The terms of a waiver approved under this section must:

(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals and upper payment limit supplemental payment programs that is deposited as provided by Section 531.504 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs during state fiscal year 2007, excluding amounts provided during that state fiscal year that are retroactive payments, or the state fiscal years during which the waiver is in effect; and

(2) allow for the development by this state of a methodology for allocating money in the fund to:

(A) offset, in part, the uncompensated health care costs incurred by hospitals;

(B) reduce the number of persons in this state who do not have health benefits coverage; and

(C) maintain and enhance the community public health infrastructure provided by hospitals.

(e) In a waiver under this section, the executive commissioner shall seek to:

(1) obtain maximum flexibility with respect to using the money in the fund for purposes consistent with this subchapter;

(2) include an annual adjustment to the aggregate caps under the upper payment limit supplemental payment program to account for inflation, population growth, and other appropriate demographic factors that affect the ability of residents of this state to obtain health benefits coverage;

(3) ensure, for the term of the waiver, that the aggregate caps under the upper payment limit supplemental payment program for each of the three classes of hospitals are not less than the aggregate caps that applied during state fiscal year 2007; and

(4) to the extent allowed by federal law, including federal regulations, and federal waiver authority, preserve the federal supplemental payment program payments made to hospitals, the state match with respect to which is funded by intergovernmental transfers or certified public expenditures that are used to optimize Medicaid payments to safety net providers for uncompensated care, and preserve allocation methods for those payments, unless the need for the payments is revised through measures that reduce the Medicaid shortfall or uncompensated care costs.

(f) The executive commissioner shall seek broad-based stakeholder input in the development of the waiver under this section and shall provide information to stakeholders regarding the terms and components of the waiver for which the executive commissioner seeks federal approval.

(g) The executive commissioner shall seek the advice of the Legislative Budget Board before finalizing the terms and conditions of the negotiated waiver.

Sec. 531.503. ESTABLISHMENT OF TEXAS HEALTH OPPORTUNITY POOL TRUST FUND. Subject to approval of the waiver authorized by Section 531.502, the Texas health opportunity pool trust fund is created as a trust fund outside the state treasury to be held by the comptroller and administered by the commission as trustee on behalf of residents of this state who do not have private health benefits coverage and health care providers providing uncompensated care to those persons. The commission may make expenditures of money in the fund only for purposes consistent with this subchapter and the terms of the waiver authorized by Section 531.502.

Sec. 531.504. DEPOSITS TO FUND. (a) The comptroller shall deposit in the fund:

(1) all federal money provided to this state under the disproportionate share hospitals supplemental payment program and the hospital upper payment limit supplemental payment program, other than money provided under those programs to state-owned and operated hospitals, and all other non-supplemental payment program federal money provided to this state that is included in the waiver authorized by Section 531.502; and

(2) state money appropriated to the fund.

(b) The commission and comptroller may accept gifts, grants, and donations from any source for purposes consistent with this subchapter and the terms of the waiver. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund.

Sec. 531.505. USE OF FUND IN GENERAL; RULES FOR ALLOCATION. (a) Except as otherwise provided by the terms of a waiver authorized by Section 531.502, money in the fund may be used:

(1) subject to Section 531.506, to provide reimbursements to health care providers that:

(A) are based on the providers' costs related to providing uncompensated care; and

(B) compensate the providers for at least a portion of those costs;

(2) to reduce the number of persons in this state who do not have health benefits coverage;

(3) to reduce the need for uncompensated health care provided by hospitals in this state; and

(4) for any other purpose specified by this subchapter or the waiver.

(b) On approval of the waiver, the executive commissioner shall:

(1) seek input from a broad base of stakeholder representatives on the development of rules with respect to, and the administration of, the fund; and

(2) by rule develop a methodology for allocating money in the fund that is consistent with the terms of the waiver.

Sec. 531.506. REIMBURSEMENTS FOR UNCOMPENSATED HEALTH CARE COSTS. (a) Except as otherwise provided by the terms of a waiver authorized by Section 531.502 and subject to Subsections (b) and (c), money in the fund may be allocated to hospitals in this state and political subdivisions of this state to defray the costs of providing uncompensated health care in this state.

(b) To be eligible for money from the fund under this section, a hospital or political subdivision must use a portion of the money to implement strategies that will reduce the need for uncompensated inpatient and outpatient care, including care provided in a hospital emergency room. Strategies that may be implemented by a hospital or political subdivision, as applicable, include:

(1) fostering improved access for patients to primary care systems or other programs that offer those patients medical homes, including the following programs:

(A) regional or local health care programs;

(B) programs to provide premium subsidies for health benefits coverage; and

(C) other programs to increase access to health benefits coverage; and

(2) creating health care systems efficiencies, such as using electronic medical records systems.

(c) The allocation methodology adopted by the executive commissioner under Section 531.505(b) must specify the percentage of the money from the fund allocated to a hospital or political subdivision that the hospital or political subdivision must use for strategies described by Subsection (b).

Sec. 531.507. INCREASING ACCESS TO HEALTH BENEFITS COVERAGE. (a) Except as otherwise provided by the terms of a waiver authorized by Section 531.502, money in the fund that is available to reduce the number of persons in this state who do not have health benefits coverage or to reduce the need for uncompensated health care provided by hospitals in this state may be used for purposes relating to increasing access to health benefits coverage for low-income persons, including:

(1) providing premium payment assistance to those persons through a premium payment assistance program developed under this section;

(2) making contributions to health savings accounts for those persons; and
(3) providing other financial assistance to those persons through alternate mechanisms established by hospitals in this state or political subdivisions of this state that meet certain criteria, as specified by the commission.

(b) The commission and the Texas Department of Insurance shall jointly develop a premium payment assistance program designed to assist persons described by Subsection (a) in obtaining and maintaining health benefits coverage. The program may provide assistance in the form of payments for all or part of the premiums for that coverage. In developing the program, the executive commissioner shall adopt rules establishing:

(1) eligibility criteria for the program;
(2) the amount of premium payment assistance that will be provided under the program;
(3) the process by which that assistance will be paid; and
(4) the mechanism for measuring and reporting the number of persons who obtained health insurance or other health benefits coverage as a result of the program.

(c) The commission shall implement the premium payment assistance program developed under Subsection (b), subject to availability of money in the fund for that purpose.

Sec. 531.508. INFRASTRUCTURE IMPROVEMENTS. (a) Except as otherwise provided by the terms of a waiver authorized by Section 531.502 and subject to Subsection (c), money in the fund may be used for purposes related to developing and implementing initiatives to improve the infrastructure of local provider networks that provide services to Medicaid recipients and low-income uninsured persons in this state.

(b) Infrastructure improvements under this section may include developing and implementing a system for maintaining medical records in an electronic format.

(c) Not more than 10 percent of the total amount of the money in the fund used in a state fiscal year for purposes other than providing reimbursements to hospitals for uncompensated health care may be used for infrastructure improvements described by Subsection (b).

(b) If the executive commissioner of the Health and Human Services Commission obtains federal approval for a waiver under Section 531.502, Government Code, as added by this section, the executive commissioner shall submit a report to the Legislative Budget Board that outlines the components and terms of that waiver as soon as possible after federal approval is granted.

SECTION 8. (a) Chapter 531, Government Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. UNCOMPENSATED HOSPITAL CARE

Sec. 531.551. UNCOMPENSATED HOSPITAL CARE REPORTING AND ANALYSIS. (a) The executive commissioner shall adopt rules providing for:

(1) a standard definition of "uncompensated hospital care";
(2) a methodology to be used by hospitals in this state to compute the cost of that care that incorporates the standard set of adjustments described by Section 531.552(g)(4); and

(3) procedures to be used by those hospitals to report the cost of that care to the commission and to analyze that cost.

(b) The rules adopted by the executive commissioner under Subsection (a)(3) may provide for procedures by which the commission may periodically verify the completeness and accuracy of the information reported by hospitals.

(c) The commission shall notify the attorney general of a hospital's failure to report the cost of uncompensated care on or before the date the report was due in accordance with rules adopted under Subsection (a)(3). On receipt of the notice, the attorney general shall impose an administrative penalty on the hospital in the amount of \$1,000 for each day after the date the report was due that the hospital has not submitted the report, not to exceed \$10,000.

(d) If the commission determines through the procedures adopted under Subsection (b) that a hospital submitted a report with incomplete or inaccurate information, the commission shall notify the hospital of the specific information the hospital must submit and prescribe a date by which the hospital must provide that information. If the hospital fails to submit the specified information on or before the date prescribed by the commission, the commission shall notify the attorney general of that failure. On receipt of the notice, the attorney general shall impose an administrative penalty on the hospital in an amount not to exceed \$10,000. In determining the amount of the penalty to be imposed, the attorney general shall consider:

(1) the seriousness of the violation;

(2) whether the hospital had previously committed a violation; and

(3) the amount necessary to deter the hospital from committing future violations.

(e) A report by the commission to the attorney general under Subsection (c) or (d) must state the facts on which the commission based its determination that the hospital failed to submit a report or failed to completely and accurately report information, as applicable.

(f) The attorney general shall give written notice of the commission's report to the hospital alleged to have failed to comply with a requirement. The notice must include a brief summary of the alleged violation, a statement of the amount of the administrative penalty to be imposed, and a statement of the hospital's right to a hearing on the alleged violation, the amount of the penalty, or both.

(g) Not later than the 20th day after the date the notice is sent under Subsection (f), the hospital must make a written request for a hearing or remit the amount of the administrative penalty to the attorney general. Failure to timely request a hearing or remit the amount of the administrative penalty results in a waiver of the right to a hearing under this section. If the hospital timely requests a hearing, the attorney general shall conduct the hearing in accordance with Chapter 2001, Government Code. If the hearing results in a finding that a violation has occurred, the attorney general shall:

(1) provide to the hospital written notice of:

(A) the findings established at the hearing; and

(B) the amount of the penalty; and

(2) enter an order requiring the hospital to pay the amount of the penalty.

(h) Not later than the 30th day after the date the hospital receives the order entered by the attorney general under Subsection (g), the hospital shall:

(1) pay the amount of the administrative penalty;

(2) remit the amount of the penalty to the attorney general for deposit in an escrow account and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both and file with the court a sworn affidavit stating that the hospital is financially unable to pay the amount of the penalty.

(i) The attorney general's order is subject to judicial review as a contested case under Chapter 2001, Government Code.

(j) If the hospital paid the penalty and on review the court does not sustain the occurrence of the violation or finds that the amount of the administrative penalty should be reduced, the attorney general shall remit the appropriate amount to the hospital not later than the 30th day after the date the court's judgment becomes final.

(k) If the court sustains the occurrence of the violation:

(1) the court:

(A) shall order the hospital to pay the amount of the administrative penalty; and

(B) may award to the attorney general the attorney's fees and court costs incurred by the attorney general in defending the action; and

(2) the attorney general shall remit the amount of the penalty to the comptroller for deposit in the general revenue fund.

(l) If the hospital does not pay the amount of the administrative penalty after the attorney general's order becomes final for all purposes, the attorney general may enforce the penalty as provided by law for legal judgments.

Sec. 531.552. WORK GROUP ON UNCOMPENSATED HOSPITAL CARE.

(a) In this section, "work group" means the work group on uncompensated hospital care.

(b) The executive commissioner shall establish the work group on uncompensated hospital care to assist the executive commissioner in developing rules required by Section 531.551 by performing the functions described by Subsection (g).

(c) The executive commissioner shall determine the number of members of the work group. The executive commissioner shall ensure that the work group includes representatives from the office of the attorney general and the hospital industry. A member of the work group serves at the will of the executive commissioner.

(d) The executive commissioner shall designate a member of the work group to serve as presiding officer. The members of the work group shall elect any other necessary officers.

(e) The work group shall meet at the call of the executive commissioner.

(f) A member of the work group may not receive compensation for serving on the work group but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the work group as provided by the General Appropriations Act.

(g) The work group shall study and advise the executive commissioner in:

(1) identifying the number of different reports required to be submitted to the state that address uncompensated hospital care, care for low-income uninsured persons in this state, or both;

(2) standardizing the definitions used to determine uncompensated hospital care for purposes of those reports;

(3) improving the tracking of hospital charges, costs, and adjustments as those charges, costs, and adjustments relate to identifying uncompensated hospital care and maintaining a hospital's tax-exempt status;

(4) developing and applying a standard set of adjustments to a hospital's initial computation of the cost of uncompensated hospital care that account for all funding streams that:

(A) are not patient-specific; and

(B) are used to offset the hospital's initially computed amount of uncompensated care;

(5) developing a standard and comprehensive center for data analysis and reporting with respect to uncompensated hospital care; and

(6) analyzing the effect of the standardization of the definition of uncompensated hospital care and the computation of its cost, as determined in accordance with the rules adopted by the executive commissioner, on the laws of this state, and analyzing potential legislation to incorporate the changes made by the standardization.

(b) The executive commissioner of the Health and Human Services Commission shall:

(1) establish the work group on uncompensated hospital care required by Section 531.552, Government Code, as added by this section, not later than October 1, 2007; and

(2) adopt the rules required by Section 531.551, Government Code, as added by this section, not later than January 1, 2009.

(c) The executive commissioner of the Health and Human Services Commission shall review the methodology used under the Medicaid disproportionate share hospitals supplemental payment program to compute low-income utilization costs to ensure that the Medicaid disproportionate share methodology is consistent with the standardized adjustments to uncompensated care costs described by Subdivision (4), Subsection (g), Section 531.552, Government Code, as added by this section, and adopted by the executive commissioner.

SECTION 9. Chapter 531, Government Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. PHYSICIAN-CENTERED NURSING FACILITY MODEL
DEMONSTRATION PROJECT

Sec. 531.601. DEFINITIONS. In this subchapter:

(1) "Nursing facility" has the meaning assigned by Section 242.301, Health and Safety Code.

(2) "Project" means the physician-centered nursing facility model demonstration project implemented under this subchapter.

Sec. 531.602. PHYSICIAN-CENTERED NURSING FACILITY MODEL DEMONSTRATION PROJECT. (a) The commission may develop and implement a demonstration project to determine whether paying an enhanced Medicaid reimbursement rate to a nursing facility that provides continuous, on-site oversight of residents by physicians specializing in geriatric medicine results in:

(1) improved overall health of residents of that facility; and

(2) cost savings resulting from a reduction of acute care hospitalization and pharmaceutical costs.

(b) In developing the project, the commission may consider similar physician-centered nursing facility models implemented in other states to determine the most cost-effective measures to implement in the project under this subchapter.

(c) The commission may consider whether the project could involve the Medicare program, subject to federal law and approval.

Sec. 531.603. REPORT. (a) If the commission develops and implements the project, the commission shall, not later than December 1, 2008, submit a preliminary status report to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives having primary jurisdiction over the Medicaid program. The report must:

(1) describe the project, including the implementation and performance of the project during the preceding year; and

(2) evaluate the operation of the project.

(b) If the commission develops and implements the project, the commission shall submit a subsequent report to the persons listed in Subsection (a) preceding the regular session of the 82nd Legislature. The report must make recommendations regarding:

(1) the continuation or expansion of the project, to be determined based on the cost-effectiveness of the project; and

(2) if the commission recommends expanding the project, any necessary statutory or budgetary changes.

Sec. 531.604. EXPIRATION. This subchapter expires September 1, 2011.

SECTION 10. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0051 to read as follows:

Sec. 533.0051. PERFORMANCE MEASURES AND INCENTIVES FOR VALUE-BASED CONTRACTS. (a) The commission shall establish outcome-based performance measures and incentives to include in each contract between a health maintenance organization and the commission for the provision of health care services to recipients that is procured and managed under a value-based purchasing model. The performance measures and incentives must be designed to facilitate and increase recipients' access to appropriate health care services.

(b) Subject to Subsection (c), the commission shall include the performance measures and incentives established under Subsection (a) in each contract described by that subsection in addition to all other contract provisions required by this chapter.

(c) The commission may use a graduated approach to including the performance measures and incentives established under Subsection (a) in contracts described by that subsection to ensure incremental and continued improvements over time.

(d) Subject to Subsection (f), the commission shall assess the feasibility and cost-effectiveness of including provisions in a contract described by Subsection (a) that require the health maintenance organization to provide to the providers in the organization's provider network pay-for-performance opportunities that support quality improvements in the care of Medicaid recipients. Pay-for-performance opportunities may include incentives for providers to provide care after normal business hours and to participate in the early and periodic screening, diagnosis, and treatment program and other activities that improve Medicaid recipients' access to care. If the commission determines that the provisions are feasible and may be cost-effective, the commission shall develop and implement a pilot program in at least one health care service region under which the commission will include the provisions in contracts with health maintenance organizations offering managed care plans in the region.

(e) The commission shall post the financial statistical report on the commission's web page in a comprehensive and understandable format.

(f) The commission shall, to the extent possible, base an assessment of feasibility and cost-effectiveness under Subsection (d) on publicly available, scientifically valid, evidence-based criteria appropriate for assessing the Medicaid population.

(g) In performing the commission's duties under Subsection (d) with respect to assessing feasibility and cost-effectiveness, the commission may consult with physicians, including those with expertise in quality improvement and performance measurement, and hospitals.

SECTION 11. (a) Subsection (c), Section 533.012, Government Code, is amended to read as follows:

(c) The commission's office of investigations and enforcement shall review the information submitted under this section as appropriate in the investigation of fraud in the Medicaid managed care program. ~~[The comptroller may review the information in connection with the health care fraud study conducted by the comptroller.]~~

(b) Section 403.028, Government Code, is repealed.

SECTION 12. (a) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.019 to read as follows:

Sec. 533.019. VALUE-ADDED SERVICES. The commission shall actively encourage managed care organizations that contract with the commission to offer benefits, including health care services or benefits or other types of services, that:

(1) are in addition to the services ordinarily covered by the managed care plan offered by the managed care organization; and

(2) have the potential to improve the health status of enrollees in the plan.

(b) The changes in law made by Section 533.019, Government Code, as added by this section, apply to a contract between the Health and Human Services Commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this section. The commission shall seek to amend contracts entered into with managed care organizations under that chapter before the effective date of this section to authorize those managed care organizations to offer value-added services to enrollees in accordance with Section 533.019, Government Code, as added by this section.

SECTION 13. (a) Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 75 to read as follows:

CHAPTER 75. REGIONAL OR LOCAL HEALTH CARE PROGRAMS FOR
EMPLOYEES OF SMALL EMPLOYERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 75.001. PURPOSE. The purpose of this chapter is to:

(1) improve the health of employees of small employers and their families by improving the employees' access to health care and by reducing the number of those employees who are uninsured;

(2) reduce the likelihood that those employees and their families will require services from state-funded entitlement programs such as Medicaid;

(3) contribute to economic development by helping small businesses remain competitive with a healthy workforce and health care benefits that will attract employees; and

(4) encourage innovative solutions for providing and funding health care services and benefits.

Sec. 75.002. DEFINITIONS. In this chapter:

(1) "Employee" means an individual employed by an employer. The term includes a partner of a partnership and the proprietor of a sole proprietorship.

(2) "Governing body" means:

(A) the commissioners courts of the counties participating in a regional health care program;

(B) the commissioners court of a county participating in a local health care program; or

(C) the governing body of the joint council, nonprofit entity exempt from federal taxation, or other entity that operates a regional or local health care program.

(3) "Local health care program" means a local health care program operating in one county and established for the benefit of the employees of small employers under Subchapter B.

(4) "Regional health care program" means a regional health care program operating in two or more counties and established for the benefit of the employees of small employers under Subchapter B.

(5) "Small employer" means a person who employed an average of at least two employees but not more than 50 employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.

[Sections 75.003-75.050 reserved for expansion]

SUBCHAPTER B. REGIONAL OR LOCAL HEALTH CARE PROGRAM

Sec. 75.051. ESTABLISHMENT OF PROGRAM; MULTICOUNTY COOPERATION. (a) The commissioners court of a county may, by order, establish or participate in a local health care program under this subchapter.

(b) The commissioners courts of two or more counties may, by joint order, establish or participate in a regional health care program under this subchapter.

Sec. 75.052. GOVERNANCE OF PROGRAM. (a) A regional health care program may be operated subject to the direct governance of the commissioners courts of the participating counties. A local health care program may be operated subject to the direct governance of the commissioners court of the participating county. A regional or local health care program may be operated by a joint council, tax-exempt nonprofit entity, or other entity that:

(1) operates the program under a contract with the commissioners court or courts, as applicable; or

(2) is an entity in which the county or counties participate or that is established or designated by the commissioners court or courts, as applicable, to operate the program.

(b) In selecting an entity described by Subsection (a)(1) or (2) to operate a regional or local health care program, the commissioners court or courts, as applicable, shall require, to the extent possible, that the entity be authorized under federal law to accept donations on a basis that is tax-deductible or otherwise tax-advantaged for the contributor.

Sec. 75.053. OPERATION OF PROGRAM. A regional or local health care program provides health care services or benefits to the employees of participating small employers who are located within the boundaries of the participating county or counties, as applicable. A program may also provide services or benefits to the dependents of those employees.

Sec. 75.054. PARTICIPATION BY SMALL EMPLOYERS; SHARE OF COST. Subject to Section 75.153, the governing body may establish criteria for participation in a regional or local health care program by small employers, the employees of the small employers, and their dependents. The criteria must require that participating employers and participating employees pay a share of the premium or other cost of the program.

Sec. 75.055. ADDITIONAL FUNDING. (a) A governing body may accept and use state money made available through an appropriation from the general revenue fund or a gift, grant, or donation from any source to operate the regional or local health care program and to provide services or benefits under the program.

(b) A governing body may apply for and receive funding from the health opportunity pool trust fund under Subchapter D.

(b-1) A governing body may apply for and receive a grant under Subchapter E to support a regional or local health care program if money is appropriated for that purpose. This subsection expires September 1, 2009.

(c) A governing body shall actively solicit gifts, grants, and donations to:

(1) fund services and benefits provided under the regional or local health care program; and

(2) reduce the cost of participation in the program for small employers and their employees.

[Sections 75.056-75.100 reserved for expansion]

SUBCHAPTER C. HEALTH CARE SERVICES AND BENEFITS

Sec. 75.101. ALTERNATIVE PROGRAMS AUTHORIZED; PROGRAM OBJECTIVES. In developing a regional or local health care program, a governing body may provide health care services or benefits as described by this subchapter or may develop another type of program to accomplish the purposes of this chapter. A regional or local health care program must be developed, to the extent practicable, to:

- (1) reduce the number of individuals without health benefit plan coverage within the boundaries of the participating county or counties;
- (2) address rising health care costs and reduce the cost of health care services or health benefit plan coverage for small employers and their employees within the boundaries of the participating county or counties;
- (3) promote preventive care and reduce the incidence of preventable health conditions, such as heart disease, cancer, and diabetes and low birth weight in infants;
- (4) promote efficient and collaborative delivery of health care services;
- (5) serve as a model for the innovative use of health information technology to promote efficient delivery of health care services, reduce health care costs, and improve the health of the community; and
- (6) provide fair payment rates for health care providers.

Sec. 75.102. HEALTH BENEFIT PLAN COVERAGE. (a) A regional or local health care program may provide health care benefits to the employees of small employers by purchasing or facilitating the purchase of health benefit plan coverage for those employees from a health benefit plan issuer, including coverage under:

- (1) a small employer health benefit plan offered under Chapter 1501, Insurance Code;
- (2) a standard health benefit plan offered under Chapter 1507, Insurance Code; or
- (3) any other health benefit plan available in this state.

(b) The governing body may form one or more cooperatives under Subchapter B, Chapter 1501, Insurance Code.

(c) Notwithstanding Chapter 1251, Insurance Code, an insurer may issue a group accident and health insurance policy, including a group contract issued by a group hospital service corporation, to cover the employees of small employers participating in a regional or local health care program. The group policyholder of a policy issued in accordance with this subsection is the governing body or the designee of the governing body.

(d) A health maintenance organization may issue a health care plan to cover the employees of small employers participating in a regional or local health care program. The group contract holder of a contract issued in accordance with this subsection is the governing body or the designee of the governing body.

Sec. 75.103. OTHER HEALTH BENEFIT PLANS OR PROGRAMS. To the extent authorized by federal law, the governing body may establish or facilitate the establishment of self-funded health benefit plans or may facilitate the provision of health benefit coverage through health savings accounts and high-deductible health plans.

Sec. 75.104. HEALTH CARE SERVICES. (a) A regional or local health care program may contract with health care providers within the boundaries of the participating county or counties to provide health care services directly to the employees of participating small employers and the dependents of those employees.

(b) A regional or local health care program shall allow any individual who receives state premium assistance to buy into the health benefit plan offered by the regional or local health care program.

(c) A governing body that operates a regional or local health care program under this section may require that participating employees and dependents obtain health care services only from health care providers that contract to provide those services under the program and may limit the health care services provided under the program to services provided within the boundaries of the participating county or counties.

(d) A governing body operating a regional or local health care program operated under this section is not an insurer or health maintenance organization and the program is not subject to regulation by the Texas Department of Insurance.

[Sections 75.105-75.150 reserved for expansion]

SUBCHAPTER D. TEXAS HEALTH OPPORTUNITY POOL FUNDS

Sec. 75.151. DEFINITION. In this subchapter, "health opportunity pool trust fund" means the trust fund established under Subchapter N, Chapter 531, Government Code.

Sec. 75.152. FUNDING AUTHORIZED. Notwithstanding any other law, a regional or local health care program may apply for funding from the health opportunity pool trust fund and the fund may provide funding in accordance with this subchapter.

Sec. 75.153. ELIGIBILITY FOR FUNDS; STATEWIDE ELIGIBILITY CRITERIA. To be eligible for funding from money in the health opportunity pool trust fund, a regional or local health care program must:

(1) comply with any requirement imposed under the waiver obtained under Section 531.502, Government Code, including, to the extent applicable, any requirement that health care benefits or services provided under the program be provided in accordance with statewide eligibility criteria; and

(2) provide health care benefits or services under the program to a person receiving premium payment assistance for health benefits coverage through a program established under Section 531.507, Government Code, regardless of whether the person is an employee, or dependent of an employee, of a small employer.

[Sections 75.154-75.200 reserved for expansion]

SUBCHAPTER E. GRANTS FOR DEMONSTRATION PROJECTS

Sec. 75.201. DEFINITIONS. In this subchapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Executive commissioner" means the executive commissioner of the commission.

Sec. 75.202. GRANT PROGRAM. (a) The executive commissioner may establish a grant program to support the initial establishment and operation of one or more regional or local health care programs as demonstration projects, subject to the appropriation of money for this purpose.

(b) In selecting grant recipients, the executive commissioner shall consider the extent to which the regional or local health care program proposed by the applicant accomplishes the purposes of this chapter and meets the objectives established under Section 75.101.

(c) The commission shall establish performance objectives for a grant recipient and shall monitor the performance of the grant recipient.

Sec. 75.203. REVIEW OF DEMONSTRATION PROJECT; REPORT. Not later than December 1, 2008, the commission shall complete a review of each regional or local health care program that receives a grant under this subchapter and shall submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report that includes:

(1) an evaluation of the success of regional and local health care programs in accomplishing the purposes of this chapter; and

(2) the commission's recommendations for any legislation needed to facilitate or improve regional and local health care programs.

Sec. 75.204. EXPIRATION. This subchapter expires September 1, 2009.

(b) The heading to Subtitle C, Title 2, Health and Safety Code, is amended to read as follows:

SUBTITLE C. PROGRAMS PROVIDING [INDIGENT] HEALTH CARE
BENEFITS AND SERVICES

SECTION 14. (a) Subsection (a), Section 773.004, Health and Safety Code, is amended to read as follows:

(a) This chapter does not apply to:

~~(1) [a ground transfer vehicle and staff used to transport a patient who is under a physician's care between medical facilities or between a medical facility and a private residence, unless it is medically necessary to transport the patient using a stretcher;~~

~~(2)~~ (2) air transfer that does not advertise as an ambulance service and that is not licensed by the department;

(2) ~~(3)~~ the use of ground or air transfer vehicles to transport sick or injured persons in a casualty situation that exceeds the basic vehicular capacity or capability of emergency medical services providers in the area;

(3) ~~(4)~~ an industrial ambulance; or

(4) ~~(5)~~ a physician, registered nurse, or other health care practitioner licensed by this state unless the health care practitioner staffs an emergency medical services vehicle regularly.

(b) Section 773.041, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A person may not transport a patient by stretcher in a vehicle unless the person holds a license as an emergency medical services provider issued by the department in accordance with this chapter. For purposes of this subsection, "person" means an individual, corporation, organization, government, governmental subdivision or agency, business, trust, partnership, association, or any other legal entity.

(c) Not later than May 1, 2008, the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement the changes in law made by this section to Chapter 773, Health and Safety Code.

SECTION 15. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0214 to read as follows:

Sec. 32.0214. DESIGNATIONS OF PRIMARY CARE PROVIDER BY CERTAIN RECIPIENTS. (a) If the department determines that it is cost-effective and feasible and subject to Subsection (b), the department shall require each recipient of medical assistance to designate a primary care provider with whom the recipient will have a continuous, ongoing professional relationship and who will provide and coordinate the recipient's initial and primary care, maintain the continuity of care provided to the recipient, and initiate any referrals to other health care providers.

(b) A recipient who receives medical assistance through a Medicaid managed care model or arrangement under Chapter 533, Government Code, that requires the designation of a primary care provider shall designate the recipient's primary care provider as required by that model or arrangement.

SECTION 16. Section 32.024, Human Resources Code, is amended by adding Subsection (y-1) to read as follows:

(y-1) A woman who receives a breast or cervical cancer screening service under Title XV of the Public Health Service Act (42 U.S.C. Section 300k et seq.) and who otherwise meets the eligibility requirements for medical assistance for treatment of breast or cervical cancer as provided by Subsection (y) is eligible for medical assistance under that subsection, regardless of whether federal Medicaid matching funds are available for that medical assistance. A screening service of a type that is within the scope of screening services under that title is considered to be provided under that title regardless of whether the service was provided by a provider who receives or uses funds under that title.

SECTION 17. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.02471 to read as follows:

Sec. 32.02471. MEDICAL ASSISTANCE FOR CERTAIN FORMER FOSTER CARE ADOLESCENTS ENROLLED IN HIGHER EDUCATION. (a) In this section, "independent foster care adolescent" has the meaning assigned by Section 32.0247.

(b) The department shall provide medical assistance to a person who:
(1) is 21 years of age or older but younger than 23 years of age;
(2) would be eligible to receive assistance as an independent foster care adolescent under Section 32.0247 if the person were younger than 21 years of age;
and

(3) is enrolled in an institution of higher education, as defined by Section 61.003(8), Education Code, or a private or independent institution of higher education, as defined by Section 61.003(15), Education Code, that is located in this state and is making satisfactory academic progress as determined by the institution.

SECTION 18. Section 32.0422, Human Resources Code, is amended to read as follows:

Sec. 32.0422. HEALTH INSURANCE PREMIUM PAYMENT REIMBURSEMENT PROGRAM FOR MEDICAL ASSISTANCE RECIPIENTS.

(a) In this section:

(1) "Commission" [~~"Department"~~] means the Health and Human Services Commission [~~Texas Department of Health~~].

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Group health benefit plan" means a plan described by Section 1207.001, Insurance Code.

(b) The commission [~~department~~] shall identify individuals, otherwise entitled to medical assistance, who are eligible to enroll in a group health benefit plan. The commission [~~department~~] must include individuals eligible for or receiving health care services under a Medicaid managed care delivery system.

(b-1) To assist the commission in identifying individuals described by Subsection (b):

(1) the commission shall include on an application for medical assistance and on a form for recertification of a recipient's eligibility for medical assistance:

(A) an inquiry regarding whether the applicant or recipient, as applicable, is eligible to enroll in a group health benefit plan; and

(B) a statement informing the applicant or recipient, as applicable, that reimbursements for required premiums and cost-sharing obligations under the group health benefit plan may be available to the applicant or recipient; and

(2) not later than the 15th day of each month, the office of the attorney general shall provide to the commission the name, address, and social security number of each newly hired employee reported to the state directory of new hires operated under Chapter 234, Family Code, during the previous calendar month.

(c) The commission [~~department~~] shall require an individual requesting medical assistance or a recipient, during the recipient's eligibility recertification review, to provide information as necessary relating to any [~~the availability of a~~] group health benefit plan that is available to the individual or recipient through an employer of the individual or recipient or an employer of the individual's or recipient's spouse or parent to assist the commission in making the determination required by Subsection (d).

(d) For an individual identified under Subsection (b), the commission [~~department~~] shall determine whether it is cost-effective to enroll the individual in the group health benefit plan under this section.

(e) If the commission [~~department~~] determines that it is cost-effective to enroll the individual in the group health benefit plan, the commission [~~department~~] shall:

(1) require the individual to apply to enroll in the group health benefit plan as a condition for eligibility under the medical assistance program; and

(2) provide written notice to the issuer of the group health benefit plan in accordance with Chapter 1207, Insurance Code.

(e-1) This subsection applies only to an individual who is identified under Subsection (b) as being eligible to enroll in a group health benefit plan offered by an employer. If the commission determines under Subsection (d) that enrolling the individual in the group health benefit plan is not cost-effective, but the individual

prefers to enroll in that plan instead of receiving benefits and services under the medical assistance program, the commission, if authorized by a waiver obtained under federal law, shall:

(1) allow the individual to voluntarily opt out of receiving services through the medical assistance program and enroll in the group health benefit plan;

(2) consider that individual to be a recipient of medical assistance; and

(3) provide written notice to the issuer of the group health benefit plan in accordance with Chapter 1207, Insurance Code.

(f) Except as provided by Subsection (f-1), the commission ~~[The department]~~ shall provide for payment of:

(1) the employee's share of required premiums for coverage of an individual enrolled in the group health benefit plan; and

(2) any deductible, copayment, coinsurance, or other cost-sharing obligation imposed on the enrolled individual for an item or service otherwise covered under the medical assistance program.

(f-1) For an individual described by Subsection (e-1) who enrolls in a group health benefit plan, the commission shall provide for payment of the employee's share of the required premiums, except that if the employee's share of the required premiums exceeds the total estimated Medicaid costs for the individual, as determined by the executive commissioner, the individual shall pay the difference between the required premiums and those estimated costs. The individual shall also pay all deductibles, copayments, coinsurance, and other cost-sharing obligations imposed on the individual under the group health benefit plan.

(g) A payment made by the commission ~~[department]~~ under Subsection (f) or (f-1) is considered to be a payment for medical assistance.

(h) A payment of a premium for an individual who is a member of the family of an individual enrolled in a group health benefit plan under Subsection (e) ~~[this section]~~ and who is not eligible for medical assistance is considered to be a payment for medical assistance for an eligible individual if:

(1) enrollment of the family members who are eligible for medical assistance is not possible under the plan without also enrolling members who are not eligible; and

(2) the commission ~~[department]~~ determines it to be cost-effective.

(i) A payment of any deductible, copayment, coinsurance, or other cost-sharing obligation of a family member who is enrolled in a group health benefit plan in accordance with Subsection (h) and who is not eligible for medical assistance:

(1) may not be paid under this chapter; and

(2) is not considered to be a payment for medical assistance for an eligible individual.

(i-1) The commission shall make every effort to expedite payments made under this section, including by ensuring that those payments are made through electronic transfers of money to the recipient's account at a financial institution, if possible. In lieu of reimbursing the individual enrolled in the group health benefit plan for required premium or cost-sharing payments made by the individual, the commission may, if feasible:

(1) make payments under this section for required premiums directly to the employer providing the group health benefit plan in which an individual is enrolled;
or

(2) make payments under this section for required premiums and cost-sharing obligations directly to the group health benefit plan issuer.

(j) The commission [department] shall treat coverage under the group health benefit plan as a third party liability to the program. Subject to Subsection (j-1), enrollment [Enrollment] of an individual in a group health benefit plan under this section does not affect the individual's eligibility for medical assistance benefits, except that the state is entitled to payment under Sections 32.033 and 32.038.

(j-1) An individual described by Subsection (e-1) who enrolls in a group health benefit plan is not ineligible for community-based services provided under a Section 1915(c) waiver program or another federal waiver program solely based on the individual's enrollment in the group health benefit plan, and the individual may receive those services if the individual is otherwise eligible for the program. The individual is otherwise limited to the health benefits coverage provided under the health benefit plan in which the individual is enrolled, and the individual may not receive any benefits or services under the medical assistance program other than the premium payment as provided by Subsection (f-1) and, if applicable, waiver program services described by this subsection.

(k) The commission [department] may not require or permit an individual who is enrolled in a group health benefit plan under this section to participate in the Medicaid managed care program under Chapter 533, Government Code, or a Medicaid managed care demonstration project under Section 32.041.

(l) The commission, in consultation with the Texas Department of Insurance, shall provide training to agents who hold a general life, accident, and health license under Chapter 4054, Insurance Code, regarding the health insurance premium payment reimbursement program and the eligibility requirements for participation in the program. Participation in a training program established under this subsection is voluntary, and a general life, accident, and health agent who successfully completes the training is entitled to receive continuing education credit under Subchapter B, Chapter 4004, Insurance Code, in accordance with rules adopted by the commissioner of insurance.

(m) The commission may pay a referral fee, in an amount determined by the commission, to each general life, accident, and health agent who, after completion of the training program established under Subsection (l), successfully refers an eligible individual to the commission for enrollment in a [Texas Department of Human Services shall provide information and otherwise cooperate with the department as necessary to ensure the enrollment of eligible individuals in the] group health benefit plan under this section.

(n) The commission shall develop procedures by which an individual described by Subsection (e-1) who enrolls in a group health benefit plan may, at the individual's option, resume receiving benefits and services under the medical assistance program instead of the group health benefit plan.

(o) The commission shall develop procedures which ensure that, prior to allowing an individual described by Subsection (e-1) to enroll in a group health benefit plan or allowing the parent or caretaker of an individual described by Subsection (e-1) under the age of 21 to enroll that child in a group health benefit plan:

(1) the individual must receive counseling informing them that for the period in which the individual is enrolled in the group health benefit plan:

(A) the individual shall be limited to the health benefits coverage provided under the health benefit plan in which the individual is enrolled;

(B) the individual may not receive any benefits or services under the medical assistance program other than the premium payment as provided by Subsection (f-1);

(C) the individual shall pay the difference between the required premiums and the premium payment as provided by Subsection (f-1) and shall also pay all deductibles, copayments, coinsurance, and other cost-sharing obligations imposed on the individual under the group health benefit plan; and

(D) the individual may, at the individual's option through procedures developed by the commission, resume receiving benefits and services under the medical assistance program instead of the group health benefit plan; and

(2) the individual must sign and the commission shall retain a copy of a waiver indicating the individual has provided informed consent.

(p) The executive commissioner [department] shall adopt rules as necessary to implement this section.

SECTION 19. (a) Section 32.058, Human Resources Code, is amended to read as follows:

Sec. 32.058. LIMITATION ON MEDICAL ASSISTANCE IN CERTAIN ALTERNATIVE COMMUNITY-BASED CARE SETTINGS. (a) In this section, "medical assistance waiver program" means a program administered by the Department of Aging and Disability Services, other than the Texas home living program, that provides services under a waiver granted in accordance with 42 U.S.C. Section 1396n(c) [:

~~[(1) "Institution" means a nursing facility or an ICF MR facility.~~

~~[(2) "Medical assistance waiver program" means:~~

~~[(A) the community based alternatives program;~~

~~[(B) the community living assistance and support services program;~~

~~[(C) the deaf blind/multiple disabilities program;~~

~~[(D) the consolidated waiver pilot program; or~~

~~[(E) the medically dependent children program].~~

(b) Except as provided by Subsection (c), ~~[or]~~ (d), (e), or (f), the department may not provide services under a medical assistance waiver program to a person ~~[receiving medical assistance]~~ if the projected cost of providing those services over a 12-month period exceeds the individual cost limit specified in the medical assistance waiver program.

(c) The department shall continue to provide services under a medical assistance waiver program to a person who was ~~[is]~~ receiving those services on September 1, 2005, at a cost that exceeded ~~[exceeds]~~ the individual cost limit specified in the medical assistance waiver program, if continuation of those services:

(1) is necessary for the person to live in the most integrated setting appropriate to the needs of the person; and

(2) does not affect the department's compliance with the federal average per capita expenditure requirement [~~cost effectiveness and efficiency requirements~~] of the medical assistance waiver program under 42 U.S.C. Section [~~Sections 1396n(b) and~~] 1396n(c)(2)(D).

(d) The department may continue to provide services under a medical assistance waiver program, other than the home and community-based services program, to a person who is ineligible to receive those services under Subsection (b) and to whom Subsection (c) does not apply if:

(1) the projected cost of providing those services to the person under the medical assistance waiver program over a 12-month period does not exceed 133.3 percent of the individual cost limit specified in the medical assistance waiver program; and

(2) continuation of those services does not affect the department's compliance with the federal average per capita expenditure requirement [~~cost effectiveness and efficiency requirements~~] of the medical assistance waiver program under 42 U.S.C. Section [~~Sections 1396n(b) and~~] 1396n(c)(2)(D).

(e) The department may exempt a person from the cost limit established under Subsection (d)(1) for a medical assistance waiver program if the department determines that:

(1) the person's health and safety cannot be protected by the services provided within the cost limit established for the program under that subdivision; and

(2) there is no available living arrangement, other than one provided through the program or another medical assistance waiver program, in which the person's health and safety can be protected, as evidenced by:

(A) an assessment conducted by clinical staff of the department; and

(B) supporting documentation, including the person's medical and service records.

(f) The department may continue to provide services under the home and community-based services program to a person who is ineligible to receive those services under Subsection (b) and to whom Subsection (c) does not apply if the department makes, with regard to the person's receipt of services under the home and community-based services program, the same determinations required by Subsections (e)(1) and (2) in the same manner provided by Subsection (e) and determines that continuation of those services does not affect:

(1) the department's compliance with the federal average per capita expenditure requirement of the home and community-based services program under 42 U.S.C. Section 1396n(c)(2)(D); and

(2) any cost-effectiveness requirements provided by the General Appropriations Act that limit expenditures for the home and community-based services program.

(g) The executive commissioner of the Health and Human Services Commission may adopt rules to implement Subsections (d), (e), and (f) [under which the department may exempt a person from the cost limit established under Subsection (d)(1)].

(h) If a federal agency determines that compliance with any provision in this section would make this state ineligible to receive federal funds to administer a program to which this section applies, a state agency may, but is not required to, implement that provision.

(b) The changes in law made by this section apply only to a person receiving medical assistance on or after the effective date of this section, regardless of when eligibility for that assistance was determined.

SECTION 20. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0641 to read as follows:

Sec. 32.0641. COST SHARING FOR CERTAIN HIGH-COST MEDICAL SERVICES. (a) If the department determines that it is feasible and cost-effective, and to the extent permitted under Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.) and any other applicable law or regulation or under a federal waiver or other authorization, the executive commissioner of the Health and Human Services Commission shall adopt cost-sharing provisions that require a recipient who chooses a high-cost medical service provided through a hospital emergency room to pay a copayment, premium payment, or other cost-sharing payment for the high-cost medical service if:

(1) the hospital from which the recipient seeks service;

(A) performs an appropriate medical screening and determines that the recipient does not have a condition requiring emergency medical services;

(B) informs the recipient:

(i) that the recipient does not have a condition requiring emergency medical services;

(ii) that, if the hospital provides the nonemergency service, the hospital may require payment of a copayment, premium payment, or other cost-sharing payment by the recipient in advance; and

(iii) of the name and address of a nonemergency Medicaid provider who can provide the appropriate medical service without imposing a cost-sharing payment; and

(C) offers to provide the recipient with a referral to the nonemergency provider to facilitate scheduling of the service; and

(2) after receiving the information and assistance described by Subdivision (1) from the hospital, the recipient chooses to obtain emergency medical services despite having access to medically acceptable, lower-cost medical services.

(b) The department may not seek a federal waiver or other authorization under Subsection (a) that would:

(1) prevent a Medicaid recipient who has a condition requiring emergency medical services from receiving care through a hospital emergency room; or

(2) waive any provision under Section 1867, Social Security Act (42 U.S.C. Section 1395dd).

(c) If the executive commissioner of the Health and Human Services Commission adopts a copayment or other cost-sharing payment under Subsection (a), the commission may not reduce hospital payments to reflect the potential receipt of a copayment or other payment from a recipient receiving medical services provided through a hospital emergency room.

SECTION 21. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.072 to read as follows:

Sec. 32.072. DIRECT ACCESS TO EYE HEALTH CARE SERVICES.

(a) Notwithstanding any other law, a recipient of medical assistance is entitled to:

(1) select an ophthalmologist or therapeutic optometrist who is a medical assistance provider to provide eye health care services, other than surgery, that are within the scope of:

(A) services provided under the medical assistance program; and

(B) the professional specialty practice for which the ophthalmologist or therapeutic optometrist is licensed and credentialed; and

(2) have direct access to the selected ophthalmologist or therapeutic optometrist for the provision of the nonsurgical services without any requirement to obtain:

(A) a referral from a primary care physician or other gatekeeper or health care coordinator; or

(B) any other prior authorization or precertification.

(b) The department may require an ophthalmologist or therapeutic optometrist selected as provided by this section by a recipient of medical assistance who is otherwise required to have a primary care physician or other gatekeeper or health care coordinator to forward to the recipient's physician, gatekeeper, or health care coordinator information concerning the eye health care services provided to the recipient.

(c) This section may not be construed to expand the scope of eye health care services provided under the medical assistance program.

(b) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0026 to read as follows:

Sec. 533.0026. DIRECT ACCESS TO EYE HEALTH CARE SERVICES UNDER MEDICAID MANAGED CARE MODEL OR ARRANGEMENT.

(a) Notwithstanding any other law, the commission shall ensure that a managed care plan offered by a managed care organization that contracts with the commission under this chapter and any other Medicaid managed care model or arrangement implemented under this chapter allow a Medicaid recipient who receives services through the plan or other model or arrangement to, in the manner and to the extent required by Section 32.072, Human Resources Code:

(1) select an in-network ophthalmologist or therapeutic optometrist in the managed care network to provide eye health care services, other than surgery; and

(2) have direct access to the selected in-network ophthalmologist or therapeutic optometrist for the provision of the nonsurgical services.

(b) This section does not affect the obligation of an ophthalmologist or therapeutic optometrist in a managed care network to comply with the terms and conditions of the managed care plan.

(c) The changes in law made by Section 533.0026, Government Code, as added by this section, apply to a contract between the Health and Human Services Commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this section.

SECTION 22. Chapter 32, Human Resources Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. ELECTRONIC COMMUNICATIONS

Sec. 32.101. DEFINITIONS. In this subchapter:

(1) "Electronic health record" means electronically originated and maintained health and claims information regarding the health status of an individual that may be derived from multiple sources and includes the following core functionalities:

(A) a patient health and claims information or data entry function to aid with medical diagnosis, nursing assessment, medication lists, allergy recognition, demographics, clinical narratives, and test results;

(B) a results management function that may include computerized laboratory test results, diagnostic imaging reports, interventional radiology reports, and automated displays of past and present medical or laboratory test results;

(C) a computerized physician order entry of medication, care orders, and ancillary services;

(D) clinical decision support that may include electronic reminders and prompts to improve prevention, diagnosis, and management; and

(E) electronic communication and connectivity that allows online communication:

(i) among physicians and health care providers; and

(ii) among the Health and Human Services Commission, the operating agencies, and participating providers.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Health care provider" means a person, other than a physician, who is licensed or otherwise authorized to provide a health care service in this state.

(4) "Health information technology" means information technology used to improve the quality, safety, or efficiency of clinical practice, including the core functionalities of an electronic health record, electronic medical record, computerized physician or health care provider order entry, electronic prescribing, and clinical decision support technology.

(5) "Operating agency" means a health and human services agency operating part of the medical assistance program.

(6) "Participating provider" means a physician or health care provider who is a provider of medical assistance, including a physician or health care provider who contracts or otherwise agrees with a managed care organization to provide medical assistance under this chapter.

(7) "Physician" means an individual licensed to practice medicine in this state under the authority of Subtitle B, Title 3, Occupations Code, or a person that is:

(A) a professional association of physicians formed under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code;

(B) an approved nonprofit health corporation certified under Chapter 162, Occupations Code, that employs or contracts with physicians to provide medical services;

(C) a medical and dental unit, as defined by Section 61.003, Education Code, a medical school, as defined by Section 61.501, Education Code, or a health science center described by Subchapter K, Chapter 74, Education Code, that employs or contracts with physicians to teach or provide medical services, or employs physicians and contracts with physicians in a practice plan; or

(D) a person wholly owned by a person described by Paragraph (A), (B), or (C).

(8) "Recipient" means a recipient of medical assistance.

Sec. 32.102. ELECTRONIC COMMUNICATIONS. (a) To the extent allowed by federal law, the executive commissioner may adopt rules allowing the Health and Human Services Commission to permit, facilitate, and implement the use of health information technology for the medical assistance program to allow for electronic communication among the commission, the operating agencies, and participating providers for:

(1) eligibility, enrollment, verification procedures, and prior authorization for health care services or procedures covered by the medical assistance program, as determined by the executive commissioner, including diagnostic imaging;

(2) the update of practice information by participating providers;

(3) the exchange of recipient health care information, including electronic prescribing and electronic health records;

(4) any document or information requested or required under the medical assistance program by the Health and Human Services Commission, the operating agencies, or participating providers; and

(5) the enhancement of clinical and drug information available through the vendor drug program to ensure a comprehensive electronic health record for recipients.

(b) If the executive commissioner determines that a need exists for the use of health information technology in the medical assistance program and that the technology is cost-effective, the Health and Human Services Commission may, for the purposes prescribed by Subsection (a):

(1) acquire and implement the technology; or

(2) evaluate the feasibility of developing and, if feasible, develop, the technology through the use or expansion of other systems or technologies the commission uses for other purposes, including:

(A) the technologies used in the pilot program implemented under Section 531.1063, Government Code; and

(B) the health passport developed under Section 266.006, Family Code.

(c) The commission:

(1) must ensure that health information technology used under this section complies with the applicable requirements of the Health Insurance Portability and Accountability Act;

(2) may require the health information technology used under this section to include technology to extract and process claims and other information collected, stored, or accessed by the medical assistance program, program contractors,

participating providers, and state agencies operating any part of the medical assistance program for the purpose of providing patient information at the location where the patient is receiving care;

(3) must ensure that a paper record or document is not required to be filed if the record or document is permitted or required to be filed or transmitted electronically by rule of the executive commissioner;

(4) may provide for incentives to participating providers to encourage their use of health information technology under this subchapter;

(5) may provide recipients with a method to access their own health information; and

(6) may present recipients with an option to decline having their health information maintained in an electronic format under this subchapter.

(d) The executive commissioner shall consult with participating providers and other interested stakeholders in developing any proposed rules under this section. The executive commissioner shall request advice and information from those stakeholders concerning the proposed rules, including advice regarding the impact of and need for a proposed rule.

SECTION 23. (a) Chapter 32, Human Resources Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ELECTRONIC HEALTH INFORMATION PILOT PROGRAM

Sec. 32.151. DEFINITIONS. In this subchapter:

(1) "Electronic health record" means an ambulatory electronic health record that is certified by the Certification Commission for Healthcare Information Technology or that meets other federally approved interoperability standards.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Health information technology" means information technology used to improve the quality, safety, and efficiency of clinical practice, including the core functionalities of an electronic health record, computerized physician order entry, electronic prescribing, and clinical decision support technology.

(4) "Provider" means:

(A) an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code;

(B) a professional association of four or fewer physicians formed under the Texas Professional Association Law, as described by Section 1.008, Business Organizations Code; or

(C) an advanced practice nurse licensed and authorized to practice under Subtitle E, Title 3, Occupations Code.

(5) "Recipient" means a recipient of medical assistance.

Sec. 32.152. ELECTRONIC HEALTH INFORMATION PILOT PROGRAM.

The executive commissioner, from money appropriated for this purpose, shall develop and implement a pilot program for providing health information technology, including electronic health records, for use by primary care providers who provide medical assistance to recipients.

Sec. 32.153. PROVIDER PARTICIPATION. For participation in the pilot program, the department shall select providers who:

(1) volunteer to participate in the program;

(2) are providers of medical assistance, including providers who contract or otherwise agree with a managed care organization to provide medical assistance under this chapter; and

(3) demonstrate that at least 40 percent of the providers' practice involves the provision of primary care services to recipients in the medical assistance program.

Sec. 32.154. SECURITY OF PERSONALLY IDENTIFIABLE HEALTH INFORMATION. (a) Personally identifiable health information of recipients enrolled in the pilot program must be maintained in an electronic format or technology that meets interoperability standards that are recognized by the Certification Commission for Healthcare Information Technology or other federally approved certification standards.

(b) The system used to access a recipient's electronic health record must be secure and maintain the confidentiality of the recipient's personally identifiable health information in accordance with applicable state and federal law.

Sec. 32.155. GIFTS, GRANTS, AND DONATIONS. The department may request and accept gifts, grants, and donations from public or private entities for the implementation of the pilot program.

Sec. 32.156. PROTECTED HEALTH INFORMATION. To the extent that this subchapter authorizes the use or disclosure of protected health information by a covered entity, as those terms are defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the covered entity shall ensure that the use or disclosure complies with all applicable requirements, standards, or implementation specifications of the privacy rule.

Sec. 32.157. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2011.

(b) Not later than December 31, 2008, the executive commissioner of the Health and Human Services Commission shall submit to the governor, lieutenant governor, speaker of the house of representatives, presiding officer of the House Committee on Public Health, and presiding officer of the Senate Committee on Health and Human Services a report regarding the preliminary results of the pilot program established under Subchapter D, Chapter 32, Human Resources Code, as added by this section, and any recommendations regarding expansion of the pilot program, including any recommendations for legislation and requests for appropriation necessary for the expansion of the pilot program.

SECTION 24. (a) Subsection (a), Section 1207.002, Insurance Code, is amended to read as follows:

(a) A group health benefit plan issuer shall permit an individual who is otherwise eligible for enrollment in the plan to enroll in the plan, without regard to any enrollment period restriction, on receipt of written notice from the Health and Human Services Commission [~~or a designee of the commission stating~~] that the individual is:

(1) a recipient of medical assistance under the state Medicaid program and is a participant in the health insurance premium payment reimbursement program under Section 32.0422, Human Resources Code; or

(2) a child eligible for ~~[enrolled in]~~ the state child health plan under Chapter 62, Health and Safety Code, and eligible to participate ~~[is a participant]~~ in the health insurance premium assistance program under Section 62.059, Health and Safety Code.

(b) Section 1207.003, Insurance Code, is amended to read as follows:

Sec. 1207.003. EFFECTIVE DATE OF ENROLLMENT. (a) Unless enrollment occurs during an established enrollment period, enrollment in a group health benefit plan under Section 1207.002 takes effect on:

(1) the eligibility enrollment date specified in the written notice from the Health and Human Services Commission under Section 1207.002(a); or

(2) the first day of the first calendar month that begins at least 30 days after the date written notice or a written request is received by the plan issuer under Section 1207.002(a) or (b), as applicable.

(b) Notwithstanding Subsection (a), the individual must comply with a waiting period required under the state child health plan under Chapter 62, Health and Safety Code, or under the health insurance premium assistance program under Section 62.059, Health and Safety Code, as applicable.

(c) Subsection (b), Section 1207.004, Insurance Code, is amended to read as follows:

(b) Notwithstanding any other requirement of a group health benefit plan, the plan issuer shall permit an individual who is enrolled in the plan under Section 1207.002(a)(2), and any family member of the individual enrolled under Section 1207.002(c), to terminate enrollment in the plan not later than the 60th day after the date on which the individual provides a written request to disenroll from the plan because the individual ~~[satisfactory proof to the issuer that the child is]~~ no longer wishes to participate ~~[a participant]~~ in the health insurance premium assistance program under Section 62.059, Health and Safety Code.

SECTION 25. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1508 to read as follows:

CHAPTER 1508. HEALTHY TEXAS PROGRAM

Sec. 1508.001. STUDY; REPORT. (a) The commissioner shall conduct a study concerning a Healthy Texas Program, under which small employer health plan coverage would be offered through the program to persons who would be eligible for that coverage.

(b) The study shall include a market analysis to assist in identification of underserved segments in the voluntary small employer group health benefit plan coverage market in this state.

(c) The commissioner, using existing resources, may contract with actuaries and other experts as necessary to conduct the study.

(d) Not later than November 1, 2008, the commissioner shall provide a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature addressing the results of the study concerning the Healthy Texas Program. The report must include an analysis and information regarding:

- (1) the advantages and disadvantages of the proposed program;
- (2) prospective structure and function of the program and its components;
- (3) prospective program design and administration, including fundamental operational procedures, powers and duties of the commissioner, and powers and duties of the program board of directors;
- (4) recommendations for program eligibility criteria and minimum standards applicable to group health benefit plans that may be included in the program;
- (5) identification of other program requirements or restrictions and limitations necessary for successful implementation of the program;
- (6) the potential economic impact that the program would have on the small employer insurance market in this state;
- (7) the anticipated impact that the program would have on the quality of health care provided in this state; and
- (8) recommendations for any statutory changes to address implementation of the program.

Sec. 1508.002. EXPIRATION. This chapter expires September 1, 2009.

SECTION 26. (a) The Texas Health Care Policy Council, in coordination with the Institute for Demographic and Socioeconomic Research at The University of Texas at San Antonio, the Regional Center for Health Workforce Studies at the Center for Health Economics and Policy of The University of Texas Health Science Center at San Antonio, and the Texas Medical Board, shall conduct a study regarding increasing:

(1) the number of medical residency programs and medical residents in this state; and

(2) the number of physicians practicing medical specialties.

(b) The study must:

(1) examine the feasibility of using a percentage of physician licensing fees to increase the number of medical residency programs and medical residents in this state;

(2) put emphasis on, and recommend a plan of action for, increasing the number of:

(A) medical residency programs and medical residents in medically underserved areas of this state; and

(B) physicians practicing medical specialties that are underrepresented in this state; and

(3) determine the number of medical residents that obtain a license to practice medicine in this state on completion of a medical residency program in this state.

(c) Not later than December 1, 2008, the Texas Health Care Policy Council shall:

(1) report the results of the study to the governor, the lieutenant governor, and the speaker of the house of representatives; and

(2) make available the raw data from the study to the governor, the lieutenant governor, the speaker of the house of representatives, the House Committee on Public Health, and the Senate Committee on Health and Human Services.

(d) The Texas Health Care Policy Council may accept gifts, grants, and donations of any kind from any source for the purposes of this section.

(e) This section expires January 1, 2009.

SECTION 27. (a) In this section, "committee" means the committee on health and long-term care insurance incentives.

(b) The committee on health and long-term care insurance incentives is established to study and develop recommendations regarding methods by which this state may reduce:

(1) the need for residents of this state to rely on the Medicaid program by providing incentives for employers to provide health insurance, long-term care insurance, or both, to their employees; and

(2) the number of individuals in the state who are not covered by health insurance or long-term care insurance.

(c) The committee on health and long-term care insurance incentives is composed of:

(1) the presiding officers of:

(A) the Senate Committee on Health and Human Services;

(B) the House Committee on Public Health;

(C) the Senate Committee on State Affairs; and

(D) the House Committee on Insurance;

(2) three public members, appointed by the governor, who collectively represent the diversity of businesses in this state, including diversity with respect to:

(A) the geographic regions in which those businesses are located;

(B) the types of industries in which those businesses are engaged; and

(C) the sizes of those businesses, as determined by number of employees; and

(3) the following ex officio members:

(A) the comptroller of public accounts;

(B) the commissioner of insurance; and

(C) the executive commissioner of the Health and Human Services Commission.

(d) The committee shall elect a presiding officer from the committee members and shall meet at the call of the presiding officer.

(e) The committee shall study and develop recommendations regarding incentives this state may provide to employers to encourage those employers to provide health insurance, long-term care insurance, or both, to employees who would otherwise rely on the Medicaid program to meet their health and long-term care needs. In conducting the study, the committee shall:

(1) examine the feasibility and determine the cost of providing incentives through:

(A) the franchise tax under Chapter 171, Tax Code, including allowing exclusions from an employer's total revenue of insurance premiums paid for employees, regardless of whether the employer chooses under Subparagraph (ii), Paragraph (B), Subdivision (1), Subsection (a), Section 171.101, Tax Code, as effective January 1, 2008, to subtract cost of goods sold or compensation for purposes of determining the employer's taxable margin;

(B) deductions from or refunds of other taxes imposed on the employer; and

(C) any other means, as determined by the committee; and

(2) for each incentive the committee examines under Subdivision (1) of this subsection, determine the impact that implementing the incentive would have on reducing the number of individuals in this state who do not have private health or long-term care insurance coverage, including individuals who are Medicaid recipients.

(e-1) The committee shall:

(1) study and develop recommendations regarding:

(A) the cost of health care coverage under health benefit plans and how to reduce the cost of coverage through the following or other methods:

(i) changes in health benefit plan design or scope of services covered;

(ii) improvements in disease management and other utilization review practices by health care providers and health benefit plans;

(iii) reductions in administrative costs incurred by health care providers and health benefit plans;

(iv) improvements in the use of health care information technology by health care providers and health benefit plans; and

(v) development of a reinsurance system for health care claims in excess of \$50,000; and

(B) the availability of health care coverage under health benefit plans and how to expand health care coverage through the following or other methods:

(i) the providing of premium subsidies for health benefit plan coverage by the state or local political subdivisions, including three-share or multiple-share programs;

(ii) the inclusion of individuals or employees of private employers under state or local political subdivision health benefit plans, including the Texas Health Insurance Risk Pool;

(iii) inclusion of family members and dependents under a group health benefit plan regardless of age; and

(iv) requiring vendors of state and local political subdivisions to provide health benefit plan coverage for their employees and the employee's family and dependents; and

(2) provide information obtained in studying the issues under Subdivision (1) of this subsection to the Health and Human Services Commission and the Texas Department of Insurance for purposes of developing a health benefits coverage premium payment assistance program under Section 531.507, Government Code, as added by this Act.

(f) Not later than September 1, 2008, the committee shall submit to the Senate Committee on Health and Human Services, the House Committee on Public Health, the Senate Committee on State Affairs, and the House Committee on Insurance a report regarding the results of the study required by this section. The report must include a detailed description of each incentive the committee examined and determined is feasible and, for each of those incentives, specify:

- (1) the anticipated cost associated with providing that incentive;
- (2) any statutory changes needed to implement the incentive; and
- (3) the impact that implementing the incentive would have on reducing:

(A) the number of individuals in this state who do not have private health or long-term care insurance coverage; and

(B) the number of individuals in this state who are Medicaid recipients.

SECTION 28. (a) The Health and Human Services Commission shall conduct a study regarding the feasibility and cost-effectiveness of developing and implementing an integrated Medicaid managed care model designed to improve the management of care provided to Medicaid recipients who are aging, blind, or disabled or have chronic health care needs and are not enrolled in a managed care plan offered under a capitated Medicaid managed care model, including recipients who reside in:

(1) rural areas of this state; or

(2) urban or surrounding areas in which the Medicaid Star + Plus program or another capitated Medicaid managed care model is not available.

(b) Not later than September 1, 2008, the Health and Human Services Commission shall submit a report regarding the results of the study to the standing committees of the senate and house of representatives having primary jurisdiction over the Medicaid program.

SECTION 29. (a) In this section:

(1) "Child health plan program" means the state child health plan program authorized by Chapter 62, Health and Safety Code.

(2) "Medicaid" means the medical assistance program provided under Chapter 32, Human Resources Code.

(b) The Health and Human Services Commission shall conduct a study of the feasibility of providing a health passport for:

(1) children under 19 years of age who are receiving Medicaid and are not provided a health passport under another law of this state; and

(2) children enrolled in the child health plan program.

(c) The feasibility study must:

(1) examine the cost-effectiveness of the use of a health passport in conjunction with the coordination of health care services under each program;

(2) identify any barriers to the implementation of the health passport developed for each program and recommend strategies for the removal of those barriers;

(3) examine whether the use of a health passport will improve the quality of care for children described in Subsection (b) of this section; and

(4) determine the fiscal impact to this state of the proposed initiative.

(d) Not later than January 1, 2009, the Health and Human Services Commission shall submit to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of each standing committee of the legislature with jurisdiction over the commission a written report containing the findings of the study and the commission's recommendations.

(e) This section expires September 1, 2009.

SECTION 30. (a) The Medicaid Reform Legislative Oversight Committee is created to facilitate the reform efforts in Medicaid, the process of addressing the issues of uncompensated hospital care, and the establishment of programs addressing the uninsured.

(b) The committee is composed of eight members, as follows:

(1) four members of the senate, appointed by the lieutenant governor not later than October 1, 2007; and

(2) four members of the house of representatives, appointed by the speaker of the house of representatives not later than October 1, 2007.

(c) A member of the committee serves at the pleasure of the appointing official.

(d) The lieutenant governor shall designate a member of the committee as the presiding officer.

(e) A member of the committee may not receive compensation for serving on the committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

(f) The committee shall:

(1) facilitate the design and development of any Medicaid waivers needed to affect reform as directed by this Act;

(2) facilitate a smooth transition from existing Medicaid payment systems and benefit designs to the new model of Medicaid enabled by waiver or policy change by the Health and Human Services Commission;

(3) meet at the call of the presiding officer; and

(4) research, take public testimony, and issue reports requested by the lieutenant governor or speaker of the house of representatives.

(g) The committee may:

(1) request reports and other information from the Health and Human Services Commission; and

(2) review the findings of the work group on uncompensated hospital care established under Section 531.552, Government Code, as added by this Act.

(h) The committee shall use existing staff of the senate, the house of representatives, and the Texas Legislative Council to assist the committee in performing its duties under this section.

(i) Chapter 551, Government Code, applies to the committee.

(j) The committee shall report to the lieutenant governor and speaker of the house of representatives not later than November 15, 2008. The report must include:

(1) identification of significant issues that impede the transition to a more effective Medicaid program;

(2) the measures of effectiveness associated with changes to the Medicaid program;

(3) the impact of Medicaid changes on safety net hospitals and other significant traditional providers; and

(4) the impact on the uninsured in Texas.

(k) This section expires September 1, 2009, and the committee is abolished on that date.

(l) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for this section to have immediate effect, this section takes effect September 1, 2007.

SECTION 31. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Department" means the Texas Department of Insurance.

(b) The department and the commission shall jointly study a small employer premium assistance program to provide financial assistance for the purchase of small employer health benefit plans by small employers.

(c) The study conducted under this section must address:

(1) options for program funding, including use of money in the Texas health opportunity pool trust fund as described by Section 531.507, Government Code, as added by this Act;

(2) coordination with any other premium assistance effort operated, under development, or under consideration by either agency; and

(3) recommended program design, including:

(A) the manner of targeting small employers;

(B) provisions to discourage employers and others from electing to discontinue other private coverage for employees;

(C) a minimum premium, or percentage of premium, that a small employer must pay for each eligible employee's coverage;

(D) eligibility requirements for enrollees for whom financial assistance is provided to individuals;

(E) allocation of opportunities for enrollment in the program;

(F) the duration of enrollment in the program and requirements for renewal; and

(G) verification that small employers participating in the program use premium assistance to purchase and maintain a small employer health benefit plan.

(d) In conducting the study, the department and the commission may consider programs and efforts undertaken by other states to provide premium assistance to small employers.

(e) Not later than November 1, 2008, the department and the commission shall jointly submit a report to the legislature. The report must summarize the results of the study conducted under this section and the recommendations of the department and commission and may include recommendations for proposed legislation to implement a small employer premium assistance program as described by Subsection (b) of this section.

SECTION 32. (a) Subject to the appropriation of funds for these purposes and Subsection (c) of this section, all powers, duties, functions, activities, obligations, rights, contracts, records, assets, personal property, personnel, and appropriations or

other money of the Texas Department of Transportation that are essential to the administration of the medical transportation program, as specified in Section 531.0057, Government Code, as added by this Act, are transferred to the Health and Human Services Commission.

(b) A reference in law or an administrative rule to the Texas Department of Transportation that relates to the medical transportation program means the Health and Human Services Commission.

(c) The Texas Department of Transportation shall take all action necessary to provide for the transfer of its contractual obligations to administer the medical transportation program, as specified in Section 531.0057, Government Code, as added by this Act, to the Health and Human Services Commission as soon as possible after the effective date of this section but not later than September 1, 2008.

(d) Effective September 1, 2008, Subsection (a), Section 461.012, Health and Safety Code, is amended to read as follows:

(a) The commission shall:

(1) provide for research and study of the problems of chemical dependency in this state and seek to focus public attention on those problems through public information and education programs;

(2) plan, develop, coordinate, evaluate, and implement constructive methods and programs for the prevention, intervention, treatment, and rehabilitation of chemical dependency in cooperation with federal and state agencies, local governments, organizations, and persons, and provide technical assistance, funds, and consultation services for statewide and community-based services;

(3) cooperate with and enlist the assistance of:

(A) other state, federal, and local agencies;

(B) hospitals and clinics;

(C) public health, welfare, and criminal justice system authorities;

(D) educational and medical agencies and organizations; and

(E) other related public and private groups and persons;

(4) expand chemical dependency services for children when funds are available because of the long-term benefits of those services to the state and its citizens;

(5) sponsor, promote, and conduct educational programs on the prevention and treatment of chemical dependency, and maintain a public information clearinghouse to purchase and provide books, literature, audiovisuals, and other educational material for the programs;

(6) sponsor, promote, and conduct training programs for persons delivering prevention, intervention, treatment, and rehabilitation services and for persons in the criminal justice system or otherwise in a position to identify chemically dependent persons and their families in need of service;

(7) require programs rendering services to chemically dependent persons to safeguard those persons' legal rights of citizenship and maintain the confidentiality of client records as required by state and federal law;

(8) maximize the use of available funds for direct services rather than administrative services;

(9) consistently monitor the expenditure of funds and the provision of services by all grant and contract recipients to assure that the services are effective and properly staffed and meet the standards adopted under this chapter;

(10) make the monitoring reports prepared under Subdivision (9) a matter of public record;

(11) license treatment facilities under Chapter 464;

(12) use funds appropriated to the commission to carry out this chapter and maximize the overall state allotment of federal funds;

(13) develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction;

(14) establish minimum criteria that peer assistance programs must meet to be governed by and entitled to the benefits of a law that authorizes licensing and disciplinary authorities to establish or approve peer assistance programs for impaired professionals;

(15) adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs;

(16) plan, develop, coordinate, evaluate, and implement constructive methods and programs to provide healthy alternatives for youth at risk of selling controlled substances;

(17) submit to the federal government reports and strategies necessary to comply with Section 1926 of the federal Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, Pub. L. 102-321 (42 U.S.C. Section 300x-26); reports and strategies are to be coordinated with appropriate state governmental entities; and

(18) regulate, coordinate, and provide training for alcohol awareness courses required under Section 106.115, Alcoholic Beverage Code, and may charge a fee for an activity performed by the commission under this subdivision[~~and~~

~~[(19) contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs].~~

(e) Notwithstanding Subdivision (19), Subsection (a), Section 461.012, Health and Safety Code, the Health and Human Services Commission shall implement that section only to the extent necessary until the commission effects the transfer of the medical transportation program, as specified in Section 531.0057, Government Code, as added by this Act, to the commission not later than September 1, 2008.

(f) The following sections remain in effect until September 1, 2008, for the limited purpose of effecting the transfer of the medical transportation program, as specified in Section 531.0057, Government Code, as added by this Act. The following sections are repealed, effective September 1, 2008:

(1) Subsection (b), Section 531.02412, Government Code;

(2) Subsection (g), Section 461.012, Health and Safety Code;

(3) Subsection (b), Section 533.012, Health and Safety Code;

(4) Subsection (e), Section 22.001, Human Resources Code;

(5) Subsection (f), Section 40.002, Human Resources Code;

- (6) Subsection (g), Section 91.021, Human Resources Code;
- (7) Subsection (b), Section 101.0256, Human Resources Code;
- (8) Subsection (d), Section 111.0525, Human Resources Code;
- (9) Section 455.0015, Transportation Code; and
- (10) Section 461.003, Transportation Code.

SECTION 33. SEVERABILITY. If any provision of this Act is held by a court to be invalid, that invalidity does not affect the other provisions of this Act, and to this end the provisions of this Act are severable.

SECTION 34. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 35. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 10** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3609

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3609** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS
BRIMER
WHITMIRE
HARRIS

On the part of the Senate

TALTON
J. DAVIS
GEREN
HODGE
PITTS

On the part of the House

The Conference Committee Report on **HB 3609** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1113**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1113** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI
DEUELL
HEGAR
HINOJOSA

On the part of the Senate

TURNER
DUTTON
MADDEN
BOLTON

On the part of the House

The Conference Committee Report on **HB 1113** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2960**

Senator Fraser submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2960** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

FRASER
ELTIFE
VAN DE PUTTE

On the part of the Senate

SMITHEE
HANCOCK
DRIVER

On the part of the House

The Conference Committee Report on **HB 2960** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 758**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 758** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
DEUELL
SHAPIRO
NICHOLS
URESTI

On the part of the Senate

ROSE
J. DAVIS
S. KING
NAISHTAT
PARKER

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to child protective services; providing penalties.

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

SECTION 1. (a) Subsection (b), Section 29.153, Education Code, is amended to read as follows:

(b) A child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and ~~is~~:

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

(2) is educationally disadvantaged;

(3) is a homeless child, as defined by 42 U.S.C. Section 11434a ~~[11302]~~, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;

(4) is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority; ~~[or]~~

(5) is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or

(6) is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Section 262.201, Family Code.

(b) The change in law made by this section applies beginning with the 2007-2008 school year.

SECTION 2. Subsection (a), Section 102.004, Family Code, is amended to read as follows:

(a) In addition to the general standing to file suit provided by Section 102.003, a grandparent, or another relative of the child related within the third degree by consanguinity, may file an original suit requesting managing conservatorship if there is satisfactory proof to the court that:

(1) the order requested is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development; or

(2) both parents, the surviving parent, or the managing conservator or custodian either filed the petition or consented to the suit.

SECTION 3. (a) Section 102.005, Family Code, is amended to read as follows:

Sec. 102.005. STANDING TO REQUEST TERMINATION AND ADOPTION. An original suit requesting only an adoption or for termination of the parent-child relationship joined with a petition for adoption may be filed by:

(1) a stepparent of the child;

(2) an adult who, as the result of a placement for adoption, has had actual possession and control of the child at any time during the 30-day period preceding the filing of the petition;

(3) an adult who has had actual possession and control of the child for not less than two months during the three-month period preceding the filing of the petition; ~~[or]~~

(4) an adult who has adopted, or is the foster parent of and has petitioned to adopt, a sibling of the child; or

(5) another adult whom the court determines to have had substantial past contact with the child sufficient to warrant standing to do so.

(b) The change in law made by this section applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 4. (a) Section 162.304, Family Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) The executive commissioner of the Health and Human Services Commission by rule shall provide that the maximum amount of the subsidy under Subsection (b) that may be paid to an adoptive parent of a child under an adoption assistance agreement is an amount that is equal to the amount that would have been paid to the foster parent of the child, based on the child's foster care service level on the date the department and the adoptive parent enter into the adoption assistance agreement. This subsection applies only to a child who, based on factors specified in rules of the department, the department determines would otherwise have been expected to remain in foster care until the child's 18th birthday and for whom this state would have made foster care payments for that care. Factors the department may consider in determining whether a child is eligible for the amount of the subsidy authorized by this subsection include the following:

(1) the child's mental or physical disability, age, and membership in a sibling group; and

(2) the number of prior placement disruptions the child has experienced.

(h) In determining the amount that would have been paid to a foster parent for purposes of Subsection (g), the department:

(1) shall use the minimum amount required to be paid to a foster parent for a child assigned the same service level as the child who is the subject of the adoption assistance agreement; and

(2) may not include any amount that a child-placing agency is entitled to retain under the foster care rate structure in effect on the date the department and the adoptive parent enter into the agreement.

(b) Subsections (g) and (h), Section 162.304, Family Code, as added by this section, apply only to an adoption assistance agreement that is entered into on or after the effective date of this Act. An adoption assistance agreement that was entered into before the effective date of this Act is governed by the law in effect on the date the agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 5. Subsection (a), Section 201.007, Family Code, is amended to read as follows:

(a) Except as limited by an order of referral, an associate judge may:

(1) conduct a hearing;

(2) hear evidence;

(3) compel production of relevant evidence;

(4) rule on the admissibility of evidence;

(5) issue a summons for:

(A) the appearance of witnesses; and

(B) the appearance of a parent who has failed to appear before an agency authorized to conduct an investigation of an allegation of abuse or neglect of a child after receiving proper notice;

(6) examine a witness;

(7) swear a witness for a hearing;

(8) make findings of fact on evidence;

(9) formulate conclusions of law;

(10) recommend an order to be rendered in a case;

(11) regulate all proceedings in a hearing before the associate judge;

(12) order the attachment of a witness or party who fails to obey a subpoena;

(13) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 201.013;

(14) render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order; or

(C) a temporary order; and

(15) take action as necessary and proper for the efficient performance of the associate judge's duties.

SECTION 6. Section 261.303, Family Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) A person, including a medical facility, that makes a report under Subchapter B shall release to the department or designated agency, as part of the required report under Section 261.103, records that directly relate to the suspected abuse or neglect without requiring parental consent or a court order. If a child is transferred from a reporting medical facility to another medical facility to treat the injury or condition that formed the basis for the original report, the transferee medical facility shall, at the department's request, release to the department records relating to the injury or condition without requiring parental consent or a court order.

(e) A person, including a utility company, that has confidential locating or identifying information regarding a family that is the subject of an investigation under this chapter shall release that information to the department on request. The release of information to the department as required by this subsection by a person, including a utility company, is not subject to Section 552.352, Government Code, or any other law providing liability for the release of confidential information.

SECTION 7. Section 261.3031, Family Code, is amended to read as follows:

Sec. 261.3031. FAILURE TO COOPERATE WITH INVESTIGATION; DEPARTMENT RESPONSE. (a) If a parent or other person refuses to cooperate with the department's investigation of the alleged abuse or neglect of a child and the refusal poses a risk to the child's safety, the department shall seek assistance from the appropriate county attorney or district attorney or criminal district attorney with responsibility for representing the department as provided by Section 264.009 to obtain a court order as described by Section 261.303.

(b) A person's failure to report to an agency authorized to investigate abuse or neglect of a child within a reasonable time after receiving proper notice constitutes a refusal by the person to cooperate with the department's investigation. A summons may be issued to locate the person.

SECTION 8. Section 263.102, Family Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The department shall consult with relevant professionals to determine the skills or knowledge that the parents of a child under two years of age should learn or acquire to provide a safe placement for the child. The department shall incorporate those skills and abilities into the department's service plans, as appropriate.

(g) To the extent that funding is available, the service plan for a child under two years of age may require therapeutic visits between the child and the child's parents supervised by a licensed psychologist or another relevant professional to promote family reunification and to educate the parents about issues relating to the removal of the child.

SECTION 9. Section 264.012, Family Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The department shall spend money appropriated for the child protective services program to pay reasonable and necessary burial expenses for a person for whom the department is paying for foster care under Section 264.101(a-1)(2) and who dies while in foster care unless there is money in the person's estate or other money available to pay the person's burial expenses.

(b) The department may accept donations, gifts, or in-kind contributions to cover the costs of any burial expenses paid by the department under this section ~~for children for whom the department has been appointed managing conservator~~.

SECTION 10. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.014 to read as follows:

Sec. 264.014. PROVISION OF COPIES OF CERTAIN RECORDS. If, at the time a child is discharged from foster care, the child is at least 18 years of age or has had the disabilities of minority removed, the department shall provide to the child, not later than the 30th day after the date the child is discharged from foster care, a copy of:

- (1) the child's birth certificate;
- (2) the child's immunization records; and
- (3) the information contained in the child's health passport.

SECTION 11. The heading to Section 264.106, Family Code, is amended to read as follows:

Sec. 264.106. ~~[REQUIRED]~~ CONTRACTS FOR SUBSTITUTE CARE AND CASE MANAGEMENT SERVICES.

SECTION 12. (a) Subsections (a), (b), (c), (e), and (g), Section 264.106, Family Code, are amended to read as follows:

(a) In this section:

(1) "Case management services" means the provision of ~~case management~~ services, ~~other than conservatorship services,~~ to a child for whom the department has been appointed temporary or permanent managing conservator and the child's family, including:

(A) developing and revising [caseworker child visits, family visits, the convening of family group conferences, the development and revision of] the child and family case plan, using family group decision-making in appropriate cases;

(B) coordinating [the coordination] and monitoring permanency [of] services needed by the child and family to ensure[, and the assumption of court related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring] that the child is progressing toward permanency within state and federal mandates; and

(C) assisting the department in a suit affecting the parent-child relationship commenced by the department.

(2) "Conservatorship services" means services provided directly by the department that the department considers necessary to ensure federal financial participation and compliance with state law requirements, including:

(A) initial placement of a child and approval of all subsequent placements of a child;

(B) approval of the child and family case plan; and

(C) any other action the department considers necessary to ensure the safety and well-being of a child [~~"Independent administrator" means an independent agency selected through a competitive procurement process to:~~

~~[(A) secure, coordinate, and manage substitute care services and case management services in a geographically designated area of the state; and~~

~~[(B) ensure continuity of care for a child referred to the administrator by the department and the child's family from the day a child enters the child protective services system until the child leaves the system].~~

(3) "Permanency services" means services~~[, other than family based safety services,]~~ provided to secure a child's safety, permanency, and well-being, including:

(A) substitute care services;

(B) medical, dental, mental health, and educational services;

(C) [5] family reunification services;

(D) [5] adoption and postadoption services and[5] preparation for adult living services;

(E) convening family group conferences;

(F) child and family visits;

(G) relative placement services; and

(H) post-placement supervision[5, and case management] services.

(4) "Substitute care provider" means:

(A) a child-care institution, a general residential operation, or a child-placing agency, as defined by Section 42.002, Human Resources Code; or

(B) a provider of residential child-care that is licensed or certified by another state agency.

(5) "Substitute care services" means services provided by a substitute care provider to or for a child in the temporary or permanent managing conservatorship of the department or for the child's placement ~~[children in substitute care and their families]~~, including the recruitment, training, and management of foster and adoptive homes by a child-placing agency ~~[foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, and post placement supervision, including relative placement]~~. The term does not include the regulation of facilities under Subchapter C, Chapter 42, Human Resources Code.

(b) The department shall, in accordance with Chapter 45 ~~[Section 45.004]~~, Human Resources Code:

(1) assess the need for substitute care ~~[and case management]~~ services throughout the state;

(2) ~~[either]~~ contract ~~[directly]~~ with substitute care providers ~~[private agencies as part of regional community centered networks]~~ for the provision of all necessary substitute care ~~[and case management]~~ services when the department determines that entering into a contract will improve services to children and families ~~[or use an independent administrator to contract for those services];~~

~~(3) [contract with an independent administrator, if cost beneficial, to coordinate and manage all services needed for children in the temporary or permanent managing conservatorship of the department in a designated geographic area;~~

~~[(4)]~~ monitor the quality of services for which the department contracts ~~[and each independent administrator contract]~~ under this section; and

~~(4) [(5)]~~ ensure that the services are provided in accordance with federal law and the laws of this state, including department rules and rules of the Department of State Health Services and the Texas Commission on Environmental Quality.

(c) The department shall develop a pilot program for the competitive procurement of case management services in one or more geographic areas of the state. The department shall contract with one or more substitute care providers to provide case management services under the pilot program. The department shall have a goal of privatizing case management services in five percent of the cases in which the department has been appointed temporary or permanent managing conservator of a child ~~[An independent administrator may not:~~

~~(1) directly provide substitute care services; or~~

~~(2) be governed by a board that has a member who has a financial interest in a substitute care or case management provider with whom the independent administrator subcontracts].~~

(e) In addition to the requirements of Section 40.058(b), Human Resources Code, a contract authorized under this section ~~[with an independent administrator]~~ must include provisions that:

(1) enable the department to monitor the effectiveness of the services;

(2) specify performance outcomes;

(3) authorize the department to terminate the contract or impose sanctions for a violation of a provision of the contract that specifies performance criteria;

(4) ensure that a private agency that is providing substitute care or case management services for a child shall provide to the child's attorney ad litem and guardian ad litem access to the agency's information and records relating to the child; ~~[an independent administrator may not refuse to accept a client who is referred for services or reject a client who is receiving services unless the department has reviewed the independent administrator's decision and approved the decision in writing];~~

(5) authorize the department, an agent of the department, and the state auditor to inspect all books, records, and files maintained by a contractor ~~[an independent administrator]~~ relating to the contract; and

(6) the department determines are necessary to ensure accountability for the delivery of services and for the expenditure of public funds.

(g) In determining whether to contract with a substitute care provider ~~[or an independent administrator]~~, the department shall consider the provider's ~~[or administrator's]~~ performance under any previous contract between the department and the provider ~~[or administrator]~~.

(b) The Department of Family and Protective Services shall enter into one or more contracts for case management services under the pilot program described by Section 264.106, Family Code, as amended by this section, on or before September 1, 2008, with a goal of contracting for case management services in five percent of the cases in the state in which the department has been appointed temporary or permanent managing conservator of a child. Notwithstanding this deadline, the department must continue to provide case management services in any area covered by the pilot program if:

(1) the department is unable to enter into a contract with a person to provide case management services; or

(2) after entering into a contract, either the contractor or the department terminates the contract.

(c) The executive commissioner of the Health and Human Services Commission shall adopt rules describing the circumstances in which the Department of Family and Protective Services may continue to provide case management services on an emergency basis during the pilot program described in Section 264.106, Family Code, as amended by this section.

SECTION 13. Section 264.1063, Family Code, is amended to read as follows:

Sec. 264.1063. MONITORING PERFORMANCE OF SUBSTITUTE CARE AND CASE MANAGEMENT PROVIDERS. (a) The department, in consultation with substitute care providers ~~[private entities]~~ under contract with ~~[either an independent administrator or]~~ the department to provide substitute care or case management services, shall establish a quality assurance program that uses comprehensive, multitiered assurance and improvement systems ~~[based, subject to the availability of funds, on real time data]~~ to evaluate performance.

(b) The contract performance outcomes specified in a contract under Section 264.106 must be ~~[consistent with the fiscal goals of privatizing substitute care and case management services and must be]~~ within the contractor's authority to deliver. The contract must clearly define the manner in which the substitute care or case management provider's performance will be measured and identify the information sources the department ~~[and, if applicable, the independent administrator]~~ will use to evaluate the performance.

SECTION 14. Section 264.107, Family Code, is amended by amending Subsections (c) through (f) and adding Subsection (g) to read as follows:

(c) The department shall institute ~~[contract between the department and an independent administrator or other authorized entity must require, not later than September 1, 2009,]~~ the use of real-time technology in the department's ~~[independent administrator's or other authorized entity's]~~ placement system to screen possible placement options for a child and match the child's needs with the most qualified providers with vacancies.

(d) The department shall ~~[institute a quality assurance system in monitoring the independent administrators or other authorized entities to]~~ ensure that placement decisions are reliable and are made in a consistent manner.

(e) In making placement decisions, the department ~~[an independent administrator or other authorized entity]~~ shall:

(1) consult with the child's caseworker and the child's attorney ad litem, guardian ad litem, or court-appointed volunteer advocate when possible; and

(2) use clinical protocols to match a child to the most appropriate placement resource.

(f) The department may create a regional advisory council in a region to assist the department ~~[and independent administrator or other authorized entity]~~ in:

(1) assessing the need for resources in the region; and

(2) locating substitute care services in the region for hard-to-place children.

(g) If the department is unable to find an appropriate placement for a child, an employee of the department who has on file a background and criminal history check may provide temporary emergency care for the child. An employee may not provide emergency care under this subsection in the employee's residence. The department

shall provide notice to the court for a child placed in temporary care under this subsection not later than the next business day after the date the child is placed in temporary care.

SECTION 15. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.1071 to read as follows:

Sec. 264.1071. PLACEMENT FOR CHILDREN UNDER AGE TWO. In making a placement decision for a child under two years of age, the department shall:

(1) ensure that the child is placed with a person who will provide a safe and emotionally stable environment for the child; and

(2) give priority to a person who will be able to provide care for the child without disruption until the child is returned to the child's parents or the department makes a permanent placement for the child.

SECTION 16. Section 264.113, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The department shall work with OneStar Foundation to expand the program described by Subsection (b) to increase the number of foster families available for the department and its private providers. In cooperation with the department, OneStar Foundation may provide training and technical assistance to establish networks and services in faith-based organizations based on best practices for supporting prospective and current foster families.

(d) The department shall work with the Department of Assistive and Rehabilitative Services to recruit foster parents and adoptive parents who have skills, training, or experience suitable to care for children with hearing impairments.

SECTION 17. Section 264.121, Family Code, is amended by adding Subsection (c) to read as follows:

(c) At the time a child enters the Preparation for Adult Living Program, the department shall provide an information booklet to the child and the foster parent describing the program and the benefits available to the child, including extended Medicaid coverage until age 21, priority status with the Texas Workforce Commission, and the exemption from the payment of tuition and fees at institutions of higher education as defined by Section 61.003, Education Code. The information booklet provided to the child and the foster parent shall be provided in the primary language spoken by that individual.

SECTION 18. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.122 to read as follows:

Sec. 264.122. COURT APPROVAL REQUIRED FOR TRAVEL OUTSIDE UNITED STATES BY CHILD IN FOSTER CARE. (a) A child for whom the department has been appointed managing conservator and who has been placed in foster care may travel outside of the United States only if the person with whom the child has been placed has petitioned the court for, and the court has rendered an order granting, approval for the child to travel outside of the United States.

(b) The court shall provide notice to the department and to any other person entitled to notice in the suit if the court renders an order granting approval for the child to travel outside of the United States under this section.

SECTION 19. Subchapter C, Chapter 264, Family Code, is amended by adding Section 264.2011 to read as follows:

Sec. 264.2011. ENHANCED IN-HOME SUPPORT PROGRAM. (a) To the extent that funding is available, the department shall develop a program to strengthen families through enhanced in-home support. The program shall assist certain low-income families and children in child neglect cases in which poverty is believed to be a significant underlying cause of the neglect and in which the enhancement of in-home support appears likely to prevent removal of the child from the home or to speed reunification of the child with the family.

(b) A family that meets eligibility criteria for inclusion in the program is eligible to receive limited funding from a flexible fund account to cover nonrecurring expenses that are designed to help the family accomplish the objectives included in the family's service plan.

(c) The executive commissioner shall adopt rules establishing:

(1) specific eligibility criteria for the program described in this section;

(2) the maximum amount of money that may be made available to a family through the flexible fund account; and

(3) the purposes for which money made available under the program may be spent.

(d) The department shall evaluate the results of the program to determine whether the program is successful in safely keeping families together. If the department determines that the program is successful, the department shall continue the program to the extent that funding is available.

SECTION 20. Subsection (a), Section 264.203, Family Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the court on request of the department may order the parent, managing conservator, guardian, or other member of the subject ~~abused or neglected~~ child's household to:

(1) participate in the services the department provides or purchases for:

(A) alleviating the effects of the abuse or neglect that has occurred; or

(B) reducing the reasonable likelihood that the child may be abused or neglected in the immediate or foreseeable future; and

(2) ~~to~~ permit the child and any siblings of the child to receive the services.

SECTION 21. Chapter 266, Family Code, as added by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, is amended by adding Section 266.0031 to read as follows:

Sec. 266.0031. COMMITTEE ON PEDIATRIC CENTERS OF EXCELLENCE RELATING TO ABUSE AND NEGLECT. (a) The committee on pediatric centers of excellence relating to abuse and neglect is composed of 10 members appointed by the executive commissioner. The members must include:

(1) a representative of the attorney general's office;

(2) a representative of the Department of State Health Services;

(3) a representative of the Department of Family and Protective Services;

(4) a representative of the Health and Human Services Commission;

(5) a representative of a child advocacy center;

(6) three pediatricians who specialize in treating victims of child abuse;

(7) a representative from a children's hospital; and

(8) a representative of a medical school, as defined by Section 61.501, Education Code, with expertise in forensic consultation.

(b) The executive commissioner shall designate a member representing the Department of State Health Services as the presiding officer of the committee.

(c) If there is a medical director for the department, the executive commissioner shall appoint the medical director to be the department's representative on the committee.

(d) The committee shall:

(1) develop guidelines for designating regional pediatric centers of excellence that:

(A) provide medical expertise to children who are suspected victims of abuse and neglect; and

(B) assist the department in evaluating and interpreting the medical findings for children who are suspected victims of abuse and neglect;

(2) develop recommended procedures and protocols for physicians, nurses, hospitals, and other health care providers to follow in evaluating suspected cases of child abuse and neglect; and

(3) recommend methods to finance the centers of excellence and services described by this section.

(e) The committee shall report its findings and recommendations to the department and the legislature not later than December 1, 2008.

(f) This section expires January 1, 2010.

SECTION 22. Subsection (a), Section 2155.1442, Government Code, is amended to read as follows:

(a) Subject to Subsection (e), the state auditor shall conduct a management review of the residential contract management employees of the Health and Human Services Commission and the Department of Family and Protective Services and make recommendations regarding the organization of, and skills and educational requirements for, those employees. The state auditor shall also make recommendations regarding the implementation of financial accountability provisions and processes to ensure effective and efficient expenditure of state and other contract funds. ~~[The state auditor shall report annually to the governor, the lieutenant governor, the speaker of the house of representatives, and the comptroller on the auditor's recommendations and the commission's and department's implementation of each recommendation.]~~

SECTION 23. Subchapter A, Chapter 191, Health and Safety Code, is amended by adding Section 191.0047 to read as follows:

Sec. 191.0047. BIRTH INFORMATION FOR DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. (a) The Department of State Health Services shall implement an efficient and effective method to verify birth information or provide a certified copy of a birth record necessary to provide services for the benefit of a minor being served by the Department of Family and Protective Services.

(b) The Department of State Health Services shall enter into a memorandum of understanding with the Department of Family and Protective Services to implement this section. The terms of the memorandum of understanding must include methods

for reimbursing the Department of State Health Services in an amount that is not more than the actual costs the department incurs in verifying the birth information or providing the birth record to the Department of Family and Protective Services.

SECTION 24. Subchapter B, Chapter 40, Human Resources Code, is amended by adding Sections 40.0325 and 40.0326 to read as follows:

Sec. 40.0325. STUDY OF CASEWORKER EDUCATION REIMBURSEMENT. (a) The department shall study the effect that providing reimbursement for certain educational expenses would have on recruiting and retaining qualified child protective services caseworkers. The study must include a comparative analysis of the cost of training new caseworkers and the benefits of having an experienced caseworker staff with the cost of providing reimbursement for educational expenses.

(b) In determining the cost of reimbursing caseworkers for educational expenses, the department shall consider reimbursing caseworkers for tuition, academic fees, and other academic expenses the caseworker paid to an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, while the caseworker was enrolled in a bachelor's degree or advanced degree program in an academic program that the department determines provides necessary training for child protective services caseworkers.

(c) Not later than December 1, 2008, the department shall report its findings and recommendations to the governor, lieutenant governor, and speaker of the house of representatives.

Sec. 40.0326. RECRUITMENT OF CASEWORKERS. When recruiting child protective services caseworkers, the department shall target its recruitment efforts toward individuals who hold a bachelor's degree or advanced degree in at least one of the following academic areas:

- (1) social work;
- (2) counseling;
- (3) early childhood education;
- (4) psychology;
- (5) criminal justice;
- (6) elementary or secondary education;
- (7) sociology; or
- (8) human services.

SECTION 25. Section 40.0528, Human Resources Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) This section does not prevent the department from contracting for special investigator services as needed.

(d) In reporting information relating to caseloads of child protective services caseworkers, in addition to reporting caseload by each individual affected by the case, the department shall report the number of cases for each caseworker on the basis of family unit.

SECTION 26. Section 40.071, Human Resources Code, is amended to read as follows:

Sec. 40.071. DRUG-ENDANGERED CHILD INITIATIVE. The department shall establish a drug-endangered child initiative aimed at protecting children who are exposed to heroin, cocaine or any of its forms, or methamphetamine or to chemicals and other hazardous materials used in the illicit manufacture of methamphetamine.

SECTION 27. Section 42.001, Human Resources Code, is amended to read as follows:

Sec. 42.001. PURPOSE. The purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-care facilities by establishing statewide minimum standards for their safety and protection and by regulating the facilities through a licensing program ~~[or by requiring child-care facilities to be regulated by alternative accreditation bodies]~~. It is the policy of the state to ensure the protection of all children under care in child-care facilities and to encourage and assist in the improvement of child-care programs. It is also the intent of the legislature that freedom of religion of all citizens is inviolate. With respect to a school or child-care facility sponsored by a religious organization, nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the:

(1) form, manner, or content of religious instruction, ministry, teaching, or the curriculum offered by the school or facility;

(2) ability of the school or facility to select and supervise qualified personnel, and otherwise control the terms of employment, including the right to employ individuals who share the religious views of the school or facility;

(3) internal self-governance and autonomy of the school or facility; or

(4) religious environment of the school or facility, such as symbols, art, icons, and scripture.

SECTION 28. Subsections (a) and (b), Section 42.021, Human Resources Code, are amended to read as follows:

(a) The department may designate a division within the department to carry out responsibilities the department may delegate or assign under this chapter. The department shall ensure the independence of the division from the child protective services division.

(b) The commissioner shall appoint as director of a division designated under Subsection (a) a person who meets the qualifications set by the executive commissioner. The commissioner shall ensure the director's independence from the child protective services division and may not terminate the director without the approval of the executive commissioner.

SECTION 29. (a) Subchapter B, Chapter 42, Human Resources Code, is amended by adding Section 42.0211 to read as follows:

Sec. 42.0211. SAFETY SPECIALISTS, RISK ANALYSTS, AND PERFORMANCE MANAGEMENT. (a) The division shall employ at least one specially trained investigation safety specialist, whose duties include the duty to:

(1) review and evaluate the intake of reports that include allegations associated with a higher risk of harm to the child; and

(2) consult with the assigned investigator to provide specialized guidance and resources to assist the investigation.

(b) The division shall employ at least one risk analyst, whose duties include the duty to:

(1) identify facilities, including child-placing agencies, whose compliance histories indicate the potential for a higher risk of harm to children in the care of the facility;

(2) review the monitoring and inspection reports for any facilities described by Subdivision (1) to assess the quality of the investigation or monitoring; and

(3) identify any additional monitoring or enforcement action that may be appropriate to ensure the safety of a child in the care of the facility.

(c) The division must include a performance management unit with duties that include:

(1) conducting quality assurance reviews of randomly selected monitoring and investigative reports to ensure compliance with all relevant laws, rules, and agency policies; and

(2) making recommendations to improve the quality and consistency of monitoring and investigations.

(b) The Department of Family and Protective Services shall implement the change in law made by the enactment of Section 42.0211, Human Resources Code, by this Act only to the extent that funding is available.

SECTION 30. Subchapter B, Chapter 42, Human Resources Code, is amended by adding Section 42.0221 to read as follows:

Sec. 42.0221. COMMITTEE ON LICENSING STANDARDS. (a) The committee on licensing standards is composed of seven members appointed by the governor as follows:

(1) one member who operates a residential child-care facility licensed by the department;

(2) one member who operates a child-placing agency licensed by the department;

(3) one member who operates a licensed child-care facility that provides care for children for less than 24 hours a day;

(4) one member who is a parent, guardian, or custodian of a child who uses a facility licensed by the department;

(5) one member who is an expert in the field of child care and child development; and

(6) two members employed by the department who work with facilities licensed by the department.

(b) Members of the committee serve two-year terms, with the terms of three or four members, as appropriate, expiring February 1 of each year.

(c) The governor shall designate a member of the committee to serve as the presiding officer.

(d) The committee shall meet twice a year at the call of the presiding officer.

(e) The committee shall review and analyze the information provided by the department and committee members and shall make recommendations for policy and statutory changes relating to licensing standards and facility inspections. The review and analysis by the committee shall include the analysis of:

(1) the deaths of children who are in substitute care, including reports and findings of child fatality review teams under Subchapter F, Chapter 264, Family Code;
(2) the types of licensing violations for each weighted risk and region;
(3) the details of administrative reviews and appeals; and
(4) the type of technical assistance provided and the qualifications of those providing technical assistance.

(f) The committee shall report its findings and recommendations to the department and the legislature not later than December 1 of each year.

SECTION 31. Section 42.042, Human Resources Code, is amended by adding Subsection (r) to read as follows:

(r) A residential child-care facility that provides emergency services may temporarily exceed the facility's capacity for not more than 48 hours to provide temporary care for a child in an emergency. The facility shall notify the department within 24 hours of the placement that the facility temporarily exceeded the facility's capacity.

SECTION 32. (a) Section 42.044, Human Resources Code, is amended by adding Subsections (b-1) and (b-2) and amending Subsection (e) to read as follows:

(b-1) At least one of the unannounced, annual inspections of a residential child-care facility must be conducted by a team of at least two residential child-care monitoring staff, and, if feasible, members of the inspection team must be from different residential child-care monitoring units.

(b-2) Except as otherwise provided by this subsection, during an unannounced annual inspection of a day-care center, the department shall meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care center to assess whether the director meets the qualifications of a director specified by this chapter and department rules. If the director is not present during the unannounced annual inspection, the department shall schedule a subsequent meeting with the director for that purpose and shall conduct that meeting at the day-care center.

(e) In addition to the department's responsibility to investigate an agency foster home or agency foster group home under Subsection (c), the [The] department shall:

(1) periodically conduct inspections of a random sample of agency foster homes and agency foster group homes;

(2) investigate any report of a serious incident in an agency foster home or agency foster group home that pertains to a child under the age of six;

(3) investigate any alleged violation of a minimum standard by an agency foster home or agency foster group home that poses a high degree of risk to a child in the care of the home who is under the age of six; and

(4) conduct at least one annual enforcement team conference for each child-placing agency to thoroughly review the investigations or inspections of the child-placing agency and all of its agency homes[. The department shall use the inspections] to monitor and enforce compliance by a child-placing agency with rules and standards established under Section 42.042.

(b) The executive commissioner of the Health and Human Services Commission shall adopt rules specifying the types of alleged minimum standards violations that are considered to pose a high degree of risk to a child in the care of an agency foster home

or agency foster group home under the age of six and must be investigated by the Department of Family and Protective Services under Subdivision (3), Subsection (e), Section 42.044, Human Resources Code, as added by this Act.

(c) The Department of Family and Protective Services shall implement the change in law made by this Act to Section 42.044, Human Resources Code, only to the extent that funding is available. If funding is not available, the executive commissioner of the Health and Human Services Commission is not required to adopt rules as directed by Subsection (b) of this section.

SECTION 33. Subsection (a), Section 42.0445, Human Resources Code, is amended to read as follows:

(a) Before the department issues ~~[or renews]~~ a license, listing, registration, or certification under this subchapter, the department shall search the central registry of reported cases of child abuse or neglect established under Section 261.002, Family Code, to determine whether the applicant or the owner or an employee of the facility or family home is listed in the registry as a person who abused or neglected a child.

SECTION 34. Subsection (a), Section 42.0461, Human Resources Code, is amended to read as follows:

(a) Before the department may issue a license~~[, other than a renewal license,]~~ or certificate to operate under Subchapter E for the operation or the expansion of the capacity of a foster group home or foster family home that is located in a county with a population of less than 300,000 and that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker or of a child care institution, the applicant for the license, certificate, or expansion shall, at the applicant's expense:

(1) conduct a public hearing on the application in accordance with department rules after notifying the department of the date, time, and location of the hearing; and

(2) publish notice of the application in a newspaper of general circulation in the community in which the child-care services are proposed to be provided.

SECTION 35. Subsection (e), Section 42.048, Human Resources Code, is amended to read as follows:

(e) A license issued under this chapter is not transferable and applies only to the operator and facility location stated in the license application. Except as provided by this subsection, a [A] change in location or ownership automatically revokes a license. A change in location of a child-placing agency does not automatically revoke the license to operate the child-placing agency.

SECTION 36. Section 42.0535, Human Resources Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The department, by rule, shall develop a process by which a child-placing agency shall report to the department:

(1) the name of any verified foster home or foster group home that has been closed for any reason, including a voluntary closure;

(2) information regarding the reasons for the closure of the foster home or foster group home; and

(3) the name and other contact information of a person who may be contacted by another child-placing agency to obtain the records relating to the closed foster home or foster group home that are required to be maintained and made available under this section.

(f) Information gathered under Subsection (e) must be made available to child-placing agencies through a searchable database maintained by the department.

SECTION 37. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0536 to read as follows:

Sec. 42.0536. TRANSFER OF AGENCY FOSTER HOME. (a) An agency foster home that is verified by a child-placing agency may transfer to another child-placing agency only if, before the date of the transfer, the agency foster home notifies the child-placing agency to which the agency foster home is transferring of each licensing violation for which the agency foster home has been cited by the department during the preceding three years.

(b) The child-placing agency to which the agency foster home is transferring shall submit a written request for transfer to the child-placing agency that verified the agency foster home.

(c) Not later than the 10th day after the date the child-placing agency receives a request for transfer under Subsection (b), the child-placing agency shall provide the child-placing agency that submitted the request a copy of any of the following documents regarding the agency foster home:

(1) a corrective action plan;

(2) an annual development plan; or

(3) a description of any imposed or potential service limitation.

(d) The department caseworker for each child placed in the agency foster home may conduct a review meeting to determine whether the transfer of the agency foster home is in the best interest of each child in the home on the request of:

(1) the child-placing agency to which the agency foster home is transferring;

(2) the child-placing agency that verified the agency foster home;

(3) the agency foster home; or

(4) the caseworker.

(e) After a review meeting, the caseworker shall determine whether each child placed in the agency foster home shall:

(1) stay in the agency foster home after the agency foster home is transferred to the new child-placing agency; or

(2) be removed from the agency foster home before the agency foster home is transferred to the new child-placing agency.

SECTION 38. The heading to Section 42.056, Human Resources Code, is amended to read as follows:

Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES.

SECTION 39. Section 42.056, Human Resources Code, is amended by adding Subsections (a-2), (b-1), (g), (h), (i), (j), and (k) to read as follows:

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center shall submit a complete set of fingerprints of each person whose name is submitted by the director, owner, or operator under Subsection (a). The rules adopted by the executive commissioner:

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check; and

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a), the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints provided under Subsection (a-2), or causing the fingerprints to be submitted electronically as authorized by that subsection, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(g) Except as otherwise provided by this subsection, a person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a) may not provide direct care or have direct access to a child in a day-care center before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a day-care center and may provide direct care or have direct access to a child in the day-care center before the person's criminal history check under Subsection (b-1) is completed if:

(1) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the day-care center; and

(2) the day-care center is experiencing a staffing shortage that, if the day-care center were not allowed to employ the person until completion of the federal criminal history check, would result in a staff-to-child ratio that violates the department's minimum standards.

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a day-care center during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the day-care center, the director, owner, or operator of the day-care center shall immediately terminate the person's employment.

(i) A director, owner, or operator of a day-care center commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the day-care center or otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(j) A director, owner, or operator of a day-care center commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the day-care center, the director, owner, or operator knowingly:

(1) employs the person at the day-care center; or

(2) otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(k) An offense under Subsection (i) or (j) is a Class B misdemeanor.

SECTION 40. Section 42.0705, Human Resources Code, is amended to read as follows:

Sec. 42.0705. RANGE OF PENALTIES. The department shall revoke ~~or~~^[7] suspend~~[, or refuse to renew]~~ a license or registration, place on probation a person whose license or registration has been suspended, or reprimand a license holder or registration holder for a violation of this chapter or a rule of the board. If a license or registration suspension is probated, the department may require the license holder or registration holder to:

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

(2) limit services to the areas prescribed by the department;

(3) continue or review professional education until the license holder or registration holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation; or

(4) take corrective action relating to the violation on which the probation is based.

SECTION 41. Subchapter D, Chapter 42, Human Resources Code, is amended by adding Section 42.0761 to read as follows:

Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR. (a) An owner or operator of a day-care center commits an offense if the owner or operator knowingly operates the day-care center:

(1) without a director who meets the qualifications of a director prescribed by department rules; or

(2) without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

(b) An offense under this section is a Class B misdemeanor.

SECTION 42. Subsection (a), Section 42.078, Human Resources Code, is amended to read as follows:

(a) The department may impose an administrative penalty against a facility or family home licensed or registered under this chapter that violates this chapter or a rule or order adopted under this chapter. In addition, the department may impose an administrative penalty against a residential child-care facility or a controlling person of a residential child-care facility if the facility or controlling person:

(1) violates a term of a license or registration issued under this chapter;
(2) makes a statement about a material fact that the facility or person knows or should know is false:

(A) on an application for the issuance ~~[or renewal]~~ of a license or registration or an attachment to the application; or

(B) in response to a matter under investigation;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by the facility; or

(B) any part of the premises of the facility;

(4) purposefully interferes with the work of a representative of the department or the enforcement of this chapter; or

(5) fails to pay a penalty assessed under this chapter on or before the date the penalty is due, as determined under this section.

SECTION 43. The heading to Chapter 45, Human Resources Code, is amended to read as follows:

CHAPTER 45. CONTRACTS FOR ~~[PRIVATIZATION OF]~~ SUBSTITUTE CARE
AND CASE MANAGEMENT SERVICES

SECTION 44. Subdivisions (1), (12), and (13), Section 45.001, Human Resources Code, are amended to read as follows:

(1) "Case management services" has the meaning assigned by Section 264.106, Family Code ~~[means the provision of case management services to a child for whom the department has been appointed temporary or permanent managing conservator, including caseworker child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates].~~

(12) "Substitute care provider" has the meaning assigned by Section 264.106, Family Code ~~[means a child care institution or a child-placing agency, as defined by Section 42.002].~~

(13) "Substitute care services" has the meaning assigned by Section 264.106, Family Code ~~[means services provided to or for children in substitute care and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, and post placement supervision, including relative placement. The term does not include the regulation of facilities under Subchapter C, Chapter 42].~~

SECTION 45. The heading to Section 45.002, Human Resources Code, is amended to read as follows:

Sec. 45.002. CONTRACTS FOR ~~[PRIVATIZING SUBSTITUTE CARE AND]~~ CASE MANAGEMENT SERVICES; DEPARTMENT DUTIES.

SECTION 46. Subsections (a) and (c), Section 45.002, Human Resources Code, are amended to read as follows:

(a) Not later than September 1, 2008 ~~[2011]~~, the department shall contract with one or more providers of [complete the statewide privatization of the provision of substitute care and] case management services in one or more geographic areas of the state as provided by Section 264.106, Family Code, with a goal of contracting for those services in five percent of the cases in this state.

(c) The [On and after September 1, 2011, the] department shall:

(1) monitor the quality of services for which the department ~~contracts [and each independent administrator contract]~~ under this chapter; [and]

(2) ensure that the services are provided in accordance with federal law and the laws of this state, including department rules and rules of the Department of State Health Services and the Texas Commission on Environmental Quality; and

(3) ensure that all substitute care and case management service providers, to the extent possible, honor the cultural and religious affiliations of a child placed in the service provider's care, regardless of the religious affiliation of the service provider.

SECTION 47. Section 45.004, Human Resources Code, is amended to read as follows:

Sec. 45.004. ~~[INDEPENDENT ADMINISTRATORS;] DEPARTMENT DATA SYSTEM DUTIES. [(a) The department shall research and develop a comprehensive strategy for contracting for management support services from independent administrators on a regional basis. If the department determines that an independent administrator could manage and procure substitute care and case management services contracts with private agencies and conduct placement assessments in a more cost beneficial manner, the department shall implement a transition plan to transfer the procurement, management, and oversight of substitute care and case management services from the department to an independent administrator, as well as responsibility for placement assessments. If the department determines that contracting for management support from an independent administrator is not cost beneficial, the privatization of substitute care and case management services will occur as provided by Section 45.002(b).]~~

~~[(b) The comprehensive strategy, at a minimum, must:~~

~~[(1) use competitively procured independent administrators to procure and manage substitute care and case management providers in a geographic region designated by the department;~~

~~[(2) require independent administrators to contract with private agencies that will:~~

~~[(A) increase local foster and adoptive placement options for all children, especially teenagers, sibling groups, children whose race or ethnicity is disproportionately represented in foster care, children with severe or multiple disabilities, and other children who are difficult to place; and~~

~~[(B) expand efforts to recruit foster families, adoptive families, and alternative care providers through faith-based and other targeted recruitment programs; and~~

~~[(3) allow permanency services providers to enter client, service, and outcome information into the department's client data system.~~

~~[(e)] Subject to the appropriation of funds, the department shall:~~

(1) enhance existing data systems to include contract performance information; and

(2) implement a contracting data system developed or procured by the department, to track quality assurance and other contracting tools to effectively manage, monitor, and evaluate performance-based contracting functions.

SECTION 48. The heading to Section 45.054, Human Resources Code, is amended to read as follows:

Sec. 45.054. EVALUATION OF CASE MANAGEMENT SERVICES ~~[REGIONAL IMPLEMENTATION]~~.

SECTION 49. Subsections (c) and (d), Section 45.054, Human Resources Code, are amended to read as follows:

(c) Not later than the ~~second~~ first anniversary of the date the department enters into the first contract for ~~[substitute care and]~~ case management services under a pilot program described by this chapter and Section 264.106, Family Code [section], the department shall contract with a qualified, independent third party to evaluate the pilot program ~~[each phase of the privatization of substitute care and case management services]~~. Each evaluation must:

(1) assess the performance of ~~[substitute care and]~~ case management services based on compliance with defined quality outcomes for children;

(2) assess the achievement of performance measures;

(3) compare for quality the performance of ~~[substitute care and]~~ case management services provided by contractors to ~~[substitute care and]~~ case management services provided by the department ~~[in similar regions]~~;

(4) determine if contracted services are cost beneficial; and

(5) assess the contractor's ~~[private sector's]~~ ability to meet the performance measures ~~[including service capacity, for the remaining regions]~~.

(d) The independent third party with whom the department contracts under Subsection (c) shall submit its reports and recommendations to the House Human Services Committee, or its successor, and the Senate Health and Human Services Committee, or its successor, not later than September 1, 2010.

SECTION 50. Section 45.101, Human Resources Code, is amended to read as follows:

Sec. 45.101. GOALS FOR CONTRACTING ~~[PRIVATIZATION]~~. In contracting for substitute care and case management services, the department's goals shall be:

~~(1) [The transition plan adopted under Section 45.053 must provide for a new structural model for the community centered delivery of substitute care and case management services that is based on a goal of]~~ improving protective services;

~~(2) [r]~~ achieving timely permanency for children in substitute care, including family reunification, placement with a relative, or adoption;~~[r]~~ and

~~(3) improving the overall well-being of children in substitute care consistent with federal and state mandates.~~

SECTION 51. (a) The Department of Family and Protective Services shall develop a child protective services improvement plan that is designed to build on the child protective services reform elements added by Chapter 268, Acts of the 79th

Legislature, Regular Session, 2005. In developing the plan, the department shall seek to expand on or modify initiatives that have resulted in demonstrable improvements and that serve the primary goals of:

- (1) keeping families together while ensuring child safety in the home;
 - (2) reducing the length of time children remain in state care; and
 - (3) improving the quality and accountability of foster care.
- (b) The improvement plan must include:
- (1) expanding the use of family group decision-making;
 - (2) reducing caseloads for caseworkers providing family-based safety services and ongoing substitute care services;
 - (3) implementing an enhanced in-home support program, as enacted by Section 264.2011, Family Code, as added by this Act, to provide enhanced in-home supports to certain families;
 - (4) providing additional purchased client services designed to keep families together and to reunite families more quickly while ensuring child safety;
 - (5) enhancing support of kinship placements by hiring or contracting to provide additional kinship workers to provide additional support and education to relative placements and purchasing additional support services for relative placements;
 - (6) enhancing services needed to support court services and preparation of records for adoptive placement;
 - (7) improving the quality and accountability of child-care licensing monitoring and investigations by assigning those functions to separate staff, providing specialized training to staff who perform each function, performing additional investigations of certain reports involving young children, and providing additional support and oversight to both functions;
 - (8) expanding substitute and adoptive placement quality and capacity in local communities through the procurement of a statewide needs assessment and through implementation of recommendations for expanding and improving provider capabilities;
 - (9) streamlining criminal history background checks to increase the efficiency and effectiveness of those checks;
 - (10) improving the quality of services delivered by the Department of Family and Protective Services through expanded use of mobile technology and enhancements to the department's CLASS and IMPACT database systems and operations;
 - (11) expanding implementation of the remediation plan required under Section 1.54, Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, to address racial or ethnic disparities in foster care; and
 - (12) implementing a statewide pilot program for a time-limited, posthospitalization "step-down" rate, approved by the executive commissioner of the Health and Human Services Commission, to support the successful transition of children who have experienced or are likely to experience multiple inpatient admissions in a psychiatric hospital to an appropriate level of care.

(c) The recommendations for expanding and improving provider capabilities under Subdivision (8), Subsection (b) of this section, must include provisions for start-up funding for providers to build necessary capacity in the state, partnerships with community leaders to identify local resources to support building capacity, and the development of pilot projects to procure regional capacity development. Beginning September 1, 2007, at the end of each fiscal year, the Department of Family and Protective Services shall prepare a progress report that details the department's activities in implementing the recommendations described in Subdivision (8), Subsection (b) of this section. The progress report must include regional data regarding the number of children in state conservatorship who are placed in their home region separated into classifications based on levels of care. The Department of Family and Protective Services shall submit the periodic progress reports required by this subsection to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) appropriate oversight committees of the legislature;
- (5) the Legislative Budget Board; and
- (6) the state auditor.

(d) The Department of Family and Protective Services shall implement the improvement plan described by this section only to the extent that funds are available for that purpose. If funds are available to support some, but not all, elements of the plan, the department shall implement only those parts of the plan for which funding is available. To the extent feasible, the department shall contract for services needed to implement elements of the improvement plan, including the services needed to expand family group decision-making, family-based safety services, kinship support services, and purchased client services.

SECTION 52. (a) Not later than December 31, 2007, the Department of Family and Protective Services shall prepare and submit a detailed plan for:

(1) the implementation of each element of the child protective services improvement plan required by Section 51 of this Act for which funding has been obtained; and

(2) the continued implementation of all child protective services reform activities required by Chapter 268, Acts of the 79th Legislature, Regular Session, 2005, as modified by this Act.

(b) At the end of each fiscal year beginning August 31, 2008, the Department of Family and Protective Services shall prepare and submit a progress report that details the department's activities in implementing the plan described by Subdivision (1), Subsection (a) of this section. The progress report must include the department's calculation of cost savings from reduced stays in foster care and any other cost savings that can be attributed to the implementation of the improvement plan and continued child protective services reforms.

(c) The Department of Family and Protective Services shall submit the implementation plan and periodic progress reports required by this section to:

- (1) the governor;
- (2) the lieutenant governor;

- (3) the speaker of the house of representatives;
- (4) appropriate oversight committees of the legislature;
- (5) the Legislative Budget Board; and
- (6) the state auditor.

(d) This section expires September 1, 2010.

SECTION 53. The Department of Family and Protective Services shall actively pursue a waiver or other authorization from an appropriate federal agency to use any available federal funds, including funds available under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), to provide monthly monetary assistance under a caregiver assistance agreement in accordance with Section 264.755, Family Code.

SECTION 54. The following sections are repealed:

- (1) Subsections (d), (f), (i), (j), and (k), Section 264.106, Family Code;
- (2) Section 264.1062, Family Code;
- (3) Section 42.022, Human Resources Code;
- (4) Section 42.0505, Human Resources Code;
- (5) Subdivisions (5), (6), (8), (9), (10), and (11), Section 45.001, Human Resources Code;
- (6) Subsections (b), (d), and (e), Section 45.002, Human Resources Code;
- (7) Sections 45.052 and 45.053, Human Resources Code;
- (8) Subsections (a), (b), and (e) through (h), Section 45.054, Human Resources Code; and
- (9) Section 45.102, Human Resources Code.

SECTION 55. The change in law made by this Act to Section 102.004, Family Code, applies only to an original suit affecting the parent-child relationship filed on or after the effective date of this Act. An original suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date that the suit was filed, and the former law is continued in effect for that purpose.

SECTION 56. Subsections (a-2), (b-1), (g), and (h), Section 42.056, Human Resources Code, as added by this Act, apply to the conduct of background and criminal history checks of a person whose name is submitted to the Department of Family and Protective Services under Subsection (a), Section 42.056, Human Resources Code, on or after the effective date of this Act.

SECTION 57. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 758** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 4139

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 4139** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL
HINOJOSA
WATSON
WENTWORTH

FLYNN
BERMAN
R. COOK
HARTNETT
HOPSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 4139** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1332**

Senator West submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1332** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WEST
BRIMER
WHITMIRE

CHAVEZ
BRANCH
DUTTON
FROST

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the establishment of debt management policies and guidelines by the Bond Review Board, including the approval by the board of certain interest rate management agreements, and to other matters affecting public finance.

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

SECTION 1. Section 1201.027, Government Code, is amended by adding Subsection (d) to read as follows:

(d) An issuer of a state security, as defined by Section 1231.001, that selects or contracts with a person to provide services under Subsection (a) shall, on request, submit to the Bond Review Board:

(1) the request for proposals to provide the services not later than the date the request for proposals is published;

(2) each final proposal received to provide the services before a contract for the services is entered into by the issuer; and

(3) an executed contract entered into by an issuer for services under Subsection (a).

SECTION 2. Section 1231.001, Government Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including a swap, basis, forward, option, cap, collar, floor, lock, or hedge transaction, for a transaction similar to those types of transactions, or for a combination of any of those types of transactions. The term includes:

(A) a master agreement that provides standard terms for transactions;

(B) an agreement to transfer collateral as security for transactions; and

(C) a confirmation of transactions.

SECTION 3. Subdivision (2), Section 1231.001, Government Code, is amended to read as follows:

(2) "State security" means:

(A) an obligation, including a bond, issued by:

(i) a state agency;

(ii) an entity that is expressly created by statute and has statewide jurisdiction; or

(iii) an entity issuing the obligation on behalf of this state or on behalf of an entity described by Subparagraph (i) or (ii); ~~or~~

(B) an installment sale or lease-purchase obligation that is issued by or on behalf of an entity described by Paragraph (A) and that has:

(i) a stated term of more than five years; or

(ii) an initial principal amount of more than \$250,000; or

(C) an obligation, including a bond, that is issued under Chapter 53, Education Code, at the request of or for the benefit of an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college.

SECTION 4. Subsection (c), Section 1231.023, Government Code, is amended to read as follows:

(c) The board shall adopt policies that:

(1) provide a mechanism for evaluating the amount of state debt that can be managed prudently;

(2) address opportunities to consolidate debt authority;

(3) include guidelines for:

(A) appropriate levels of reserves;

(B) the types of state security that should be issued under various circumstances; and

- (C) the terms or structure of a state security;
- (4) help the board and issuers of state securities to evaluate:

(A) the potential risks involved in the issuance of a state security or in the execution of an interest rate management agreement; and

(B) the effect that the issuance of a state security or that the execution of an interest rate management agreement will have on the finances and on the overall debt position of the issuer and of the state; and

(5) recommend other advisable practices related to the issuance of a state security.

SECTION 5. Subchapter D, Chapter 1231, Government Code, is amended by adding Section 1231.063 to read as follows:

Sec. 1231.063. DEBT AFFORDABILITY STUDY. (a) The board, in consultation with the Legislative Budget Board, shall annually prepare a study regarding the state's current debt burden by:

(1) analyzing the state's historical debt use and financial and economic resources to determine the amount of additional not self-supporting debt the state can accommodate; and

(2) monitoring how annual changes and new debt authorizations affect the mechanism described in Subsection (b).

(b) The study must include a mechanism that can be used to determine, at a minimum, the state's debt affordability and serve as a guideline for debt authorizations and debt service appropriations. The mechanism must be designed to calculate:

(1) the not self-supporting debt service as a percentage of unrestricted revenues;

(2) the ratio of not self-supporting debt to personal income;

(3) the amount of not self-supporting debt per capita;

(4) the rate of debt retirement; and

(5) the ratio of not self-supporting debt service to budgeted or expended general revenue.

(c) Not later than December 1 of each year, the board shall submit the annual study to:

(1) the governor;

(2) the comptroller;

(3) the presiding officer of each house of the legislature; and

(4) the Senate Committee on Finance and House Appropriations Committee.

(d) The annual study submitted under Subsection (c) must include a target and limit ratio for not self-supporting debt service as a percentage of unrestricted revenues.

SECTION 6. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.124 to read as follows:

Sec. 1232.124. PREFERENCE FOR TEXAS BUSINESSES. If the authority contracts with a private entity to issue bonds under this chapter, the authority shall consider contracting with:

(1) an entity that has a place of business in this state; and

(2) a historically underutilized business as defined by Section 2161.001.

SECTION 7. Chapter 1371, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ADVISERS RETAINED FOR THE ISSUANCE OF PUBLIC SECURITIES AND RELATED MATTERS

Sec. 1371.151. DEFINITIONS. In this subchapter:

(1) "Advice" means the advice provided by an adviser regarding activities described by Sections 1371.154(b)(2)(A)-(C).

(2) "Adviser" means a person who provides advice regarding activities described by Sections 1371.154(b)(2)(A)-(C).

(3) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including:

(A) a swap, basis, forward, option, cap, collar, floor, lock, or hedge; or

(B) any combination of these types of agreements or transactions.

(4) "Municipal finance professional" means an individual, other than an individual whose functions are solely clerical or ministerial, whose activities include:

(A) underwriting, trading, or the sale of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of public securities, the execution and delivery of interest rate management agreements, or the investment of the proceeds of public securities;

(C) research or investment advice with respect to municipal securities, provided that the research or advice relates to an activity described by Paragraph (A) or (B); or

(D) any other activity that involves direct or indirect communication with public investors regarding public securities, provided that the activity relates to an activity described by Paragraph (A) or (B).

(5) "Public security" has the meaning assigned by Section 1202.001.

Sec. 1371.152. EXEMPTIONS. This subchapter does not apply to:

(1) an issuer who has more than \$3 billion in outstanding obligations as of September 1, 2007, or to a nonprofit corporation investing funds on behalf of such an issuer;

(2) a person acting as a financial adviser with respect to an issuance of public securities by an issuer created under Chapter 222, Water Code, delivered before January 1, 2010, under a contract that was in effect on September 1, 2007, and that has not been modified since that date;

(3) an employee of an issuer providing advice to the issuer or to another issuer;

(4) a state agency:

(A) created by Section 49-b, Article III, Texas Constitution; or

(B) the head of which is an officer in the executive department under Section 1, Article IV, Texas Constitution; or

(5) a corporation created under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), by a municipality located in a county bordering the Rio Grande River.

Sec. 1371.153. EXEMPTIONS FOR CERTAIN ADVICE. This subchapter does not apply to advice to an issuer regarding:

(1) a loan or a line of credit by a depository institution to an issuer in a transaction not involving the issuance of a public security offered to a third party or parties; or

(2) a deposit of funds with a depository institution in compliance with another statute of this state.

Sec. 1371.154. FINANCIAL ADVISER OR INVESTMENT ADVISER QUALIFICATIONS AND REQUIREMENTS FOR CERTAIN AGREEMENTS AND TRANSACTIONS. (a) This section applies to a financial adviser or an investment adviser who advises the issuer in connection with:

(1) an interest rate management agreement;

(2) the execution or delivery of a public security; or

(3) the investment of the public security proceeds.

(b) To be eligible to be a financial adviser or an investment adviser under this subchapter, the adviser must:

(1) be registered:

(A) as a dealer or investment adviser in accordance with Section 12 or 12-1, The Securities Act (Article 581-12 or 581-12-1, Vernon's Texas Civil Statutes);
or

(B) with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.), if the adviser is providing advice on the investment of bond proceeds and not on the issuance of a public security or an interest rate management agreement;

(2) have relevant experience in providing advice to issuers in connection with:

(A) the issuance of public securities;

(B) the valuation of interest rate management agreements; or

(C) the investment of public security proceeds; and

(3) acknowledge in writing to the issuer that in connection with the transaction for which the adviser is providing advice the adviser:

(A) is acting as the issuer's agent; and

(B) has complied with the requirements of this subchapter.

Sec. 1371.155. REQUIREMENTS. (a) An adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), shall comply with the following with respect to all services contemplated under this subchapter to be provided in this state:

(1) in conducting services as an adviser of the issuer, the adviser shall deal fairly with all persons and may not engage in any deceptive, dishonest, or unfair practice;

(2) in recommending to an issuer any transaction involving the issuance of public securities, the execution and delivery of interest rate management agreements, or the investment of proceeds of securities, the adviser shall have reasonable grounds for making the recommendation based on the information made available by the issuer or information the adviser otherwise knows about the issuer;

(3) the adviser may not in any year, directly or indirectly, give or permit to be given to an employee or an elected or appointed official of an issuer gifts or services of value, including gratuities, that have a total cumulative value of more than \$100;

(4) the adviser may not, directly or indirectly, provide or agree to provide payment to a person who is not affiliated with the adviser for a solicitation of advisory business for the adviser; and

(5) the adviser may not act as adviser to an issuer before the second anniversary of the date of making a contribution to an official of the issuer if the contribution is made by:

(A) the adviser;

(B) a municipal finance professional associated with the adviser; or

(C) a political action committee controlled by the adviser or by a municipal finance profession associated with the adviser.

(b) Notwithstanding Subsection (a)(3), this section does not prohibit an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), from:

(1) giving an employee or an elected or appointed official of an issuer occasional gifts of meals or tickets to theatrical, sporting, or other entertainments hosted by the adviser;

(2) sponsoring legitimate business functions for the issuer that are recognized by the Internal Revenue Service as deductible business expenses; or

(3) providing to the issuer or an employee or elected or appointed official of the issuer gifts of reminder advertising.

(c) A gift or sponsorship given or provided by an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), to an issuer under Subsection (b) may not be so frequent or so extensive that a question of impropriety is raised.

(d) Notwithstanding Subsection (a)(5), this section does not prohibit an adviser, including an adviser that is not required to be registered under Section 1371.154(b)(1)(A), from acting as an adviser to an issuer if the only contributions made to an official of the issuer before the second anniversary of the date of making a contribution described by Subsection (a)(5):

(1) were made by municipal finance professionals who were entitled to vote; and

(2) were not in excess of \$250 for each election.

SECTION 8. Section 1372.031, Government Code, is amended to read as follows:

Sec. 1372.031. PRIORITIES FOR RESERVATIONS AMONG CERTAIN ISSUERS. (a) Except as provided by Subsection (b) and subject [Subject] to Sections 1372.0321 and 1372.0231, if, on or before October 20, more than one issuer in a category described by Section 1372.022(a)(2), (3), (4), or (6) applies for a reservation of the state ceiling for the next program year, the board shall grant reservations in that category in the order determined by the board by lot.

(b) Until August 1 of the program year, within the category described by Section 1372.022(a)(6), the board shall grant priority to the Texas Economic Development Bank for projects that the Texas Economic Development and Tourism Office determines meet the governor's criteria for funding from the Texas Enterprise Fund. Notwithstanding the priority, the Texas Economic Development Bank may not receive an amount greater than one-sixth of the portion of the state ceiling available under Section 1372.022(a)(6) on January 1 of the program year.

(c) In selecting projects for reservations of the state ceiling for a program year under Subsection (b), among those projects the Texas Economic Development and Tourism Office determines meet the governor's criteria for funding from the Texas Enterprise Fund the office shall give priority to obtaining reservations for those projects located or to be located in an economically depressed or blighted area, as defined by Section 2306.004, or in an enterprise zone designated under Chapter 2303.

(d) This section and Section 1372.063 do not give a priority to any project described by Subsection (b) for the purpose of selecting projects for reservations under Section 1372.022(b).

(e) The Texas Economic Development Bank is subject to Section 1201.027(d).

SECTION 9. Section 1372.063, Government Code, is amended to read as follows:

Sec. 1372.063. PRIORITY 1 CARRYFORWARD CLASSIFICATION. The priority 1 carryforward classification applies to:

(1) an issuer of a state-voted issue; and
(2) a state agency, other than an issuer of a state-voted issue, that applies for a carryforward designation for a project that:

(A) is described by Section 1372.067(a)(2); and
(B) the Texas Economic Development and Tourism Office determines meets the governor's criteria for funding from the Texas Enterprise Fund.

SECTION 10. Subsection (d), Section 1201.027, Government Code, as added by this Act, applies only to:

(1) a contract for which the solicitation of applicable bids, offers, qualifications, proposals, or other similar expressions of interest is published on or after September 1, 2007; or

(2) if no solicitation described by Subdivision (1) of this section is published in relation to the contract, a contract entered into on or after September 15, 2007.

SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Sections 1371.154 and 1371.155, Government Code, as added by this Act, take effect January 1, 2008.

The Conference Committee Report on **SB 1332** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 610**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 610** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR
NICHOLS
PATRICK
WATSON

F. BROWN
B. BROWN
D. HOWARD
ISETT
HANCOCK

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 610** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2094**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2094** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA
ELLIS
WHITMIRE

HILL
JACKSON
KRUSEE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2094** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3200**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3200** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE
DEUELL
HEGAR
HINOJOSA
SELIGER

On the part of the Senate

MADDEN
HAGGERTY
HOCHBERG
MCREYNOLDS
ZEDLER

On the part of the House

The Conference Committee Report on **HB 3200** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3851**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3851** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO
NELSON
CARONA

On the part of the Senate

MORRISON
AYCOCK
F. BROWN
PATRICK
ROSE

On the part of the House

The Conference Committee Report on **HB 3851** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 12**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 12** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

AVERITT
DUNCAN
BRIMER
ELTIFE

BONNEN
RITTER
HANCOCK
DRIVER
TAYLOR

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties.

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

ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND
ACCELERATED VEHICLE RETIREMENT PROGRAM

SECTION 1.01. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (7-a), (9-a), and (10-a) to read as follows:

(7-a) "Hybrid motor vehicle" means a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and a rechargeable energy storage system.

(9-a) "Motor vehicle" means a fully self-propelled vehicle having four wheels that has as its primary purpose the transport of a person or persons, or property, on a public highway.

(10-a) "Qualifying motor vehicle" means a motor vehicle that meets the requirements of Section 382.210(b).

SECTION 1.02. Subsection (b), Section 382.0622, Health and Safety Code, is amended to read as follows:

(b) Except as provided by Subsection ~~Subsections~~ (b-1) ~~and (c)~~, Clean Air Act fees shall be deposited in the state treasury to the credit of the clean air account and shall be used to safeguard the air resources of the state.

SECTION 1.03. Section 382.209, Health and Safety Code, is amended by amending Subsections (b), (e), and (g) and adding Subsections (i) and (j) to read as follows:

(b) The commission shall provide funding for local low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs with available funds collected under Section 382.202, 382.302, or other designated and available funds. The programs shall be administered in accordance with Chapter 783, Government Code. Program ~~[Programmatic]~~ costs may include call center management, application oversight, invoice analysis, education, outreach, and advertising. Not more than 10 percent of the money provided to a local low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program under this section may be used for the administration of the programs, including program costs.

(e) A vehicle is not eligible to participate in a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program established under this section unless:

(1) the vehicle is capable of being operated;

(2) the registration of the vehicle:

(A) is current; and

(B) reflects that the vehicle has been registered in the county implementing the program for the 12 months preceding the application for participation in the program;

(3) the commissioners court of the county administering the program determines that the vehicle meets the eligibility criteria adopted by the commission, the Texas Department of Transportation, and the Public Safety Commission; ~~[and]~~

(4) if the vehicle is to be repaired, the repair is done by a repair facility recognized by the Department of Public Safety, which may be an independent or private entity licensed by the state; and

(5) if the vehicle is to be retired under this subsection and Section 382.213, the replacement vehicle is a qualifying motor vehicle.

(g) A participating county may contract with any appropriate entity, including the regional council of governments or the metropolitan planning organization in the appropriate region, or with another county for services necessary to implement the participating county's low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program. The participating counties in a nonattainment region or counties participating in an early action compact under Subchapter H may agree to have the money collected in any one county be used in any other participating county in the same region. ~~[The participating counties may also agree to contract with any appropriate entity, including the regional metropolitan planning organization or council of governments, to implement a program under Section 382.217.]~~

(i) Notwithstanding the vehicle replacement requirements provided by Subsection (d)(2), the commission by rule may provide monetary or other compensatory assistance under the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program, subject to the availability of funds, for the replacement of a vehicle that meets the following criteria:

(1) the vehicle is gasoline-powered and is at least 10 years old;

(2) the vehicle owner meets applicable financial eligibility criteria;

(3) the vehicle meets the requirements provided by Subsections (e)(1) and (2); and

(4) the vehicle has passed a Department of Public Safety motor vehicle safety inspection or safety and emissions inspection within the 15-month period before the application is submitted.

(j) The commission may provide monetary or other compensatory assistance under the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program for a replacement vehicle or replacement assistance for a pre-1996 model year replacement vehicle that passes the required United States Environmental Protection Agency Start-Up Acceleration Simulation Mode Standards emissions test but that would have failed the United States Environmental Protection Agency Final Acceleration Simulation Mode Standards emissions test or failed to meet some other criterion determined by the commission; provided, however, that a replacement vehicle under this subsection must be a qualifying motor vehicle.

SECTION 1.04. Section 382.210, Health and Safety Code, is amended to read as follows:

Sec. 382.210. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

(a) The commission by rule shall adopt guidelines to assist a participating county in implementing a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program authorized under Section 382.209. The guidelines at a minimum shall recommend:

(1) a minimum and maximum amount for repair assistance;

(2) a minimum and maximum amount toward the purchase price of a replacement vehicle qualified for the accelerated retirement program, based on vehicle type and model year, with the maximum amount not to exceed:

(A) \$3,000 for a replacement car of the current model year or the previous three model years, except as provided by Paragraph (C);

(B) \$3,000 for a replacement truck of the current model year or the previous two model years, except as provided by Paragraph (C); and

(C) \$3,500 for a replacement hybrid vehicle of the current model year or the previous model year;

(3) criteria for determining eligibility, taking into account:

(A) the vehicle owner's income, which may not exceed 300 percent of the federal poverty level;

(B) the fair market value of the vehicle; and

(C) any other relevant considerations;

(4) safeguards for preventing fraud in the repair, purchase, or sale of a vehicle in the program; and

(5) procedures for determining the degree and amount of repair assistance a vehicle is allowed, based on:

(A) the amount of money the vehicle owner has spent on repairs;

(B) the vehicle owner's income; and

(C) any other relevant factors.

(b) A replacement vehicle described by Subsection (a)(2) must:

(1) except as provided by Subsection (c), be a vehicle in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R. Section 86.1811-04, as published in the February 10, 2000, Federal Register;

(2) have a gross vehicle weight rating of less than 10,000 pounds; and

(3) be a vehicle the total cost of which does not exceed \$25,000.

(c) The commission may adopt any revisions made by the federal government to the emissions standards described by Subsection (b)(1).

(d) A participating county shall provide an electronic means for distributing vehicle repair or replacement funds once all program criteria have been met with regard to the repair or replacement. The county shall ensure that funds are transferred to a participating dealer under this section not later than five business days after the date the county receives proof of the sale and any required administrative documents from the participating dealer.

(e) In rules adopted under this section, the commission shall require a mandatory procedure that:

(1) produces a document confirming that a person is eligible to purchase a replacement vehicle in the manner provided by this chapter, and the amount of money available to the participating purchaser;

(2) provides that a person who seeks to purchase a replacement vehicle in the manner provided by this chapter is required to have the document required by Subdivision (1) before the person enters into negotiation for a replacement vehicle in the manner provided by this chapter; and

(3) provides that a participating dealer who relies on a document issued as required by Subdivision (1) has no duty to otherwise confirm the eligibility of a person to purchase a replacement vehicle in the manner provided by this chapter.

(f) In this section, "total cost" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Transportation. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

SECTION 1.05. Section 382.213, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (d) through (i) to read as follows:

(a) Except as provided by Subsection (c) and Subdivision (5) of this subsection, a vehicle retired under an accelerated vehicle retirement program authorized by Section 382.209 may not be resold or reused in its entirety in this or another state. Subject to the provisions of Subsection (i), the automobile dealer who takes possession of the vehicle must submit to the program administrator proof, in a manner adopted by the commission, that the vehicle has been retired. The vehicle must be:

(1) destroyed;

(2) recycled;

(3) dismantled and its parts sold as used parts or used in the program;

(4) placed in a storage facility of a program established under Section 382.209 and subsequently destroyed, recycled, or dismantled and its parts sold or used in the program; or

(5) repaired, brought into compliance, and used as a replacement vehicle under Section 382.209(d)(2).

(d) Notwithstanding Subsection (a)(3), the dismantler of a vehicle shall scrap the emissions control equipment and engine. The dismantler shall certify that the equipment and engine have been scrapped and not resold into the marketplace. A person who causes, suffers, allows, or permits a violation of this subsection or of a rule adopted under this section is subject to a civil penalty under Subchapter D, Chapter 7, Water Code, for each violation. For purposes of this subsection, a separate violation occurs with each fraudulent certification or prohibited resale.

(e) Notwithstanding Subsection (d), vehicle parts not related to emissions control equipment or the engine may be resold in any state. The only cost to be paid by a recycler for the residual scrap metal of a vehicle retired under this section shall be the cost of transportation of the residual scrap metal to the recycling facility.

(f) Any dismantling of vehicles or salvaging of steel under this section must be performed at a facility located in this state.

(g) In dismantling a vehicle under this section, the dismantler shall remove any mercury switches in accordance with state and federal law.

(h) For purposes of this section, the commission shall adopt rules defining "emissions control equipment" and "engine."

(i) Notwithstanding any other provision of this section, and except as provided by this subsection, a dealer is in compliance with this section and incurs no civil or criminal liability as a result of the disposal of a replaced vehicle if the dealer produces proof of transfer of the replaced vehicle by the dealer to a dismantler. The defense provided by this subsection is not available to a dealer who knowingly and intentionally conspires with another person to violate this section.

SECTION 1.06. Subchapter G, Chapter 382, Health and Safety Code, is amended by adding Section 382.219 to read as follows:

Sec. 382.219. PURCHASE OF REPLACEMENT VEHICLE; AUTOMOBILE DEALERSHIPS. (a) An amount described by Section 382.210(a)(2) may be used as a down payment toward the purchase of a replacement vehicle.

(b) An automobile dealer that participates in the procedures and programs offered by this chapter must be located in the state. No dealer is required to participate in the procedures and programs provided by this chapter.

SECTION 1.07. Subchapter G, Chapter 382, Health and Safety Code, is amended by adding Section 382.220 to read as follows:

Sec. 382.220. USE OF FUNDING FOR LOCAL INITIATIVE PROJECTS. (a) Money that is made available to participating counties under Section 382.202(g) or 382.302 may be appropriated only for programs administered in accordance with Chapter 783, Government Code, to improve air quality. A participating county may agree to contract with any appropriate entity, including a metropolitan planning organization or a council of governments to implement a program under Section 382.202, 382.209, or this section.

(b) A program under this section must be implemented in consultation with the commission and may include a program to:

(1) expand and enhance the AirCheck Texas Repair and Replacement Assistance Program;

(2) develop and implement programs or systems that remotely determine vehicle emissions and notify the vehicle's operator;

(3) develop and implement projects to implement the commission's smoking vehicle program;

(4) develop and implement projects for coordinating with local law enforcement officials to reduce the use of counterfeit state inspection stickers by providing local law enforcement officials with funds to identify vehicles with counterfeit state inspection stickers and to carry out appropriate actions;

(5) develop and implement programs to enhance transportation system improvements; or

(6) develop and implement new air control strategies designed to assist local areas in complying with state and federal air quality rules and regulations.

(c) Money that is made available for the implementation of a program under Subsection (b) may not be expended for call center management, application oversight, invoice analysis, education, outreach, or advertising purposes.

(d) Fees collected under Sections 382.202 and 382.302 may be used, in an amount not to exceed \$5 million per fiscal year, for projects described by Subsection (b). The fees shall be made available only to counties participating in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs created under Section 382.209 and only on a matching basis, whereby the commission provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b).

SECTION 1.08. Subsection (b), Section 152.002, Tax Code, is amended to read as follows:

(b) "Total consideration" does not include:

(1) a cash discount;

(2) a full cash or credit refund to a customer of the sales price of a motor vehicle returned to the seller;

(3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the motor vehicle sold;

(4) a financing, carrying, or service charge or interest on credit extended on a motor vehicle sold under a conditional sale or other deferred payment contract;

(5) the value of a motor vehicle taken by a seller as all or a part of the consideration for sale of another motor vehicle, including any cash payment to the buyer under Section 348.404, Finance Code;

(6) a charge for transportation of the motor vehicle after a sale; ~~or~~

(7) motor vehicle inventory tax; or

(8) an amount made available to the customer under Subchapter G, Chapter 382, Health and Safety Code.

SECTION 1.09. Section 7.102, Water Code, is amended to read as follows:

Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to Chapter 37 of this code, Chapter 366, 371, or 372, Health and Safety Code, Subchapter G, Chapter 382, Health and Safety Code, or Chapter 1903, Occupations Code, shall be assessed for each violation a civil penalty not less than \$50 nor greater than \$5,000 for each day of each violation as the court or jury considers proper. A person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to any other matter within the commission's jurisdiction to enforce, other than violations of Chapter 11, 12, 13, 16, or 36 of this code, or Chapter 341, Health and Safety Code, shall be assessed for each violation a civil penalty not less than \$50 nor greater than \$25,000 for each day of each violation as the court or jury considers proper. Each day of a continuing violation is a separate violation.

SECTION 1.10. The following provisions of the Health and Safety Code are repealed:

- (1) Subsection (e), Section 382.0622;
- (2) Subsections (q) and (r), Section 382.202; and
- (3) Section 382.217.

SECTION 1.11. The Texas Commission on Environmental Quality shall review its current cutpoint levels for nitrogen oxide emissions and determine whether a lower cutpoint standard would best serve the interest of the public health and welfare. The determination shall be made by rule not later than January 1, 2008. If the commission adopts a lower cutpoint standard, the commission shall make the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program under Section 382.209, Health and Safety Code, as amended by this article, available to owners of vehicles that did not meet the prior, more stringent standard.

SECTION 1.12. (a) The Texas Commission on Environmental Quality shall seek to work in partnership with automobile manufacturers and dealers in the state to increase public awareness of and participation in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program under Section 382.209, Health and Safety Code, as amended by this article.

(b) Funding for the partnership described by Subsection (a) of this section shall be used exclusively for the purpose of publicizing the program.

SECTION 1.13. (a) The Texas Commission on Environmental Quality shall seek to work in partnership with the steel industry and automobile dismantlers to ensure that vehicles being replaced are scrapped and that proof of scrapping is provided to the commission.

(b) Not later than January 1, 2008, the Texas Commission on Environmental Quality shall adopt procedures for certifying that emissions control equipment and vehicle engines have been scrapped and not resold into the marketplace and shall by rule define "emissions control equipment" and "engine," as required by Section 382.213, Health and Safety Code, as amended by this article.

ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

SECTION 2.01. Section 386.002, Health and Safety Code, is amended to read as follows:

Sec. 386.002. EXPIRATION. This chapter expires August 31, 2013 [~~2010~~].

SECTION 2.02. Subsection (a), Section 386.052, Health and Safety Code, is amended to read as follows:

(a) In administering the plan established under this chapter and in accordance with the requirements of this chapter, the commission:

(1) shall:

(A) ~~[(1)]~~ manage plan funds and oversee the plan;

(B) ~~[(2)]~~ produce guidelines, protocols, and criteria for eligible projects;

(C) ~~[(3)]~~ develop methodologies for evaluating project cost-effectiveness;

(D) ~~[(4)]~~ prepare reports regarding the progress and effectiveness of the plan; and

(E) ~~[(5)]~~ take all appropriate and necessary actions so that emissions reductions achieved through the plan are credited by the United States Environmental Protection Agency to the appropriate emissions reduction objectives in the state implementation plan; and

(2) may hire staff and consultants needed to complete the commission's duties under this section and ensure timely review of applications and reimbursement of grant applicants' eligible project costs.

SECTION 2.03. Subsection (d), Section 386.053, Health and Safety Code, is amended to read as follows:

(d) The commission may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the ability of the plan to achieve its goals. Revisions may include, among other changes, adding additional pollutants, adding stationary engines or engines used in stationary applications, adding vehicles and equipment that use fuels other than diesel, or adjusting eligible program categories, as appropriate, to ensure that incentives established under this chapter achieve the maximum possible emissions reductions. The commission shall make a proposed revision available to the public before the 30th ~~[45th]~~ day preceding the date of final adoption of the revision and shall hold at least one public meeting to consider public comments on the proposed revision before final adoption.

SECTION 2.04. Subsection (c), Section 386.104, Health and Safety Code, is amended to read as follows:

(c) For a proposed project as described by Section 386.102(b), other than a project involving a marine vessel or engine, not less than 75 percent of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. The commission may also allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside a nonattainment area or affected county to count towards the percentage of use requirement in this subsection. For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of this state for a sufficient amount of time over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105.

SECTION 2.05. Subsection (a), Section 386.106, Health and Safety Code, is amended to read as follows:

(a) Except as provided by Section 386.107 and except for infrastructure projects and infrastructure purchases that are part of a broader retrofit, repower, replacement, or add-on equipment project, the commission may not award a grant for a proposed project the cost-effectiveness of which, calculated in accordance with Section 386.105 and criteria developed under that section, exceeds \$15,000 [~~\$13,000~~] per ton of oxides of nitrogen emissions reduced in the nonattainment area or affected county for which the project is proposed. This subsection does not restrict commission authority under other law to require emissions reductions with a cost-effectiveness that exceeds \$15,000 [~~\$13,000~~] per ton.

SECTION 2.06. Section 386.109, Health and Safety Code, is amended to read as follows:

Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. (a) The commission may consider for funding under Section 386.108:

(1) the purchase and installation at a site of equipment that is designed primarily to dispense qualifying fuel, other than standard gasoline or diesel, or the purchase of on-site mobile fueling equipment;

(2) infrastructure projects, including auxiliary power units, designed to dispense electricity to:

(A) motor vehicles;

(B) [~~and~~] on-road and non-road diesels; and

(C) marine vessels; and

(3) a project that involves a technology that allows a vehicle to replace with electric power, while the vehicle is parked, the power normally supplied by the vehicle's internal combustion engine.

(b) The commission may provide funding to other state agencies to implement projects under Subsection (a)(3), including funding for the lease, purchase, or installation of idle reduction technologies and facilities at rest areas and other public facilities on major highway transportation routes located in areas eligible for funding or for marine vessels operating on water routes eligible for funding. Funding under this subsection may include reasonable operational costs determined by the commission to be needed for the initial start-up and proper operation of the idle reduction technologies. The state agency leasing, owning, or operating the idle reduction facility constructed with funds provided under this subsection may, but is not required to, charge reasonable fees for the provision of idle reduction services provided that those fees are used to directly offset the cost of providing the services.

(c) In evaluating a request for funding of an eligible infrastructure project, the commission shall encourage the use of a technology that allows a vehicle to replace with electric power, while the vehicle is parked, the power normally supplied by the vehicle's internal combustion engine at the state's ports and border crossings in affected areas.

SECTION 2.07. Section 386.117, Health and Safety Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The commission shall:

(1) investigate the requirements for establishing an Internet-based application process for rebate grants and report those requirements to the legislature not later than December 31, 2007; or

(2) implement an Internet-based application process for rebate grants not later than June 1, 2008.

(f) The commission or its designee shall notify potential applicants of any changes to the rebate grant process by its e-mail list service and posting those changes on its Internet website at least 30 days before the changes become effective.

SECTION 2.08. Subsection (b), Section 386.251, Health and Safety Code, is amended to read as follows:

(b) The fund is administered by the commission ~~[controller]~~ for the benefit of the plan established under this chapter. The fund is exempt from the application of Section 403.095, Government Code. Interest earned on the fund shall be credited to the fund.

SECTION 2.09. Subsection (a), Section 386.252, Health and Safety Code, as amended by Section 3, Chapter 766, Section 3, Chapter 1095, and Section 11, Chapter 1125, Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which not more than four percent may be used for the clean school bus program and not more than 10 percent may be used for on-road diesel purchase or lease incentives;

(2) for the new technology research and development program, 9.5 percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan, and the balance is to be allocated each year to a ~~[that]~~ nonprofit organization or an institution of higher education based in Houston to be used to implement and administer the new technology research and development program under a contract with the commission for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(3) for administrative costs incurred by the commission and the laboratory, three percent of the money in the fund.

SECTION 2.10. Section 387.003, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c) through (h) to read as follows:

(a) A ~~The~~ nonprofit organization or institution of higher education described by Section 386.252(a)(2), under a contract with the commission as described by that section, shall establish and administer a new technology research and development program as provided by this chapter. The commission may contract with more than one entity and may limit the amount of each grant contract accordingly.

(c) The board of directors of a nonprofit organization under contract with the commission to establish and administer a new technology research and development program as provided by this chapter may not have more than 11 members, must include two persons of relevant scientific expertise to be nominated by the commission, and may not include more than four county judges selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. The two persons of relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

(d) The commission may enter into a grant contract with an institution of higher education described by Section 386.252(a)(2) for the institution to operate a testing facility which would be available for demonstration of eligible projects receiving grants under this chapter.

(e) The commission shall provide oversight as appropriate for grants provided to a nonprofit organization under this program.

(f) A nonprofit organization shall submit to the commission for approval a budget for the disposition of funds granted under this program.

(g) The commission shall limit the use of grants for administrative costs incurred by a nonprofit organization to an amount not to exceed 10 percent of the funding provided to the nonprofit organization under this program.

(h) A nonprofit organization that receives grants from the commission under this program is subject to Chapters 551 and 552, Government Code.

SECTION 2.11. Section 387.004, Health and Safety Code, is amended to read as follows:

Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS. The commission from time to time shall issue or contract with a nonprofit organization described by Section 386.252(a)(2) to issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology projects to be funded under the program.

SECTION 2.12. Section 387.005, Health and Safety Code, is amended to read as follows:

Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Grants awarded under this chapter shall be directed toward a balanced mix of:

(1) retrofit and add-on technologies and other advanced technologies that ~~to~~ reduce emissions from the existing stock of engines and vehicles targeted by the Texas emissions reduction plan;

(2) the establishment of a testing facility to evaluate retrofits, add-ons, advanced technologies, and fuels, or combinations of retrofits, add-ons, advanced technologies, and fuels, to determine their effectiveness in producing emissions reductions, with emphasis on the reduction of oxides of nitrogen; and

(3) advanced technologies for new engines and vehicles that produce very-low or zero emissions of oxides of nitrogen, including stationary and mobile fuel cells[;]

~~[(3) studies to improve air quality assessment and modeling; and~~

~~[(4) advanced technologies that reduce emissions from other significant sources].~~

(b) The commission, directly or through a nonprofit organization described by Section 386.252(a)(2), shall identify and evaluate and may consider making grants for technology projects that would allow qualifying fuels to be produced from energy resources in this state. In considering projects under this subsection, the commission shall give preference to projects involving otherwise unusable energy resources in this state and producing qualifying fuels at prices lower than otherwise available and low enough to make the projects to be funded under the program economically attractive to local businesses in the area for which the project is proposed.

(c) In soliciting proposals under Section 387.004 and determining how to allocate grant money available for projects under this chapter, the commission shall give special consideration to advanced technologies and retrofit or add-on projects that provide multiple benefits by reducing emissions of particulates and other air pollutants.

(d) A project that involves publicly or privately owned vehicles or vessels is eligible for funding under this chapter if the project meets all applicable criteria.

~~(e) [Studies authorized under Subsection (a)(3) shall be consistent with air quality research priorities identified by the commission and conducted in an independent and objective manner.~~

~~[(f)]~~ If a commissioner is an employee or owner of an entity that applies for a grant under this chapter, the commissioner, before a vote on the grant, shall disclose the fact of the commissioner's employment or ownership. The disclosure must be entered into the minutes of the meeting. The commissioner may not vote on or otherwise participate in the awarding of the grant. If the commissioner does not comply with this subsection, the entity is not eligible for the grant.

(f) Selection of grant recipients by a nonprofit organization described by Section 386.252(a)(2) under contract with the commission for the purpose of establishing and administering a new technology research and development program as provided by this chapter is subject to the commission's review and to the other requirements of this chapter. A grant contract under this chapter using funds described by Section 386.252 may not be made by a nonprofit organization if the commission or executive director of the commission does not consent to the grant or contract.

SECTION 2.13. Subsection (d), Section 151.0515, Tax Code, is amended to read as follows:

(d) This section expires August 31, 2013 ~~[September 30, 2010]~~.

SECTION 2.14. Subsection (c), Section 152.0215, Tax Code, is amended to read as follows:

(c) This section expires August 31, 2013 ~~[September 30, 2010]~~.

SECTION 2.15. Subsections (a), (b), and (b-1), Section 501.138, Transportation Code, are amended to read as follows:

(a) An applicant for a certificate of title, other than the state or a political subdivision of the state, must pay the county assessor-collector a fee of:

(1) \$33 if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(2) \$28 if the applicant's residence is any other county~~[-or~~

~~[(3) on or after September 1, 2010, \$28 regardless of the county in which the applicant resides].~~

(b) The county assessor-collector shall send:

(1) \$5 of the fee to the county treasurer for deposit in the officers' salary fund;

(2) \$8 of the fee to the department:

(A) together with the application within the time prescribed by Section 501.023; or

(B) if the fee is deposited in an interest-bearing account or certificate in the county depository or invested in an investment authorized by Subchapter A, Chapter 2256, Government Code, not later than the 35th day after the date on which the fee is received; and

(3) the following amount to the comptroller at the time and in the manner prescribed by the comptroller:

(A) \$20 of the fee if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(B) \$15 of the fee if the applicant's residence is any other county~~[-or~~

~~[(C) on or after September 1, 2010, \$15 regardless of the county in which the applicant resides].~~

(b-1) Fees collected under Subsection (b) to be sent to the comptroller shall be deposited as follows:

(1) before September 1, 2008, to the credit of the Texas emissions reduction plan fund; and

(2) on or after September 1, 2008, to the credit of the Texas Mobility Fund, except that \$5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015 ~~[2010]~~, shall be deposited to the credit of the Texas emissions reduction plan fund.

SECTION 2.16. Subsection (b-3), Section 501.138, Transportation Code, is amended to read as follows:

(b-3) This subsection and Subsection (b-2) expire September 1, 2015 ~~[2010]~~.

SECTION 2.17. Subsection (c), Section 502.1675, Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2013 ~~[2010]~~.

SECTION 2.18. Subsection (c), Section 548.5055, Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2013 ~~[2010]~~.

SECTION 2.19. Section 12, Chapter 1125, Acts of the 79th Legislature, Regular Session, 2005, amending Subsection (a), Section 386.252, Health and Safety Code, is repealed.

ARTICLE 3. ENERGY EFFICIENCY

SECTION 3.01. Section 388.003, Health and Safety Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) If the State Energy Conservation Office determines, based on written recommendations from the laboratory, that the latest published edition of the International Residential Code energy efficiency provisions or the latest published edition of the International Energy Conservation Code will result in residential or commercial energy efficiency and air quality that is equivalent to or better than the energy efficiency and air quality achievable under the editions adopted under Subsection (a) or (b), the office may by rule adopt the equivalent or more stringent editions and substitute them for the energy codes described by Subsection (a) or (b). The rule, if adopted, shall establish an effective date for the new energy codes but not earlier than nine months after the date of adoption. The laboratory shall make its recommendations not later than six months after publication of new editions at the end of each three-year code development cycle of the International Residential Code and the International Energy Conservation Code.

(b-2) The State Energy Conservation Office by rule shall establish a procedure for persons who have an interest in the adoption of energy codes under Subsection (b-1) to have an opportunity to comment on the codes under consideration and to have the commentary considered by the laboratory in developing its recommendations. The office shall consider persons who have an interest in adoption of those codes to include:

- (1) commercial and residential builders, architects and engineers;
- (2) municipal, county, and other local government authorities; and
- (3) environmental groups.

SECTION 3.02. Section 388.005, Health and Safety Code, is amended to read as follows:

Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN INSTITUTIONS OF HIGHER EDUCATION, STATE AGENCIES, AND CERTAIN POLITICAL SUBDIVISIONS. (a) In this section:

(1) "Institution of higher education" includes an institution of higher education as defined by Section 61.003, Education Code, and a private institution of higher education that receives funding from the state.

(2) "Political[, ~~political~~] subdivision" means:

(A) [~~(+)~~] an affected county; or
(B) [~~(+)~~] any political subdivision in a nonattainment area or in an affected county other than:

(i) [~~(A)~~] a school district; or

(ii) [~~(B)~~] a district as defined by Section 36.001 or 49.001, Water Code, that had a total annual electricity expense of less than \$200,000 in the previous fiscal year of the district.

(3) "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.

(b) Each political subdivision, institution of higher education, or state agency shall implement all energy efficiency measures that meet the standards established for a contract for energy conservation measures under Section 302.004(b), Local Government Code, in order to reduce electricity consumption by the existing facilities of the entity ~~[the political subdivision]~~.

(c) Each political subdivision, institution of higher education, or state agency shall establish a goal to reduce the electric consumption by the entity ~~[political subdivision]~~ by five percent each year for six ~~[five]~~ years, beginning September 1, 2007 ~~[January 1, 2002]~~.

(d) A political subdivision, institution of higher education, or state agency that does not attain the goals under Subsection (c) must include in the report required by Subsection (e) justification that the entity ~~[political subdivision]~~ has already implemented all available measures. An entity that submits a report under this subsection indicating it has already implemented all available measures is exempt from the annual reporting requirement of Subsection (e) if a subsequent report would indicate no change in status. An entity may be required to provide notice that it is exempt to the State Energy Conservation Office.

(e) A political subdivision, institution of higher education, or state agency annually shall report to the State Energy Conservation Office, on forms provided by that office, regarding the entity's ~~[political subdivision's]~~ efforts and progress under this section. The State Energy Conservation Office shall provide assistance and information to the entity ~~[political subdivisions]~~ to help it ~~[the political subdivisions]~~ meet the goals set under this section.

(f) This section does not apply to an institution of higher education or a state agency if:

(1) the State Energy Conservation Office determines that, before September 1, 2007, the institution or agency adopted a plan for conserving energy under which the institution or agency has set a percentage goal for reducing electric consumption; and

(2) the institution or agency submits reports on its conservation plan not less than quarterly to the governor, the Legislative Budget Board, and the State Energy Conservation Office.

SECTION 3.03. Subsection (b), Section 44.901, Education Code, is amended to read as follows:

(b) The board of trustees of a school district shall establish a goal to reduce the annual electric consumption by five percent each year for six years, beginning September 1, 2007. The board of trustees of a school district may enter into an energy savings performance contract in accordance with this section.

SECTION 3.04. Subsection (d), Section 2155.068, Government Code, is amended to read as follows:

(d) As part of the standards and specifications program, the commission shall review contracts for opportunities to recycle waste produced at state buildings, shall develop and update a list of equipment and appliances that meet the energy efficiency standards of Section 2158.301, and shall assist state agencies in selecting products under that section as appropriate.

SECTION 3.05. Chapter 2158, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS
FOR EQUIPMENT AND APPLIANCES

Sec. 2158.301. ENERGY CONSERVATION. If available and cost effective, the commission or another state agency shall purchase equipment and appliances for state use that meet or exceed the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

SECTION 3.06. (a) The State Energy Conservation Office shall adopt rules implementing a procedure for stakeholder participation as required under Subsection (b-2), Section 388.003, Health and Safety Code, as added by this article, as soon as practicable after the effective date of this Act.

(b) The State Energy Conservation Office shall adopt rules as necessary to implement Subsection (b), Section 44.901, Education Code, as amended by this article, as soon as practicable after the effective date of this Act.

SECTION 3.07. (a) The energy conservation standards for equipment and appliances under Section 2158.301, Government Code, as added by this article, apply to a purchase by a state agency on or after the effective date of this Act.

(b) The Texas Building and Procurement Commission shall develop a list of equipment and appliances under Section 2155.068, Government Code, as amended by this article, as soon as practicable after the effective date of this Act.

ARTICLE 4. IDLING OF MOTOR VEHICLES

SECTION 4.01. Subsections (b), (c), and (d), Section 382.0191, Health and Safety Code, are amended to read as follows:

(b) The commission may not prohibit or limit the idling of a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period. Idling is not necessary to power a heater or air conditioner if the vehicle is within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available.

(c) No driver using the vehicle's sleeper berth may idle the vehicle in a residential area as defined by Section 244.001, Local Government Code, or in a school zone or within 1,000 feet of a hospital or a public school during its hours of operation. An offense under this subsection shall be punishable by a fine not to exceed \$500.

(d) This section expires September 1, 2009 ~~[2007]~~.

ARTICLE 5. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
NOTIFICATION REQUIREMENTS

SECTION 5.01. Section 382.0516, Health and Safety Code, is amended to read as follows:

Sec. 382.0516. NOTICE TO STATE SENATOR, STATE ~~[AND]~~ REPRESENTATIVE, AND CERTAIN LOCAL OFFICIALS. (a) On receiving an application for a construction permit or an amendment to a construction permit, a special permit, or an operating permit for a facility that may emit air contaminants, the commission shall send notice of the application to the state senator and representative who represent the area in which the facility is or will be located.

(b) In addition to the notice required by Subsection (a), for an application that relates to an existing or proposed concrete batch plant, on receiving an application for a construction permit, an amendment to a construction permit, an operating permit, or an authorization to use a standard permit, the commission shall send notice of the application:

(1) to the county judge of the county in which the facility is or will be located; and

(2) if the facility is or will be located in a municipality or the extraterritorial jurisdiction of a municipality, to the presiding officer of the municipality's governing body.

SECTION 5.02. The notice provisions under Section 382.0516, Health and Safety Code, as amended by this article, apply only to an application for a permit that is submitted to the Texas Commission on Environmental Quality on or after the effective date of this article.

SECTION 5.03. This article takes effect September 1, 2007.

ARTICLE 6. ENFORCEMENT ACTIONS BASED ON INFORMATION PROVIDED BY A PERSON

SECTION 6.01. Subchapter A, Chapter 7, Water Code, is amended by adding Section 7.00251 to read as follows:

Sec. 7.00251. INITIATION OF CERTAIN CLEAN AIR ACT ENFORCEMENT ACTIONS USING INFORMATION PROVIDED BY A PERSON. If the commission determines that there are multiple violations based on information it receives as required by Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.) from a person, as defined in Section 382.003, Health and Safety Code, only those that require initiation of formal enforcement will be included in any proposed enforcement action. For all other violations that do not require initiation of formal enforcement, the commission may not include in the enforcement action the following:

(1) violations that are not repeat violations due to the same root cause from two consecutive investigations within the most recent five-year period; or

(2) violations that have been corrected within the time frame specified by the commission or for which the facility has not had the time specified by the commission to correct the violations.

ARTICLE 7. SOLAR ENERGY DEMONSTRATION PROJECT

SECTION 7.01. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9051 to read as follows:

Sec. 39.9051. ENERGY EFFICIENCY DEMONSTRATION PROJECTS FOR SOLAR ELECTRIC SYSTEM; GRANT PROGRAM. (a) The commission by rule shall establish grant programs for:

(1) a demonstration project for installation of solar electric systems for new residential subdivisions;

(2) a demonstration project for installation of solar electric systems for new or established affordable housing for persons with low incomes; and

(3) a demonstration project for installation of solar electric systems for not more than three small businesses.

(b) To qualify for a grant under this section, the solar electric system must be a device that:

(1) generates electricity using solar resources;

(2) has a generating capacity of not more than 1,000 kilowatts; and

(3) is installed with a manufacturer's warranty against breakdown or undue degradation for a period of at least five years.

(c) A demonstration project grant program established under this section must provide for full or partial payment of the cost of equipment and installation for the solar electric systems. The commission shall establish for each grant program a competitive bidding process for grant applicants. The commission shall consider the value of funding demonstration projects in different parts of this state, after considering the demographic and geographic diversity of this state.

(d) To qualify for a grant under Subsection (a)(1), the applicant:

(1) must be a person whose primary business activity is the building of residential housing developments; and

(2) must have installed or must be contractually obligated to install qualifying solar electric systems in each residence constructed in a residential subdivision.

(e) To qualify for a grant under Subsection (a)(2), the applicant must have installed or be contractually obligated to install a qualifying solar electric system for residential real property:

(1) appraised in accordance with Section 23.21, Tax Code, as affordable housing property; or

(2) subject to a contractual obligation that the property will be appraised in accordance with Section 23.21, Tax Code, as affordable housing property within a reasonable time after the grant is received.

(f) To qualify for a grant under Subsection (a)(3), the applicant must be a small business or owner of a small business that meets qualifications adopted by the commission after consideration of federal Small Business Administration standards for qualification for loans from that administration.

(g) The commission shall issue a report to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1 of each even-numbered year summarizing the status of the grant programs established under Subsection (a). The report must include the amount of money granted to each demonstration project and an evaluation of whether the projects demonstrate the economic and ecologic viability of solar electric system installations.

(h) This section expires December 31, 2010.

SECTION 7.02. (a) The Public Utility Commission of Texas may not spend money to implement a demonstration project grant program established under Section 39.9051, Utilities Code, as added by this article, except for money described by Subsection (b) of this section that is appropriated to the commission.

(b) The Public Utility Commission of Texas may solicit and accept gifts, grants, and other donations from any source to carry out the demonstration grant program established under Section 39.9051, Utilities Code, as added by this article.

(c) This section expires December 31, 2010.

ARTICLE 8. EFFECTIVE DATE

SECTION 8.01. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 12** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2093

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2093** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA

BRIMER

OGDEN

On the part of the Senate

HILL

KRUSEE

PHILLIPS

On the part of the House

The Conference Committee Report on **HB 2093** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3826

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3826** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI
AVERITT
SHAPIRO
VAN DE PUTTE

MORRISON
F. BROWN
MCCALL
D. HOWARD
PATRICK

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3826** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 892

Senator Fraser submitted the following Conference Committee Report:

Austin, Texas
May 24, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 892** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

FRASER
WENTWORTH
WEST

HILDERBRAN
CORTE
FARABEE
HEFLIN

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 892** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2265

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2265** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT
CARONA
LUCIO
NELSON
VAN DE PUTTE

On the part of the Senate

HAGGERTY
CHAVEZ
PICKETT
QUINTANILLA
TALTON

On the part of the House

The Conference Committee Report on **HB 2265** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3275**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3275** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR
CARONA
JANEK
PATRICK
WILLIAMS

On the part of the Senate

MILLER
O'DAY
CALLEGARI
ESCOBAR
PENA

On the part of the House

The Conference Committee Report on **HB 3275** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3732**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3732** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT
NICHOLS
NELSON
SHAPLEIGH

HARDCASTLE
DARBY
R. COOK
DESHOTEL
SOLOMONS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3732** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3314**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3314** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DUNCAN
OGDEN
WHITMIRE
WILLIAMS
ZAFFIRINI

KEFFER
CROWNOVER
PENA
RITTER
BONNEN

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3314** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3315**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3315** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DUNCAN
OGDEN
WHITMIRE
WILLIAMS
ZAFFIRINI

On the part of the Senate

KEFFER
Y. DAVIS
MCREYNOLDS
PAXTON
R. COOK

On the part of the House

The Conference Committee Report on **HB 3315** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3319**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3319** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DUNCAN
OGDEN
WHITMIRE
WILLIAMS
ZAFFIRINI

On the part of the Senate

KEFFER
Y. DAVIS
BONNEN
HILL
RITTER

On the part of the House

The Conference Committee Report on **HB 3319** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 539**

Senator West submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 539** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST
PATRICK
LUCIO
NICHOLS
WENTWORTH

On the part of the Senate

W. SMITH
COLEMAN
HEFLIN
C. HOWARD
WEST

On the part of the House

The Conference Committee Report on **HB 539** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 4

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 4** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT
DEUELL
URESTI

On the part of the Senate

PUENTE
CREIGHTON
GUILLEN
LAUBENBERG
MCCLENDON

On the part of the House

The Conference Committee Report on **HB 4** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 406

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 406** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WENTWORTH
CARONA
DUNCAN
HINOJOSA
WATSON

GONZALES
GOOLSBY
HOPSON
HUGHES

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to a motion for the recusal or disqualification of a statutory probate court judge.

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

SECTION 1. Subsections (f), (g), (i), and (k), Section 25.00255, Government Code, are amended to read as follows:

(f) Before further proceedings in a case in which a motion for the recusal or disqualification of a judge has been filed, the judge shall:

(1) recuse himself or herself; or

(2) request the assignment of [that the presiding judge of the statutory probate courts assign] a judge to hear the motion by forwarding the motion and opposing and concurring statements to the presiding judge of the statutory probate courts as provided by Subsection (h).

(g) A judge who recuses himself or herself:

(1) shall enter an order of recusal and request that the presiding judge of the statutory probate courts request the assignment of [assign] a judge to hear the motion for recusal or disqualification as provided by Subsection (i); and

(2) may not take other action in the case except for good cause stated in the order in which the action is taken.

(i) After receiving a request under Subsection (g) or (h), the presiding judge of the statutory probate courts shall immediately forward the request to the presiding judge of the administrative judicial district and request that the presiding judge of the administrative judicial district assign a judge to hear the motion for recusal or disqualification. On receipt of the request, the presiding judge of the administrative judicial district shall:

(1) immediately set a hearing before himself or herself or a judge designated by the presiding judge, except that the presiding judge may not designate a judge of a statutory probate court in the same county as the statutory probate court served by the judge who is the subject of the motion;

(2) cause notice of the hearing to be given to all parties or their counsel to the case; and

(3) make other orders, including orders for interim or ancillary relief, in the pending case.

(k) A party may file a motion for sanctions alleging that another party in the case filed a motion for the recusal or disqualification of a judge solely to delay the case and without sufficient cause. The presiding judge of the administrative judicial district or the judge assigned ~~[by the presiding judge]~~ to hear the motion for recusal may approve a motion for sanctions authorized by Rule 215.2(b), Texas Rules of Civil Procedure.

SECTION 2. Subchapter B, Chapter 25, Government Code, is amended by adding Section 25.00256 to read as follows:

Sec. 25.00256. TERTIARY RECUSAL MOTION AGAINST JUDGE. (a) In this section, "tertiary recusal motion" means a third or subsequent motion for recusal or disqualification filed in a case against any statutory probate court judge by the same party. The term includes any third or subsequent motion filed in the case by the same party, regardless of whether that motion is filed against a different judge than the judge or judges against whom the previous motions for recusal or disqualification were filed.

(b) A judge who declines recusal after a tertiary recusal motion is filed shall comply with applicable rules of procedure for recusal and disqualification except that the judge shall continue to:

(1) preside over the case;

(2) sign orders in the case; and

(3) move the case to final disposition as though a tertiary recusal motion had not been filed.

(c) A judge hearing a tertiary recusal motion against another judge who denies the motion shall award reasonable and necessary attorney's fees and costs to the party opposing the motion. The party making the motion and the attorney for the party are jointly and severally liable for the award of fees and costs. The fees and costs must be paid before the 31st day after the date the order denying the tertiary recusal motion is rendered unless the order is properly superseded.

(d) The denial of a tertiary recusal motion is only reviewable on appeal from final judgment.

(e) If a tertiary recusal motion is finally sustained, the new judge for the case shall vacate all orders signed by the sitting judge during the pendency of the tertiary recusal motion.

SECTION 3. Subsection (a), Section 30.016, Civil Practice and Remedies Code, is amended to read as follows:

(a) In this section, "tertiary recusal motion" means a third or subsequent motion for recusal or disqualification filed against a district court~~[-statutory probate court,]~~ or statutory county court judge by the same party in a case.

SECTION 4. The changes in law made by this Act apply only to a motion for recusal or disqualification of a judge that is filed on or after the effective date of this Act. A motion for recusal or disqualification of a judge filed before the effective date of this Act is governed by the law in effect on the date the motion was filed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 406** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 109**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 109** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT
DEUELL
HINOJOSA

TURNER
HUGHES
S. KING
DUKES
J. DAVIS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 109** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3382**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3382** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI
JANEK
SHAPIRO
WILLIAMS
ZAFFIRINI

NAISHTAT
BERMAN
D. HOWARD
LEIBOWITZ
MCCALL

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3382** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 23**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst

President of the Senate

Honorable Tom Craddick

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 23** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
DEUELL
WILLIAMS
WHITMIRE

On the part of the Senate

SMITHEE
EILAND
HANCOCK

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating relating to promoting the purchase and availability of health coverage.

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

ARTICLE 1. TEXLINK TO HEALTH COVERAGE PROGRAM

SECTION 1.01. Chapter 524, Insurance Code, is amended to read as follows:

CHAPTER 524. TEXLINK TO HEALTH COVERAGE [~~AWARENESS AND~~
~~EDUCATION~~] PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 524.001. DEFINITIONS. In this chapter:

(1) "Division" means the division of the department that administers the
TexLink to Health Coverage Program.

(2) "Program" means the TexLink to Health Coverage Program established
in accordance with this chapter.

Sec. 524.002. DIVISION RESPONSIBILITIES. Under the direction of the
commissioner, the division implements this chapter.

Sec. 524.003. TEXLINK TO HEALTH COVERAGE PROGRAM
ESTABLISHED. (a) The department shall develop and implement a health coverage
[~~public awareness and education~~] program that complies with this chapter. The
program must:

(1) educate the public about the importance and value of health coverage;

(2) promote personal responsibility for health care through the purchase of
health coverage;

(3) assist small employers, individuals, and others seeking to purchase health coverage with technical information necessary to understand available health coverage products;

(4) promote and facilitate the development and availability of new health coverage options;

(5) increase public awareness of health coverage options available in this state; and

(6) ~~(2) educate the public on the value of health coverage; and~~
~~(3)~~ provide information on health coverage options, including health savings accounts and compatible high deductible health benefit plans.

(b) The program must include a public awareness and education component.

[Sections 524.004-524.050 reserved for expansion]

SUBCHAPTER B. PUBLIC AWARENESS AND EDUCATION

Sec. 524.051. INFORMATION ABOUT SPECIFIC HEALTH BENEFIT PLAN ISSUERS. In materials produced for the program, the division ~~[(b) The department]~~ may include information about specific health benefit plan ~~[coverage]~~ issuers but may not favor or endorse one particular issuer over another.

Sec. 524.052. ~~[524.002-]~~ PUBLIC SERVICE ANNOUNCEMENTS. The division ~~[department]~~ shall develop and make public service announcements to educate consumers and employers about the availability of health coverage in this state.

Sec. 524.053. ~~[524.003-]~~ INTERNET WEBSITE; PRINTED MATERIALS; NEWSLETTER ~~[PUBLIC EDUCATION]~~. (a) The division ~~[department]~~ shall develop an Internet website and printed materials designed to educate small employers, individuals, and others seeking to purchase health coverage ~~[the public]~~ about ~~[the availability of]~~ health coverage in accordance with Section 524.003(a) ~~[this state, including information about health savings accounts and compatible high deductible health benefit plans].~~

(b) The division shall make the printed materials produced under the program available to small employers, individuals, and others seeking to purchase health coverage. The division may:

(1) distribute the printed materials through facilities such as libraries, health care facilities, and schools as well as other venues the division selects; and

(2) use other distribution methods the division selects.

(c) The division may produce a newsletter to provide updated information about health coverage to subscribers who elect to receive the newsletter. The division may:

(1) produce a newsletter under this subsection for small employers, for individuals, or for other purchasers of health coverage;

(2) distribute the newsletter on a monthly, quarterly, or other basis; and

(3) distribute the newsletter as a printed document or electronically.

Sec. 524.054. TOLL-FREE TELEPHONE HOTLINE; ACCESS TO INFORMATION. (a) The division may operate a toll-free telephone hotline to respond to inquiries and provide information and technical assistance concerning health coverage products.

(b) The Health and Human Services Commission, through its 2-1-1 telephone number for access to human services, may disseminate information regarding health coverage products provided to the commission by the department and may refer inquiries regarding health coverage products to the toll-free telephone hotline. The department may provide information to the Health and Human Services Commission as necessary to implement this subsection.

Sec. 524.055. EDUCATION FOR HIGH SCHOOL STUDENTS. (a) The division may develop educational materials and a curriculum to be used in high school classes that educate students about:

- (1) the importance and value of health coverage;
- (2) comparing health benefit plans; and
- (3) understanding basic provisions contained in health benefit plans.

(b) The division may consult with the Texas Education Agency in developing educational materials and a curriculum under this section.

Sec. 524.056. HEALTH COVERAGE FAIRS. (a) The division may conduct health coverage fairs to provide small employers, individuals, and others seeking to purchase health coverage the opportunity to obtain information about health coverage from division employees and from health benefit plan issuers and agents that elect to participate.

(b) The division shall seek to obtain funding for health coverage fairs conducted under this section through gifts and grants obtained in accordance with Subchapter D.

Sec. 524.057. COMMUNITY EVENTS. The division may participate in events held in this state to promote awareness of the importance and value of health coverage and to educate small employers, individuals, and others seeking to purchase health coverage about health coverage in accordance with Section 524.003(a).

Sec. 524.058. HEALTH COVERAGE PROVIDED THROUGH COLLEGES AND UNIVERSITIES. The division may cooperate with a public or private college or university to promote enrollment in health coverage programs sponsored by or through the college or university.

Sec. 524.059. SUPPORT FOR COMMUNITY-BASED PROJECTS. The division may provide support and assistance to individuals and organizations seeking to develop community-based health coverage plans for uninsured individuals.

Sec. 524.060. OTHER EDUCATION. The division may ~~[department shall]~~ provide other appropriate education to the public regarding health coverage and the importance and value of health coverage in accordance with Section 524.003(a).

Sec. 524.061. ~~[524.004.]~~ TASK FORCE. (a) The commissioner may ~~[shall]~~ appoint a task force to make recommendations regarding the division's duties under this subchapter ~~[health coverage public awareness and education program]~~. If appointed, the ~~[The]~~ task force must be ~~[is]~~ composed of:

- (1) one representative from each of the following groups or entities:
 - (A) health ~~[benefit]~~ coverage consumers;
 - (B) small employers;
 - (C) employers generally;
 - (D) insurance agents;
 - (E) the office of public insurance counsel;
 - (F) the Texas Health Insurance Risk Pool;

- (G) physicians;
- (H) advanced practice nurses;
- (I) hospital trade associations; and
- (J) medical units of institutions of higher education;

(2) a representative of the Health and Human Services Commission responsible for programs under Medicaid and the children's health insurance program; and

(3) one or more representatives of health benefit plan issuers.

(b) In addition to the individuals listed in Subsection (a), the commissioner may select to serve on any task force one or more individuals with experience in public relations, marketing, or another related field of professional services.

(c) The division may ~~[department shall]~~ consult the task force regarding the content for the public service announcements, Internet website, printed materials, and other educational materials required or authorized by this subchapter ~~[chapter]~~. The commissioner has authority to make final decisions as to what the program's materials will contain.

[Sections 524.062-524.100 reserved for expansion]

SUBCHAPTER C. ASSISTANCE FOR CERTAIN BUSINESSES

Sec. 524.101. FEDERAL TAX "TOOL KIT" FOR CERTAIN BUSINESSES.

The division may produce materials that provide information about obtaining health coverage in a manner that qualifies for favorable treatment under federal tax laws.

Sec. 524.102. ASSISTANCE FOR SMALL EMPLOYERS AND SINGLE-EMPLOYEE BUSINESSES. Division staff may respond to telephone inquiries regarding health coverage options for small employers and single-employee businesses and may speak at events to provide information about health coverage options for small employers and single-employee businesses and about the importance and value of health coverage.

Sec. 524.103. COOPERATIVES FOR SMALL AND LARGE EMPLOYERS. The division may provide information regarding the formation of or participation in private purchasing cooperatives and health group cooperatives in accordance with Subchapter B, Chapter 1501.

Sec. 524.104. ACCOUNTANT. The division may consult an accountant with experience in federal tax law and the purchase of group health coverage as necessary to implement this subchapter.

[Sections 524.105-524.150 reserved for expansion]

SUBCHAPTER D. FUNDING

Sec. 524.151 ~~[524.005]~~. FUNDING. The department may accept gifts and grants from any party, including a health benefit plan issuer or a foundation associated with a health benefit plan issuer, to assist with funding the program. The department shall adopt rules governing acceptance of donations that are consistent with Chapter 575, Government Code. Before adopting rules under this section ~~[subsection]~~, the department shall:

- (1) submit the proposed rules to the Texas Ethics Commission for review; and
- (2) consider the commission's recommendations regarding the regulations.

ARTICLE 2. CHILDREN'S HEALTH BENEFIT PLAN FOR SMALL
EMPLOYERS

SECTION 2.01. Section 1501.002, Insurance Code, is amended by adding Subdivision (1-a) and amending Subdivision (15) to read as follows:

(1-a) "Children's health benefit plan" means a health benefit plan offered in accordance with Section 1501.2525.

(15) "Small employer health benefit plan" means a health benefit plan developed by the commissioner under Subchapter F or any other health benefit plan offered to a small employer in accordance with Section 1501.252(c) or 1501.255. The term includes a children's health benefit plan.

SECTION 2.02. Section 1501.003, Insurance Code, is amended to read as follows:

Sec. 1501.003. APPLICABILITY: SMALL EMPLOYER HEALTH BENEFIT PLANS. (a) An individual or group health benefit plan is a small employer health benefit plan subject to Subchapters C-H if it provides health care benefits covering two or more eligible employees of a small employer and:

- (1) the employer pays a portion of the premium or benefits;
- (2) the employer or a covered individual treats the health benefit plan as part of a plan or program for purposes of Section 106 or 162, Internal Revenue Code of 1986 (26 U.S.C. Section 106 or 162); or
- (3) the health benefit plan is an employee welfare benefit plan under 29 C.F.R. Section 2510.3-1(j).

(b) A children's health benefit plan is a small employer benefit plan and, except as specifically provided by Section 1501.2525, is subject to Subchapters C-H in the same manner as any other small employer health benefit plan.

SECTION 2.03. Subsection (b), Section 1501.154, Insurance Code, is amended to read as follows:

(b) If a small employer offers multiple health benefit plans, the collective participation in those plans, including any children's health benefit plan, must be at least:

- (1) 75 percent of the employer's eligible employees; or
- (2) if applicable, the lower participation level offered by the small employer health benefit plan issuer under Section 1501.155.

SECTION 2.04. Subchapter F, Chapter 1501, Insurance Code, is amended by adding Section 1501.2525 to read as follows:

Sec. 1501.2525. CHILDREN'S HEALTH BENEFIT PLAN. (a) A small employer health benefit plan issuer may offer to a small employer a children's health benefit plan in accordance with this section.

(b) A children's health benefit plan provides coverage to children younger than 25 years of age:

- (1) who are dependents of eligible employees; and
- (2) whose family income is at or below 400 percent of the federal poverty level as determined by rules adopted by the commissioner.

(c) A children's health benefit plan may not provide coverage to an eligible employee or the spouse of an eligible employee.

(d) The commissioner by rule shall adopt minimum benefits required to be provided under a children's health benefit plan. This subchapter applies to a children's health benefit plan except to the extent the commissioner by rule determines that a provision of this subchapter is inappropriate as applied to a children's health benefit plan.

SECTION 2.05. Subchapter B, Chapter 1502, Insurance Code, is amended by adding Section 1502.054 to read as follows:

Sec. 1502.054. INAPPLICABILITY OF OTHER LAW. A children's health benefit plan offered under this chapter is not subject to Section 1501.2525.

SECTION 2.06. The commissioner of insurance shall adopt any rules necessary to implement the change in law made by this article not later than December 1, 2007. A small employer health benefit plan issuer may not offer a children's health benefit plan under Section 1501.2525, Insurance Code, as added by this article, before January 1, 2008.

ARTICLE 3. SPECIALTY CERTIFICATION FOR CERTAIN LIFE, ACCIDENT, AND HEALTH AGENTS

SECTION 3.01. Chapter 4054, Insurance Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. SPECIALTY CERTIFICATION FOR AGENTS SERVING CERTAIN EMPLOYER GROUPS

Sec. 4054.301. CERTIFICATION PROGRAM. The department shall establish a voluntary specialty certification program for individuals who market small employer health benefit plans in accordance with Chapter 1501.

Sec. 4054.302. QUALIFICATIONS. (a) To be eligible to receive a specialty certification under this subchapter, an individual must:

- (1) hold a general life, accident, and health license under this chapter;
- (2) satisfy the requirements of this subchapter; and
- (3) submit evidence of completion of training to the department in the manner prescribed by the commissioner.

(b) To maintain a specialty certification under this subchapter, an individual must continue to hold a general life, accident, and health license under this chapter.

Sec. 4054.303. TRAINING. (a) To be certified under this subchapter, an individual must first complete training in the law, including department rules, applicable to small employer health benefit plans offered under Chapter 1501.

(b) An individual seeking specialty certification under this subchapter must complete a course applicable to small employer health benefit plans under Chapter 1501, as prescribed and approved by the commissioner. Except as provided by Subsection (c), an individual is not eligible for the specialty certification unless, on completion of the course, it is certified to the commissioner as required by the department that the individual has:

- (1) completed the course; and
- (2) passed an examination testing the individual's knowledge and qualification.

(c) An individual seeking specialty certification under this chapter is not required to complete the course and examination required by Subsection (b) if the individual demonstrates to the department, in the manner prescribed by the department, that the individual holds a designation as:

- (1) a Registered Health Underwriter (RHU);
- (2) a Certified Employee Benefit Specialist (CEBS); or
- (3) a Registered Employee Benefits Consultant (REBC).

Sec. 4054.304. CONTINUING EDUCATION REQUIREMENTS. (a) To renew a specialty certification under this subchapter, the individual must complete five hours of continuing education applicable to small employer health benefit plans during the two-year certification period.

(b) Each hour of continuing education completed in accordance with this section may be used to satisfy an hour of a continuing education requirement otherwise applicable to the agent under this title.

Sec. 4054.305. OFFER OF SERVICES TO ALL GROUP SIZES. To hold a specialty certification under this subchapter, an individual must agree to market small employer health benefit plans to small employers that satisfy the requirements of Chapter 1501 without regard to the number of employees to be covered under the plan.

Sec. 4054.306. ADVERTISING. An individual who holds a specialty certification may advertise, in the manner specified by department rule, that the individual is specially trained to serve small employers.

Sec. 4054.307. LIST MAINTAINED BY DEPARTMENT; WEBSITE. The department shall maintain a list of all individuals who hold a specialty certification under this chapter, together with the business address and phone number of each individual and a general description of the individual's service area. The department shall publish the list on the department website.

Sec. 4054.308. RULES. The commissioner, in accordance with Section 36.001, may adopt rules as necessary to administer this subchapter.

SECTION 3.02. Section 4001.002, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Except as otherwise provided by this code, this title applies to each individual who holds a specialty certification under Subchapter G, Chapter 4054.

SECTION 3.03. Not later than January 1, 2008, the Texas Department of Insurance may begin issuing specialty certifications under Subchapter G, Chapter 4054, Insurance Code, as added by this article.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 23** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1908

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1908** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ELLIS
WENTWORTH
BRIMER
WEST

On the part of the Senate

MENENDEZ
CHISUM
SWINFORD
THOMPSON

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to affordable housing and to the receivership and rehabilitation of certain property; providing an administrative penalty.

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

SECTION 1. Subsections (d) and (i), Section 403.302, Government Code, are amended to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;

(6) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(7) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(8) ~~(7)~~ the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(9) ~~(8)~~ the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, 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;

(10) ~~(9)~~ a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code;

(11) ~~(10)~~ 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;

(12) ~~(11)~~ the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(13) ~~(12)~~ the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(14) ~~(13)~~ the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(14) ~~(d)(13)~~ subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(14) ~~(d)(13)~~ subtract from the market value as estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

SECTION 2. Chapter 2306, Government Code, is amended by adding Subchapter MM to read as follows:

SUBCHAPTER MM. TEXAS FIRST-TIME HOMEBUYER PROGRAM

Sec. 2306.1071. DEFINITIONS. In this subchapter:

(1) "First-time homebuyer" means a person who has not owned a home during the three years preceding the date on which an application under this subchapter is filed.

(2) "Home" means a dwelling in this state in which a first-time homebuyer intends to reside as the homebuyer's principal residence.

(3) "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) "Program" means the Texas First-Time Homebuyer Program.

Sec. 2306.1072. TEXAS FIRST-TIME HOMEBUYER PROGRAM. (a) The Texas First-Time Homebuyer Program shall facilitate the origination of single-family mortgage loans for eligible first-time homebuyers.

(b) The program may include down payment and closing cost assistance.

Sec. 2306.1073. ADMINISTRATION OF PROGRAM; RULES. (a) The department shall administer the program.

(b) The board shall adopt rules governing:

(1) the administration of the program;

(2) the making of loans under the program;

(3) the criteria for approving participating mortgage lenders;

(4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

(5) the verification of occupancy of the home by the homebuyer as the homebuyer's principal residence; and

(6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

Sec. 2306.1074. ELIGIBILITY. (a) To be eligible for a mortgage loan under this subchapter, a homebuyer must:

(1) qualify as a first-time homebuyer under this subchapter;

(2) have an income of not more than 115 percent of area median family income or 140 percent of area median family income in targeted areas; and

(3) meet any additional requirements or limitations prescribed by the department.

(b) To be eligible for a loan under this subchapter to assist a homebuyer with down payment and closing costs, a homebuyer must:

(1) qualify as a first-time homebuyer under this subchapter;

(2) have an income of not more than 80 percent of area median family income; and

(3) meet any additional requirements or limitations prescribed by the department.

(c) The department may contract with other agencies of the state or with private entities to determine whether applicants qualify as first-time homebuyers under this section or otherwise to administer all or part of this section.

Sec. 2306.1075. FEES. The board of directors of the department may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

Sec. 2306.1076. FUNDING. (a) The department shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(b) In addition to funds set aside for the program under Section 1372.023, the department may solicit and accept gifts and grants for the purposes of this section.

SECTION 3. Subsection (c), Section 2306.111, Government Code, as amended by Chapters 1367 and 1448, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(c) In administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall expend:

(1) ~~[at least]~~ 95 percent of these funds for the benefit of non-participating small cities and rural areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from the United States Department of Housing and Urban Development; and

(2) five percent of these ~~[- All]~~ funds ~~[not set aside under this subsection shall be used]~~ for the benefit of persons with disabilities who live in any area of this state ~~[areas other than non-participating areas].~~

SECTION 4. Section 2306.111, Government Code, is amended by amending Subsections (d), (d-1), (e), (f), and (g) and adding Subsections (d-2) and (d-3) to read as follows:

(d) The department shall allocate housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), housing trust funds administered by the department under Sections 2306.201-2306.206, and commitments issued under the federal low income housing tax credit program administered by the department under Subchapter DD to all urban ~~urban/exurban~~ areas and rural areas of each uniform state service region based on a formula developed by the department under Section 2306.1115 ~~[that is based on the need for housing assistance and the availability of housing resources in those urban/exurban areas and rural areas, provided that the allocations are consistent with applicable federal and state requirements and limitations. The department shall use the information contained in its annual state low income housing plan and shall use other appropriate data to develop the formula]~~. If the department determines under the formula that an insufficient number of eligible applications for assistance out of funds or credits allocable under this subsection are submitted to the department from a particular uniform state service region, the department shall use the unused funds or credits allocated to that region for all urban ~~urban/exurban~~ areas and rural areas in other uniform state service regions based on identified need and financial feasibility.

(d-1) In allocating low income housing tax credit commitments under Subchapter DD, the department shall, before applying the regional allocation formula prescribed by Section 2306.1115, set aside for at-risk developments, as defined by Section 2306.6702, not less than the minimum amount of housing tax credits required under Section 2306.6714. Funds or credits are not required to be allocated according to the regional allocation formula under Subsection (d) if:

(1) the funds or credits are reserved for contract-for-deed conversions or for set-asides mandated by state or federal law[?] and

~~(2)~~ each contract-for-deed allocation or set-aside allocation equals not more than 10 percent of the total allocation of funds or credits for the applicable program;

(2) the funds or credits are allocated by the department primarily to serve persons with disabilities; or

(3) the funds are housing trust funds administered by the department under Sections 2306.201-2306.206 that are not otherwise required to be set aside under state or federal law and do not exceed \$3 million during each application cycle.

(d-2) In allocating low income housing tax credit commitments under Subchapter DD, the department shall allocate five percent of the housing tax credits in each application cycle to developments that receive federal financial assistance through the Texas Rural Development Office of the United States Department of Agriculture. Any funds allocated to developments under this subsection that involve rehabilitation must come from the funds set aside for at-risk developments under Section 2306.6714 and any additional funds set aside for those developments under Subsection (d-1). This subsection does not apply to a development financed wholly or partly under Section 538 of the Housing Act of 1949 (42 U.S.C. Section 1490p-2).

(d-3) In allocating low income tax credit commitments under Subchapter DD, the department shall allocate to developments in rural areas 20 percent or more of the housing tax credits in the state in the application cycle, with \$500,000 or more in housing tax credits being reserved for each uniform state service region under this subsection. Any amount of housing tax credits set aside for developments in a rural area in a specific uniform state service region under this subsection that remains after the initial allocation of housing tax credits is available for allocation to developments in any other rural area first, and then is available to developments in urban areas of any uniform state service region.

(e) The department shall include in its annual low income housing plan under Section 2306.0721:

(1) the formula developed by the department under Section 2306.1115 ~~[Subsection (d)]~~; and

(2) the allocation targets established under the formula for the urban ~~[urban/exurban]~~ areas and rural areas of each uniform state service region.

(f) The department shall include in its annual low income housing report under Section 2306.072 the amounts of funds and credits allocated to the urban ~~[urban/exurban]~~ areas and rural areas of each uniform state service region in the preceding year for each federal and state program affected by the requirements of Subsection (d).

(g) For all urban ~~[urban/exurban]~~ areas and rural areas of each uniform state service region, the department shall establish funding priorities to ensure that:

(1) funds are awarded to project applicants who are best able to meet recognized needs for affordable housing, as determined by department rule;

(2) when practicable and when authorized under Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the least restrictive funding sources are used to serve the lowest income residents; and

(3) funds are awarded based on a project applicant's ability, when consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), practicable, and economically feasible, to:

(A) provide the greatest number of quality residential units;

(B) serve persons with the lowest percent area median family income;

(C) extend the duration of the project to serve a continuing public need;

(D) use other local funding sources to minimize the amount of state subsidy needed to complete the project; and

(E) provide integrated, affordable housing for individuals and families with different levels of income.

SECTION 5. Subchapter F, Chapter 2306, Government Code, is amended by adding Section 2306.1115 to read as follows:

Sec. 2306.1115. REGIONAL ALLOCATION FORMULA. (a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

SECTION 6. Subsection (b), Section 2306.6710, Government Code, is amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the commitment of development funding by local political subdivisions;

(F) the level of community support for the application, evaluated on the basis of written statements from the state representative or the state senator that represents the district containing the proposed development site ~~[elected officials]~~;

(G) the rent levels of the units;

(H) the cost of the development by square foot;

~~[and]~~

(I) the services to be provided to tenants of the development; and

(J) whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement; and

(3) encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

SECTION 7. Section 2306.004, Government Code, is amended by amending Subdivisions (4), (7), and (14) and adding Subdivisions (4-a), (12-a), (23-a), (23-b), (26-a), (28-a), (28-b), (35), and (36) to read as follows:

(4) "Department" means the Texas Department of Housing and Community Affairs or any successor agency.

(4-a) "Development funding" means:

(A) a loan or grant; or

(B) an in-kind contribution, including a donation of real property, a fee waiver for a building permit or for water or sewer service, or a similar contribution that:

(i) provides an economic benefit; and

(ii) results in a quantifiable cost reduction for the applicable development.

(7) "Elderly individual" means an individual 62 [60] years of age or older or of an age specified by the applicable federal program.

(12-a) "Grant" means financial assistance that is awarded in the form of money to a housing sponsor for a specific purpose and that is not required to be repaid. For purposes of this chapter, a grant includes a forgivable loan.

(14) "Housing sponsor" means[:

[~~(A)~~ an individual, ~~[including an individual or family of low and very low income or family of moderate income,~~] joint venture, partnership, limited partnership, trust, firm, corporation, limited liability company, other form of business organization, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, subject to the regulatory powers of the department and other terms and conditions in this chapter[; or

[~~(B) in an economically depressed or blighted area, or in a federally assisted new community located within a home rule municipality, the term may include an individual or family whose income exceeds the moderate income level if at least 90 percent of the total mortgage amount available under a mortgage revenue bond issue is designated for individuals and families of low income or families of moderate income].~~

(23-a) "Neighborhood organization" means an organization that is composed of persons living near one another within the organization's defined boundaries for the neighborhood and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. A neighborhood organization includes a homeowners' association or a property owners' association.

(23-b) "New construction" means any construction to a development or a portion of a development that does not meet the definition of rehabilitation under this section.

(26-a) "Rehabilitation" means the improvement or modification of an existing residential development through an alteration, addition, or enhancement. The term includes the demolition of an existing residential development and the reconstruction of any development units, but does not include the improvement or modification of an existing residential development for the purpose of an adaptive reuse of the development.

(28-a) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area; or

(C) in an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture, other than an area that is located in a municipality with a population of more than 50,000.

(28-b) "Rural development" means a development or proposed development that is located in a rural area, other than rural new construction developments with more than 80 units.

(35) "Uniform application and funding cycle" means an application and funding cycle established under Section 2306.1111.

(36) "Urban area" means the area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than an area described by Subdivision (28-a)(B) or eligible for funding as described by Subdivision (28-a)(C).

SECTION 8. Subsections (b) through (e), Section 2306.032, Government Code, are amended to read as follows:

(b) The board shall keep [complete] minutes and complete transcripts of board meetings. The department shall post the transcripts on its website and shall otherwise maintain all accounts, minutes, and other records related to the meetings ~~[shall be maintained by the department].~~

(c) All materials provided to the board ~~[in the possession of the department]~~ that are relevant to a matter proposed for discussion at a board meeting must be posted on the department's website not later than the third day before the date of the meeting; ~~made available in hard copy format at the department, filed with the secretary of state for publication by reference in the Texas Register, and disseminated by any other means required by this chapter or by Chapter 551.~~

(d) Any materials made available to the board by the department at a board meeting [The materials described by Subsection (c)] must be made available in hard copy format to the members of the public in attendance at [as required by Subsection (c)] ~~not later than the seventh day before the date of~~ the meeting. ~~[The board may not consider at the meeting any material that is not made available to the public by the date required by this subsection.]~~

(e) The board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this chapter [The agenda for a board meeting must state each project the staff is recommending for assistance by the department].

SECTION 9. Section 2306.039, Government Code, is amended to read as follows:

Sec. 2306.039. OPEN MEETINGS AND OPEN RECORDS. (a) Except as provided by Subsections [Subsection] (b) and (c), the department and the Texas State Affordable Housing Corporation are subject to Chapters 551 and 552.

(b) Chapters 551 and 552 do [This section does] not apply to the personal or business financial information, including social security numbers, taxpayer identification numbers, or bank account numbers, submitted by a housing sponsor or an individual or family to receive [for] a loan, grant, or other housing assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department, except that the department and the corporation are permitted to disclose information about any applicant in a form

that does not reveal the identity of the sponsor, individual, or family for purposes of determining eligibility for programs and in preparing reports required under this chapter.

(c) The department's internal auditor, fraud prevention coordinator, or ethics advisor may meet in an executive session of the board to discuss issues related to fraud, waste, or abuse.

SECTION 10. Subchapter B, Chapter 2306, Government Code, is amended by adding Sections 2306.040 through 2306.0503 to read as follows:

Sec. 2306.040. DEPARTMENT PARTICIPATION IN LEGISLATIVE HEARING. On request, the department shall participate in any public hearing conducted by a legislator to discuss a rule to be adopted by the department.

Sec. 2306.041. IMPOSITION OF PENALTY. The board may impose an administrative penalty on a person who violates this chapter or a rule or order adopted under this chapter.

Sec. 2306.042. AMOUNT OF PENALTY. (a) The amount of an administrative penalty may not exceed \$1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstance, extent, and gravity of any prohibited act;

and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts made to correct the violation; and

(5) any other matter that justice may require.

(c) The board by rule or through procedures adopted by the board and published in the Texas Register shall develop a standardized penalty schedule based on the criteria listed in Subsection (b).

Sec. 2306.043. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the director determines that a violation occurred, the director shall issue to the board a report stating:

(1) the facts on which the determination is based; and

(2) the director's recommendation on the imposition of the penalty, including a recommendation on the amount of the penalty.

(b) Not later than the 14th day after the date the report is issued, the director shall give written notice of the report to the person.

(c) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing before the board on the occurrence of the violation, the amount of the penalty, or both.

Sec. 2306.044. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Not later than the 20th day after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended penalty of the director; or
(2) make a request for a hearing before the board on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the director, the board by order shall approve the determination and impose the recommended penalty.

Sec. 2306.045. HEARING. (a) If the person requests a hearing before the board or fails to respond in a timely manner to the notice, the director shall set a hearing and give written notice of the hearing to the person.

(b) The board shall hold the hearing and make findings of fact and conclusions of law about the occurrence of the violation and the amount of a proposed penalty.

Sec. 2306.046. DECISION BY BOARD. (a) Based on the findings of fact and conclusions of law, the board by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(b) The notice of the board's order given to the person must include a statement of the right of the person to judicial review of the order.

Sec. 2306.047. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Not later than the 30th day after the date the board's order becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

Sec. 2306.048. STAY OF ENFORCEMENT OF PENALTY. (a) Within the 30-day period prescribed by Section 2306.047, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account;

or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the board's order is final;

or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the director by certified mail.

(b) If the director receives a copy of an affidavit under Subsection (a)(2), the director may file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit.

(c) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Sec. 2306.049. DECISION BY COURT. (a) Judicial review of a board order imposing an administrative penalty is by trial de novo.

(b) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(c) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed and may award the person reasonable attorney's fees.

Sec. 2306.050. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 2306.0501. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Sec. 2306.0502. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Sec. 2306.0503. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001.

SECTION 11. Section 2306.054, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The governor or director may appoint special advisory councils to:

- (1) assist the department in reviewing ~~adopting~~ basic policy; or
- (2) offer advice on technical aspects of certain programs.

(c) A special advisory council is subject to Chapter 2110, including Section 2110.008(a) but not including Section 2110.008(b).

SECTION 12. Subsection (a), Section 2306.057, Government Code, is amended to read as follows:

(a) Before the board approves any project application submitted under this chapter, the department, through the division with responsibility for compliance matters, shall:

(1) assess:

(A) the compliance history in this state of the applicant and any affiliate of the applicant with respect to all applicable requirements; and

(B) the compliance issues associated with the proposed project; and

(2) provide to the board a written report regarding the results of the assessments described by Subdivision (1).

SECTION 13. Subsection (a), Section 2306.069, Government Code, is amended to read as follows:

(a) With the approval of the attorney general, the department may hire appropriate ~~[The department shall obtain and evaluate information regarding the affirmative action policies and practices of proposed outside legal counsel. The department must include the evaluation in a request to the attorney general for]~~ outside legal counsel.

SECTION 14. Section 2306.070, Government Code, is amended to read as follows:

Sec. 2306.070. BUDGET. (a) In preparing the department's legislative appropriations request, the department shall also prepare:

(1) a report detailing the fees received, on a cash basis, for each activity administered by the department during each of the three preceding years;

(2) an operating budget for the housing finance division; and

(3) an explanation of any projected increase or decrease of three percent or more in fees estimated for the operating budget as compared to the fees received in the most recent budget year.

(b) The department shall submit the report, operating budget, and explanation to the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee.

SECTION 15. Subsections (a) and (b), Section 2306.072, Government Code, are amended to read as follows:

(a) Not later than March ~~[December]~~ 18 of each year, the director shall prepare and submit to the board an annual report of the department's housing activities for the preceding year.

(b) Not later than the 30th day after the date the board receives and approves the report, the board shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, and members of any legislative oversight committee.

SECTION 16. Subsections (a) and (b), Section 2306.0721, Government Code, are amended to read as follows:

(a) Not later than March ~~[December]~~ 18 of each year, the director shall prepare and submit to the board an integrated state low income housing plan for the next year.

(b) Not later than the 30th day after the date the board receives and approves the plan, the board shall submit the plan to the governor, lieutenant governor, and the speaker of the house of representatives.

SECTION 17. Section 2306.0723, Government Code, is amended to read as follows:

Sec. 2306.0723. REPORT CONSIDERED AS RULE ~~[PUBLIC PARTICIPATION REQUIREMENTS]~~. ~~[(a)]~~ The department shall consider the annual low income housing report to be a rule and in developing the report shall follow rulemaking procedures required by Chapter 2001 ~~[hold public hearings on the annual state low income housing plan and report before the director submits the report and the plan to the board. The department shall provide notice of the public hearings as required by Section 2306.0661. The published notice must include a summary of the report and plan. The department shall accept comments on the report and plan at the public hearings and for at least 30 days after the date of the publication of the notice of the hearings].~~

~~[(b) In addition to any other necessary topics relating to the report and the plan, each public hearing required by Subsection (a) must address:~~

~~[(1) infrastructure needs;~~

~~[(2) home ownership programs;~~

~~[(3) rental housing programs;~~

~~[(4) housing repair programs; and~~

~~[(5) the concerns of individuals with special needs, as defined by Section 2306.511.~~

~~[(e) The board shall hold a public hearing on the state low income housing report and plan before the board submits the report and the plan to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature.~~

~~[(d) The board shall include with the report and the plan the board submits to the governor, lieutenant governor, speaker of the house of representatives, members of the legislature, and members of the advisory board formed by the department to advise on the consolidated plan a written summary of public comments on the report and the plan.]~~

SECTION 18. Section 2306.082, Government Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) The department's procedures relating to alternative dispute resolution must designate [conform, to the extent possible, to any model guidelines issued by] the State Office of Administrative Hearings as the primary mediator and, to the extent practicable, conform to any guidelines or rules issued by that office [for the use of alternative dispute resolution by state agencies].

(c) The department shall designate a [trained] person employed by or appointed to the office of the director but who is not in the legal division to coordinate and process requests for the alternative dispute resolution procedures. The person must receive training from an independent source in alternative dispute resolution not later than the 180th day after the date the person was designated to coordinate and process requests for the alternative dispute resolution procedures[:

~~[(1) coordinate the implementation of the policy adopted under Subsection (a);~~

~~[(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and~~

~~[(3) collect data concerning the effectiveness of those procedures, as implemented by the department].~~

(d) The department shall notify a person requesting the alternative dispute resolution procedures that:

(1) an alternative dispute resolution decision is not binding on the state; and

(2) the department will mediate in good faith.

(e) The alternative dispute resolution procedures may be requested before the board makes a final decision.

(f) Notwithstanding any other provision of this section, the alternative dispute resolution procedures may not be used to unnecessarily delay a proceeding under this chapter.

SECTION 19. Section 2306.092, Government Code, is amended to read as follows:

Sec. 2306.092. DUTIES REGARDING CERTAIN PROGRAMS CREATED UNDER FEDERAL LAW. The department shall administer, as appropriate under policies established by the board:

(1) state responsibilities for programs created under the federal Economic Opportunity Act of 1964 (42 U.S.C. Section 2701 et seq.);

(2) programs assigned to the department under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35); and

(3) other federal acts creating economic opportunity programs assigned to the department.

SECTION 20. Section 2306.1111, Government Code, is amended to read as follows:

Sec. 2306.1111. UNIFORM APPLICATION AND FUNDING CYCLES [~~CYCLE~~]. (a) Notwithstanding any other state law and to the extent consistent with federal law, the department shall establish [~~a~~] uniform application and funding cycles [~~cycle~~] for all competitive single-family and multifamily housing programs administered by the department under this chapter, other than programs involving the issuance of private activity bonds.

(b) Wherever possible, the department shall use uniform threshold requirements for single-family and multifamily housing program applications, including uniform threshold requirements relating to market studies and environmental reports.

SECTION 21. Subsections (b), (c), and (d), Section 2306.1112, Government Code, are amended to read as follows:

(b) The advisory committee must include representatives from [~~is composed of the director, the administrator of each of the department's programs, and one representative from each of~~] the department's [~~planning,~~] underwriting[~~s~~] and compliance functions and from the divisions responsible for administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.) and for administering low income housing tax credits.

(c) [~~The advisory committee shall develop the funding priorities required by Section 2306.111(g) and shall make funding and allocation recommendations to the board based on the ability of applicants to meet those priorities.~~

[~~(d)~~] The advisory committee is not subject to Chapter 2110.

SECTION 22. Section 2306.1113, Government Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsection (c) to read as follows:

(a) During the period beginning on the date [~~a~~] project applications are [~~application is~~] filed in an application cycle and ending on the date the board makes a final decision with respect to the [~~any~~] approval of any [~~that~~] application in that cycle, a member of the board may not communicate with the following persons:

(1) an [~~the~~] applicant or a related party, as defined by state law, including board rules, and federal law; and

(2) any person who is:

(A) active in the construction, rehabilitation, ownership, or control of a [~~the~~] proposed project, including:

- (i) a general partner or contractor; and
- (ii) a principal or affiliate of a general partner or contractor; or
- (B) employed as a consultant, lobbyist, or attorney by an ~~the~~ applicant

or a related party.

(a-1) Subject to Subsection (a-2), during the period beginning on the date ~~a~~ project applications are [application is] filed in an application cycle and ending on the date the board makes a final decision with respect to the [any] approval of any [that] application in that cycle, an employee of the department may communicate about an ~~the~~ application with the following persons:

(1) the applicant or a related party, as defined by state law, including board rules, and federal law; and

(2) any person who is:

(A) active in the construction, rehabilitation, ownership, or control of the proposed project, including:

(i) a general partner or contractor; and

(ii) a principal or affiliate of a general partner or contractor; or

(B) employed as a consultant, lobbyist, or attorney by the applicant or a related party.

(b) Notwithstanding Subsection (a) or (a-1), a board member or department employee may communicate without restriction with a person listed in Subsection (a) or (a-1) during ~~at~~ any board meeting or public hearing held with respect to the application, but not during a recess or other nonrecord portion of the meeting or hearing.

(c) Subsection (a) does not prohibit the board from participating in social events at which a person with whom communications are prohibited may or will be present, provided that all matters related to applications to be considered by the board will not be discussed.

SECTION 23. Subsection (b), Section 2306.185, Government Code, is amended to read as follows:

(b) In implementing Subsection (a)(1) and in developing underwriting standards and application scoring criteria for the award of loans, grants, or tax credits to multifamily developments, the department shall ensure that the economic benefits of longer affordability terms, for specific terms of years as established by the board, and below market rate rents are accurately assessed and considered.

SECTION 24. Section 2306.229, Government Code, is amended by adding Subsection (c) to read as follows:

(c) For each loan made for the development of multifamily housing with funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall obtain a mortgagee's title policy in the amount of the loan. The department may not designate a specific title insurance company to provide the mortgagee title policy or require the borrower to provide the policy from a specific title insurance company. The borrower shall select the title insurance company to close the loan and to provide the mortgagee title policy.

SECTION 25. Subsection (a), Section 2306.359, Government Code, is amended to read as follows:

(a) In evaluating an application for an issuance of private activity bonds, the department shall score and rank the application using a point system based on criteria that are adopted by the department, including criteria[~~:-~~

~~[(+)]~~ regarding:

~~(1) [(A)]~~ the income levels of tenants of the development, consistent with the funding priorities provided by Section 1372.0321;

~~(2) [(B)]~~ the rent levels of the units;

~~(3) [(C)]~~ the level of community support for the application;

~~(4) [(D)]~~ the period of guaranteed affordability for low income tenants;

~~(5) [(E)]~~ the cost per unit of the development;

~~(6) [(F)]~~ the size, quality, and amenities of the units;

~~(7) [(G)]~~ the services to be provided to tenants of the development; and

~~(8) [(H)] the commitment of development funding by local political subdivisions that enables additional units for individuals and families of very low income; and~~

~~[(+)]~~ other criteria as developed by the board[~~:-~~and

~~[(2)] imposing penalties on applicants who have requested extensions of department deadlines relating to developments supported by an issuance of private activity bonds made in the application round preceding the current round].~~

SECTION 26. Subsection (a), Section 2306.514, Government Code, is amended to read as follows:

(a) If a person is awarded state or federal funds by the department to construct single family affordable housing for individuals and families of low and very low income, the affordable housing identified on the person's funding application must be constructed so that:

(1) at least one entrance door, whether located at the front, side, or back of the building:

(A) is on an accessible route served by a ramp or no-step entrance; and

(B) has at least a standard 36-inch door;

(2) on the first floor of the building:

(A) each interior door is at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet in area;

(B) each hallway has a width of at least 36 inches and is level, with ramped or beveled changes at each door threshold;

(C) each bathroom wall is reinforced for potential installation of grab bars;

(D) each electrical panel [~~or breaker box~~], light switch, or thermostat is not higher than 48 inches above the floor; and

(E) each electrical plug or other receptacle is at least 15 inches above the floor; and

(3) if the applicable building code or codes do not prescribe another location for the breaker boxes, each breaker box is located not higher than 48 inches above the floor inside the building on the first floor.

SECTION 27. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.6735 to read as follows:

Sec. 2306.6735. REQUIRED LEASE AGREEMENT PROVISIONS. A lease agreement with a tenant in a development supported with a housing tax credit allocation must:

(1) include any applicable federal or state standards identified by department rule that relate to the termination or nonrenewal of the lease agreement; and

(2) be consistent with state and federal law.

SECTION 28. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.67171 to read as follows:

Sec. 2306.67171. ELECTRONIC MAIL NOTIFICATION SERVICE. (a) The department shall maintain an electronic mail notification service to which any person in this state may electronically subscribe to receive information concerning the status of pre-applications and applications under this subchapter.

(b) The electronic mail notification service maintained under Subsection (a) must:

(1) allow a subscriber to request for a zip code notification of:

(A) the filing of any pre-application or application concerning a development that is or will be located in the zip code;

(B) the posting of the board materials for board approval of a list of approved applications or the issuance of final allocation commitments for applications described by Paragraph (A); and

(C) any public hearing to be held concerning an application or pre-application described by Paragraph (A); and

(2) respond to a subscriber via electronic mail not later than the later of:

(A) the 14th day after the date the department receives notice of an event described by Subdivision (1); or

(B) if applicable, the date or dates specified by Section 2306.6717(a).

(c) The department may include in an electronic mail notification sent to a subscriber any applicable information described by Section 2306.6717.

SECTION 29. Section 214.003, Local Government Code, is amended by amending Subsections (a), (b), (h), (k), (l), (n), (o), and (p) and adding Subsection (h-1) to read as follows:

(a) A home-rule municipality may bring an action in district court against an owner of ~~residential~~ property that is not in substantial compliance with the municipal ordinances regarding:

- (1) fire protection;
- (2) structural integrity;
- (3) zoning; or
- (4) disposal of refuse.

(b) Except as provided by Subsection (c), the court may appoint as a receiver for the property a nonprofit organization with a demonstrated record of rehabilitating ~~residential~~ properties if the court finds that:

- (1) the structures on the property are in violation of the standards set forth in Section 214.001(b) and an ordinance described by Subsection (a);
- (2) notice of violation was given to the record owner of the property; and
- (3) a public hearing as required by Section 214.001(d) has been conducted.

(h) On the completion of the restoration of ~~[to]~~ the property to ~~[of]~~ the minimum code standards of the municipality or guidelines for rehabilitating historic property, or before petitioning a court for termination of the receivership under Subsection (l):

(1) the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision, ~~[and]~~ all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses;

(2) if the income exceeds the total of the cost and expense of rehabilitation and any receivership fee, the rehabilitated property shall be restored to the owners and any net income shall be returned to the owners; and

(3) if the total of the costs and expenses and any receivership fee exceeds ~~[exceed]~~ the income received during the receivership, the receiver may ~~[shall]~~ maintain control of the property until the time all rehabilitation and maintenance costs and any receivership fee are recovered, or until the receivership is terminated.

(h-1) A receiver shall have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee.

(k) The court may not appoint a receiver for any property that~~[-~~

~~[(4)] is an owner-occupied, single-family residence[-or~~

~~[(2) is zoned nonresidential and used in a nonresidential character].~~

(l) A receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, may petition the court to terminate the receivership and order the sale of the property~~[-~~

~~[(1) if the receiver has been in control of the property for more than two years and no legal owner has been identified after a diligent search; or~~

~~[(2) after the receiver has been in control of the property for more than one year ~~[three years]~~, if an owner has been ~~[identified and]~~ served with notice ~~[notices]~~ but has failed to assume control or repay all rehabilitation and maintenance costs and any receivership fee of the receiver.~~

(n) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property for more than one year ~~[two years and no legal owner has been identified after a diligent search, or the receiver has been in control of the property for more than three years]~~ and an owner has ~~[been identified but has]~~ failed to repay all rehabilitation and maintenance costs and any receivership fee of the receiver; and

(3) no lienholder of record has intervened in the action and offered to repay the costs and any receivership fee of the receiver and assume control of the property.

(o) The court shall order the sale to be conducted by the petitioner in the same manner that a sale is conducted under Chapter 51, Property Code. If the record owners and lienholders are identified, notice of the date and time of the sale must be sent in the same manner as provided by Chapter 51, Property Code. If the owner cannot be located after due diligence, the owner may be served notice by publication. The receiver may bid on the property at the sale and may use a lien granted under Subsection (h-1) as credit toward the purchase. The petitioner shall make a report of the sale to the court.

(p) The court shall confirm the sale and order a distribution of the proceeds of the sale in the following order:

- (1) court costs;
- (2) costs and expenses of the receiver, and any lien held by the receiver; and
- (3) other valid liens.

SECTION 30. Subsection (a), Section 379D.010, Local Government Code, is amended to read as follows:

(a) The land bank shall impose deed restrictions with appropriate terms and conditions on property sold to qualified participating developers and eligible adjacent property owners that require:

- (1) the development and sale or rental of the property to low income households, if the property is sold to a qualified participating developer; or
- (2) the use of the property to be consistent and compatible with the residential character of the neighborhood and any applicable standards for use adopted by the land bank, if the property is sold to an eligible adjacent property owner.

SECTION 31. Section 379D.011, Local Government Code, is amended to read as follows:

Sec. 379D.011. RIGHT OF FIRST REFUSAL IN ELIGIBLE ADJACENT PROPERTY OWNERS; CONDITIONS OF PURCHASE. (a) Property acquired by the land bank shall be offered for sale, at fair market value as determined by the appraisal district in which the property is located, to eligible adjacent property owners under a right of first refusal on terms and conditions developed by the land bank that are consistent with this chapter.

(b) To be eligible to exercise a right of first refusal under this section, an owner of property adjacent to property acquired by the land bank:

- (1) must have owned and continuously occupied that property for at least the five preceding years as that person's principal residence; and
- (2) must meet any eligibility requirements adopted by the land bank.

(c) An adjacent property owner who purchases property under this section may not lease, sell, or otherwise transfer the property to another party before the 10th anniversary of the date the adjacent property owner purchases the property. This prohibition does not apply to a transfer of property, as allowed by policies adopted by the land bank:

- (1) to a family member of the adjacent property owner; or
- (2) in the case of the death of the adjacent property owner.

SECTION 32. Chapter 379D, Local Government Code, is amended by adding Section 379D.015 to read as follows:

Sec. 379D.015. EFFECT OF SALE TO LAND BANK OR SUBSEQUENT PURCHASERS OR LENDERS FOR VALUE; LIMITATION ON CERTAIN CAUSES OF ACTION. After the first anniversary of a sale of property to a land bank under this chapter:

- (1) a third party, other than a qualified participating developer or eligible adjacent property owner who purchased the property from the land bank under this chapter or a person with a cause of action based on a right, title, interest, or other

claim described by Subdivision (2)(A)(ii), may not bring a cause of action to set aside or otherwise challenge the sale of the property to the land bank, including a cause of action that is brought against:

(A) a qualified participating developer or eligible adjacent property owner who purchases property from the land bank under Section 379D.009 or 379D.011, as applicable; or

(B) any other subsequent purchaser for value or lender for value; and

(2) a qualified participating developer or eligible adjacent property owner who purchases property from a land bank under this chapter or any other subsequent purchaser for value or, if applicable, a lender for a developer, owner, or purchaser described by this subdivision or any other subsequent lender for value:

(A) has, with the following characteristics, a full title to the property:

(i) except as provided by Subparagraph (ii), the title is not subject to any right, title, interest, or other claim a person acquired in the property before or after the sale of the property to the land bank, including a right of first refusal, right of second refusal, and any other right, title, interest, or other claim provided by this chapter, other than the right of reverter provided by Section 379D.009(d); and

(ii) the title is subject only to:

(a) the recorded restrictive covenants, liens, and valid easements of record described by Section 34.01(n), Tax Code;

(b) any rights of redemption applicable to the property;

(c) any cause of action to impeach the property deed based on a claim of fraud;

(d) the right of reverter provided by Section 379D.009(d) and the recorded deed restrictions described by Section 379D.010; and

(e) any right, title, interest, or other claim with respect to the property that arose after the sale of the property to the land bank under a law other than this chapter; and

(B) may conclusively presume that:

(i) the sale of the property to the land bank under this chapter was valid; and

(ii) a mortgage on or a subsequent sale of the property complies with this chapter and is subject only to a right, title, interest, or other claim provided by Paragraph (A)(ii).

SECTION 33. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 379E to read as follows:

CHAPTER 379E. URBAN LAND BANK PROGRAM

Sec. 379E.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program Act.

Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER LAW. This chapter applies only to a municipality:

(1) to which Chapter 379C or 379D does not apply; and

(2) that has not ever adopted a homestead land bank program under Subchapter E, Chapter 373A.

Sec. 379E.003. DEFINITIONS. In this chapter:

(1) "Affordable" means that the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable median family income for that unit size, in accordance with the income and rent limit rules adopted by the Texas Department of Housing and Community Affairs.

(2) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(3) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

(4) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(5) "Qualified participating developer" means a developer who meets the requirements of Section 379E.005 and includes a qualified organization under Section 379E.011.

(6) "Urban land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 379E.006.

(7) "Urban land bank program" or "program" means a program adopted under Section 379E.004.

Sec. 379E.004. URBAN LAND BANK PROGRAM. (a) The governing body of a municipality may adopt an urban land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by this chapter.

(b) The governing body of a municipality that adopts an urban land bank program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in an urban land bank program, a developer must:

(1) have developed three or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the urban land bank plan.

Sec. 379E.006. URBAN LAND BANK PLAN. (a) A municipality that adopts an urban land bank program shall operate the program in conformance with an urban land bank plan.

(b) The governing body of a municipality that adopts an urban land bank program shall adopt a plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of first refusal provided by Section 379E.011;

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the next year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of money anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Sec. 379E.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The city manager or the city manager's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Sec. 379E.008. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice must be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided in Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this chapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this chapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(b) Within the three-year period following the date of acquisition, the land bank must sell a property to a qualified participating developer for the purpose of construction of affordable housing for sale or rent to low income households. If after three years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) Unless the municipality increases the amount in its plan, the number of properties acquired by a qualified participating developer under this section on which development has not been completed may not at any time exceed three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that, if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for

subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) If property is developed for rental housing, the deed restrictions must be for a period of not less than 20 years and must require that:

(1) 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development;

(2) 40 percent of the units be occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development; or

(3) 20 percent of the units be occupied by and affordable to households with incomes not greater than 30 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(e) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(f) The land bank or the governing body of the municipality may modify or add to the deed restrictions imposed under this section. Any modifications or additions made by the governing body of the municipality must be adopted by the municipality as part of its plan and must comply with the restrictions set forth in Subsections (b), (c), and (d).

Sec. 379E.011. RIGHT OF FIRST REFUSAL. (a) In this section, "qualified organization" means a community housing development organization that:

(1) contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and

(3) within the preceding three-year period has developed or rehabilitated housing units within a two-mile radius of the property that the land bank is offering for sale.

(b) The land bank shall first offer a property for sale to qualified organizations.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.

(d) The municipality shall specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. That period must be at least nine months but not more than 26 months from the date of the deed of conveyance of the property to the land bank.

(e) If the land bank conveys the property to a qualified organization before the expiration of the period specified by the municipality under Subsection (d), the interlocal agreement executed under Section 379E.008(a)(4) must provide tax abatement for the property until the expiration of that period.

(f) During the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(g) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(h) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(i) In its plan, the municipality may provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, provided that the preeminent right of first refusal is provided to qualified organizations as provided by this section.

(j) The land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 379E.009(d).

Sec. 379E.012. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Sec. 379E.013. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.

(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) The land bank and the municipality shall maintain copies of the performance report available for public review.

SECTION 34. Section 11.18, Tax Code, is amended by amending Subsection (d) and adding Subsection (o) to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support to elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons, or to the handicapped, without regard to the beneficiaries' ability to pay;

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the pardons and paroles division of the Texas Department of Criminal Justice;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents; [✱]

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing; or

(21) acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank.

(o) For purposes of Subsection (a)(2), real property acquired, held, and transferred by an organization that performs the function described by Subsection (d)(21) is considered to be used exclusively by the qualified charitable organization to perform that function.

SECTION 35. Section 403.302, Government Code, as amended by this Act, applies only to an annual school district property value study conducted for a tax year that begins on or after January 1, 2008.

SECTION 36. The changes in law made by this Act to Section 214.003, Local Government Code, apply only to a receivership established on or after the effective date of this Act. A receivership established before the effective date of this Act is governed by the law in effect when the receivership was established, and the former law is continued in effect for that purpose.

SECTION 37. Section 379D.015, Local Government Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act and concerns property that is first purchased by a land bank under Section 379D.015, Local Government Code, on or after the effective date of this Act.

SECTION 38. Section 11.18, Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 39. (a) The Texas Department of Housing and Community Affairs shall adopt the rules required by Section 2306.1073, Government Code, as added by this Act, not later than December 1, 2007.

(b) The changes in law made by this Act apply only to an application for assistance from the Texas First-Time Homebuyer Program that is filed on or after January 1, 2008.

SECTION 40. The changes in law made by this Act relating to the evaluation of applications for financial assistance administered by the Texas Department of Housing and Community Affairs apply only to an application submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 41. The change in law made by this Act applies only to an application for a low income housing tax credit filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 42. The following provisions of the Government Code are repealed:

(1) Sections 2306.021, 2306.062, 2306.0631, 2306.0661, Subsection (h), Section 2306.0721, Section 2306.079, Subsection (e), Section 2306.081, Section 2306.254, Subsections (b), (c), and (d), Section 2306.257, and Section 2306.806;

(2) Subchapter N, Chapter 2306;

(3) Subchapter O, Chapter 2306;

(4) Subchapter BB, Chapter 2306;

(5) Subchapter CC, Chapter 2306;

(6) Subchapter EE, Chapter 2306; and

(7) Subsection (g), Section 2306.6710, Government Code, is repealed.

SECTION 43. It is the intent of the legislature that the passage by the 80th Legislature, Regular Session, 2007, of another bill that amends Chapter 2306, Government Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Subsection (b), Section 311.025, Government Code, so that effect may be given to each. If the amendments made by this Act to Chapter 2306,

Government Code, and the amendments made to Chapter 2306, Government Code, by any other bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that any differences are irreconcilable.

SECTION 44. This Act takes effect on September 1, 2007.

The Conference Committee Report on **SB 1908** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 828**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst

President of the Senate

Honorable Tom Craddick

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 828** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO
CARONA
NELSON
SHAPLEIGH
WILLIAMS

On the part of the Senate

HOCHBERG
BRANCH
EISSLER
PATRICK

On the part of the House

The Conference Committee Report on **HB 828** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1846**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst

President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1846** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN
FRASER
OGDEN
WILLIAMS

TRUITT
KEFFER
MCCLENDON
OTTO
KOLKHORST

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to funding for, and benefits provided under, the Teacher Retirement System of Texas.

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

SECTION 1. Section 825.402, Government Code, is amended to read as follows:

Sec. 825.402. RATE OF MEMBER CONTRIBUTIONS. (a) The rate of contributions for each member of the retirement system is:

(1) five percent of the member's annual compensation or \$180, whichever is less, for service rendered after August 31, 1937, and before September 1, 1957;

(2) six percent of the first \$8,400 of the member's annual compensation for service rendered after August 31, 1957, and before September 1, 1969;

(3) six percent of the member's annual compensation for service rendered after August 31, 1969, and before the first day of the 1977-78 school year;

(4) 6.65 percent of the member's annual compensation for service rendered after the last day of the period described by Subdivision (3) and before September 1, 1985; and

(5) 6.4 percent of the member's annual compensation for service rendered after August 31, 1985, subject to Subsection (b).

(b) Subject to Subsection (c), the board of trustees may by order require that the rate of contributions for each member of the retirement system under Subsection (a) is increased to not more than 6.58 percent of the member's annual compensation for service rendered after the date of the order if:

(1) the legislature by law requires or authorizes the board of trustees to pay a supplemental payment to specified annuitants; and

(2) the board of trustees finds, as of the time the payment is to be made, that after the payment is made the amortization period for the unfunded actuarial liabilities of the retirement system would exceed 30 years by one or more years.

(c) Notwithstanding any other law, the board of trustees may not make a supplemental payment required or authorized by the legislature by law, and may not impose an increase in the rate of contributions under Subsection (b), if the board of

trustees finds that after making the payment and imposing the increase the amortization period for the unfunded actuarial liabilities of the retirement system would exceed 30 years by one or more years.

(d) Notwithstanding any other law, the board of trustees may delay making a supplemental payment required or authorized by the legislature by law as necessary to make the determinations required under Subsections (b) and (c).

SECTION 2. Section 825.404, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year. The amount of the state contribution made under this section may not be less than the amount contributed by members during that fiscal year in accordance with Section 825.402.

(a-1) During each fiscal year of the state fiscal biennium beginning September 1, 2007, the state shall contribute to the retirement system an amount equal to 6.58 of the aggregate annual compensation of all members of the retirement system during that fiscal year. This subsection expires September 1, 2009.

SECTION 3. Subsection (e), Section 825.4092, Government Code, is amended to read as follows:

(e) The amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who retired from ~~[was reported under]~~ the retirement system ~~[rules in effect for the report month of January 2005 by:~~

~~[(1) that reporting employer; or~~

~~[(2) another employer, if both employers are school districts that consolidated into a consolidated school district on or]~~ before September 1, 2005.

SECTION 4. Subsection (b), Section 1575.204, Insurance Code, is amended to read as follows:

(b) Each state fiscal year, each employer who reports to the retirement system under Section 824.6022, Government Code, the employment of a retiree who is enrolled in the group program shall contribute to the fund the difference, if any, between the contribution amount that the reported retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by the trustee. The amounts required to be paid under this subsection are not required to be paid by a reporting employer for a retiree who retired from the ~~[was reported by that employer under]~~ retirement system before September 1, [rules in effect for the report month of January] 2005.

SECTION 5. (a) The Teacher Retirement System of Texas shall make a one-time supplemental payment of a retirement or death benefit, as provided by this section.

(b) The supplemental payment is payable not later than September 2007 and, to the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant.

(c) The amount of the supplemental payment is equal to the lesser of:

(1) the gross amount of the regular annuity payment to which the eligible annuitant is otherwise entitled for the month of August 2007; or

(2) \$2,400.

(d) The supplemental payment is payable without regard to any forfeiture of benefits under Section 824.601, Government Code. The Teacher Retirement System of Texas shall make applicable tax withholding and other legally required deductions before disbursing the supplemental payment. A supplemental payment under this section is in addition to and not in lieu of the regular monthly annuity payment to which the eligible annuitant is otherwise entitled.

(e) Subject to Subsection (f) of this section, to be eligible for the supplemental payment, a person must be, for the month of August 2007, and disregarding any forfeiture of benefits under Section 824.601, Government Code, an annuitant eligible to receive:

(1) a standard retirement annuity payment;

(2) an optional retirement annuity payment as either a retiree or beneficiary;

(3) a life annuity payment under Subdivision (4), Subsection (a), Section 824.402, Government Code;

(4) an annuity for a guaranteed period of 60 months under Subdivision (3), Subsection (a), Section 824.402, Government Code; or

(5) an alternate payee annuity payment under Section 804.005, Government Code.

(f) If the annuitant is a retiree or a beneficiary under an optional retirement payment plan, to be eligible for the supplemental payment, the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before December 31, 2006. If the annuitant is a beneficiary under Subdivision (3) or (4), Subsection (a), Section 824.402, Government Code, to be eligible for the supplemental payment, the date of death of the member of the retirement system must have been on or before December 31, 2006. The supplemental payment shall be made to an alternate payee who is an annuitant under Section 804.005, Government Code, only if the annuity payment to the alternate payee commenced on or before December 31, 2006. The supplemental payment is in addition to the guaranteed number of payments under Subdivision (3), Subsection (a), Section 824.402, Government Code, Subdivision (3) or (4), Subsection (c), Section 824.204, Government Code, or Subdivision (3) or (4), Subsection (c), Section 824.308, Government Code, and may not be counted as one of the guaranteed monthly payments.

(g) The supplemental payment does not apply to payments under:

(1) Subsection (a), Section 824.304, Government Code, relating to disability retirees with less than 10 years of service credit;

(2) Subsection (b), Section 824.804, Government Code, relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts;

(3) Subsection (a), Section 824.501, Government Code, relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or

(4) Subsection (a), Section 824.404, Government Code, relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute.

(h) Except as provided by this section, the board of trustees of the Teacher Retirement System of Texas shall determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

SECTION 6. Subsection (a), Section 825.404, Government Code, as amended by this Act, applies beginning with the fiscal year that begins September 1, 2007.

SECTION 7. Section 825.4092, Government Code, as amended by this Act, applies only to an employer contribution required to be made under that section on or after September 1, 2007. An employer contribution required to be made before September 1, 2007, is governed by the law as it existed at the time the contribution was required to be made, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1846** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1521

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1521** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR
BRIMER
CARONA
NICHOLS
ZAFFIRINI

On the part of the Senate

KOLKHORST
R. COOK
CROWNOVER
GATTIS
HOPSON

On the part of the House

The Conference Committee Report on **HB 1521** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2072

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2072** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI
AVERITT
BRIMER
HINOJOSA
ELTIFE

On the part of the Senate

GUILLEN
CREIGHTON
ESCOBAR
HANCOCK
PENA

On the part of the House

The Conference Committee Report on **HB 2072** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1951**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1951** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WENTWORTH
HINOJOSA
OGDEN
DUNCAN
HARRIS

On the part of the Senate

HARTNETT
GONZALES
GOOLSBY
HOPSON
HUGHES

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the creation, operation, and officers of certain courts and juvenile boards.

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

SECTION 1. (a) Effective September 15, 2008, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.542 to read as follows:

Sec. 24.542. 397TH JUDICIAL DISTRICT (GRAYSON COUNTY). The 397th Judicial District is composed of Grayson County.

(b) The 397th Judicial District is created on September 15, 2008.

(c) Effective January 1, 2010, the heading to Section 24.106, Government Code, is amended to read as follows:

Sec. 24.106. 6TH JUDICIAL DISTRICT (~~[FANNIN,]~~ LAMAR~~[,]~~ AND RED RIVER COUNTIES).

(d) Effective January 1, 2010, Subsection (a), Section 24.106, Government Code, is amended to read as follows:

(a) The 6th Judicial District is composed of ~~[Fannin,]~~ Lamar~~[,]~~ and Red River counties.

(e) Effective January 1, 2010, Section 24.482, Government Code, is amended to read as follows:

Sec. 24.482. 336TH JUDICIAL DISTRICT (FANNIN COUNTY ~~[AND GRAYSON COUNTIES]~~). ~~[(a)]~~ The 336th Judicial District is composed of Fannin County ~~[and Grayson counties]~~.

(f) The local administrative district judge for the 6th Judicial District:

(1) shall transfer all cases from Fannin County that are pending in the 6th District Court on January 1, 2010, to the 336th District Court; and

(2) may transfer any case from Fannin County that is pending or filed in the 6th District Court on or after September 15, 2008, to the 336th District Court.

(g) When a case is transferred as provided by Subsection (f) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 6th District Court are returnable to the 336th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 6th District Court and all witnesses summoned to appear in the 6th District Court are required to appear before the 336th District Court as if originally required to appear before that court.

(h) The local administrative district judge for the 336th Judicial District:

(1) shall transfer all cases from Grayson County that are pending in the 336th District Court on January 1, 2010, to the 397th District Court; and

(2) may transfer any case from Grayson County that is pending or filed in the 336th District Court on or after September 15, 2008, to the 397th District Court.

(i) When a case is transferred as provided by Subsection (h) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 336th District Court are returnable to the 397th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 336th District Court and all witnesses summoned to appear in the 336th District Court are required to appear before the 397th District Court as if originally required to appear before that court.

SECTION 2. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.562 to read as follows:

Sec. 24.562. 418TH JUDICIAL DISTRICT (MONTGOMERY COUNTY).

(a) The 418th Judicial District is composed of Montgomery County.

(b) The 418th District Court shall give preference to family law matters.

(b) The 418th Judicial District is created on the effective date of this section.

SECTION 3. (a) Effective October 1, 2007, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.567 to read as follows:

Sec. 24.567. 423RD JUDICIAL DISTRICT (BASTROP COUNTY). The 423rd Judicial District is composed of Bastrop County.

(b) The 423rd Judicial District is created October 1, 2007.

(c) Subsection (a), Section 44.111, Government Code, is amended to read as follows:

(a) The criminal district attorney of Bastrop County shall attend each term and session of the district courts ~~court~~ in Bastrop County and each term and session of the inferior courts of the county held for the transaction of criminal business. He shall exclusively represent the state in all criminal matters before those courts and any other court in which Bastrop County has pending business.

SECTION 4. (a) Effective January 1, 2009, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.573 to read as follows:

Sec. 24.573. 429TH JUDICIAL DISTRICT (COLLIN COUNTY). The 429th Judicial District is composed of Collin County.

(b) Effective January 1, 2009, the 429th Judicial District is created.

SECTION 5. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.579 to read as follows:

Sec. 24.579. 435TH JUDICIAL DISTRICT (MONTGOMERY COUNTY).

(a) The 435th Judicial District is composed of Montgomery County.

(b) The 435th District Court shall give preference to:

(1) civil commitment proceedings under Chapter 841, Health and Safety Code;

(2) criminal cases involving offenses under Section 841.085, Health and Safety Code, and Article 62.203, Code of Criminal Procedure; and

(3) other matters that may be assigned by the administrative judge.

(c) Notwithstanding any other law, the state shall pay the salaries of and other expenses related to the court reporter appointed for the 435th District Court under Section 52.041 and the court coordinator appointed for the court under Section 74.101. The salaries of the court reporter and court coordinator shall be set in amounts commensurate with the salaries paid by other district courts for those positions.

(b) The 435th Judicial District is created on the effective date of this section.

SECTION 6. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.589 to read as follows:

Sec. 24.589. 445TH JUDICIAL DISTRICT (CAMERON COUNTY). (a) The 445th Judicial District is composed of Cameron County.

(b) The 445th District Court shall give preference to criminal law cases.

(b) The 445th Judicial District is created on the effective date of this section.

SECTION 7. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.592 to read as follows:

Sec. 24.592. 448TH JUDICIAL DISTRICT (EL PASO COUNTY). The 448th Judicial District is composed of El Paso County.

(b) The 448th Judicial District is created on the effective date of this section.

SECTION 8. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.593 to read as follows:

Sec. 24.593. 449TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 449th Judicial District is composed of Hidalgo County.

(b) The 449th District Court shall give preference to juvenile matters.

(b) The 449th Judicial District is created on the effective date of this section.

SECTION 9. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.5995 to read as follows:

Sec. 24.5995. 506TH JUDICIAL DISTRICT (GRIMES AND WALLER COUNTIES). The 506th Judicial District is composed of Grimes and Waller Counties.

(b) Section 24.109, Government Code, is amended to read as follows:

Sec. 24.109. 9TH JUDICIAL DISTRICT (MONTGOMERY COUNTY [AND
~~WALLER COUNTIES]).~~ (a) The 9th Judicial District is composed of Montgomery County ~~[and Waller counties].~~

~~(b) [The 9th and 155th district courts have concurrent jurisdiction in Waller County.~~

~~[(e)]~~ The terms of the 9th District Court begin[+:

~~[(1) in Montgomery County]~~ on the first Monday in January and the first Monday in July[+and

~~[(2) in Waller County on the first Monday in January and the first Monday in July].~~

(c) The local administrative district judge shall transfer all cases from Waller County that are pending in the 9th District Court to the 506th District Court on the date the 506th District Court is created.

(d) When a case is transferred as provided by Subsection (c) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 9th District Court are returnable to the 506th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 9th District Court and all witnesses summoned to appear in the 9th District Court are required to appear before the 506th District Court as if originally required to appear before that court.

(e) The 506th Judicial District is created on the effective date of this section.

(f) Effective September 1, 2008, Section 24.455, Government Code, is amended to read as follows:

Sec. 24.455. 278TH JUDICIAL DISTRICT ([GRIMES,] LEON, MADISON, AND WALKER COUNTIES). The 278th Judicial District is composed of ~~[Grimes,]~~ Leon, Madison, and Walker counties.

(g) The local administrative district judge shall transfer all cases from Grimes County that are pending in the 278th District Court on September 1, 2008, to the 506th District Court.

(h) When a case is transferred as provided by Subsection (g) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 278th District Court are returnable to the 506th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 278th District Court and all witnesses summoned to appear in the 278th District Court are required to appear before the 506th District Court as if originally required to appear before that court.

(i) Subsection (e), Section 43.1745, Government Code, is amended to read as follows:

(e) The district attorney must be at least 30 years of age, must have been a practicing attorney in this state for at least five years, and must have been a resident of Grimes County for at least the time required under Section 141.001, Election Code ~~[three years immediately preceding election or appointment]~~.

(j) Effective September 1, 2008, Section 43.1745, Government Code, is redesignated as Section 43.183, Government Code, and amended to read as follows:

Sec. 43.183 ~~[43.1745]~~. 506TH [278TH] JUDICIAL DISTRICT. (a) The voters of Grimes County elect a district attorney for the 506th [278th] Judicial District who represents the state only in that county.

(b) The district attorney shall attend each term and session of the district courts and all other courts, except municipal courts, in Grimes County and, unless otherwise provided by law, shall exclusively represent the state in all criminal matters in those courts.

(c) The district attorney has no power, duty, or privilege relating to family law and juvenile matters, including matters involving children's protective services, protective orders under Chapter 71, Family Code, orders under Chapter 159, Family Code, proceedings under Title 3, Family Code, civil commitment matters under Subtitle C, Title 7, Health and Safety Code, or a quo warranto or removal case, except, that if the county attorney fails or refuses to act in a quo warranto or removal case, the district attorney has the power, duty, and privilege to bring a removal of quo warranto action.

(d) The district attorney has no power, duty, or privilege in any civil matter pending before any court.

(e) The district attorney must be at least 30 years of age, must have been a practicing attorney in this state for at least five years, and must have been a resident of Grimes County for at least the time required under Section 141.001, Election Code ~~[three years immediately preceding election or appointment]~~.

(f) The district attorney may not engage in the private practice of law.

(g) The district attorney may, for the purpose of conducting the affairs of the office, appoint assistant district attorneys, investigators, and other necessary staff. The salaries of the members of the staff of the district attorney's office shall be paid from the officer's salary fund of the county with the approval of the commissioners court.

(k) The person serving as district attorney for the 278th Judicial District on September 1, 2008, unless otherwise removed from office, continues to serve in that office as redesignated as the district attorney for the 506th Judicial District for the term to which elected or appointed.

(l) Subsection (d), Section 24.254, Government Code, is repealed.

SECTION 10. (a) Subchapter D, Chapter 24, Government Code, is amended by adding Section 24.640 to read as follows:

Sec. 24.640. 444TH JUDICIAL DISTRICT (CAMERON COUNTY). The 444th Judicial District is composed of Cameron County.

(b) The 444th Judicial District is created on the effective date of this section.

SECTION 11. (a) Subchapter E, Chapter 24, Government Code, is amended by adding Section 24.908 to read as follows:

Sec. 24.908. EL PASO COUNTY CRIMINAL JUDICIAL DISTRICT NO. 1.

(a) The El Paso County Criminal Judicial District No. 1 is composed of El Paso County.

(b) The El Paso County Criminal District Court No. 1 shall give primary preference to felony drug cases and associated civil cases emanating from those felony drug cases. The criminal district court shall give secondary preference to other criminal cases and associated civil cases emanating from those criminal cases.

(c) The terms of the El Paso County Criminal District Court No. 1 begin on the third Mondays in April and September and the first Mondays in January, July, and November.

(d) The El Paso County Criminal District Court No. 1 shall have a seal similar to the seal of a district court with "El Paso County Criminal District Court No. 1" engraved on the seal.

(b) The El Paso County Criminal Judicial District No. 1 is created on the effective date of this section.

SECTION 12. Section 43.119, Government Code, is amended to read as follows:

Sec. 43.119. 33RD JUDICIAL DISTRICT. The voters of Blanco, Burnet, Llano, and San Saba Counties [the 33rd Judicial District] elect a district attorney for the 33rd and 424th Judicial Districts.

SECTION 13. (a) Section 43.120, Government Code, is amended by amending Subsections (d) and (f) and adding Subsections (d-1), (d-2), and (g) to read as follows:

(d) The commissioners courts of Culberson and Hudspeth Counties [counties] shall each pay to El Paso County the budgeted prosecution costs, which may not exceed a total of \$90,000 for Culberson and Hudspeth Counties per fiscal year [a month to be expended, on sworn claims of the district attorney approved by the Commissioners Court of El Paso County], for the preparation and conduct of criminal affairs of the district attorney's office, including compensation for assistants and other employees of the district attorney, applicable to their respective county. Each year the district attorney's office shall:

(1) prepare a budget and financial statement for the upcoming fiscal year; and

(2) file the budget and financial statement with the commissioners courts of Hudspeth and Culberson Counties.

(d-1) The budget and financial statement required by Subsection (d) must contain:

(1) the budgeted prosecution costs for Culberson and Hudspeth Counties, with the costs for each county listed separately; and

(2) any additional information considered appropriate by the district attorney or required by the commissioners court of Culberson or Hudspeth County.

(d-2) Hudspeth and Culberson Counties shall remit one-fourth of the budgeted prosecution costs applicable to the respective county to El Paso County not later than the last day of each fiscal quarter.

(f) El Paso County is responsible for managing the funds expended by the district attorney for the preparation and conduct of criminal affairs of the district attorney's office, including funds to compensate assistants and other employees of the

district attorney. Hudspeth and Culberson Counties shall remit one-fourth of the budgeted funds to El Paso County not later than the last day of each fiscal quarter ~~[The assistants and other employees of the district attorney are compensated by the Commissioners Court of El Paso County].~~ The Commissioners Court of El Paso County must approve the number of assistants and other employees appointed by the district attorney and the amount of compensation of those employees.

(g) Nothing in this section prevents El Paso County from entering into an interlocal agreement with Culberson or Hudspeth County in lieu of budgeting costs as provided by this section or Section 140.003, Local Government Code. An interlocal agreement under this subsection may not exceed \$90,000 per fiscal year.

(b) This section takes effect October 1, 2007.

SECTION 14. Section 43.148, Government Code, is amended to read as follows:

Sec. 43.148. 105TH JUDICIAL DISTRICT. (a) The voters of Nueces County ~~[the 105th Judicial District]~~ elect a district attorney for the 105th Judicial District who ~~[-The district attorney]~~ has the same powers and duties as other district attorneys and serves all the district, county, and justice courts of Nueces County ~~[and the district courts of Kleberg and Kenedy counties].~~

(b) The district attorney shall attend each term and session of the district, county, and justice courts of Nueces County ~~[and the district courts of Kleberg and Kenedy counties]~~ and shall represent the state in criminal cases pending in those courts. The district attorney has control of any case heard on petition of writ of habeas corpus before any district or inferior court in the district.

(c) The commissioners court ~~[courts]~~ of Nueces County ~~[the counties comprising the district]~~ may supplement the state salary of the district attorney. The amount of the supplement may not exceed \$12,000 a year. ~~[The supplemental salary must be paid proportionately by the commissioners court of each county according to the population of the county.]~~ The supplemental salary may be paid from the officers' salary fund of the [a] county. If that fund is inadequate, the commissioners court may transfer the necessary funds from the general fund of the county.

SECTION 15. Subchapter B, Chapter 43, Government Code, is amended by adding Section 43.182 to read as follows:

Sec. 43.182. DISTRICT ATTORNEY FOR KLEBERG AND KENEDY COUNTIES. (a) The voters of Kleberg and Kenedy Counties elect a district attorney. The district attorney has the same powers and duties as other district attorneys and serves the district courts of Kleberg and Kenedy Counties.

(b) The district attorney shall attend each term and session of the district courts of Kleberg and Kenedy Counties and shall represent the state in criminal cases pending in those courts. The district attorney has control of any case heard on petition of writ of habeas corpus before any district or inferior court in the district.

(c) The commissioners courts of the counties comprising the district may supplement the state salary of the district attorney. The amount of the supplement may not exceed \$12,000 a year. The supplemental salary must be paid proportionately by the commissioners court of each county according to the population of the county.

The supplemental salary may be paid from the officers' salary fund of a county. If that fund is inadequate, the commissioners court may transfer the necessary funds from the general fund of the county.

SECTION 16. Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to all county prosecutors and to the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 110th, 112th, 118th, 119th, 123rd, 142nd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 278th, 286th, 329th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Fannin, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION 17. Effective September 1, 2008, Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to all county prosecutors and to the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 110th, 112th, 118th, 119th, 123rd, 142nd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, ~~[278th]~~ 286th, 329th, 349th, ~~and~~ 355th, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Fannin, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION 18. Effective January 1, 2009, Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to all county prosecutors and to the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 110th, 112th, 118th, 119th, 123rd, 142nd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, [278th,] 286th, 329th, 344th, 349th, [and] 355th, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Fannin, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION 19. (a) Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.707 to read as follows:

Sec. 51.707. ADDITIONAL FILING FEE FOR CIVIL CASES IN HAYS COUNTY. (a) This section applies only to district courts, probate courts, county courts at law, and justice courts in Hays County.

(b) Except as otherwise provided by this section and in addition to all other fees authorized or required by other law, the clerk of a court shall collect a filing fee of not more than \$15 in each civil case filed in the court to be used for the construction, renovation, or improvement of the facilities that house the Hays County civil courts.

(c) Court fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall send the fees collected under this section to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer at least as frequently as monthly. The treasurer or other official shall deposit the fees in a special account in the county treasury dedicated to the construction, renovation, or improvement of the facilities that house the courts collecting the fee.

(e) This section applies only to fees for a 12-month period beginning July 1, if the commissioners court:

(1) adopts a resolution authorizing a fee of not more than \$15;

(2) adopts a resolution requiring the county to spend one dollar for the construction, renovation, or improvement of the court facilities for each dollar spent from the special account dedicated to that purpose; and

(3) files the resolutions with the county treasurer or with any other official who discharges the duties commonly assigned to the county treasurer not later than June 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution adopted under Subsection (e) continues from year to year until July 1, 2022, allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) The commissioners court may rescind a resolution adopted under Subsection (e) by adopting a resolution rescinding the resolution and submitting the rescission resolution to the county treasurer or to any other official who discharges the duties commonly assigned to the county treasurer not later than June 1 preceding the beginning of the first day of the county fiscal year. The commissioners court may adopt an additional resolution in the manner provided by Subsection (e) after rescinding a previous resolution under that subsection.

(h) A fee established under a particular resolution is abolished on the earlier of:

(1) the date a resolution adopted under Subsection (e) is rescinded as provided by Subsection (g); or

(2) July 1, 2022.

(i) The county may make the required expenditure described by Subsection (e)(2) at any time, regardless of when the expenditure from the special account occurs.

(b) Section 101.061, Government Code, is amended to read as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS. The clerk of a district court shall collect fees and costs as follows:

(1) filing fee in action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . \$15;

(2) fee for service of notice of action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . not to exceed \$20, if notice delivered in person, or the cost of postage, if service is by registered or certified mail;

(3) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(4) appellate judicial system filing fees for:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(5) additional filing fees:

(A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed \$5;

(B) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . \$45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . \$50;

(C) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(D) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . \$5; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . \$10; and

(E) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

(6) for filing a suit, including an appeal from an inferior court:

(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . \$50;

(B) for a suit with at least 11 but not more than 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;

(C) for a suit with at least 26 but not more than 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;

(D) for a suit with at least 101 but not more than 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;

(E) for a suit with at least 501 but not more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or

(F) for a suit with more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$200;

(7) for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition (Sec. 51.317, Government Code) . . . \$15;

(8) for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed (Sec. 51.317, Government Code) . . . \$8;

(9) for records management and preservation (Sec. 51.317, Government Code) . . . \$10;

(10) for issuing a subpoena, including one copy (Sec. 51.318, Government Code) . . . \$8;

(11) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law (Sec. 51.318, Government Code) . . . \$8;

(12) for searching files or records to locate a cause when the docket number is not provided (Sec. 51.318, Government Code) . . . \$5;

(13) for searching files or records to ascertain the existence of an instrument or record in the district clerk's office (Sec. 51.318, Government Code) . . . \$5;

(14) for abstracting a judgment (Sec. 51.318, Government Code) . . . \$8;

(15) for approving a bond (Sec. 51.318, Government Code) . . . \$4;

(16) for a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, for each page or part of a page (Sec. 51.318, Government Code) . . . \$1;

(17) for a noncertified copy, for each page or part of a page (Sec. 51.318, Government Code) . . . not to exceed \$1;

(18) jury fee (Sec. 51.604, Government Code) . . . \$30;

(19) for filing a report of divorce or annulment (Sec. 194.002, Health and Safety Code) . . . \$1;

(20) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$4;

(21) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed \$30;

(22) fee on filing a suit for dissolution of a marriage for services of child support department in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed \$12;

(22-a) a child support service fee in Nueces County if ordered by the commissioners court and assessed by the court (Sec. 152.1844, Human Resources Code) . . . not to exceed \$5 a month payable annually in advance;

(22-b) a service fee to be paid by a person ordered by a district court to pay child or spousal support:

(A) in Collin County if authorized by the juvenile board (Sec. 152.0492, Human Resources Code) . . . not to exceed \$2.50 added to first support payment each month;

(B) in Johnson County if authorized by the juvenile board (Sec. 152.1322, Human Resources Code) . . . \$1.00 added to first support payment each month; and

(C) in Montague County (Sec. 152.1752, Human Resources Code) . . . \$1 if fee is ordered to be paid monthly, 50 cents if fee is ordered to be paid semimonthly or weekly;

(22-c) attorney's fees as an additional cost in Montague County on a finding of contempt of court for failure to pay child or spousal support if the contempt action is initiated by the probation department (Sec. 152.1752, Human Resources Code) . . . \$15;

(23) fee on filing a suit requesting an adoption in Montague County (Sec. 152.1752, Human Resources Code) . . . \$25;

(24) court cost on citation for contempt of court for failure to comply with child support order in Nueces County, if authorized by the commissioners court (Sec. 152.1844, Human Resources Code) . . . not to exceed \$10;

(25) fee on filing a suit for divorce in Orange County (Sec. 152.1873, Human Resources Code) . . . not less than \$5;

(26) court costs on citation for contempt of court in Orange County for failure to comply with a child support order or order providing for possession of or access to a child (Sec. 152.1873, Human Resources Code) . . . amount determined by district clerk;

(27) fee on filing a suit requesting an adoption in Orange County (Sec. 152.1874, Human Resources Code) . . . not less than \$25;

(28) fee on filing a suit requesting an adoption in Wichita County (Sec. 152.2496, Human Resources Code) . . . \$100;

(29) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(30) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(31) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(32) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(33) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;

(34) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge;

(35) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code, as added by Chapter 1150, Acts of the 78th Legislature, Regular Session, 2003) . . . as imposed by the referring court or associate judge;

(36) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(37) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(38) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;

(39) fee for performing a service:

(A) related to the matter of the estate of a deceased person (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for those services;

(B) related to the matter of a minor (Sec. 51.319, Government Code) . . . the same fee allowed the county clerk for the service;

(C) of serving process by certified or registered mail (Sec. 51.319, Government Code) . . . the same fee a sheriff or constable is authorized to charge for the service under Section 118.131, Local Government Code; and

(D) prescribed or authorized by law but for which no fee is set (Sec. 51.319, Government Code) . . . a reasonable fee;

(40) court costs, which may include expert witness fees in Travis County in an action in which the plaintiff prevails against an insurer for economic damages sustained by the plaintiff as a result of unfair discrimination (Sec. 544.054, Insurance Code) . . . court costs and reasonable and necessary expert witness fees;

(41) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(42) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding; and

(43) fee for filing an additional petition for review of an appraisal review board order relating to certain regulated property running through or operating in more than one county after the first petition for review relating to the same property is filed for a tax year (Sec. 42.221, Tax Code) . . . \$5.

(c) Section 101.081, Government Code, is amended to read as follows:

Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS. The clerk of a statutory county court shall collect fees and costs as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(2) appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(3) an official court reporter fee, County Court at Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . \$3;

(4) a court reporter fee when testimony is taken in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . \$3;

(5) a stenographer fee, if a record or part of a record is made:

(A) in a county court at law in Hidalgo County (Sec. 25.1102, Government Code) . . . \$20; and

(B) in a county court at law in Nolan County (Sec. 25.1792, Government Code) . . . \$25;

(6) jury fee (Sec. 51.604, Government Code) . . . \$22;

(7) an additional filing fee:

(A) for each civil case filed to be used for court-related purposes for the support of the judiciary, if authorized by the county commissioners court (Sec. 51.702, Government Code) . . . \$40;

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$5; and

(D) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

(8) for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . \$1;

(9) fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(10) fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(11) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$4;

(12) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(13) civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . \$15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . \$40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . \$30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . \$5;

(14) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisal after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisal or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;

(15) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . \$5;

(16) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(17) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(18) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(19) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(20) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

(21) court cost for each special commissioner in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court, \$10 or more;

(22) fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . \$10;

(23) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(24) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(25) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding;

(26) the official court reporter's fee taxed as costs in civil actions in a statutory county court:

(A) in Bexar County Courts at Law:

(i) Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (Sec. 25.0172, Government Code) . . . taxed in the same manner as the fee is taxed in district court; and

(ii) No. 2 (Sec. 25.0172, Government Code) . . . \$3;

(B) in Galveston County (Sec. 25.0862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts; and

(C) in Parker County (Sec. 25.1862, Government Code) . . . taxed in the same manner as the fee is taxed in civil cases in the district courts;

(27) a stenographer's fee as costs in each civil, criminal, and probate case in which a record is made by the official court reporter in a statutory county court in Nolan County (Sec. 25.1792, Government Code) . . . \$25;

(28) in Brazoria County, in matters of concurrent jurisdiction with the district court, fees (Sec. 25.0222, Government Code) . . . as prescribed by law for district judges according to the nature of the matter;

(29) in Nueces County, in matters of concurrent jurisdiction with the district court, with certain exceptions, fees (Sec. 25.1802, Government Code) . . . equal to those in district court cases;

(30) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(31) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;

(32) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

- (A) attorneys;
- (B) physicians;
- (C) language interpreters;
- (D) sign interpreters; and
- (E) masters;

(33) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

- (A) attorney's fees;
- (B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed \$50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(34) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(35) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(36) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50;

(37) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified;

(38) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50; and

(39) a fee not otherwise listed in this section that is required to be collected under Section 25.0008, Government Code (Sec. 25.0008, Government Code), in a county other than Brazos, Cameron, Ellis, Guadalupe, Harris, Henderson, Liberty, Moore, Nolan, Panola, Parker, Starr, Victoria, and Williamson . . . as prescribed by law relating to county judges' fees.

(d) Section 101.101, Government Code, is amended to read as follows:

Sec. 101.101. STATUTORY PROBATE COURT FEES AND COSTS. The clerk of a statutory probate court shall collect fees and costs as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(2) appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(3) additional filing fees as follows:

(A) for certain cases to be used for court-related purposes for support of the judiciary, if authorized by the county commissioners court (Sec. 51.704, Government Code) . . . \$40;

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$5; and

(D) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

(4) for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . \$1;

(5) fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(6) fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(7) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(8) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

(i) filing an inventory and appraisal after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . \$25;

(ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;

(iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;

(iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;

(v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25;

(vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10; and

(vii) filing a document not listed under this paragraph after the filing of an order approving the inventory and appraisal or after the 120th day after the date of the initial filing of the action, whichever occurs first (Secs. 118.052 and 191.007, Local Government Code), if more than 25 pages . . . \$25;

(C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and

(D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;

(9) other fees (Sec. 118.052, Local Government Code):

(A) issuing document (Secs. 118.052 and 118.059, Local Government Code):

(i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and

(ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;

(B) certified papers (Secs. 118.052 and 118.060, Local Government Code):

(i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;

(C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052 and 118.0645, Local Government Code) . . . \$5;

(10) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

(11) court costs for each special commissioner in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court, \$10 or more;

(12) jury fee for civil case (Sec. 51.604, Government Code) . . . \$22;

(13) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(14) the expense of preserving the record as a court cost, if imposed on a party by the referring court or associate judge (Sec. 54.612, Government Code) . . . actual cost;

(15) security deposit on filing, by any person other than the personal representative of an estate, an application, complaint, or opposition in relation to the estate, if required by the clerk (Sec. 12, Texas Probate Code) . . . probable cost of the proceeding;

(16) security deposit on filing, by any person other than the guardian, attorney ad litem, or guardian ad litem, an application, complaint, or opposition in relation to a guardianship matter, if required by the clerk (Sec. 622, Texas Probate Code) . . . probable cost of the guardianship proceeding;

(17) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Secs. 571.017 and 571.018, Health and Safety Code) . . . reasonable compensation to the following persons appointed under the Texas Mental Health Code:

(A) attorneys;

(B) physicians;

(C) language interpreters;

(D) sign interpreters; and

(E) masters;

(18) for a hearing or proceeding under the Texas Mental Health Code (Subtitle C, Title 7, Health and Safety Code) as costs (Sec. 571.018, Health and Safety Code):

(A) attorney's fees;

(B) physician examination fees;

(C) expense of transportation to a mental health facility or to a federal agency not to exceed \$50 if transporting within the same county and not to exceed the reasonable cost of transportation if transporting between counties;

(D) costs and salary supplements authorized under Section 574.031, Health and Safety Code; and

(E) prosecutors' fees authorized under Section 574.031, Health and Safety Code;

(19) expenses of transporting certain patients from the county of treatment to a hearing in the county in which the proceedings originated (Sec. 574.008, Health and Safety Code) . . . actual expenses unless certain arrangements are made to hold the hearing in the county in which the patient is receiving services;

(20) expenses for expert witness testimony for an indigent patient (Sec. 574.010, Health and Safety Code) . . . if authorized by the court as reimbursement to the attorney ad litem, court-approved expenses;

(21) fee for judge's services for holding a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50;

(22) expenses to reimburse judge for holding a hearing in a hospital or location other than the county courthouse (Sec. 574.031, Health and Safety Code) . . . reasonable and necessary expenses as certified;

(23) fee for services of a prosecuting attorney, including costs incurred for preparation of documents related to a hearing on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . as assessed by the judge, not to exceed \$50; and

(24) a fee not otherwise listed in this section that is required to be collected under Section 25.0029, Government Code (Sec. 25.0029, Government Code) . . . as prescribed by law relating to county judges' fees.

(e) Subsection (a), Section 101.141, Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed \$3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$2; and

(C) to fund the improvement of Hays County court facilities, if authorized by the county commissioners court (Sec. 51.707, Government Code) . . . not more than \$15;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . \$20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed \$100.

SECTION 20. (a) Section 53.001, Government Code, is amended by adding Subsection (j) to read as follows:

(j) The judge of the 115th District Court shall appoint a bailiff to serve the court only in Upshur County.

(b) Section 53.004, Government Code, is amended by adding Subsection (g) to read as follows:

(g) A bailiff appointed by the judge of the 115th District Court to serve the court in Upshur County must be:

(1) a resident of that county; and

(2) at least 18 years of age.

(c) Subsections (a) and (b), Section 53.007, Government Code, are amended to read as follows:

(a) This section applies to:

(1) the 22nd, 34th, 70th, 71st, 86th, 97th, 142nd, 161st, 238th, 318th, 341st, 355th, and 385th district courts;

(2) the County Court of Harrison County;

(3) the criminal district courts of Tarrant County;

(4) the district courts in Taylor County;

(5) the courts described in Section 53.002(c), (d), (e), or (f);

(6) the county courts at law of Taylor County; ~~and~~

(7) the district courts in Tarrant County that give preference to criminal cases; and

(8) the 115th District Court in Upshur County.

(b) On the request of the judge of a court to which this section applies other than the 115th District Court, the sheriff of each county in which the court sits shall deputize the bailiff or grand jury bailiff appointed under this subchapter of that court, in addition to other deputies authorized by law. On the request of the judge of the 115th District Court, the sheriff of Upshur County shall deputize the bailiff appointed by that judge under Section 53.001(j), in addition to other deputies authorized by law.

SECTION 21. Section 152.0721, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) The Duval County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Duval County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

SECTION 22. (a) Subchapter D, Chapter 152, Human Resources Code, is amended by adding Section 152.1301 to read as follows:

Sec. 152.1301. JIM HOGG COUNTY. (a) The Jim Hogg County Juvenile Board is composed of the county judge, the district judge in Jim Hogg County, and a citizen of Jim Hogg County appointed by the county judge and the district judge. The citizen member of the board serves the same term of office as the district judge in Jim Hogg County.

(b) The district judge is the chairman of the board and its chief administrative officer.

(c) The commissioners court may pay the juvenile board members an annual salary set by the commissioners court at not less than \$1,200 or more than \$3,600 for the added duties imposed on the members. The salary shall be paid in equal monthly installments from the general fund of the county.

(d) The juvenile board shall appoint not more than five persons to serve on an advisory council.

(e) The Jim Hogg County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Jim Hogg County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

(f) Sections 152.0002, 152.0004, 152.0005, 152.0006, 152.0007, and 152.0008 do not apply to the juvenile board.

(b) The Jim Hogg County Juvenile Board is created on the effective date of this Act.

SECTION 23. Section 152.2201, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The Starr County Juvenile Board is composed of the county judge, the judge of the county court at law in Starr County, and the district judges in Starr County.

(f) The Starr County Juvenile Board and the juvenile boards of one or more counties that are adjacent to or in close proximity to Starr County may agree to operate together with respect to all matters, or with respect to certain matters specified by the juvenile boards. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

SECTION 24. Section 54.602, Government Code, is repealed.

SECTION 25. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 1951** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 530

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst

President of the Senate

Honorable Tom Craddick

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 530** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON

JANEK

SHAPIRO

WATSON

VAN DE PUTTE

On the part of the Senate

EISSLER

DELISI

HOCHBERG

PATRICK

ZEDLER

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to physical activity requirements and physical fitness assessment for certain public school students.

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

SECTION 1. Subsections (l) and (l-1), Section 28.002, Education Code, are amended to read as follows:

(l) A school district shall ~~[The State Board of Education, after consulting with educators, parents, and medical professionals, by rule may]~~ require a student enrolled in kindergarten or a grade level below grade six ~~[nine]~~ to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the ~~[a school]~~ district's physical education curriculum or through structured activity during a school campus's daily recess~~[, except that the board may not require more than 30 minutes of daily physical activity].~~ A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week ~~[the board adopts rules under this subsection, the board must ensure by rule that students enrolled in middle and junior high school settings are allowed to meet the physical activity requirement by participating in physical activity twice each week throughout the school year or the option to schedule at least two semesters overall].~~ Additionally, a school district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks. A school district ~~[If the board adopts rules under this subsection, the board]~~ must provide for an exemption for:

(1) any student who is unable to participate in the required ~~[daily]~~ physical activity because of illness or disability; and

(2) a middle school or junior high school student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity under rules adopted by the commissioner ~~[State Board of Education]~~.

(l-1) In adopting rules relating to an activity described by Subsection (l)(2), the commissioner ~~[State Board of Education]~~ may permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.

SECTION 2. Section 28.004, Education Code, is amended by amending Subsection (k) and adding Subsection (l) to read as follows:

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

(1) a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level ~~[30 minutes per school day or 135 minutes per school week]~~ of physical activity required by Section 28.002(l); ~~[and]~~

(2) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and

(3) a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year.

(1) The local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any policy recommendation made to the district under this subsection.

SECTION 3. Chapter 38, Education Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided by Subsection (b), a school district annually shall assess the physical fitness of students enrolled in grades 3 through 12.

(b) A school district is not required to assess a student for whom, as a result of disability or other condition identified by commissioner rule, the assessment instrument adopted under Section 38.102 is inappropriate.

Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The commissioner by rule shall adopt an assessment instrument to be used by a school district in assessing student physical fitness under this subchapter.

(b) The assessment instrument must:

(1) be based on factors related to student health, including the following factors that have been identified as essential to overall health and function:

(A) aerobic capacity;

(B) body composition; and

(C) muscular strength, endurance, and flexibility; and

(2) include criterion-referenced standards specific to a student's age and gender and based on the physical fitness level required for good health.

Sec. 38.103. REPORTING OF SUMMARY RESULTS. (a) A school district shall compile the results of the physical fitness assessment required by this subchapter and provide summary results, aggregated by grade level and any other appropriate category identified by commissioner rule, to the agency. The summary results may not contain the names of individual students or teachers.

(b) The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.

Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall analyze the results received by the agency under this subchapter and identify, for each school district, any correlation between the results and the following:

- (1) student academic achievement levels;
- (2) student attendance levels;
- (3) student obesity;
- (4) student disciplinary problems; and
- (5) school meal programs.

(b) The agency may contract with a public or private entity for that entity to conduct all or part of the analysis required by Subsection (a).

(c) Not later than September 1 of each year, the agency shall report the findings of the analysis under this section of the results obtained during the preceding school year to the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, for use by the committee in:

(1) assessing the effectiveness of coordinated health programs provided by school districts in accordance with Section 38.014; and

(2) developing recommendations for modifications to coordinated health program requirements or related curriculum.

Sec. 38.105. DONATIONS. The agency and each school district may accept donations made to facilitate implementation of this subchapter.

Sec. 38.106. RULES. The commissioner shall adopt rules necessary to implement this subchapter.

SECTION 4. Not later than September 1, 2008, the Texas Education Agency, in consultation with the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, shall provide a report to the legislature that details options and recommendations for providing moderate or vigorous daily physical activity for students for at least 30 minutes outside the seven-hour instructional day. The options and recommendations must be developed with consideration for the needs of students who are enrolled in multiple enrichment curriculum courses.

SECTION 5. The commissioner of education shall adopt the physical fitness assessment instrument required under Subchapter C, Chapter 38, Education Code, as added by this Act, and rules necessary to implement that subchapter not later than the date that enables the instrument to be used by school districts during the 2007-2008 school year.

SECTION 6. Notwithstanding Section 11, Chapter 784, Acts of the 79th Legislature, Regular Session, 2005, Section 38.014, Education Code, as amended by that Act, applies beginning with the 2007-2008 school year.

SECTION 7. Subsection (1), Section 28.002, Education Code, as amended by this Act, applies to students enrolled in kindergarten or a grade level below grade six beginning with the 2007-2008 school year and to students enrolled in grade levels six through eight beginning with the 2008-2009 school year.

SECTION 8. Except as otherwise provided by this Act, this Act applies beginning with the 2007-2008 school year. This Act shall apply to junior high or middle schools only upon adoption of a coordinated school health program for these grades by the Texas Education Agency.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 530** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3154**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3154** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL
SELIGER
VAN DE PUTTE

LAUBENBERG
TAYLOR
COLEMAN
ZERWAS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3154** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1386**

Senator Fraser submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1386** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

FRASER
CARONA

P. KING
CHRISTIAN

ELTIFE
WATSON
WEST

On the part of the Senate

GARCIA
B. BROWN
O'DAY

On the part of the House

The Conference Committee Report on **HB 1386** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3581**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3581** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH
NICHOLS
PATRICK
CARONA

On the part of the Senate

C. HOWARD
BONNEN
TALTON

On the part of the House

The Conference Committee Report on **HB 3581** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 8**

Senator Janek submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 8** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JANEK
ZAFFIRINI
VAN DE PUTTE
AVERITT
SELIGER

On the part of the Senate

FLYNN
EISSLER
ZEDLER
TAYLOR
BONNEN

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to random testing of certain high school students for steroid use and training of certain public school employees regarding steroid use.

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

SECTION 1. The heading to Section 33.091, Education Code, is amended to read as follows:

Sec. 33.091. PREVENTION OF ILLEGAL STEROID USE; RANDOM TESTING.

SECTION 2. Section 33.091, Education Code, is amended by amending Subsections (b) and (h) and adding Subsections (c-1), (d), (e), and (f) to read as follows:

(b) The league shall adopt rules prohibiting a student from participating in an athletic competition sponsored or sanctioned by the league unless:

(1) the student agrees not to use steroids and, if the student is enrolled in high school, the student submits to random testing for the presence of illegal steroids in the student's body, in accordance with the program established under Subsection (d); and

(2) the league obtains from the student's parent a statement signed by the parent and acknowledging that:

(A) the parent's child, if enrolled in high school, may be subject to random steroid testing;

(B) state law prohibits possessing, dispensing, delivering, or administering a steroid in a manner not allowed by state law;

(C) ~~(B)~~ state law provides that bodybuilding, muscle enhancement, or the increase of muscle bulk or strength through the use of a steroid by a person who is in good health is not a valid medical purpose;

(D) ~~(C)~~ only a licensed practitioner with prescriptive authority ~~[medical doctor]~~ may prescribe a steroid for a person; and

(E) ~~(D)~~ a violation of state law concerning steroids is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

(c-1) A school district shall require that each district employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the league complete:

(1) the educational program developed by the league under Subsection (c);
or

(2) a comparable program developed by the district or a private entity with relevant expertise.

(d) The league shall adopt rules for the annual administration of a steroid testing program under which high school students participating in an athletic competition sponsored or sanctioned by the league are tested at multiple times throughout the year for the presence of steroids in the students' bodies. The testing program must:

(1) require the random testing of a statistically significant number of high school students in this state who participate in athletic competitions sponsored or sanctioned by the league;

(2) provide for the selection of specific students described by Subdivision (1) for testing through a process that randomly selects students from a single pool consisting of all students who participate in any activity for which the league sponsors or sanctions athletic competitions;

(3) be administered at approximately 30 percent of the high schools in this state that participate in athletic competitions sponsored or sanctioned by the league;

(4) provide for a process for confirming any initial positive test result through a subsequent test conducted as soon as practicable after the initial test, using a sample that was obtained at the same time as the sample used for the initial test;

(5) require the testing to be performed only by an anabolic steroid testing laboratory with a current certification from the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, the World Anti-Doping Agency, or another appropriate national or international certifying organization; and

(6) provide for a period of ineligibility from participation in an athletic competition sponsored or sanctioned by the league for any student with a confirmed positive test result or any student who refuses to submit to random testing.

(e) Results of a steroid test conducted under Subsection (d) are confidential and, unless required by court order, may be disclosed only to the student and the student's parent and the activity directors, principal, and assistant principals of the school attended by the student.

(f) From funds already appropriated, the agency shall pay the costs of the steroid testing program established under Subsection (d).

(h) Subsection (b)(1) does not apply to the use by a student of a steroid that is dispensed, prescribed, delivered, and administered by a medical practitioner for a valid medical purpose and in the course of professional practice, and a student is not subject to a period of ineligibility under Subsection (d)(6) on the basis of that steroid use.

SECTION 3. The University Interscholastic League shall conduct a study of potential mechanisms for future funding of the steroid testing program required by Section 33.091, Education Code, as amended by this Act. Not later than December 1, 2008, the league shall submit a report of its findings and recommendations for future funding of the program to the legislature.

SECTION 4. This Act applies beginning with the 2007-2008 school year.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 8** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 909**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst

President of the Senate

Honorable Tom Craddick

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 909** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WHITMIRE

BRIMER

HINOJOSA

SELIGER

WILLIAMS

On the part of the Senate

MADDEN

OLIVEIRA

MCREYNOLDS

HOCHBERG

JONES

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the functions of the Board of Pardons and Paroles.

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

SECTION 1. Subsection (a), Article 15.19, Code of Criminal Procedure, is amended to read as follows:

(a) If the arrested person [~~accused~~] fails or refuses to give bail, as provided in [~~the preceding~~] Article 15.18, the arrested person [~~he~~] shall be committed to the jail of the county where the person [~~he~~] was arrested; and the magistrate committing the arrested person [~~him~~] shall immediately provide notice to [~~notify~~] the sheriff of the county in which the offense is alleged to have been committed regarding:

(1) [~~of~~] the arrest and commitment, which notice may be given by telegraph, [~~by~~] mail, or [~~by~~] other written means; and

(2) whether the person was also arrested under a warrant issued under Section 508.251, Government Code [~~notice~~].

SECTION 2. Article 15.20, Code of Criminal Procedure, is amended to read as follows:

Art. 15.20. DUTY OF SHERIFF RECEIVING NOTICE. (a) Subject to Subsection (b), the ~~[The]~~ sheriff receiving the notice of arrest and commitment under Article 15.19 shall forthwith go or send for the arrested person ~~[prisoner]~~ and have the arrested person ~~[him]~~ brought before the proper court or magistrate.

(b) A sheriff who receives notice under Article 15.19(a)(2) of a warrant issued under Section 508.251, Government Code, shall have the arrested person brought before the proper magistrate or court before the 11th day after the date the person is committed to the jail of the county in which the person was arrested.

SECTION 3. Article 15.21, Code of Criminal Procedure, is amended to read as follows:

Art. 15.21. PRISONER DISCHARGED IF NOT TIMELY DEMANDED. If the proper office of the county where the offense is alleged to have been committed does not demand the arrested person ~~[prisoner]~~ and take charge of the arrested person before the 11th day after the date the person ~~[him within ten days from the day he]~~ is committed to the jail of the county in which the person is arrested, the arrested person ~~[such prisoner]~~ shall be discharged from custody.

SECTION 4. Subsection (a), Section 8, Article 42.09, Code of Criminal Procedure, is amended to read as follows:

(a) A county that transfers a defendant to the Texas Department of Criminal Justice under this article shall deliver to an officer designated by the department:

(1) a copy of the judgment entered pursuant to Article 42.01 of this code, completed on a standardized felony judgment form described by Section 4 of that article;

(2) a copy of any order revoking community supervision and imposing sentence pursuant to Section 23, Article 42.12, of this code, including:

(A) any amounts owed for restitution, fines, and court costs, completed on a standardized felony judgment form described by Section 4, Article 42.01, of this code; and

(B) a copy of the client supervision plan prepared for the defendant by the community supervision and corrections department supervising the defendant, if such a plan was prepared;

(3) a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4) a copy of the victim impact statement, if one has been prepared in the case under Article 56.03 of this code;

(5) a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried;

(6) a copy of the record of arrest for each offense;

(7) if requested, information regarding the criminal history of the defendant, including the defendant's state identification number if the number has been issued;

(8) a copy of the indictment or information for each offense;

(9) a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) of this section accompany the defendant;

(10) if prepared, a copy of a presentence or postsentence investigation report prepared under Section 9, Article 42.12 of this code;

(11) a copy of any detainer, issued by an agency of the federal government, that is in the possession of the county and that has been placed on the defendant; ~~and~~

(12) if prepared, a copy of the defendant's Texas Uniform Health Status Update Form; and

(13) a written description of a hold or warrant, issued by any other jurisdiction, that the county is aware of and that has been placed on or issued for the defendant.

SECTION 5. Subsection (b), Section 5, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(b) On violation of a condition of community supervision imposed under Subsection (a) of this section, the defendant may be arrested and detained as provided in Section 21 of this article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. This determination is reviewable in the same manner as a revocation hearing conducted under Section 21 of this article in a case in which an adjudication of guilt had not been deferred ~~[No appeal may be taken from this determination]~~. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision, and defendant's appeal continue as if the adjudication of guilt had not been deferred. A court assessing punishment after an adjudication of guilt of a defendant charged with a state jail felony may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed, regardless of whether the defendant has previously been convicted of a felony.

SECTION 6. Subdivision (1), Subsection (a), Section 15, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(1) On conviction of a state jail felony under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is punished under Section 12.35(a), Penal Code, the judge shall suspend the imposition of the sentence and place the defendant on community supervision, unless the defendant has previously been convicted of a felony or unless the conviction resulted from an adjudication of the guilt of a defendant previously placed on deferred adjudication community supervision for the offense, in which event the judge may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed. The provisions of this subdivision requiring the judge to suspend the imposition of the sentence and place the defendant on community supervision do not apply to a defendant who under Section 481.1151(b)(1), Health and Safety Code, possessed more than five abuse units of the controlled substance or under Section 481.121(b)(3), Health and Safety Code, possessed more than one pound of marihuana.

SECTION 7. Section 15, Article 42.12, Code of Criminal Procedure, is amended by adding Subsections (i), (j), and (k) to read as follows:

(i) If a defendant is convicted of a state jail felony and the sentence is executed, the judge sentencing the defendant may release the defendant to a medically suitable placement if the judge determines that the defendant does not constitute a threat to public safety and the Texas Correctional Office on Offenders with Medical or Mental Impairments:

(1) in coordination with the Correctional Managed Health Care Committee prepares a case summary and medical report that identifies the defendant as being elderly, physically disabled, mentally ill, terminally ill, or mentally retarded or having a condition requiring long-term care; and

(2) in cooperation with the community supervision and corrections department serving the sentencing court, prepares for the defendant a medically recommended intensive supervision and continuity of care plan that:

(A) ensures appropriate supervision of the defendant by the community supervision and corrections department; and

(B) requires the defendant to remain under the care of a physician at and reside in a medically suitable placement.

(j) The Texas Correctional Office on Offenders with Medical or Mental Impairments shall submit to a judge who releases a defendant to an appropriate medical care facility under Subsection (i) a quarterly status report concerning the defendant's medical and treatment status.

(k) If a defendant released to a medically suitable placement under Subsection (i) violates the terms of that release, the judge may dispose of the matter as provided by Subsections (e) and (f)(1).

SECTION 8. Section 16, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) In lieu of requiring a defendant to work a specified number of hours at a community service project or projects under Subsection (a), the judge may order a defendant to make a specified donation to a nonprofit food bank or food pantry in the community in which the defendant resides.

SECTION 9. Section 19, Article 42.12, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (g) to read as follows:

(a) Except as otherwise provided by this subsection, a judge granting community supervision shall fix a fee of not less than \$25 and not more than \$60 per month to be paid during the period of community supervision by the defendant to the court of original jurisdiction or, in the case of an intrastate transfer described by Section 10(b) of this article, to the court to which jurisdiction of the defendant's case is transferred ~~[by the defendant during the community supervision period]~~. The judge may make payment of the fee a condition of granting or continuing the community supervision. The judge may waive or reduce the fee or suspend a monthly payment of the fee if the judge determines that payment of the fee would cause the defendant a significant financial hardship.

(b) A ~~The~~ judge shall deposit any fee ~~[the fees]~~ received under Subsection (a) of this section in the special fund of the county treasury, to be used for the same purposes for which state aid may be used under Chapter 76, Government Code.

(g) A court to which jurisdiction of a defendant's case is transferred under Section 10(b) of this article shall enter an order directing the defendant to pay the monthly fee described by Subsection (a) of this section to that court in lieu of paying the monthly fee to the court of original jurisdiction. To the extent of any conflict between an order issued under this subsection and an order issued by a court of original jurisdiction, the order entered under this subsection prevails.

SECTION 10. Subsection (c), Article 61.06, Code of Criminal Procedure, is amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the three-year period does not include any period during which the individual who is the subject of the information is:

(1) confined in a correctional facility operated by or under contract with the [institutional division or the state jail division of the] Texas Department of Criminal Justice; or

(2) confined in a county jail in lieu of being confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice.

SECTION 11. Section 76.004, Government Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) After complying with the requirements of Subsection (h), the ~~[The]~~ judges described by Section 76.002 shall appoint a department director who must meet, at a minimum, the eligibility requirements for officers established under Section 76.005.

(h) When there is a vacancy in the position of department director, the judges described by Section 76.002 shall:

(1) publicly advertise the position;

(2) post a job description, the qualifications for the position, and the application requirements;

(3) conduct a competitive hiring process and adhere to state and federal equal employment opportunity laws; and

(4) review applicants who meet the posted qualifications and comply with the application requirements.

SECTION 12. The heading to Subtitle C, Title 3, Government Code, is amended to read as follows:

SUBTITLE C. LEGISLATIVE AGENCIES AND OVERSIGHT COMMITTEES

SECTION 13. Subtitle C, Title 3, Government Code, is amended by adding Chapter 328 to read as follows:

CHAPTER 328. CRIMINAL JUSTICE LEGISLATIVE OVERSIGHT COMMITTEE

Sec. 328.001. DEFINITION. In this chapter, "committee" means the Criminal Justice Legislative Oversight Committee.

Sec. 328.002. ESTABLISHMENT; COMPOSITION. (a) The Criminal Justice Legislative Oversight Committee is established to provide objective research, analysis, and recommendations to help guide state criminal justice policies.

(b) The committee is composed of six members as follows:

(1) the chair of the Senate Committee on Criminal Justice;

(2) the chair of the House Committee on Corrections;

(3) two members of the senate appointed by the lieutenant governor; and

(4) two members of the house of representatives appointed by the speaker of the house of representatives.

(c) In making appointments under Subsection (b)(3) or (4), the lieutenant governor or the speaker of the house of representatives, as applicable, shall give first consideration to members of the senate or the house of representatives who are members of the Senate Committee on Finance or the House Appropriations Committee.

(d) An appointed member of the committee serves at the pleasure of the appointing official.

Sec. 328.003. PRESIDING OFFICER; TERM. (a) The lieutenant governor and the speaker of the house of representatives shall appoint the presiding officer of the committee on an alternating basis.

(b) The presiding officer of the committee serves a two-year term that expires February 1 of each odd-numbered year.

Sec. 328.004. POWERS AND DUTIES. (a) The committee shall:

(1) use statistical analyses and other research methods to conduct an in-depth examination of the criminal justice system in this state that includes:

(A) an assessment of the cost-effectiveness of the use of state and local funds in the criminal justice system;

(B) an identification of critical problems in the criminal justice system;
and

(C) a determination of the long-range needs of the criminal justice system;

(2) recommend to the legislature:

(A) strategies to solve the problems identified under Subdivision (1)(B);
and

(B) policy priorities to address the long-range needs determined under Subdivision (1)(C); and

(3) advise and assist the legislature in developing plans, programs, and proposed legislation to improve the effectiveness of the criminal justice system.

(b) The committee has all other powers and duties provided to a special committee by:

(1) Subchapter B, Chapter 301;

(2) the rules of the senate and the house of representatives; and

(3) policies of the senate and house committees on administration.

Sec. 328.005. MEETINGS. The committee shall meet at the call of the presiding officer.

Sec. 328.006. STAFF; AUTHORITY TO CONTRACT. The committee may hire staff or may contract with universities or other suitable entities to assist the committee in carrying out the committee's duties. Funding to support the operation of the committee shall be provided from funds appropriated to the Texas Legislative Council.

Sec. 328.007. REPORT. Not later than January 1 of each odd-numbered year, the committee shall submit to the legislature a report that contains the recommendations described by Section 328.004(a)(2).

SECTION 14. Section 492.012, Government Code, is amended to read as follows:

Sec. 492.012. SUNSET PROVISION. The Texas Board of Criminal Justice and the Texas Department of Criminal Justice are subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2011 ~~[2007]~~.

SECTION 15. Chapter 492, Government Code, is amended by adding Sections 492.0125, 492.015, and 492.016 to read as follows:

Sec. 492.0125. COMPLIANCE WITH SUNSET RECOMMENDATIONS.

(a) The department shall:

(1) comply with and implement the management action recommendations regarding the department adopted by the Sunset Advisory Commission on January 10, 2007, as a result of its review of the department; and

(2) report to the Sunset Advisory Commission not later than November 1, 2008, the information the Sunset Advisory Commission requires regarding the department's implementation of the recommendations under Subdivision (1).

(b) This section expires June 1, 2009.

Sec. 492.015. USE OF TECHNOLOGY. The board shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Sec. 492.016. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

SECTION 16. Chapter 493, Government Code, is amended by adding Section 493.0151 to read as follows:

Sec. 493.0151. DYNAMIC RISK ASSESSMENT OF SEX OFFENDERS.

(a) For purposes of this section, "sexual offense" means a criminal offense the conviction of which requires a person to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) Before an inmate who is serving a sentence for a sexual offense is discharged or is released on parole or mandatory supervision from the department, the department shall use the dynamic risk assessment tool developed by the Council on Sex Offender Treatment under Section 110.164, Occupations Code, to assign the inmate a risk level of low, medium, or high.

(c) The department shall conduct the risk assessment required by this section in addition to any other risk assessment the department is required to conduct.

SECTION 17. Chapter 493, Government Code, is amended by adding Section 493.026 to read as follows:

Sec. 493.026. CERTAIN INTERAGENCY COMMUNICATIONS PROHIBITED. The department, regardless of available capacity in the program, may not prohibit a parole panel from, or request a parole panel to refrain from, requiring an inmate to participate in and complete a treatment program operated by the department before the inmate is released on parole.

SECTION 18. Chapter 493, Government Code, is amended by adding Section 493.027 to read as follows:

Sec. 493.027. MANAGEMENT-EMPLOYEE MEETINGS. (a) The director of the department may meet regularly with representatives of an eligible state employee organization, as certified by the comptroller under Section 403.0165, that represents department employees in disciplinary or grievance matters to identify:

(1) department policies or practices that impair the efficient, safe, and effective operation of department facilities; and

(2) issues that could lead to unnecessary conflicts between the department and department employees and that could undermine retention and recruitment of those employees.

(b) The director annually shall submit a report to the Criminal Justice Legislative Oversight Committee on the outcome of any meetings held under this section. The report must:

(1) be signed by the director and each representative of an employee organization described by Subsection (a) that participates in the meetings; and

(2) include a statement from each party regarding the impact of the meetings on the recruitment and retention of department employees and on employee morale.

SECTION 19. Section 494.008, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The department may allow employees who are granted law enforcement authority under this section to assist municipal, county, state, or federal law enforcement ~~[peace]~~ officers ~~[in any county of the state]~~ if:

(1) the assistance is requested for an emergency situation that presents an immediate or potential threat to public safety if assistance is not received, including ~~[the purpose of]~~ apprehending an escapee of a municipal or county jail or privately operated or federal correctional facility; and

(2) ~~[if]~~ the department determines that the assistance will not jeopardize the safety and security of the department and its personnel.

(b-1) An employee who assists under Subsection (b) a law enforcement ~~[peace]~~ officer in the performance of the officer's duties has the same powers and duties as the officer requesting assistance.

SECTION 20. Subchapter B, Chapter 495, Government Code, is amended by adding Sections 495.025 and 495.026 to read as follows:

Sec. 495.025. CERTAIN COMMISSARY CONTRACTS; TASTE TESTS.

(a) For the purchase of commissary food goods, the department may conduct a taste test as consideration for a bid award only if, to conduct the test, the department contracts with a private marketing vendor, a university, or another independent organization that is experienced in food product evaluation and taste tests.

(b) In awarding a bid for commissary food goods for which a taste test is conducted, the department may use the taste test results as not more than 30 percent of the criteria used for the bid award.

(c) A contract into which the department enters under Subsection (a) must require the vendor, university, or other organization, at the expense of the vendor, university, or organization, to annually re-conduct the taste test to ensure that the product meets the original specifications of the request for proposal that resulted in the department entering a contract for the tested product.

Sec. 495.026. PRODUCT BUNDLING, BULK PURCHASING, AND VENDOR DISCOUNTS. The department may provide for the practice of bundling products into categories to ensure savings through bulk purchasing, discounts for advance invoice payments, and online ordering.

SECTION 21. Subsections (b) and (c), Section 497.006, Government Code, are amended to read as follows:

(b) With the approval of the board, the office may enter into a contract with a private business to conduct a program on or off property operated by the department. Except as provided by Subsection (c), a contract entered into under this section must comply with all requirements of the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761. In determining under Section 497.062 the number of participants participating in private sector prison industries programs, the department shall count the number of work program participants participating in a program under a contract entered into under this section. Not more than 700 ~~500~~ work program participants may participate in programs under contracts entered into under this subsection.

(c) A contract for the provision of services under this section must:

(1) be certified by the Private Sector Prison Industries Oversight Authority as complying with all requirements of the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761, other than a requirement relating to the payment of prevailing wages, so long as the contract requires payment of not less than the federal minimum wage;

(2) be certified by the authority, under rules adopted under Section 497.059, that the contract would not cause the loss of existing jobs of a specific type provided by the contracting party in this state; and

(3) be approved by the board.

SECTION 22. Subchapter D, Chapter 499, Government Code, is amended by adding Section 499.072 to read as follows:

Sec. 499.072. LOCATION OF CENTRAL PRISON UNIT. (a) The department shall conduct a feasibility study of relocating the Central Prison Unit and the adjoining prison housing units from their current location in Sugar Land, Texas, to a location that more appropriately addresses the needs of the correctional system.

(b) If relocation is determined to be in the best interest of the correctional system and the City of Sugar Land, during the course of the study the department shall examine:

(1) the costs and benefits of relocating the Central Prison Unit and the adjoining prison housing units;

(2) appropriate measures to ensure that adequate easements are granted to allow development of surrounding property; and

(3) an anticipated timeline for the relocation.

SECTION 23. Subchapter A, Chapter 501, Government Code, is amended by adding Section 501.011 to read as follows:

Sec. 501.011. ZERO-TOLERANCE POLICY. (a) The department shall adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of inmates in the custody of the department.

(b) The department shall establish standards for reporting and collecting data on the sexual abuse of inmates in the custody of the department.

(c) The department shall establish a procedure for inmates in the custody of the department and department employees to report incidents of sexual abuse involving an inmate in the custody of the department. The procedure must designate a person employed at the department facility in which the abuse is alleged to have occurred as well as a person who is employed at the department's headquarters to whom a person may report an incident of sexual abuse.

(d) The department shall prominently display the following notice in the office of the chief administrator of each department facility, the employees' break room of each department facility, the cafeteria of each department facility, and at least six additional locations in each department facility:

THE TEXAS LEGISLATURE HAS ADOPTED A ZERO-TOLERANCE POLICY REGARDING THE SEXUAL ABUSE, INCLUDING CONSENSUAL SEXUAL CONTACT, OF AN INMATE IN THE CUSTODY OF THE DEPARTMENT. ANY SUCH VIOLATION MUST BE REPORTED TO

SECTION 24. Subchapter B, Chapter 501, Government Code, is amended by adding Sections 501.059 and 501.064 to read as follows:

Sec. 501.059. SCREENING FOR AND EDUCATION CONCERNING FETAL ALCOHOL EXPOSURE DURING PREGNANCY. (a) The department shall establish a screening program to identify female inmates who are:

(1) between the ages of 18 and 44;

(2) sentenced to a term of confinement not to exceed two years; and

(3) at risk for having a pregnancy with alcohol-related complications, including giving birth to a child with alcohol-related birth defects.

(b) The screening program established under Subsection (a) must:

(1) evaluate the family planning practices of each female inmate described by Subsection (a) in relation to the inmate's consumption of alcohol and risk of having a pregnancy with alcohol-related complications;

(2) include an objective screening tool to be used by department employees administering the screening program; and

(3) occur during the diagnostic process or at another time determined by the department.

(c) The department shall provide:

(1) a brief substance abuse intervention to all female inmates identified by the screening program as being at risk for having a pregnancy with alcohol-related complications; and

(2) an educational brochure describing the risks and dangers of consuming alcohol during pregnancy to all female inmates.

Sec. 501.064. AVAILABILITY OF CORRECTIONAL HEALTH CARE INFORMATION TO INMATES. The department shall ensure that the following information is available to any inmate confined in a facility operated by or under contract with the department:

(1) a description of the level, type, and variety of health care services available to inmates;

(2) the formulary used by correctional health care personnel in prescribing medication to inmates;

(3) correctional managed care policies and procedures; and

(4) the process for the filing of inmate grievances concerning health care services provided to inmates.

SECTION 25. Section 501.132, Government Code, is amended to read as follows:

Sec. 501.132. APPLICATION OF SUNSET ACT. The Correctional Managed Health Care Committee is subject to review under Chapter 325 (Texas Sunset Act) regarding the committee's role and responsibilities. The committee shall be reviewed during the period in which the Texas Department of Criminal Justice is reviewed ~~[Unless continued in existence as provided by that chapter, the committee is abolished and this subchapter expires September 1, 2007].~~

SECTION 26. Subchapter E, Chapter 501, Government Code, is amended by adding Section 501.1325 to read as follows:

Sec. 501.1325. COMPLIANCE WITH SUNSET RECOMMENDATIONS.

(a) The committee, The University of Texas Medical Branch at Galveston, and the Texas Tech University Health Sciences Center shall:

(1) comply with and implement the management action recommendations regarding the committee, The University of Texas Medical Branch at Galveston, and the Texas Tech University Health Sciences Center adopted by the Sunset Advisory Commission on January 10, 2007, as a result of its review of the committee; and

(2) report to the Sunset Advisory Commission not later than November 1, 2008, the information the Sunset Advisory Commission requires regarding the committee and the health care providers' implementation of the recommendations under Subdivision (1).

(b) This section expires June 1, 2009.

SECTION 27. Section 501.137, Government Code, is amended to read as follows:

Sec. 501.137. PRESIDING OFFICER. The governor shall designate a public ~~[physician]~~ member of the committee who is licensed to practice medicine in this state as presiding officer. The presiding officer serves in that capacity at the will of the governor.

SECTION 28. Subsection (a), Section 501.148, Government Code, is amended to read as follows:

(a) The committee shall:

(1) develop statewide policies for the delivery of correctional health care;
(2) maintain ~~[the]~~ contracts for health care services in consultation with the department and the health care providers;

(3) communicate with the department and the legislature regarding the financial needs of the correctional health care system;

(4) allocate funding made available through legislative appropriations for correctional health care;

(5) monitor the expenditures of The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center to ensure that those expenditures comply with applicable statutory and contractual requirements;

(6) serve as a dispute resolution forum ~~[(2) determine a capitation rate reflecting the true cost of correctional health care, including necessary catastrophic reserves;~~

~~[(3) monitor and develop reports on general quality of care issues;~~

~~[(4) act as an independent third party in the allocation of money to inmate health care providers, including the allocation of money between The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center;~~

~~[(5) act as an independent third party for the purpose of dispute resolution]~~ in the event of a disagreement relating to inmate health care services between:

(A) the department and the health care providers; or

(B) The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center;

(7) address problems found through monitoring activities by the department and health care providers ~~[and~~

~~[(6) enforce compliance with contract provisions]~~, including requiring corrective action if care does not meet expectations as determined by those ~~[quality of care]~~ monitoring activities;

(8) identify and address long-term needs of the correctional health care system; and

(9) report to the Texas Board of Criminal Justice at the board's regularly scheduled meeting each quarter on the committee's policy decisions, the financial status of the correctional health care system, and corrective actions taken by or required of the department or the health care providers.

SECTION 29. Section 501.150, Government Code, is amended to read as follows:

Sec. 501.150. QUALITY OF CARE MONITORING BY THE DEPARTMENT AND HEALTH CARE PROVIDERS. (a) The committee shall establish a procedure for monitoring the quality of care delivered by the health care providers. Under the procedure, the department shall monitor the quality of care delivered by the health care providers, including [department's monitoring activities must be limited to] investigating medical grievances, ensuring access to medical care, and conducting periodic operational reviews of medical care provided at its units.

(b) The department and the medical care providers shall cooperate in monitoring quality of care. The clinical and professional resources of the health care providers shall be used to the greatest extent feasible for clinical oversight of quality of care issues. The department may require the health care providers to take corrective action if the care provided does not meet expectations as determined by quality of care monitoring.

(c) The department and the medical care providers shall communicate the results of their monitoring activities, including a list of and the status of any corrective actions required of the health care providers, to the committee and to the Texas Board of Criminal Justice.

SECTION 30. Subsections (a) and (b), Section 501.151, Government Code, are amended to read as follows:

(a) The committee shall maintain a file on each written complaint filed with the committee by a member of the general public. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the committee;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint;

and

(6) an explanation of the reason the file was closed, if the committee closed the file without taking action other than to investigate the complaint.

(b) The committee shall make information available describing its procedures for ~~[provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the committee's policies and procedures relating to]~~ complaint investigation and resolution.

SECTION 31. Subchapter E, Chapter 501, Government Code, is amended by adding Sections 501.153, 501.154, and 501.155 to read as follows:

Sec. 501.153. ALTERNATIVE DISPUTE RESOLUTION. (a) The committee shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the committee's jurisdiction.

(b) The committee's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The committee shall designate a trained person to:

- (1) coordinate the implementation of the policy adopted under Subsection
- (a);

(2) serve as a resource for any training needed to implement the procedures for alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the committee.

Sec. 501.154. USE OF TECHNOLOGY. The committee shall implement a policy requiring the committee to use appropriate technological solutions to improve the committee's ability to perform its functions. The policy must ensure that the public is able to interact with the committee on the Internet.

Sec. 501.155. AVAILABILITY OF CORRECTIONAL HEALTH CARE INFORMATION TO THE PUBLIC. (a) The committee shall ensure that the following information is available to the public:

(1) contracts between the department, the committee, and health care providers, and other information concerning the contracts, including a description of the level, type, and variety of health care services available to inmates;

(2) the formulary used by correctional health care personnel in prescribing medication to inmates;

(3) correctional managed care policies and procedures;

(4) quality assurance statistics and data, to the extent permitted by law;

(5) general information concerning the costs associated with correctional health care, including at a minimum:

(A) quarterly and monthly financial reports; and

(B) aggregate cost information for:

(i) salaries and benefits;

(ii) equipment and supplies;

(iii) pharmaceuticals;

(iv) offsite medical services; and

(v) any other costs to the correctional health care system;

(6) aggregate statistical information concerning inmate deaths and the prevalence of disease among inmates;

(7) the process for the filing of inmate grievances concerning health care services provided to inmates;

(8) general statistics on the number and types of inmate grievances concerning health care services provided to inmates filed during the preceding quarter;

(9) contact information for a member of the public to submit an inquiry to or file a complaint with the department or a health care provider;

(10) information concerning the regulation and discipline of health care professionals, including contact information for the Health Professions Council and a link to the council's website;

(11) unit data regarding health care services, including hours of operation, available services, general information on health care staffing at the unit, statistics on an inmate's ability to access care at the unit in a timely manner, and, if the unit is accredited by a national accrediting body, the most recent accreditation review date; and

(12) dates and agendas for quarterly committee meetings and the minutes from previous committee meetings.

(b) The committee shall make the information described by Subsection (a) available on the committee's website and, on request, in writing. The committee shall cooperate with the department and the health care providers to ensure that the committee's website:

- (1) is linked to the websites of the department and the health care providers;
- (2) is accessible through the State of Texas website; and
- (3) can be located through common search engines.

(c) In determining the specific information to be made available under this section, the committee shall cooperate with the department to ensure that public disclosure of the information would not pose a security threat to any individual or to the criminal justice system.

SECTION 32. Subchapter B, Chapter 507, Government Code, is amended by adding Section 507.028 to read as follows:

Sec. 507.028. SCREENING FOR AND EDUCATION CONCERNING FETAL ALCOHOL EXPOSURE DURING PREGNANCY. (a) The department shall establish and use a screening program in state jail felony facilities that is substantially similar to the program established and used by the department under Section 501.059.

(b) The department shall provide to all female defendants confined in state jail felony facilities an educational brochure describing the risks and dangers of consuming alcohol during pregnancy.

SECTION 33. Section 508.033, Government Code, is amended by amending Subsections (a) through (d) and adding Subsection (f) to read as follows:

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

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the department or the board;

(2) owns or controls, directly or indirectly, more than a 10-percent interest in a business entity or other organization:

(A) regulated by the department; or

(B) receiving funds from the department or the board; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department or the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) In determining eligibility under Subsection (a)(3), the compensation or reimbursement that a board member's spouse or parole commissioner's spouse receives as an employee of the board or the department may not be considered. This subsection does not affect any restriction on employment or board membership imposed by any other law.

(c) A person may not serve as a parole commissioner, may not be a member of the board, and may not be an employee of the division or the board employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal justice; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice.

(d) A person who is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation in or on behalf of a profession related to the operation of the board may not:

- (1) serve as a member of the board or as a parole commissioner; or
- (2) act as the general counsel to the board or division.

(f) A person who is a current or former employee of the department may not serve as a parole commissioner before the second anniversary of the date the person's employment with the department ceases, and a member of the board may not serve as a parole commissioner before the second anniversary of the date the person's membership on the board ceases.

SECTION 34. Subsection (b), Section 508.036, Government Code, is amended to read as follows:

(b) The board shall:

(1) adopt rules relating to the decision-making processes used by the board and parole panels;

(2) prepare information of public interest describing the functions of the board and make the information available to the public and appropriate state agencies;

(3) comply with federal and state laws related to program and facility accessibility; ~~and~~

(4) prepare annually a complete and detailed written report that meets the reporting requirements applicable to financial reporting provided in the General Appropriations Act and accounts for all funds received and disbursed by the board during the preceding fiscal year; and

(5) develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board, with the exception of an individual parole determination or clemency recommendation.

SECTION 35. Section 508.036, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The board, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the department and is used to develop the board's budget structure. The board shall maintain the board's legislative appropriations request and budget structure separately from those of the department.

SECTION 36. Subchapter B, Chapter 508, Government Code, is amended by adding Sections 508.053, 508.054, and 508.055 to read as follows:

Sec. 508.053. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Sec. 508.054. RECORDS OF COMPLAINTS. (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The board shall make information available describing its procedures for complaint investigation and resolution.

(c) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) This section does not apply to a complaint about an individual parole determination or clemency recommendation.

Sec. 508.055. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

SECTION 37. Subchapter D, Chapter 508, Government Code, is amended by adding Section 508.1131 to read as follows:

Sec. 508.1131. SALARY CAREER LADDER FOR PAROLE OFFICERS.

(a) The executive director shall adopt a salary career ladder for parole officers. The salary career ladder must base a parole officer's salary on the officer's classification and years of service with the department.

(b) For purposes of the salary schedule, the department shall classify all parole officer positions as Parole Officer I, Parole Officer II, Parole Officer III, Parole Officer IV, or Parole Officer V.

(c) Under the salary career ladder adopted under Subsection (a), a parole officer to whom the schedule applies and who received an overall evaluation of at least satisfactory in the officer's most recent annual evaluation is entitled to an annual salary increase, during each of the officer's first 10 years of service in a designated parole officer classification as described by Subsection (b), equal to one-tenth of the difference between:

(1) the officer's current annual salary; and

(2) the minimum annual salary of a parole officer in the next highest classification.

SECTION 38. Subdivision (1), Subsection (g), Section 508.117, Government Code, is amended to read as follows:

(1) "Close relative of a deceased victim" means a person who was:

(A) the spouse of the victim at the time of the victim's death;

(B) a parent of the deceased victim; ~~or~~

(C) an adult brother, sister, or child of the deceased victim; or

(D) the nearest relative of the deceased victim by consanguinity, if the persons described by Paragraphs (A) through (C) are deceased or are incapacitated due to physical or mental illness or infirmity.

SECTION 39. Section 508.144, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (d), (e), and (f) to read as follows:

(a) The board shall:

(1) develop according to an acceptable research method the parole guidelines that are the basic criteria on which a parole decision is made;

(2) base the guidelines on the seriousness of the offense and the likelihood of a favorable parole outcome;

(3) ensure that the guidelines require consideration of an inmate's progress in any programs in which the inmate participated during the inmate's term of confinement; and

~~(4) implement the guidelines;~~ ~~and~~

~~[(4) review the guidelines periodically].~~

(b) If a board member or parole commissioner deviates from the parole guidelines in voting on a parole decision, the member or parole commissioner shall:

(1) produce a ~~[brief]~~ written statement describing in detail the specific circumstances regarding the departure from the guidelines; ~~and~~

(2) place a copy of the statement in the file of the inmate for whom the parole decision was made; and

(3) provide a copy of the statement to the inmate.

(d) The board shall meet annually to review and discuss the parole guidelines developed under Subsection (a). The board may consult outside experts to assist with the review. The board must consider:

(1) how the parole guidelines serve the needs of parole decision-making;

(2) how well the parole guidelines reflect parole panel decisions; and

(3) how well parole guidelines predict successful parole outcomes.

(e) Based on the board's review of the parole guidelines under Subsection (d), the board may:

(1) update the guidelines by:

(A) including new risk factors; or

(B) changing the values of offense severity or risk factor scores; or

(2) modify the recommended parole approval rates under the guidelines, if parole approval rates differ significantly from the recommended rates.

(f) The board is not required to hold an open meeting to review the guidelines as required by Subsection (d), but any modifications or updates to the guidelines made by the board under Subsection (e) must occur in an open meeting.

SECTION 40. Subchapter E, Chapter 508, Government Code, is amended by adding Section 508.1445 to read as follows:

Sec. 508.1445. ANNUAL REPORT ON GUIDELINES REQUIRED. (a) The board annually shall submit a report to the Criminal Justice Legislative Oversight Committee, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees in the senate and house of representatives primarily responsible for criminal justice regarding the board's application of the parole guidelines adopted under Section 508.144.

(b) The report must include:

(1) a brief explanation of the parole guidelines, including how the board:

(A) defines the risk factors and offense severity levels; and

(B) determines the recommended parole approval rates for each guideline score;

(2) a comparison of the recommended approval rates under the parole guidelines to the actual approval rates for individual parole panel members, regional offices, and the state as a whole; and

(3) a description of instances in which the actual parole approval rates do not meet the recommended approval rates under the parole guidelines, an explanation of the variations, and a list of actions that the board has taken or will take to meet the guidelines.

SECTION 41. Subsection (c), Section 508.155, Government Code, is amended to read as follows:

(c) The division may allow a releasee to serve the remainder of the releasee's sentence without supervision and without being required to report if a parole supervisor at the regional level has approved the releasee's early release from supervision under Section 508.1555[+:

~~[(1) the releasee has been under supervision for at least one-half of the time that remained on the releasee's sentence when the releasee was released from imprisonment;~~

~~[(2) during the period of supervision the releasee's parole or release to mandatory supervision has not been revoked; and~~

~~[(3) the division determines:~~

~~[(A) that the releasee has made a good faith effort to comply with any restitution order imposed on the releasee by a court; and~~

~~[(B) that allowing the releasee to serve the remainder of the releasee's sentence without supervision and reporting is in the best interest of society].~~

SECTION 42. Subchapter E, Chapter 508, Government Code, is amended by adding Section 508.1555 to read as follows:

Sec. 508.1555. PROCEDURE FOR THE EARLY RELEASE FROM SUPERVISION OF CERTAIN RELEASEES. (a) A parole officer annually shall identify the releasees under the parole officer's supervision who are eligible for early release from supervision under Section 508.155(c). A releasee is eligible for early release if:

(1) the releasee has been under supervision for at least one-half of the time that remained on the releasee's sentence when the releasee was released from imprisonment;

(2) during the preceding two-year period, the releasee has not committed any violation of the rules or conditions of release;

(3) during the period of supervision the releasee's parole or release to mandatory supervision has not been revoked; and

(4) the division determines:

(A) that the releasee has made a good faith effort to comply with any restitution order imposed on the releasee by a court; and

(B) that allowing the releasee to serve the remainder of the releasee's sentence without supervision and reporting is in the best interest of society.

(b) After identifying any releasees who are eligible for early release under Subsection (a), the parole officer shall review the eligible releasees, including any releasees the parole officer has previously declined to recommend for early release, to determine if a recommendation for early release from supervision is appropriate. In conducting the review and determining recommendations, the parole officer shall consider whether the releasee:

(1) has a low risk of recidivism as determined by an assessment developed by the department; and

(2) has made a good faith effort to comply with the conditions of release.

(c) A parole officer shall forward to the parole supervisor at the regional level any recommendations for early release the parole officer makes under Subsection (b). If the parole supervisor approves the recommendation, the division shall allow a releasee to serve the remainder of the releasee's sentence without supervision and without being required to report as authorized by Section 508.155.

SECTION 43. Subchapter B, Chapter 659, Government Code, is amended by adding Section 659.0155 to read as follows:

Sec. 659.0155. PAYMENT TO EMPLOYEES OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE FOR OVERTIME. The Texas Department of Criminal Justice shall compensate a person employed by the department for any overtime accrued by the employee for which the employee is entitled to compensation under Section 659.015 in the same month the department compensates employees at the regular rate of pay for the period in which the employee accrued the overtime.

SECTION 44. Subsection (a), Section 614.0032, Health and Safety Code, is amended to read as follows:

(a) The office shall perform duties imposed on the office by Section 508.146, Government Code, and Section 15(i), Article 42.12, Code of Criminal Procedure.

SECTION 45. Section 32.024, Human Resources Code, is amended by adding Subsection (dd) to read as follows:

(dd) Notwithstanding any other law, an inmate released on medically recommended intensive supervision under Section 508.146, Government Code, who otherwise meets the eligibility requirements for the medical assistance program is not ineligible for the program solely on the basis of the conviction or adjudication for which the inmate was sentenced to confinement.

SECTION 46. Subchapter D, Chapter 110, Occupations Code, is amended by adding Section 110.164 to read as follows:

Sec. 110.164. DYNAMIC RISK ASSESSMENT TOOL. (a) The council shall develop or adopt a dynamic risk assessment tool to be used in determining the likelihood that a person who is confined in a penal institution and will become subject

to Chapter 62, Code of Criminal Procedure, on being released from the institution will commit an offense described by Article 62.001(5), Code of Criminal Procedure, after being released from the institution.

(b) The dynamic risk assessment tool must enable the assignment to a person of a risk level of low, medium, or high.

SECTION 47. Subsection (c), Section 110.302, Occupations Code, is amended to read as follows:

(c) The ~~[Texas Board of Criminal Justice or the]~~ governing board of the Texas Youth Commission may vote to exempt employees of the ~~[Texas Department of Criminal Justice or the]~~ Texas Youth Commission~~[, as appropriate,]~~ from a specific licensing requirement imposed under this section if the board determines that the requirement causes financial or operational hardship on the agency. The Texas Board of Criminal Justice may not exempt any employee of the Texas Department of Criminal Justice from a licensing requirement imposed by this section for any reason.

SECTION 48. Subsection (a), Section 721.003, Transportation Code, is amended to read as follows:

(a) The governing bodies of the following state agencies or divisions by rule may exempt from the requirements of Section 721.002 a motor vehicle that is under the control and custody of the agency or division:

- (1) Texas Commission on Fire Protection;
- (2) Texas State Board of Pharmacy;
- (3) [Texas] Department of State Health Services and Department of Aging and Disability Services [Mental Health and Mental Retardation];
- (4) Department of Public Safety of the State of Texas;
- (5) ~~[the institutional division or the pardons and paroles division of the]~~ Texas Department of Criminal Justice;
- (6) Board of Pardons and Paroles;
- (7) Parks and Wildlife Department;
- (8) Railroad Commission of Texas;
- (9) Texas Alcoholic Beverage Commission;
- (10) Texas Department of Banking;
- (11) [Savings and Loan] Department of Savings and Mortgage Lending;
- (12) Texas Juvenile Probation Commission;
- (13) Texas ~~[Natural Resource Conservation]~~ Commission on Environmental

Quality;

- (14) Texas Youth Commission;
- (15) Texas Lottery Commission;
- (16) the office of the attorney general;
- (17) Texas Department of Insurance; and
- (18) an agency that receives an appropriation under an article of the General Appropriations Act that appropriates money to the legislature.

SECTION 49. (a) The Texas Department of Criminal Justice shall study the operation and maintenance of different types of electronic monitoring equipment. The study conducted under this subsection must examine:

(1) the relative cost-effectiveness of using various types of electronic monitoring equipment and funding proposals for costs to the department associated with the various types of equipment;

(2) the relative level of supervision provided by different types of electronic monitoring equipment; and

(3) the different rehabilitation and treatment options afforded by different types of electronic monitoring equipment.

(b) Not later than December 1, 2009, the Texas Department of Criminal Justice shall submit a report summarizing the findings of the study conducted under Subsection (a) of this section to the governor, the lieutenant governor, the speaker of the house of representatives, and appropriate standing committees of the legislature.

SECTION 50. (a) The Texas Department of Criminal Justice shall conduct a study regarding:

(1) the number of inmates confined in facilities operated by or under contract with the department who pose no significant risk of recidivism or danger to society due to the:

(A) inmate's age or health;

(B) nature of the crime committed by the inmate; or

(C) reasonably successful rehabilitation of the inmate while incarcerated;

(2) alternatives to confining inmates described by Subdivision (1) of this subsection in a facility operated by or under contract with the department;

(3) to the extent permitted by federal law, the possibility of conducting a prisoner exchange with the United Mexican States or another foreign country in which foreign nationals in the custody of the department are exchanged for United States citizens incarcerated in another country; and

(4) measures that the department can take to assure that inmates sent to a foreign country under a prisoner exchange described by Subdivision (3) of this subsection will not be released early.

(b) The Texas Department of Criminal Justice shall submit a report to the members of the 81st Legislature regarding the results of the study conducted under Subsection (a) of this section.

SECTION 51. The change in law made by this Act to Subsection (a), Article 15.19, and Articles 15.20 and 15.21, Code of Criminal Procedure, apply only to a person who, on or after the effective date of this Act, is arrested under a warrant, regardless of the date on which the warrant under which the person is arrested was issued.

SECTION 52. The change in law made by this Act to Subsection (a), Section 8, Article 42.09, Code of Criminal Procedure, applies only to a defendant transferred to the Texas Department of Criminal Justice on or after the effective date of this Act. A defendant transferred to the department before the effective date of this Act is covered by the law in effect when the defendant is transferred, and the former law is continued in effect for that purpose.

SECTION 53. Subsection (b), Section 5, Article 42.12, Code of Criminal Procedure, as amended by this Act, applies to a hearing conducted under that section on or after the effective date of this Act, regardless of when the adjudication of guilt was originally deferred or when the offense giving rise to the grant of deferred adjudication community supervision was committed.

SECTION 54. The change in law made by this Act in amending Subdivision (1), Subsection (a), Section 15, Article 42.12, Code of Criminal Procedure, applies only to a defendant placed on deferred adjudication community supervision for an offense committed on or after the effective date of this Act. A defendant placed on deferred adjudication for an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 55. (a) The speaker of the house of representatives and the lieutenant governor shall appoint members to the Criminal Justice Legislative Oversight Committee under Chapter 328, Government Code, as added by this Act, not later than January 1, 2008.

(b) Notwithstanding Section 328.003, Government Code, as added by this Act, the speaker of the house of representatives, not later than January 15, 2008, shall appoint a presiding officer for the committee. The presiding officer appointed by the speaker of the house of representatives under this section serves a one-year term that begins on February 1, 2008, and ends on February 1, 2009.

SECTION 55A. Section 493.0151, Government Code, as added by this Act, applies to an inmate discharged or released on parole or mandatory supervision from the Texas Department of Criminal Justice on or after the effective date of this Act, regardless of whether the offense for which the inmate is serving a sentence was committed before, on, or after the effective date of this Act.

SECTION 56. Sections 495.025 and 495.026, Government Code, as added by this Act, apply only to a contract that the Texas Department of Criminal Justice enters into on or after the effective date of this Act. A contract that the department enters into before the effective date of this Act is governed by the law in effect at the time the contract is entered into, and that law is continued in effect for that purpose.

SECTION 57. Not later than March 1, 2008, the Texas Department of Criminal Justice shall establish the screening programs concerning fetal alcohol exposure under Sections 501.059 and 507.028, Government Code, as added by this Act. Not later than September 1, 2008, the department shall begin screening all inmates or defendants confined in state jail felony facilities as required by those sections.

SECTION 58. The Texas Department of Criminal Justice shall ensure that information is made available to inmates as required by Section 501.064, Government Code, as added by this Act, not later than March 1, 2008.

SECTION 59. The Correctional Managed Health Care Committee shall ensure that information is made available to the public as required by Section 501.155, Government Code, as added by this Act, not later than January 1, 2008.

SECTION 60. Section 508.033, Government Code, as amended by this Act, applies only to a person hired by the Board of Pardons and Paroles as a parole commissioner on or after the effective date of this Act. A person hired as a parole commissioner before the effective date of this Act is covered by the law in effect on the date the person was hired, and the former law is continued in effect for that purpose.

SECTION 61. As soon as practicable after the effective date of this Act, but not later than the 30th day after that date, the executive director of the Texas Department of Criminal Justice shall adopt a salary career ladder for parole officers as required by Section 508.1131, Government Code, as added by this Act. Beginning the first day of the month following the date on which the executive director adopts the salary career ladder, each parole officer to whom the schedule applies and who received an overall evaluation of at least satisfactory in the officer's most recent annual evaluation is entitled to a salary in an amount that meets or exceeds the amount specified in the schedule for the officer's classification and years of service with the department.

SECTION 62. Subsection (b), Section 508.144, Government Code, as amended by this Act, applies only to a parole decision made on or after the effective date of this Act. A parole decision made before the effective date of this Act is covered by the law in effect on the date the decision was made, and the former law is continued in effect for that purpose.

SECTION 63. Not later than September 1, 2008, the Board of Pardons and Paroles shall hold its first annual meeting to review the parole guidelines as required by Subsection (d), Section 508.144, Government Code, as added by this Act.

SECTION 64. Not later than December 1, 2008, the Board of Pardons and Paroles shall submit its first annual report on the parole guidelines as required by Section 508.1445, Government Code, as added by this Act.

SECTION 65. Subsection (c), Section 508.155, Government Code, as amended by this Act, applies to any person who is a releasee on or after the effective date of this Act and whose recommendation for release is approved under Section 508.1555, Government Code, as added by this Act, regardless of when the person was originally released to parole or mandatory supervision.

SECTION 66. Not later than September 1, 2008, each parole officer shall complete the officer's first annual identification of releasees under the officer's supervision who are eligible for early release from supervision, as required by Section 508.1555, Government Code, as added by this Act.

SECTION 67. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for the implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 68. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 909** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 718**

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas
May 25, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 718** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

OGDEN
ELTIFE
NICHOLS
SHAPLEIGH

On the part of the Senate

GATTIS
R. COOK
HOPSON
KOLKHORST
VAN ARSDALE

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the route selection for the Trans-Texas Corridor.

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

SECTION 1. Section 227.012, Transportation Code, is amended to read as follows:

Sec. 227.012. ROUTE SELECTION. (a) The commission shall consider the following criteria when selecting a route for a segment of the Trans-Texas Corridor:

- (1) current and projected traffic patterns;
- (2) the safety of motorists;
- (3) potential risks to persons from spills or accidents of any kind;
- (4) environmental effects, including the effect on air quality;
- (5) current and projected economic development;
- (6) the current and projected need for additional transportation options; and
- (7) system connectivity.

(b) To the extent possible, the commission shall select a route for a segment of the Trans-Texas Corridor that lies on the Texas Highway Trunk System.

(c) Before the 11th day after making a determination under Subsection (b) that it is not possible to select a route for a segment of the Trans-Texas Corridor that lies on the Texas Highway Trunk System, the commission shall file a written report of that determination and the reasons supporting the determination with each member of the legislature.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 718** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2237**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2237** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO
JANEK
WEST

EISSLER
HOCHBERG
PATRICK
KRUSEE
MILES

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2237** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1565**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1565** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI
AVERITT
VAN DE PUTTE
HEGAR
WENTWORTH

On the part of the Senate

PUENTE
CORTE
FLORES
GUILLEN
LEIBOWITZ

On the part of the House

The Conference Committee Report on **HB 1565** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 3**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 3** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

AVERITT
ELTIFE
HEGAR
HINOJOSA
SHAPIRO

On the part of the Senate

CALLEGARI
HARTNETT
LAUBENBERG

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the development, management, and preservation of the water resources of the state; providing penalties.

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

ARTICLE 1. ENVIRONMENTAL FLOWS

SECTION 1.01. The heading to Section 5.506, Water Code, is amended to read as follows:

Sec. 5.506. EMERGENCY SUSPENSION OF PERMIT CONDITION
RELATING TO, AND EMERGENCY AUTHORITY TO MAKE AVAILABLE
WATER SET ASIDE FOR, BENEFICIAL INFLOWS TO AFFECTED BAYS AND
ESTUARIES AND INSTREAM USES.

SECTION 1.02. Section 5.506, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

(b) The commission must give written notice of the proposed action [suspension] to the Parks and Wildlife Department before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) [this section]. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action [suspension] for a period of 72 hours from receipt of the notice and must consider those comments before issuing an order implementing the proposed action [imposing the suspension].

(c) The commission may suspend a permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) [this section] without notice except as required by Subsection (b).

SECTION 1.03. Subsection (j), Section 5.701, Water Code, is amended to read as follows:

(j) The fee for other uses of water not specifically named in this section is \$1 per acre-foot, except that no political subdivision may be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers or for abatement of natural pollution. A fee is not required for a water right that is [This fee is waived for applications for instream use water rights] deposited into the Texas Water Trust.

SECTION 1.04. Section 11.002, Water Code, is amended by adding Subdivisions (15), (16), (17), (18), and (19) to read as follows:

(15) "Environmental flow analysis" means the application of a scientifically derived process for predicting the response of an ecosystem to changes in instream flows or freshwater inflows.

(16) "Environmental flow regime" means a schedule of flow quantities that reflects seasonal and yearly fluctuations that typically would vary geographically, by specific location in a watershed, and that are shown to be adequate to support a sound ecological environment and to maintain the productivity, extent, and persistence of key aquatic habitats in and along the affected water bodies.

(17) "Environmental flow standards" means those requirements adopted by the commission under Section 11.1471.

(18) "Advisory group" means the environmental flows advisory group.

(19) "Science advisory committee" means the Texas environmental flows science advisory committee.

SECTION 1.05. Subsection (a), Section 11.023, Water Code, is amended to read as follows:

(a) To the extent that state water has not been set aside by the commission under Section 11.1471(a)(2) to meet downstream instream flow needs or freshwater inflow needs, state [State] water may be appropriated, stored, or diverted for:

(1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) agricultural uses and industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

- (3) mining and recovery of minerals;
- (4) hydroelectric power;
- (5) navigation;
- (6) recreation and pleasure;
- (7) public parks; and
- (8) game preserves.

SECTION 1.06. Section 11.0235, Water Code, is amended by amending Subsections (b), (c), and (e) and adding Subsections (d-1) through (d-6) and (f) to read as follows:

(b) Maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries is of great importance to the public's economic health and general well-being. The legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001.

(c) The legislature has expressly required the commission while balancing all other public interests to consider and, to the extent practicable, provide for the freshwater inflows and instream flows necessary to maintain the viability of the state's streams, rivers, and bay and estuary systems in the commission's regular granting of permits for the use of state waters. As an essential part of the state's environmental flows policy, all permit conditions relating to freshwater inflows to affected bays and estuaries and instream flow needs must be subject to temporary suspension if necessary for water to be applied to essential beneficial uses during emergencies.

(d-1) The legislature has determined that existing water rights that are amended to authorize use for environmental purposes should be enforced in a manner consistent with the enforcement of water rights for other purposes as provided by the laws of this state governing the appropriation of state water.

(d-2) The legislature finds that to provide certainty in water management and development and to provide adequate protection of the state's streams, rivers, and bays and estuaries, the state must have a process with specific timelines for prompt action to address environmental flow issues in the state's major basin and bay systems, especially those systems in which unappropriated water is still available.

(d-3) The legislature finds that:

(1) in those basins in which water is available for appropriation, the commission should establish an environmental set-aside below which water should not be available for appropriation; and

(2) in those basins in which the unappropriated water that will be set aside for instream flow and freshwater inflow protection is not sufficient to fully satisfy the environmental flow standards established by the commission, a variety of market approaches, both public and private, for filling the gap must be explored and pursued.

(d-4) The legislature finds that while the state has pioneered tools to address freshwater inflow needs for bays and estuaries, there are limitations to those tools in light of both scientific and public policy evolution. To fully address bay and estuary environmental flow issues, the foundation of work accomplished by the state should

be improved. While the state's instream flow studies program appears to encompass a comprehensive and scientific approach for establishing a process to assess instream flow needs for rivers and streams across the state, more extensive review and examination of the details of the program, which may not be fully developed until the program is under way, are needed to ensure an effective tool for evaluating riverine environmental flow conditions.

(d-5) The legislature finds that the management of water to meet instream flow and freshwater inflow needs should be evaluated on a regular basis and adapted to reflect both improvements in science related to environmental flows and future changes in projected human needs for water. In addition, the development of management strategies for addressing environmental flow needs should be an ongoing, adaptive process that considers and addresses local issues.

(d-6) The legislature finds that recommendations for state action to protect instream flows and freshwater inflows should be developed through a consensus-based, regional approach involving balanced representation of stakeholders and that such a process should be encouraged throughout the state.

(e) The fact that greater pressures and demands are being placed on the water resources of the state makes it of paramount importance to ensure ~~[reexamine the process for ensuring]~~ that these important priorities are effectively addressed by detailing how environmental flow standards are to be developed using the environmental studies that have been and are to be performed by the state and others and specifying in clear delegations of authority how those environmental flow standards will be integrated into the regional water planning and water permitting process ~~[to the commission]~~.

(f) The legislature recognizes that effective implementation of the approach provided by this chapter for protecting instream flows and freshwater inflows will require more effective water rights administration and enforcement systems than are currently available in most areas of the state.

SECTION 1.07. Subchapter B, Chapter 11, Water Code, is amended by adding Sections 11.0236, 11.02361, 11.02362, and 11.0237 to read as follows:

Sec. 11.0236. ENVIRONMENTAL FLOWS ADVISORY GROUP. (a) In recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state there is created the environmental flows advisory group.

(b) The advisory group is composed of nine members as follows:

- (1) three members appointed by the governor;
- (2) three members of the senate appointed by the lieutenant governor; and
- (3) three members of the house of representatives appointed by the speaker

of the house of representatives.

(c) Of the members appointed under Subsection (b)(1):

- (1) one member must be a member of the commission;
- (2) one member must be a member of the board; and
- (3) one member must be a member of the Parks and Wildlife Commission.

(d) Each member of the advisory group serves at the will of the person who appointed the member.

(e) The appointed senator with the most seniority and the appointed house member with the most seniority serve together as co-presiding officers of the advisory group.

(f) A member of the advisory group is not entitled to receive compensation for service on the advisory group but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the advisory group, as provided by the General Appropriations Act.

(g) The advisory group may accept gifts and grants from any source to be used to carry out a function of the advisory group.

(h) The commission shall provide staff support for the advisory group.

(i) The advisory group shall conduct public hearings and study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that the advisory group determines have importance and relevance to the protection of environmental flows. In evaluating the options for providing adequate environmental flows, the advisory group shall take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our public and private lands, streams and rivers, and bay and estuary systems and are high priorities in the water management process. The advisory group shall specifically address:

(1) ways that the ecological soundness of those systems will be ensured in the water rights administration and enforcement and water allocation processes; and

(2) appropriate methods to encourage persons voluntarily to convert reasonable amounts of existing water rights to use for environmental flow protection temporarily or permanently.

(j) The advisory group may adopt rules, procedures, and policies as needed to administer this section, to implement its responsibilities, and to exercise its authority under Sections 11.02361 and 11.02362.

(k) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory group.

(l) Not later than December 1, 2008, and every two years thereafter, the advisory group shall issue and promptly deliver to the governor, lieutenant governor, and speaker of the house of representatives copies of a report summarizing:

(1) any hearings conducted by the advisory group;

(2) any studies conducted by the advisory group;

(3) any legislation proposed by the advisory group;

(4) progress made in implementing Sections 11.02361 and 11.02362; and

(5) any other findings and recommendations of the advisory group.

(m) The advisory group is abolished on the date that the commission has adopted environmental flow standards under Section 11.1471 for all of the river basin and bay systems in this state.

Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE ADVISORY COMMITTEE. (a) The Texas environmental flows science advisory committee consists of at least five but not more than nine members appointed by the advisory group.

(b) The advisory group shall appoint to the science advisory committee persons who will provide an objective perspective and diverse technical expertise, including expertise in hydrology, hydraulics, water resources, aquatic and terrestrial biology, geomorphology, geology, water quality, computer modeling, and other technical areas pertinent to the evaluation of environmental flows.

(c) Members of the science advisory committee serve five-year terms expiring March 1. A vacancy on the science advisory committee is filled by appointment by the co-presiding officers of the advisory group for the unexpired term.

(d) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the science advisory committee.

(e) The science advisory committee shall:

(1) serve as an objective scientific body to advise and make recommendations to the advisory group on issues relating to the science of environmental flow protection; and

(2) develop recommendations to help provide overall direction, coordination, and consistency relating to:

(A) environmental flow methodologies for bay and estuary studies and instream flow studies;

(B) environmental flow programs at the commission, the Parks and Wildlife Department, and the board; and

(C) the work of the basin and bay expert science teams described in Section 11.02362.

(f) To assist the advisory group to assess the extent to which the recommendations of the science advisory committee are considered and implemented, the commission, the Parks and Wildlife Department, and the board shall provide written reports to the advisory group, at intervals determined by the advisory group, that describe:

(1) the actions taken by each agency in response to each recommendation; and

(2) for each recommendation not implemented, the reason it was not implemented.

(g) The science advisory committee is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME RECOMMENDATIONS. (a) For the purposes of this section, the advisory group, not later than November 1, 2007, shall define the geographical extent of each river basin and bay system in this state for the sole purpose of developing environmental flow regime recommendations under this section and adoption of environmental flow standards under Section 11.1471.

(b) The advisory group shall give priority in descending order to the following river basin and bay systems of the state for the purpose of developing environmental flow regime recommendations and adopting environmental flow standards:

(1) the river basin and bay system consisting of the Trinity and San Jacinto Rivers and Galveston Bay and the river basin and bay system consisting of the Sabine and Neches Rivers and Sabine Lake Bay;

(2) the river basin and bay system consisting of the Colorado and Lavaca Rivers and Matagorda and Lavaca Bays and the river basin and bay system consisting of the Guadalupe, San Antonio, Mission, and Aransas Rivers and Mission, Copano, Aransas, and San Antonio Bays; and

(3) the river basin and bay system consisting of the Nueces River and Corpus Christi and Baffin Bays, the river basin and bay system consisting of the Rio Grande, the Rio Grande estuary, and the Lower Laguna Madre, and the Brazos River and its associated bay and estuary system.

(c) For the river basin and bay systems listed in Subsection (b)(1):

(1) the advisory group shall appoint the basin and bay area stakeholders committee not later than November 1, 2007;

(2) the basin and bay area stakeholders committee shall establish a basin and bay expert science team not later than March 1, 2008;

(3) the basin and bay expert science team shall finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee, the advisory group, and the commission not later than March 1, 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group may extend the deadline provided by this subdivision;

(4) the basin and bay area stakeholders committee shall submit to the commission its comments on and recommendations regarding the basin and bay expert science team's recommended environmental flow regime not later than September 1, 2009; and

(5) the commission shall adopt the environmental flow standards as provided by Section 11.1471 not later than September 1, 2010.

(d) The advisory group shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(2) not later than September 1, 2008, and shall appoint the basin and bay area stakeholders committees for the river basin and bay systems listed in Subsection (b)(3) not later than September 1, 2009. The advisory group shall establish a schedule for the performance of the tasks listed in Subsections (c)(2) through (5) with regard to the river basin and bay systems listed in Subsections (b)(2) and (3) that will result in the adoption of environmental flow standards for that river basin and bay system by the commission as soon as is reasonably possible. Each basin and bay area stakeholders committee and basin and bay expert science team for a river basin and bay system listed in Subsection (b)(2) or (3) shall make recommendations to the advisory group with regard to the schedule applicable to that river basin and bay system. The advisory group shall consider the recommendations of the basin and bay area stakeholders committee and basin and bay expert science team as well as coordinate with, and give appropriate consideration to the recommendations of, the commission, the Parks and Wildlife Department, and the board in establishing the schedule.

(e) For a river basin and bay system or a river basin that does not have an associated bay system in this state not listed in Subsection (b), the advisory group shall establish a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards. The advisory group shall develop the schedule in consultation with the commission, the Parks and Wildlife Department, the board, and the pertinent basin and bay area stakeholders committee and basin and bay expert science team. The advisory group may, on its own initiative or on request, modify a schedule established under this subsection to be more responsive to particular circumstances, local desires, changing conditions, or time-sensitive conflicts. This subsection does not prohibit, in a river basin and bay system for which the advisory group has not yet established a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards, an effort to develop information on environmental flow needs and ways in which those needs can be met by a voluntary consensus-building process.

(f) The advisory group shall appoint a basin and bay area stakeholders committee for each river basin and bay system in this state for which a schedule for the development of environmental flow regime recommendations and the adoption of environmental flow standards is specified by or established under Subsection (c), (d), or (e). Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay area stakeholders committee. Each committee must consist of at least 17 members. The membership of each committee must:

(1) reflect a fair and equitable balance of interest groups concerned with the particular river basin and bay system for which the committee is established; and

(2) be representative of appropriate stakeholders, including the following if they have a presence in the particular river basin and bay system for which the committee is established:

(A) agricultural water users, including representatives of each of the following sectors:

(i) agricultural irrigation;

(ii) free-range livestock; and

(iii) concentrated animal feeding operation;

(B) recreational water users, including coastal recreational anglers and businesses supporting water recreation;

(C) municipalities;

(D) soil and water conservation districts;

(E) industrial water users, including representatives of each of the following sectors:

(i) refining;

(ii) chemical manufacturing;

(iii) electricity generation; and

(iv) production of paper products or timber;

(F) commercial fishermen;

(G) public interest groups;

(H) regional water planning groups;

(I) groundwater conservation districts;

(J) river authorities and other conservation and reclamation districts with jurisdiction over surface water; and

(K) environmental interests.

(g) Members of a basin and bay area stakeholders committee serve five-year terms expiring March 1. If a vacancy occurs on a committee, the remaining members of the committee by majority vote shall appoint a member to serve the remainder of the unexpired term.

(h) Meetings of a basin and bay area stakeholders committee must be open to the public.

(i) Each basin and bay area stakeholders committee shall establish a basin and bay expert science team for the river basin and bay system for which the committee is established. The basin and bay expert science team must be established not later than six months after the date the basin and bay area stakeholders committee is established. Chapter 2110, Government Code, does not apply to the size, composition, or duration of a basin and bay expert science team. Each basin and bay expert science team must be composed of technical experts with special expertise regarding the river basin and bay system or regarding the development of environmental flow regimes. A person may serve as a member of more than one basin and bay expert science team at the same time.

(j) The members of a basin and bay expert science team serve five-year terms expiring April 1. A vacancy on a basin and bay expert science team is filled by appointment by the pertinent basin and bay area stakeholders committee to serve the remainder of the unexpired term.

(k) The science advisory committee shall appoint one of its members to serve as a liaison to each basin and bay expert science team to facilitate coordination and consistency in environmental flow activities throughout the state. The commission, the Parks and Wildlife Department, and the board shall provide technical assistance to each basin and bay expert science team, including information about the studies conducted under Sections 16.058 and 16.059, and may serve as nonvoting members of the basin and bay expert science team to facilitate the development of environmental flow regime recommendations.

(l) Where reasonably practicable, meetings of a basin and bay expert science team must be open to the public.

(m) Each basin and bay expert science team shall develop environmental flow analyses and a recommended environmental flow regime for the river basin and bay system for which the team is established through a collaborative process designed to achieve a consensus. In developing the analyses and recommendations, the science team must consider all reasonably available science, without regard to the need for the water for other uses, and the science team's recommendations must be based solely on the best science available. For the Rio Grande below Fort Quitman, any uses attributable to Mexican water flows must be excluded from environmental flow regime recommendations.

(n) Each basin and bay expert science team shall submit its environmental flow analyses and environmental flow regime recommendations to the pertinent basin and bay area stakeholders committee, the advisory group, and the commission in accordance with the applicable schedule specified by or established under Subsection

(c), (d), or (e). The basin and bay area stakeholders committee and the advisory group may not change the environmental flow analyses or environmental flow regime recommendations of the basin and bay expert science team.

(o) Each basin and bay area stakeholders committee shall review the environmental flow analyses and environmental flow regime recommendations submitted by the committee's basin and bay expert science team and shall consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the pertinent river basin and bay system. For the Rio Grande, the basin and bay area stakeholders committee shall also consider the water accounting requirements for any international water sharing treaty, minutes, and agreement applicable to the Rio Grande and the effects on allocation of water by the Rio Grande watermaster in the middle and lower Rio Grande. The Rio Grande basin and bay expert science team may not recommend any environmental flow regime that would result in a violation of a treaty or court decision. The basin and bay area stakeholders committee shall develop recommendations regarding environmental flow standards and strategies to meet the environmental flow standards and submit those recommendations to the commission and to the advisory group in accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e). In developing its recommendations, the basin and bay area stakeholders committee shall operate on a consensus basis to the maximum extent possible.

(p) In recognition of the importance of adaptive management, after submitting its recommendations regarding environmental flow standards and strategies to meet the environmental flow standards to the commission, each basin and bay area stakeholders committee, with the assistance of the pertinent basin and bay expert science team, shall prepare and submit for approval by the advisory group a work plan. The work plan must:

(1) establish a periodic review of the basin and bay environmental flow analyses and environmental flow regime recommendations, environmental flow standards, and strategies, to occur at least once every 10 years;

(2) prescribe specific monitoring, studies, and activities; and

(3) establish a schedule for continuing the validation or refinement of the basin and bay environmental flow analyses and environmental flow regime recommendations, the environmental flow standards adopted by the commission, and the strategies to achieve those standards.

(q) In accordance with the applicable schedule specified by or established under Subsection (c), (d), or (e), the advisory group, with input from the science advisory committee, shall review the environmental flow analyses and environmental flow regime recommendations submitted by each basin and bay expert science team. If appropriate, the advisory group shall submit comments on the analyses and recommendations to the commission for use by the commission in adopting rules under Section 11.1471. Comments must be submitted not later than six months after the date of receipt of the analyses and recommendations.

(r) Notwithstanding the other provisions of this section, in the event the commission, by permit or order, has established an estuary advisory council with specific duties related to implementation of permit conditions for environmental

flows, that council may continue in full force and effect and shall act as and perform the duties of the basin and bay area stakeholders committee under this section. The estuary advisory council shall add members from stakeholder groups and from appropriate science and technical groups, if necessary, to fully meet the criteria for membership established in Subsection (f) and shall operate under the provisions of this section.

(s) Each basin and bay area stakeholders committee and basin and bay expert science team is abolished on the date the advisory group is abolished under Section 11.0236(m).

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. The commission may approve an application to amend an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b) This section does not alter the commission's obligations under Section 11.042(b) or (c), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1471, 11.1491, 11.150, 11.152, 16.058, or 16.059.

SECTION 1.08. Subsection (b), Section 11.082, Water Code, is amended to read as follows:

(b) The state may recover the penalties prescribed in Subsection (a) [of this section] by suit brought for that purpose in a court of competent jurisdiction. The state may seek those penalties regardless of whether a watermaster has been appointed for the water division, river basin, or segment of a river basin where the unlawful use is alleged to have occurred.

SECTION 1.09. Section 11.0841, Water Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of this section, the Parks and Wildlife Department has:

(1) the rights of a holder of a water right that is held in the Texas Water Trust, including the right to file suit in a civil court to prevent the unlawful use of such a right;

(2) the right to act in the same manner that a holder of a water right may act to protect the holder's rights in seeking to prevent any person from appropriating water in violation of a set-aside established by the commission under Section 11.1471 to meet instream flow needs or freshwater inflow needs; and

(3) the right to file suit in a civil court to prevent the unlawful use of a set-aside established under Section 11.1471.

SECTION 1.10. Subsection (a), Section 11.0842, Water Code, is amended to read as follows:

(a) If a person violates this chapter, a rule or order adopted under this chapter or Section 16.236 [of this code], or a permit, certified filing, or certificate of adjudication issued under this chapter, the commission may assess an administrative penalty against that person as provided by this section. The commission may assess an

administrative penalty for a violation relating to a water division or a river basin or segment of a river basin regardless of whether a watermaster has been appointed for the water division or river basin or segment of the river basin.

SECTION 1.11. Subsection (a), Section 11.0843, Water Code, is amended to read as follows:

(a) Upon witnessing a violation of this chapter or a rule or order or a water right issued under this chapter, the executive director or a person designated by the executive director, including a watermaster or the watermaster's deputy, [as defined by commission rule,] may issue the alleged violator a field citation alleging that a violation has occurred and providing the alleged violator the option of either:

(1) without admitting to or denying the alleged violation, paying an administrative penalty in accordance with the predetermined penalty amount established under Subsection (b) ~~[of this section]~~ and taking remedial action as provided in the citation; or

(2) requesting a hearing on the alleged violation in accordance with Section 11.0842 ~~[of this code]~~.

SECTION 1.12. Subsection (b), Section 11.134, Water Code, is amended to read as follows:

(b) The commission shall grant the application only if:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) unappropriated water is available in the source of supply;

(3) the proposed appropriation:

(A) is intended for a beneficial use;

(B) does not impair existing water rights or vested riparian rights;

(C) is not detrimental to the public welfare;

(D) considers any applicable environmental flow standards established under Section 11.1471 and, if applicable, the assessments performed under Sections 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152; and

(E) addresses a water supply need in a manner that is consistent with the state water plan and the relevant approved regional water plan for any area in which the proposed appropriation is located, unless the commission determines that conditions warrant waiver of this requirement; and

(4) the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined by ~~[Subdivision (8)(B),]~~ Section 11.002(8)(B) [11.002].

SECTION 1.13. Section 11.147, Water Code, is amended by amending Subsections (b), (d), and (e) and adding Subsections (e-1), (e-2), and (e-3) to read as follows:

(b) In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas. For permits issued within an area that is 200 river miles of the coast, to commence from the mouth of the river thence inland, the commission shall include in the permit any conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system, to the extent

practicable when considering all public interests and the studies mandated by Section 16.058 as evaluated under Section 11.1491~~[-those conditions considered necessary to maintain beneficial inflows to any affected bay and estuary system].~~

(d) In its consideration of an application to store, take, or divert water, the commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain existing instream uses and water quality of the stream or river to which the application applies. In determining what conditions to include in the permit under this subsection, the commission shall consider among other factors:

(1) the studies mandated by Section 16.059; and

(2) any water quality assessment performed under Section 11.150.

(e) The commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain fish and wildlife habitats. In determining what conditions to include in the permit under this subsection, the commission shall consider any assessment performed under Section 11.152.

(e-1) Any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted must include a provision allowing the commission to adjust the conditions included in the permit or amended water right to provide for protection of instream flows or freshwater inflows. With respect to an amended water right, the provision may not allow the commission to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the amendment. This subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a water right issued before September 1, 2007. The commission shall adjust the conditions if the commission determines, through an expedited public comment process, that such an adjustment is appropriate to achieve compliance with applicable environmental flow standards adopted under Section 11.1471. The adjustment:

(1) in combination with any previous adjustments made under this subsection may not increase the amount of the pass-through or release requirement for the protection of instream flows or freshwater inflows by more than 12.5 percent of the annualized total of that requirement contained in the permit as issued or of that requirement contained in the amended water right and applicable only to the increase in the amount of water authorized to be stored, taken, or diverted under the amended water right;

(2) must be based on appropriate consideration of the priority dates and diversion locations of any other water rights granted in the same river basin that are subject to adjustment under this subsection; and

(3) must be based on appropriate consideration of any voluntary contributions to the Texas Water Trust, and of any voluntary amendments to existing water rights to change the use of a specified quantity of water to or add a use of a specified quantity of water for instream flows dedicated to environmental needs or bay and estuary inflows as authorized by Section 11.0237(a), that actually contribute toward meeting the applicable environmental flow standards.

(e-2) Any water right holder who makes a contribution or amends a water right as described by Subsection (e-1)(3) is entitled to appropriate credit for the benefits of the contribution or amendment against the adjustment of the holder's water right under Subsection (e-1).

(e-3) Notwithstanding Subsections (b)-(e), for the purpose of determining the environmental flow conditions necessary to maintain freshwater inflows to an affected bay and estuary system, existing instream uses and water quality of a stream or river, or fish and aquatic wildlife habitats, the commission shall apply any applicable environmental flow standard, including any environmental flow set-aside, adopted under Section 11.1471 instead of considering the factors specified by those subsections.

SECTION 1.14. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1471 to read as follows:

Sec. 11.1471. ENVIRONMENTAL FLOW STANDARDS AND SET-ASIDES.

(a) The commission by rule shall:

(1) adopt appropriate environmental flow standards for each river basin and bay system in this state that are adequate to support a sound ecological environment, to the maximum extent reasonable considering other public interests and other relevant factors;

(2) establish an amount of unappropriated water, if available, to be set aside to satisfy the environmental flow standards to the maximum extent reasonable when considering human water needs; and

(3) establish procedures for implementing an adjustment of the conditions included in a permit or an amended water right as provided by Sections 11.147(e-1) and (e-2).

(b) In adopting environmental flow standards for a river basin and bay system under Subsection (a)(1), the commission shall consider:

(1) the definition of the geographical extent of the river basin and bay system adopted by the advisory group under Section 11.02362(a) and the definition and designation of the river basin by the board under Section 16.051(c);

(2) the schedule established by the advisory group under Section 11.02362(d) or (e) for the adoption of environmental flow standards for the river basin and bay system, if applicable;

(3) the environmental flow analyses and the recommended environmental flow regime developed by the applicable basin and bay expert science team under Section 11.02362(m);

(4) the recommendations developed by the applicable basin and bay area stakeholders committee under Section 11.02362(o) regarding environmental flow standards and strategies to meet the flow standards;

(5) any comments submitted by the advisory group to the commission under Section 11.02362(q);

(6) the specific characteristics of the river basin and bay system;

(7) economic factors;

(8) the human and other competing water needs in the river basin and bay system;

(9) all reasonably available scientific information, including any scientific information provided by the science advisory committee; and

(10) any other appropriate information.

(c) Environmental flow standards adopted under Subsection (a)(1) must consist of a schedule of flow quantities, reflecting seasonal and yearly fluctuations that may vary geographically by specific location in a river basin and bay system.

(d) As provided by Section 11.023, the commission may not issue a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted if the issuance of the permit or amendment would impair an environmental flow set-aside established under Subsection (a)(2). A permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted that is issued after the adoption of an applicable environmental flow set-aside must contain appropriate conditions to ensure protection of the environmental flow set-aside.

(e) An environmental flow set-aside established under Subsection (a)(2) for a river basin and bay system other than the middle and lower Rio Grande must be assigned a priority date corresponding to the date the commission receives environmental flow regime recommendations from the applicable basin and bay expert science team and be included in the appropriate water availability models in connection with an application for a permit for a new appropriation or for an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted.

(f) An environmental flow standard or environmental flow set-aside adopted under Subsection (a) may be altered by the commission in a rulemaking process undertaken in accordance with a schedule established by the commission. In establishing a schedule, the commission shall consider the applicable work plan approved by the advisory group under Section 11.02362(p). The commission's schedule may not provide for the rulemaking process to occur more frequently than once every 10 years unless the work plan provides for a periodic review under Section 11.02362(p) to occur more frequently than once every 10 years. In that event, the commission may provide for the rulemaking process to be undertaken in conjunction with the periodic review if the commission determines that schedule to be appropriate. A rulemaking process undertaken under this subsection must provide for the participation of stakeholders having interests in the particular river basin and bay system for which the process is undertaken.

SECTION 1.15. The heading to Section 11.148, Water Code, is amended to read as follows:

Sec. 11.148. EMERGENCY SUSPENSION OF PERMIT CONDITIONS AND EMERGENCY AUTHORITY TO MAKE AVAILABLE WATER SET ASIDE FOR ENVIRONMENTAL FLOWS.

SECTION 1.16. Section 11.148, Water Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) State water that is set aside by the commission to meet the needs for freshwater inflows to affected bays and estuaries and instream uses under Section 11.1471(a)(2) may be made available temporarily for other essential beneficial uses if the commission finds that an emergency exists that cannot practically be resolved in another way.

(b) Before the commission suspends a permit condition under Subsection (a) or makes water available temporarily under Subsection (a-1) ~~[of this section]~~, it must give written notice to the Parks and Wildlife Department of the proposed action ~~[suspension]~~. The commission shall give the Parks and Wildlife Department an opportunity to submit comments on the proposed action ~~[suspension]~~ within 72 hours from such time and the commission shall consider those comments before issuing its order implementing the proposed action ~~[imposing the suspension]~~.

(c) The commission may suspend the permit condition under Subsection (a) or make water available temporarily under Subsection (a-1) without notice to any other interested party other than the Parks and Wildlife Department as provided by Subsection (b) ~~[of this section]~~. However, all affected persons shall be notified immediately by publication, and a hearing to determine whether the suspension should be continued shall be held within 15 days of the date on which the order to suspend is issued.

SECTION 1.17. Subsection (a), Section 11.1491, Water Code, is amended to read as follows:

(a) The Parks and Wildlife Department and the commission shall have joint responsibility to review the studies prepared under Section 16.058 ~~[of this code]~~, to determine inflow conditions necessary for the bays and estuaries, and to provide information necessary for water resources management. Each agency shall designate an employee to share equally in the oversight of the program. Other responsibilities shall be divided between the Parks and Wildlife Department and the commission to maximize present in-house capabilities of personnel and to minimize costs to the state. Each agency shall have reasonable access to all information produced by the other agency. Publication of reports completed under this section shall be submitted for comment to ~~[both]~~ the commission, ~~[and]~~ the Parks and Wildlife Department, the advisory group, the science advisory committee, and any applicable basin and bay area stakeholders committee and basin and bay expert science team.

SECTION 1.18. Subsection (g), Section 11.329, Water Code, is amended to read as follows:

(g) The commission may not assess costs under this section against a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts or against a holder of a water right placed in the Texas Water Trust for a term of at least 20 years. ~~[This subsection is not intended to affect in any way the fees assessed on a water right holder by the commission under Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993. For purposes of Section 1.29(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less~~

~~than two megawatts shall be assessed fees at the same rate per acre-foot charged to a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of more than two megawatts.]~~

SECTION 1.19. Subsection (e), Section 11.404, Water Code, is amended to read as follows:

(e) The court may not assess costs and expenses under this section against:

(1) a holder of a non-priority hydroelectric right that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts; or

(2) a holder of a water right placed in the Texas Water Trust for a term of at least 20 years.

SECTION 1.20. Subchapter I, Chapter 11, Water Code, is amended by adding Section 11.4531 to read as follows:

Sec. 11.4531. WATERMASTER ADVISORY COMMITTEE. (a) For each river basin or segment of a river basin for which the executive director appoints a watermaster under this subchapter, the executive director shall appoint a watermaster advisory committee consisting of at least nine but not more than 15 members. A member of the advisory committee must be a holder of a water right or a representative of a holder of a water right in the river basin or segment of the river basin for which the watermaster is appointed. In appointing members to the advisory committee, the executive director shall consider:

(1) geographic representation;

(2) amount of water rights held;

(3) different types of holders of water rights and users, including water districts, municipal suppliers, irrigators, and industrial users; and

(4) experience and knowledge of water management practices.

(b) An advisory committee member is not entitled to reimbursement of expenses or to compensation.

(c) An advisory committee member serves a two-year term expiring August 31 of each odd-numbered year and holds office until a successor is appointed.

(d) The advisory committee shall meet within 30 days after the date the initial appointments have been made and shall select a presiding officer to serve a one-year term. The committee shall meet regularly as necessary.

(e) The advisory committee shall:

(1) make recommendations to the executive director regarding activities of benefit to the holders of water rights in the administration and distribution of water to holders of water rights in the river basin or segment of the river basin for which the watermaster is appointed;

(2) review and comment to the executive director on the annual budget of the watermaster operation; and

(3) perform other advisory duties as requested by the executive director regarding the watermaster operation or as requested by holders of water rights and considered by the committee to benefit the administration of water rights in the river basin or segment of the river basin for which the watermaster is appointed.

SECTION 1.21. Sections 11.454 and 11.455, Water Code, are amended to read as follows:

Sec. 11.454. DUTIES AND AUTHORITY OF THE WATERMASTER. Section 11.327 applies to the duties and authority of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the duties and authority of a watermaster appointed for a water division under Subchapter G [A watermaster as the agent of the commission and under the executive director's supervision shall:

(1) divide the water of the streams or other sources of supply of his segment or basin in accordance with the authorized water rights;

(2) regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his segment or basin, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled; and

(3) perform any other duties and exercise any authority directed by the commission].

Sec. 11.455. COMPENSATION AND EXPENSES OF WATERMASTER [ASSESSMENTS]. (a) Section 11.329 applies to the payment of the compensation and expenses of a watermaster appointed for a river basin or segment of a river basin under this subchapter in the same manner as that section applies to the payment of the compensation and expenses of a watermaster appointed for a water division under Subchapter G.

(b) The executive director shall deposit the assessments collected under this section to the credit of the watermaster fund.

(c) Money deposited under this section to the credit of the watermaster fund may be used only for the purposes specified by Section 11.3291 with regard to the watermaster operation under this subchapter with regard to which the assessments were collected [The commission may assess the costs of the watermaster against all persons who hold water rights in the river basin or segment of the river basin under the watermaster's jurisdiction in accordance with Section 11.329 of this code].

SECTION 1.22. Subchapter F, Chapter 15, Water Code, is amended by adding Section 15.4063 to read as follows:

Sec. 15.4063. ENVIRONMENTAL FLOWS FUNDING. The board may authorize the use of money in the research and planning fund:

(1) to compensate the members of the Texas environmental flows science advisory committee established under Section 11.02361 for attendance and participation at meetings of the committee and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act;

(2) for contracts with cooperating state and federal agencies and universities and with private entities as necessary to provide technical assistance to enable the Texas environmental flows science advisory committee and the basin and bay expert science teams established under Section 11.02362 to perform their statutory duties;

(3) to compensate the members of the basin and bay expert science teams established under Section 11.02362 for attendance and participation at meetings of the basin and bay expert science teams and for transportation, meals, lodging, or other travel expenses associated with attendance at those meetings as provided by the General Appropriations Act; and

(4) for contracts with political subdivisions designated as representatives of basin and bay area stakeholders committees established under Section 11.02362 to fund all or part of the administrative expenses incurred in conducting meetings of the basin and bay area stakeholders committees or the pertinent basin and bay expert science teams.

SECTION 1.23. Subsection (d), Section 16.059, Water Code, is amended to read as follows:

(d) The priority studies shall be completed not later than December 31, 2016 ~~[2010]~~. The Parks and Wildlife Department, the commission, and the board shall establish a work plan that prioritizes the studies and that sets interim deadlines providing for publication of flow determinations for individual rivers and streams on a reasonably consistent basis throughout the prescribed study period. Before publication, completed studies shall be submitted for comment to the commission, the board, and the Parks and Wildlife Department.

SECTION 1.24. Subsection (h), Section 26.0135, Water Code, as amended by Chapters 234 and 965, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section from users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed. Irrigation water rights, ~~[and]~~ non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, that program funds are equitably apportioned among basins, that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177 ~~[of this chapter]~~. The rules concerning the apportionment and assessment of reasonable costs shall provide for a recovery of not more than \$5,000,000 annually. Costs recovered by the commission are to be deposited to the credit of the water resource management account and may be used only to accomplish the purposes of this section. The commission may apply not more than 10 percent of the costs recovered annually toward the commission's overhead costs for the administration of this section and the

implementation of regional water quality assessments. The commission, with the assistance and input of each river authority, shall file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even-numbered year.

SECTION 1.25. Subsection (b), Section 11.1491, Water Code, is repealed.

SECTION 1.26. (a) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the initial members of the environmental flows advisory group as provided by Section 11.0236, Water Code, as added by this article, as soon as practicable on or after the effective date of this Act.

(b) As soon as practicable after taking office, the initial members of the environmental flows advisory group shall appoint the initial members of the Texas environmental flows science advisory committee as provided by Section 11.02361, Water Code, as added by this article. The terms of the initial members of the committee expire March 1, 2012.

(c) The environmental flows advisory group shall appoint the members of each basin and bay area stakeholders committee as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each committee expire March 1 of the fifth year that begins after the year in which the initial appointments are made.

(d) Each basin and bay area stakeholders committee shall appoint the members of the basin and bay expert science team for the river basin and bay system for which the committee is established as provided by Section 11.02362, Water Code, as added by this article. The terms of the initial members of each team expire April 1 of the fifth year that begins after the year in which the initial appointments are made.

(e) The executive director of the Texas Commission on Environmental Quality shall appoint the members of the watermaster advisory committee under Section 11.4531, Water Code, as added by this article, for each river basin or segment of a river basin for which the executive director appoints a watermaster under Subchapter I, Chapter 11, Water Code. The terms of the initial members of each committee expire August 31 of the first odd-numbered year that begins after the year in which the initial appointments are made.

SECTION 1.27. The changes in law made by this article relating to a permit for a new appropriation of water or to an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted apply only to:

(1) water appropriated under a permit for a new appropriation of water the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date; or

(2) the increase in the amount of water authorized to be stored, taken, or diverted under an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this Act or is filed with the commission on or after that date.

ARTICLE 2. WATER CONSERVATION AND PLANNING AND OTHER
WATER-RELATED PROVISIONS

SECTION 2.01. Section 1.003, Water Code, is amended to read as follows:

Sec. 1.003. PUBLIC POLICY. It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; ~~and~~

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; and

(7) the voluntary stewardship of public and private lands to benefit waters of the state.

SECTION 2.02. Subchapter A, Chapter 1, Water Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

(a) The legislature finds that voluntary land stewardship enhances the efficiency and effectiveness of this state's watersheds by helping to increase surface water and groundwater supplies, resulting in a benefit to the natural resources of this state and to the general public. It is therefore the policy of this state to encourage voluntary land stewardship as a significant water management tool.

(b) "Land stewardship," as used in this code, is the voluntary practice of managing land to conserve or enhance suitable landscapes and the ecosystem values of the land. Land stewardship includes land and habitat management, wildlife conservation, and watershed protection. Land stewardship practices include runoff reduction, prescribed burning, managed grazing, brush management, erosion management, reseeding with native plant species, riparian management and restoration, and spring and creek-bank protection, all of which benefit the water resources of this state.

SECTION 2.03. Subtitle A, Title 2, Water Code, is amended by adding Chapter 10 to read as follows:

CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

Sec. 10.001. DEFINITIONS. In this chapter:

(1) "Best management practices" has the meaning assigned by Section 11.002.

(2) "Board" means the Texas Water Development Board.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Council" means the Water Conservation Advisory Council.

Sec. 10.002. PURPOSE. The council is created to provide the governor, lieutenant governor, speaker of the house of representatives, legislature, board, commission, political subdivisions, and public with the resource of a select council with expertise in water conservation.

Sec. 10.003. CREATION AND MEMBERSHIP. (a) The council is composed of 23 members appointed by the board. The board shall appoint one member to represent each of the following entities or interest groups:

- (1) Texas Commission on Environmental Quality;
- (2) Department of Agriculture;
- (3) Parks and Wildlife Department;
- (4) State Soil and Water Conservation Board;
- (5) Texas Water Development Board;
- (6) regional water planning groups;
- (7) federal agencies;
- (8) municipalities;
- (9) groundwater conservation districts;
- (10) river authorities;
- (11) environmental groups;
- (12) irrigation districts;
- (13) institutional water users;
- (14) professional organizations focused on water conservation;
- (15) higher education;
- (16) agricultural groups;
- (17) refining and chemical manufacturing;
- (18) electric generation;
- (19) mining and recovery of minerals;
- (20) landscape irrigation and horticulture;
- (21) water control and improvement districts;
- (22) rural water users; and
- (23) municipal utility districts.

(b) Each entity or interest group described by Subsection (a) may recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. If one or more persons are recommended for a position on the council, the board shall appoint one of the persons recommended to fill the position.

Sec. 10.004. TERMS. (a) Members of the council serve staggered terms of six years, with seven or eight members' terms, as applicable, expiring August 31 of each odd-numbered year.

(b) The board shall fill a vacancy on the council for the unexpired term by appointing a person who has the same qualifications as required under Section 10.003 for the person who previously held the vacated position.

Sec. 10.005. PRESIDING OFFICER. The council members shall select one member as the presiding officer of the council to serve in that capacity until the person's term as a council member expires.

Sec. 10.006. COUNCIL STAFF. On request by the council, the board shall provide any necessary staff to assist the council in the performance of its duties.

Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The council may hold public meetings as needed to fulfill its duties under this chapter.

(b) The council is subject to Chapters 551 and 552, Government Code.

Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the council.

Sec. 10.009. COMPENSATION OF MEMBERS. (a) Members of the council serve without compensation but may be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.

(b) Reimbursement under Subsection (a) is subject to the approval of the presiding officer of the council.

Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council shall:

(1) monitor trends in water conservation implementation;

(2) monitor new technologies for possible inclusion by the board as best management practices in the best management practices guide developed by the water conservation implementation task force under Chapter 109, Acts of the 78th Legislature, Regular Session, 2003;

(3) monitor the effectiveness of the statewide water conservation public awareness program developed under Section 16.401 and associated local involvement in implementation of the program;

(4) develop and implement a state water management resource library;

(5) develop and implement a public recognition program for water conservation;

(6) monitor the implementation of water conservation strategies by water users included in regional water plans; and

(7) monitor target and goal guidelines for water conservation to be considered by the board and commission.

Sec. 10.011. REPORT. Not later than December 1 of each even-numbered year, the council shall submit to the governor, lieutenant governor, and speaker of the house of representatives a report on progress made in water conservation in this state.

Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION TRAINING FACILITIES STUDY. (a) The council shall conduct a study to evaluate the desirability of requiring the board to:

(1) designate as certified water conservation training facilities entities and programs that provide assistance to retail public utilities in developing water conservation plans under Section 13.146; and

(2) give preference to certified water conservation training facilities in making loans or grants for water conservation training and education activities.

(b) Not later than December 1, 2008, the council shall submit a written report containing the findings of the study and the recommendations of the council to the governor, lieutenant governor, and speaker of the house of representatives.

(c) This section expires June 1, 2009.

SECTION 2.04. Section 11.002, Water Code, is amended by adding Subdivision (20) to read as follows:

(20) "Best management practices" means those voluntary efficiency measures developed by the commission and the board that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specified time frame.

SECTION 2.05. Subdivisions (1-a), (5), and (8), Section 13.002, Water Code, are amended to read as follows:

(1-a) "Landowner," "owner of a tract of land," and "owners of each tract of land" include multiple owners of a single deeded tract of land as shown on the appraisal roll of the appraisal district established for each county in which the property is located.

(5) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(8) "Executive director" means the executive director of the commission ~~[Texas Natural Resource Conservation Commission].~~

SECTION 2.06. Subchapter E, Chapter 13, Water Code, is amended by adding Sections 13.146 and 13.147 to read as follows:

Sec. 13.146. WATER CONSERVATION PLAN. The commission shall require a retail public utility that provides potable water service to 3,300 or more connections to submit to the executive administrator of the board a water conservation plan based on specific targets and goals developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002, or other water conservation strategies.

Sec. 13.147. CONSOLIDATED BILLING AND COLLECTION CONTRACTS. (a) A retail public utility providing water service may contract with a retail public utility providing sewer service to bill and collect the sewer service provider's fees and payments as part of a consolidated process with the billing and collection of the water service provider's fees and payments. The water service provider may provide that service only for customers who are served by both providers in an area covered by both providers' certificates of public convenience and necessity. If the water service provider refuses to enter into a contract under this section or if the water service provider and sewer service provider cannot agree on the terms of a contract, the sewer service provider may petition the commission to issue an order requiring the water service provider to provide that service.

(b) A contract or order under this section must provide procedures and deadlines for submitting billing and customer information to the water service provider and for the delivery of collected fees and payments to the sewer service provider.

(c) A contract or order under this section may require or permit a water service provider that provides consolidated billing and collection of fees and payments to:

(1) terminate the water services of a person whose sewage services account is in arrears for nonpayment; and

(2) charge a customer a reconnection fee if the customer's water service is terminated for nonpayment of the customer's sewage services account.

(d) A water service provider that provides consolidated billing and collection of fees and payments may impose on each sewer service provider customer a reasonable fee to recover costs associated with providing consolidated billing and collection of fees and payments for sewage services.

SECTION 2.07. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.188 to read as follows:

Sec. 13.188. ADJUSTMENT FOR CHANGE IN ENERGY COSTS.

(a) Notwithstanding any other provision in this chapter, the commission by rule shall adopt a procedure allowing a utility to file with the commission an application to timely adjust the utility's rates to reflect an increase or decrease in documented energy costs in a pass through clause. The commission, by rule, shall require the pass through of documented decreases in energy costs within a reasonable time. The pass through, whether a decrease or increase, shall be implemented on no later than an annual basis, unless the commission determines a special circumstance applies.

(b) Notwithstanding any other provision to the contrary, this adjustment is an uncontested matter not subject to a contested case hearing. However, the executive director shall hold an uncontested public meeting:

(1) on the request of a member of the legislature who represents the area served by the water and sewer utility; or

(2) if the executive director determines that there is substantial public interest in the matter.

(c) A proceeding under this section is not a rate case and Section 13.187 does not apply.

SECTION 2.08. Section 13.2451, Water Code, is amended to read as follows:

Sec. 13.2451. EXTENSION BEYOND EXTRATERRITORIAL JURISDICTION. (a) If [Except as provided by Subsection (b), if] a municipality extends its extraterritorial jurisdiction to include an area certificated to a retail public utility, the retail public utility may continue and extend service in its area of public convenience and necessity under the rights granted by its certificate and this chapter.

(b) A municipality that seeks to extend a certificate of public convenience and necessity beyond the municipality's extraterritorial jurisdiction must ensure that the municipality complies with Section 13.241 in relation to the area covered by the portion of the certificate that extends beyond the municipality's extraterritorial jurisdiction.

(c) The commission, after notice to the municipality and an opportunity for a hearing, may decertify an area outside a municipality's extraterritorial jurisdiction if the municipality does not provide service to the area on or before the fifth anniversary of the date the certificate of public convenience and necessity was granted for the area. This subsection does not apply to a certificate of public convenience and necessity for an area:

(1) that was transferred to a municipality on approval of the commission; and

(2) in relation to which the municipality has spent public funds.

(d) To the extent of a conflict between this section and Section 13.245, Section 13.245 prevails [The commission may not extend a municipality's certificate of public convenience and necessity beyond its extraterritorial jurisdiction without the written consent of the landowner who owns the property in which the certificate is to be extended. The portion of any certificate of public convenience and necessity that extends beyond the extraterritorial jurisdiction of the municipality without the consent of the landowner is void].

SECTION 2.09. Subsection (a-1), Section 13.246, Water Code, is amended to read as follows:

(a-1) Except as otherwise provided by this subsection, in addition to the notice required by Subsection (a), the commission shall require notice to be mailed to each owner of a tract of land that is at least 25 ~~[50]~~ acres and is wholly or partially included in the area proposed to be certified. Notice required under this subsection must be mailed by first class mail to the owner of the tract according to the most current tax appraisal rolls of the applicable central appraisal district at the time the commission received the application for the certificate or amendment. Good faith efforts to comply with the requirements of this subsection shall be considered adequate notice to landowners. Notice under this subsection is not required for a matter filed with the commission under:

- (1) Section 13.248 or 13.255; or
- (2) Chapter 65.

SECTION 2.10. Subsection (b), Section 15.102, Water Code, is amended to read as follows:

(b) The loan fund may also be used by the board to provide:

(1) grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services; and

(2) grants for:

(A) projects for which federal grant funds are placed in the loan fund;

(B) projects, on specific legislative appropriation for those projects; or

(C) water conservation, desalination, brush control, weather modification, regionalization, and projects providing regional water quality enhancement services as defined by board rule, including regional conveyance systems.

SECTION 2.11. Subchapter Q, Chapter 15, Water Code, is amended by adding Section 15.9751 to read as follows:

Sec. 15.9751. PRIORITY FOR WATER CONSERVATION. The board shall give priority to applications for funds for the implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or
(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.12. Section 16.017, Water Code, is amended to read as follows:

Sec. 16.017. TOPOGRAPHIC AND GEOLOGIC MAPPING. (a) The executive administrator shall carry out the program for topographic and geologic mapping of the state.

(b) The executive administrator shall operate as part of the Texas Natural Resources Information System a strategic mapping program to acquire, store, and distribute digital, geospatial information.

SECTION 2.13. Subchapter B, Chapter 16, Water Code, is amended by adding Sections 16.023 and 16.024 to read as follows:

Sec. 16.023. STRATEGIC MAPPING ACCOUNT. (a) The strategic mapping account is an account in the general revenue fund. The account consists of:

- (1) money directly appropriated to the board;
- (2) money transferred by the board from other funds available to the board;
- (3) money from gifts or grants from the United States government, state, regional, or local governments, educational institutions, private sources, or other sources;
- (4) proceeds from the sale of maps, data, publications, and other items; and
- (5) interest earned on the investment of money in the account and depository interest allocable to the account.

(b) The account may be appropriated only to the board to:

- (1) develop, administer, and implement the strategic mapping program;
- (2) provide grants to political subdivisions for projects related to the development, use, and dissemination of digital, geospatial information; and
- (3) administer, implement, and operate other programs of the Texas Natural Resources Information System, including:

(A) the operation of a Texas-Mexico border region information center for the purpose of implementing Section 16.021 (e)(5);

(B) the acquisition, storage, and distribution of historical maps, photographs, and paper map products;

(C) the maintenance and enhancement of information technology; and

(D) the production, storage, and distribution of other digital base maps, as determined by the executive administrator or a state agency that is a member of the Texas Geographic Information Council.

(c) The board may invest, reinvest, and direct the investment of any available money in the fund as provided by law for the investment of money under Section 404.024, Government Code.

Sec. 16.024. FINANCIAL ASSISTANCE FOR DIGITAL, GEOSPATIAL INFORMATION PROJECTS. (a) A political subdivision seeking a grant under Section 16.023 must file an application with the board.

(b) An application must be filed in the manner and form required by board rules.

(c) In reviewing an application by a political subdivision for a grant, the board shall consider:

(1) the degree to which the political subdivision has used other available resources to finance the development, use, and dissemination of digital, geospatial information;

(2) the willingness and ability of the political subdivision to develop, use, and disseminate digital, geospatial information; and

(3) the benefits that will be gained by making the grant.

(d) The board may approve a grant to a political subdivision only if the board finds that:

(1) the grant will supplement rather than replace money of the political subdivision;

(2) the public interest is served by providing the grant; and

(3) the grant will further the state's ability to gather, develop, use, and disseminate digital, geospatial information.

SECTION 2.14. Subsection (h), Section 16.053, Water Code, is amended by adding Subdivisions (10) and (11) to read as follows:

(10) The regional water planning group may amend the regional water plan after the plan has been approved by the board. Subdivisions (1)-(9) apply to an amendment to the plan in the same manner as those subdivisions apply to the plan.

(11) This subdivision applies only to an amendment to a regional water plan approved by the board. This subdivision does not apply to the adoption of a subsequent regional water plan for submission to the board as required by Subsection (i). Notwithstanding Subdivision (10), the regional water planning group may amend the plan in the manner provided by this subdivision if the executive administrator makes a written determination that the proposed amendment qualifies for adoption in the manner provided by this subdivision before the regional water planning group votes on adoption of the amendment. A proposed amendment qualifies for adoption in the manner provided by this subdivision only if the amendment is a minor amendment, as defined by board rules, that will not result in the overall allocation of any existing or planned source of water, does not relate to a new reservoir, and will not have a significant effect on instream flows or freshwater inflows to bays and estuaries. If the executive administrator determines that a proposed amendment qualifies for adoption in the manner provided by this subdivision, the regional water planning group may adopt the amendment at a public meeting held in accordance with Chapter 551, Government Code. The proposed amendment must be placed on the agenda for the meeting, and notice of the meeting must be given in the manner provided by Chapter 551, Government Code, at least two weeks before the date the meeting is held. The public must be provided an opportunity to comment on the proposed amendment at the meeting.

SECTION 2.15. Subsection (r), Section 16.053, Water Code, as added by Chapter 1097, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(r) The board by rule shall provide for reasonable flexibility to allow for a timely amendment of a regional water plan, the board's approval of an amended regional water plan, and the amendment of the state water plan. If an amendment under this subsection is[?] to facilitate planning for water supplies reasonably required for a clean coal project, as defined by Section 5.001, the[?] rules may allow for amending a regional water plan without providing notice and without a public meeting or hearing under Subsection (h) if the amendment does not:

(1) significantly change the regional water plan, as reasonably determined by the board; or

(2) adversely affect other water management strategies in the regional water plan.

SECTION 2.16. Subchapter E, Chapter 16, Water Code, is amended by adding Section 16.1311 to read as follows:

Sec. 16.1311. PRIORITY FOR WATER CONSERVATION. The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.17. Sections 16.315 and 16.319, Water Code, are amended to read as follows:

Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. All political subdivisions are hereby authorized to take all necessary and reasonable actions that are not less stringent than ~~[to comply with]~~ the requirements and criteria of the National Flood Insurance Program, including but not limited to:

(1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;

(2) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;

(3) assisting in minimizing damage caused by floods;

(4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;

(5) engaging in floodplain management, ~~[and]~~ adopting and enforcing permanent land use and control measures that are not less stringent than those ~~[consistent with the criteria]~~ established under the National Flood Insurance Act, and providing for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;

(6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director designates, of such property;

(7) consulting with, giving information to, and entering into agreements with the Federal Emergency Management Agency for the purpose of:

(A) identifying and publishing information with respect to all flood areas, including coastal areas; and

(B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;

(8) cooperating with the director's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(9) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;

(10) purchasing, leasing, and receiving property from the director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency or other appropriate legal representative of the United States Government;

(11) requesting aid pursuant to the entire authorization from the commission;

(12) satisfying criteria adopted and promulgated by the commission pursuant to the National Flood Insurance Program;

(13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than ~~[which are consistent with]~~ the criteria for land management and use adopted by the director;

(14) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;

(15) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and

(16) collecting reasonable fees to cover the cost of administering a local floodplain management program.

Sec. 16.319. QUALIFICATION. Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Federal Emergency Management Agency and by:

(1) evidencing to the director a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the director satisfactory assurance that measures will have been adopted for the political subdivision that ~~[which measures]~~ will be not less stringent than ~~[consistent with]~~ the comprehensive criteria for land management and use developed by the Federal Emergency Management Agency.

SECTION 2.18. Chapter 16, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM. (a) The executive administrator shall develop and implement a statewide water conservation public awareness program to educate residents of this state about water conservation. The program shall take into account the differences in water conservation needs of various geographic regions of the state and shall be designed to complement and support existing local and regional water conservation programs.

(b) The executive administrator is required to develop and implement the program required by Subsection (a) in a state fiscal biennium only if the legislature appropriates sufficient money in that biennium specifically for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each entity that is required to submit a water conservation plan to the commission under this code shall submit a copy of the plan to the executive administrator.

(b) Each entity that is required to submit a water conservation plan to the executive administrator, board, or commission under this code shall report annually to the executive administrator on the entity's progress in implementing the plan.

(c) The executive administrator shall review each water conservation plan and annual report to determine compliance with the minimum requirements established by Section 11.1271 and the submission deadlines developed under Subsection (e) of this section.

(d) The board may notify the commission if the board determines that an entity has violated this section or a rule adopted under this section. Notwithstanding Section 7.051(b), a violation of this section or of a rule adopted under this section is enforceable in the manner provided by Chapter 7 for a violation of a provision of this code within the commission's jurisdiction or of a rule adopted by the commission under a provision of this code within the commission's jurisdiction.

(e) The board and commission jointly shall adopt rules:

(1) identifying the minimum requirements and submission deadlines for the annual reports required by Subsection (b); and

(2) providing for the enforcement of this section and rules adopted under this section.

SECTION 2.19. Section 17.125, Water Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 2.20. Chapter 35, Water Code, is amended by adding Section 35.020 to read as follows:

Sec. 35.020. PUBLIC PARTICIPATION IN GROUNDWATER MANAGEMENT PROCESS. It is the policy of the state to encourage public participation in the groundwater management process in areas within a groundwater management area not represented by a groundwater conservation district.

SECTION 2.21. Subsection (d), Section 36.113, Water Code, is amended to read as follows:

(d) Before granting or denying a permit or permit amendment, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) if the well will be located in the Hill Country Priority Groundwater Management Area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;

(6) the applicant has agreed to avoid waste and achieve water conservation;
and

(7) ~~(6)~~ the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 2.22. Subsection (d), Section 36.117, Water Code, is amended to read as follows:

(d) Notwithstanding Subsection (b), a district may require a well to be permitted by the district and to comply with all district rules if:

(1) the withdrawals from a well in the Hill Country Priority Groundwater Management Area and exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;

(2) the purpose of a well exempted under Subsection (b)(2) is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

(3) ~~(2)~~ the withdrawals from a well exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

SECTION 2.23. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2205 to read as follows:

Sec. 49.2205. USE OF RIGHT-OF-WAY EASEMENTS FOR CERTAIN ENERGY-RELATED PURPOSES. (a) To foster the generation and transmission of electricity from clean coal projects, as defined by Section 5.001, renewable energy technology projects, and the capture and storage of carbon dioxide and other greenhouse gases, a district or water supply corporation may allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along rights-of-way and easements of the district or water supply corporation for transmission of electricity generated by those projects and the transportation of carbon dioxide and other greenhouse gases, unless the use:

(1) is incompatible with the public use for which the easement was acquired or condemned; or

(2) compromises public health or safety.

(b) The district or water supply corporation is not required to obtain additional consideration for the construction, maintenance, and operation of the transmission lines and pipelines under this section if the person constructing, maintaining, and operating the transmission lines and pipelines bears all costs of the construction, maintenance, and operation of the transmission lines and pipelines and restoring the property. The activities authorized by this subsection may be exercised only with the consent of and subject to the direction of the governing body of the district or water supply corporation.

(c) A person that is subject to Subsection (a) that acquires a right-of-way easement on real property for a public use may include in the notice of the acquisition a statement that to foster the generation and transmission of electricity from clean coal projects as defined by Section 5.001, Water Code, renewable energy technology projects, and the capture and storage of carbon dioxide and other greenhouse gases, water districts and water supply corporations may allow others to construct, maintain, and operate transmission lines and pipelines over, under, across, on, or along the rights-of-way and easements for the transmission of electricity that is generated by those projects and transportation of carbon dioxide and other greenhouse gases, unless the use:

(1) is incompatible with the public use for which the easement was acquired or condemned; or

(2) compromises public health or safety.

(d) This section applies only to a right-of-way or easement acquired by the district or water supply corporation on or after September 1, 2007.

(e) This section does not apply to a right-of-way or easement that is used for the transmission of electricity without the consent of a person owning the transmission lines if that use began before September 1, 2007.

SECTION 2.24. Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL
LAND ON WATER RIGHTS

Sec. 49.501. DEFINITION. In this subchapter, "municipal water supplier" means a municipality or a water supply corporation.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district, located wholly or partly in a county:

(1) that borders the Gulf of Mexico and the United Mexican States; or

(2) that is adjacent to a county described by Subdivision (1).

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

(1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad property and rights-of-way; or

(C) in a subdivision created to meet the requirements of a governmental entity authorized to require a recorded plat of subdivided lands;

(2) that is in a subdivision for which a plat or map has been filed and recorded in the office of the county clerk of each county in which the subdivision is wholly or partly located; and

(3) that is or was assessed as flat rate irrigable property in the municipal water supplier's certificated service area or its corporate area.

(b) A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation under commission rules, for the use and benefit of the municipal water supplier.

(c) The municipal water supplier must file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). The district shall consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) The petition must identify by subdivision name or other sufficient description the land that the municipal water supplier supplies or has the right to supply potable water.

(e) This section applies only to one subdivision of the land recorded under Subsection (a). This section does not apply to any further subdivision of the same property.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) If a municipal water supplier does not file a petition under Section 49.503, the district may retain the water rights for use by the district or may declare the water as excess and contract for the sale or use of the water as determined by the district.

(b) Before a district may contract for the sale or use of water for more than one year with a purchaser located outside of a county described by Section 49.502, the district must, for 90 days:

(1) make the water available under the same terms to all municipal water suppliers located in those counties; and

(2) advertise the offer to sell or contract for the use of the water by posting notice on:

(A) any website of the Rio Grande Watermaster's Office;

(B) any website of the Rio Grande Regional Water Authority; and

(C) the official posting place for the district's board meetings at the district's office.

(c) If, after the 90th day after the last date on which the district posted notice, a municipal water supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water, the district may contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b).

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A district that receives a petition under Section 49.503 shall compute the proportionate amount of water rights to the Rio Grande. The proportionate amount of water rights is equal to the amount of irrigable acres of land in the subdivision multiplied by the lesser of:

(1) 1.25 acre-feet per irrigable acre; or

(2) the sum of all irrigation water rights owned by the district on September 1, 2007, as if the water rights had been converted to municipal use under applicable commission rules, divided by the total amount of irrigable acres of land in the district on September 1, 2007.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER RIGHTS BY DISTRICT. (a) Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1) a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2) a district shall, if the district does not have sufficient existing water rights:

(A) apply for appropriate amendments to the district's water rights under commission rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B) provide to the municipal water supplier the converted rights described by Section 49.505.

(b) The district may continue to use the irrigation use water for district purposes until:

- (1) the commission approves the amendment to the district's water rights; or
- (2) the water is otherwise provided to the municipal water supplier.

(c) A district that applies for appropriate amendments under Subsection (a)(2) shall provide the municipal water supplier with an estimate of the district's reasonable costs for the administrative proceedings. The district is not required to begin the proceedings until the municipal water supplier deposits the amount of the estimate with the district. The municipal water supplier shall pay the district any reasonable costs that exceed the estimate. The district shall refund the balance of the deposit if the actual cost is less than the estimate.

Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water supplier may contract to purchase the proportionate water rights described by Section 49.505.

(b) The purchase price may not exceed 68 percent of the current market value, as determined under Section 49.509, for the year that the municipal water supplier petitions the district.

(c) The contract must be in writing in a document entitled "Water Rights Sales Contract."

(d) The contract must include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) The municipal water supplier shall pay the purchase price when the proportionate amount of water rights is made available to the municipal water supplier.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A municipal water supplier may contract to use water associated with the proportionate water rights described by Section 49.505.

(b) The contract must be for at least 40 years.

(c) The price for the contractual right to use the municipal use water is based on an amount for one acre-foot of municipal use water with a municipal use priority of allocation and may not exceed the sum of:

(1) an amount equal to the district's annual flat rate charge per assessed acre; and

(2) the equivalent of the charge for four irrigations per flat rate acre of irrigable property in the district.

(d) The parties to the contract shall agree on the terms of payment of the contract price.

(e) The board periodically shall determine the flat rate charge and irrigation per acre charge described by Subsection (c).

(f) The contract must be in writing in a document entitled "Water Supply Contract." The contract may contain any terms to which the parties agree.

(g) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) The Rio Grande Regional Water Authority annually at its January meeting shall calculate the current market

value by using the average price per acre-foot of municipal use water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under commission rules of the last three purchases involving:

- (1) a municipal water supplier;
- (2) a party other than a municipal water supplier; and
- (3) at least 100 acre-feet of municipal use water, with municipal priority of

allocation.

(b) The Rio Grande Regional Water Authority shall use information from the water rights sales contracts reported to the Rio Grande Watermaster's Office to calculate the current market value.

(c) The Rio Grande Regional Water Authority shall make the calculation:

- (1) without charging any of the parties involved; and
- (2) using 100 percent of the value of monetary exchanges, not in-kind

exchanges.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A district shall maintain an accounting of money received from the sale of water rights under this subchapter.

Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Sec. 49.512. MAP OF SERVICE AREA. (a) In this section, "outer boundaries of a district" means district boundaries without considering any exclusion of land from inside the district.

(b) Each municipal water supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district shall file a map of the service area with the district.

(c) The municipal water supplier shall update the map and forward the map to the district when changes are made.

(d) A district periodically shall provide to a municipal water supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.

(e) A district may request from a municipal water supplier a map of the municipal water supplier's service area, and a municipal water supplier may request from the district a map of the district's outer boundaries. On request, the district and a municipal water supplier shall provide the map free of charge to each other at least one time each year. If the district or municipal water supplier receives more than one request a year for a map, the district or municipal water supplier may charge a reasonable fee for the map.

SECTION 2.25. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.969 to read as follows:

Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES CURRICULUM. The Texas Higher Education Coordinating Board shall encourage each institution of higher education to develop curriculum and provide related instruction regarding on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down.

SECTION 2.26. Chapter 68, Education Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 68.21. SUSTAINABLE WATER SUPPLY RESEARCH CENTER. (a) In this section, "center" means the Sustainable Water Supply Research Center.

(b) The board may establish and operate the Sustainable Water Supply Research Center as part of The University of Texas at Arlington.

(c) If established, the center shall:

(1) conduct, sponsor, or direct multidisciplinary research directed toward:

(A) promoting water conservation through development of a sustainable water supply for this state; and

(B) mitigating the effect of diminishing water supplies on the economy and people of this state; and

(2) conduct a comprehensive, interdisciplinary instructional program in water conservation with emphasis on development of a sustainable water supply at the graduate level and offer undergraduate courses for students interested in water conservation and sustainable water supply development.

(d) The organization, control, and management of the center are vested in the board.

(e) The center may enter into an agreement or may cooperate with a public or private entity to perform the research functions of the center.

(f) The board may solicit, accept, and administer gifts and grants from any public or private source for the use and benefit of the center.

SECTION 2.27. Section 447.004, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The procedural standards adopted under this section must require that on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for nonpotable indoor use and landscape watering be incorporated into the design and construction of:

(1) each new state building with a roof measuring at least 10,000 square feet; and

(2) any other new state building for which the incorporation of such systems is feasible.

SECTION 2.28. Section 341.042, Health and Safety Code, is amended to read as follows:

Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) The commission shall establish recommended standards relating to the domestic use of harvested rainwater, including health and safety standards for treatment and collection methods for harvested rainwater intended for drinking, cooking, or bathing.

(b) The commission by rule shall provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use:

(1) the structure must have appropriate cross-connection safeguards; and

(2) the rainwater harvesting system may be used only for nonpotable indoor purposes.

(c) Standards and rules adopted by the commission under this chapter governing public drinking water supply systems do not apply to a person:

(1) who harvests rainwater for domestic use; and

(2) whose property is not connected to a public drinking water supply system.

SECTION 2.29. Subsection (b), Section 212.0101, Local Government Code, is amended to read as follows:

(b) The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

SECTION 2.30. Subsection (b), Section 232.0032, Local Government Code, is amended to read as follows:

(b) The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

SECTION 2.31. Chapter 401, Local Government Code, is amended by adding Section 401.006 to read as follows:

Sec. 401.006. WATER CONSERVATION BY HOME-RULE MUNICIPALITY.
A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.

SECTION 2.32. Subchapter Z, Chapter 402, Local Government Code, is amended by adding Section 402.911 to read as follows:

Sec. 402.911. DUTIES OF WATER SERVICE PROVIDER TO AN AREA SERVED BY SEWER SERVICE OF CERTAIN POLITICAL SUBDIVISIONS.

(a) This section applies only to an area:

(1) that is located in a county that has a population of more than 1.3 million;
and

(2) in which a customer's sewer service is provided by a municipality or conservation and reclamation district that also provides water service to other customers and the same customer's water service is provided by another entity.

(b) For each person the water service provider serves in an area to which this section applies, the water service provider shall provide the municipality or district with any relevant customer information so that the municipality or district may bill users of the sewer service directly and verify the water consumption of users. Relevant customer information provided under this section includes the name, address, and telephone number of the customer of the water service provider, the monthly meter readings of the customer, monthly consumption information, including any billing adjustments, and certain meter information, such as brand, model, age, and location.

(c) The municipality or district shall reimburse the water service provider for its reasonable and actual incremental costs for providing services to the municipality or district under this section. Incremental costs are limited to only those costs that are in addition to the water service provider's costs in providing its services to its customers, and those costs must be consistent with the costs incurred by other water utility providers. Only if requested by the wastewater provider, the water service provider

must provide the municipality or district with documentation certified by a certified public accountant of the reasonable and actual incremental costs for providing services to the municipality or district under this section.

(d) A municipality or conservation and reclamation district may provide written notice to a person to whom the municipality's or district's sewer service system provides service if the person has failed to pay for the service for more than 90 days. The notice must state the past due amount owed and the deadline by which the past due amount must be paid or the person will lose water service. The notice may be sent by mail or hand-delivered to the location at which the sewer service is provided.

(e) The municipality or district may notify the water service provider of a person who fails to make timely payment after the person receives notice under Subsection (d). The notice must indicate the number of days the person has failed to pay for sewer service and the total amount past due. On receipt of the notice, the water service provider shall discontinue water service to the person.

(f) This section does not apply to a nonprofit water supply or sewer service corporation created under Chapter 67, Water Code, or a district created under Chapter 65, Water Code.

SECTION 2.33. Section 430.003, Local Government Code, is amended to read as follows:

Sec. 430.003. EXEMPTIONS OF CERTAIN ~~[STATE]~~ PROPERTY FROM INFRASTRUCTURE FEES. No county, municipality, or utility district may collect from a state agency or a public or private institution of higher education any fee charged for the development or maintenance of programs or ~~[of]~~ facilities for the control of excess water or storm water.

SECTION 2.34. Section 1903.053, Occupations Code, is amended to read as follows:

Sec. 1903.053. STANDARDS. (a) The commission shall adopt by rule and enforce standards governing:

- (1) the connection of irrigation systems to any water supply;
- (2) the design, installation, and operation of irrigation systems;
- (3) water conservation; and
- (4) the duties and responsibilities of licensed irrigators.

(b) [The commission may adopt standards for irrigation that include water conservation, irrigation system design and installation, and compliance with municipal codes.

~~[(c)]~~ The commission may not require or prohibit the use of any irrigation system, component part, or equipment of any particular brand or manufacturer.

(c) In adopting standards under this section, the commission shall consult the council.

SECTION 2.35. (a) In this section, "board" means the Texas Water Development Board.

(b) The board, in coordination with the Far West Texas Regional Water Planning Group established pursuant to Section 16.053, Water Code, shall conduct a study regarding the possible impact of climate change on surface water supplies from the Rio Grande.

(c) In conducting the study, the board shall convene a conference within the Far West Texas regional water planning area designated pursuant to Section 16.053, Water Code, to review:

(1) any analysis conducted by a state located to the west of this state regarding the impact of climate change on surface water supplies in that state;

(2) any other current analysis of potential impacts of climate change on surface water resources; and

(3) recommendations for incorporation of potential impacts of climate change into the Far West Texas Regional Water Plan, including potential impacts to the Rio Grande in Texas subject to the Rio Grande Compact and identification of feasible water management strategies to offset any potential impacts.

(d) The conference should include, but not be limited to, the participation of representatives of:

(1) the Far West Texas Regional Water Planning Group;

(2) water authorities;

(3) industrial customers;

(4) agricultural interests;

(5) municipalities;

(6) fishing or recreational interests;

(7) environmental advocacy organizations; and

(8) institutions of higher education.

(e) Not later than December 31, 2008, the board shall submit to the legislature a written report regarding the study findings under this section.

SECTION 2.36. (a) Chapter 9, Water Code, is repealed.

(b) The Texas Water Advisory Council is abolished on the effective date of this article.

SECTION 2.37. Chapter 64, Water Code, is repealed.

SECTION 2.38. As soon as practicable on or after the effective date of this article, the Texas Water Development Board shall appoint the initial members of the Water Conservation Advisory Council, as required by Section 10.003, Water Code, as added by this article. In making the initial appointments, the board shall designate seven members to serve terms expiring August 31, 2009, eight members to serve terms expiring August 31, 2011, and eight members to serve terms expiring August 31, 2013.

SECTION 2.39. The changes made by this Act to Section 13.2451, Water Code, apply only to:

(1) an application for a certificate of public convenience and necessity or for an amendment to a certificate of public convenience and necessity submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act;

(2) a proceeding to amend or revoke a certificate of public convenience and necessity initiated on or after the effective date of this Act;

(3) a certificate of public convenience and necessity issued to a municipality, regardless of the date the certificate was issued;

(4) an application by a municipality or by a utility owned by a municipality for a certificate of public convenience and necessity or for an amendment to a certificate, regardless of the date the application was filed; and

(5) a proceeding to amend or revoke a certificate of public convenience and necessity held by a municipality or by a utility owned by a municipality, regardless of the date the proceeding was initiated.

SECTION 2.40. Sections 15.102 and 17.125, Water Code, as amended by this article, and Sections 15.9751 and 16.1311, Water Code, as added by this article, apply only to an application for financial assistance filed with the Texas Water Development Board on or after the effective date of this article. An application for financial assistance filed before the effective date of this article is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 2.41. The change in law made by Subchapter O, Chapter 49, Water Code, as added by this Act, applies only to a subdivision for which a plat or map has been recorded in the office of the county clerk of a county on or after the effective date of this Act. A subdivision for which a plat or map was recorded before the effective date of this Act is covered by the law in effect on the date the plat or map was recorded, and the former law is continued in effect for that purpose.

SECTION 2.42. Not later than June 1, 2008, the Texas Commission on Environmental Quality shall adopt standards as required by Section 1903.053, Occupations Code, as amended by this article, to take effect January 1, 2009.

SECTION 2.43. Section 2.27 of this article, adding Subsection (c-1), Section 447.004, Government Code, takes effect September 1, 2009.

ARTICLE 3. CONSTRUCTION AND OPERATION OF RESERVOIRS

SECTION 3.01. Section 16.051, Water Code, is amended by adding Subsection (i) to read as follows:

(i) For purposes of this section, the acquisition of fee title or an easement by a political subdivision for the purpose of providing retail public utility service to property in the reservoir site or allowing an owner of property in the reservoir site to improve or develop the property may not be considered a significant impairment that prevents the construction of a reservoir site under Subsection (g). A fee title or easement acquired under this subsection may not be considered the basis for preventing the future acquisition of land needed to construct a reservoir on a designated site.

SECTION 3.02. Subchapter E, Chapter 16, Water Code, is amended by adding Sections 16.143 and 16.144 to read as follows:

Sec. 16.143. OPTION TO LEASE. (a) A former owner of real property used for agricultural purposes that was acquired, voluntarily or through the exercise of the power of eminent domain, for a reservoir whose site has been designated as unique for the construction of a reservoir under Section 16.051(g) is entitled to lease the property from the person who acquired the property under terms that allow the former owner to continue to use the property for agricultural purposes until the person who acquired the property determines that such use must be terminated to allow for the physical construction of the reservoir. Consistent with Subsection (b), the lease is subject to the terms and conditions set forth by the person who has acquired the property that are related to the use of the property by the former owner, including the term of the lease, the rent the former owner is required to pay under the lease, and the uses that may be allowed on the property during the term of the lease.

(b) A former owner of real property used for agricultural purposes is entitled to lease the property for the property's agricultural rental value until the person who acquired the property determines that the lease must be terminated to allow for the physical construction of the reservoir.

Sec. 16.144. ENVIRONMENTAL MITIGATION. (a) If a person proposing to construct a reservoir whose site has been designated as unique for the construction of a reservoir under Section 16.051(g) is required to mitigate future adverse environmental effects arising from the construction or operation of the reservoir or its related facilities, the person shall, if authorized by the applicable regulatory authority, attempt to mitigate those effects by offering to contract with and pay an amount of money to an owner of real property located outside of the reservoir site to maintain the property through an easement instead of acquiring the fee simple title to the property for that purpose.

(b) An owner of real property may reject an offer made under Subsection (a). If agreement on the terms of an easement under Subsection (a) cannot be reached by the parties after a good faith attempt and offer is made, then the party constructing the reservoir may obtain fee title to the property through voluntary or involuntary means.

ARTICLE 4. UNIQUE RESERVOIR SITES AND SITES OF UNIQUE ECOLOGICAL VALUE

SECTION 4.01. Section 16.051, Water Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) Notwithstanding any other provisions of law, a site is considered to be a designated site of unique value for the construction of a reservoir if the site is recommended for designation in the 2007 state water plan adopted by the board and in effect on May 1, 2007. The designation of a unique reservoir site under this subsection terminates on September 1, 2015, unless there is an affirmative vote by a proposed project sponsor to make expenditures necessary in order to construct or file applications for permits required in connection with the construction of the reservoir under federal or state law.

SECTION 4.02. DESIGNATION OF SITES OF UNIQUE ECOLOGICAL VALUE. The legislature, as authorized by Subsection (f), Section 16.051, Water Code, designates those river or stream segment sites recommended in the 2007 state water plan as being of unique ecological value.

SECTION 4.03. RESTRICTION ON ELIGIBILITY TO HOLD WATER RIGHTS; LIABILITY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS. (a) This section applies only to the proposed Marvin Nichols and Lake Fastrill reservoirs.

(b) The right to appropriate at least 20 percent of the quantity of water that is authorized to be appropriated from each proposed reservoir must be held by one or more entities located in the regional water planning area in which the reservoir is to be located.

(c) If one or more entities located outside the regional water planning area in which a proposed reservoir is to be located are to hold the right to appropriate a majority of the quantity of water that is authorized to be appropriated from the reservoir, that entity or those entities must pay all of the costs of constructing, operating, and maintaining the reservoir until such time as one or more entities located

in the regional water planning area in which the reservoir is to be located begins diverting water. At such time, the entity or entities making a diversion shall pay a pro-rata share of the cost of operating and maintaining the reservoir.

SECTION 4.04. STUDY COMMISSION ON REGION C WATER SUPPLY.

(a) The Study Commission on Region C Water Supply is established. The study commission consists of six members as follows:

(1) three members appointed by the Region C Regional Water Planning Group; and

(2) three members appointed by the Region D Regional Water Planning Group.

(b) A member of the study commission may be, but is not required to be, a voting member of the regional water planning group that appointed the member.

(c) The members of the study commission shall select a presiding officer from among the members.

(d) Members of the study commission are not entitled to compensation for service on the study commission but may be reimbursed for travel expenses incurred while conducting the business of the study commission, as provided for in the General Appropriations Act.

(e) The study commission shall:

(1) review the water supply alternatives available to the Region C Regional Water Planning Area, including obtaining additional water supply from Wright Patman Lake, Toledo Bend Reservoir, Lake Texoma, Lake O' the Pines, other existing and proposed reservoirs, and groundwater;

(2) in connection with the review under Subdivision (1) of this subsection, analyze the socioeconomic effect on the area where the water supply is located that would result from the use of the water to meet the water needs of the Region C Regional Water Planning Area, including:

(A) the effects on landowners, agricultural and natural resources, businesses, industries, and taxing entities of different water management strategies; and

(B) in connection with the use by the Region C Regional Water Planning Area of water from Wright Patman Lake, the effect on water availability in that lake and the effect on industries relying on that water availability;

(3) determine whether water demand in the Region C Regional Water Planning Area may be reduced through additional conservation and reuse measures so as to postpone the need for additional water supplies;

(4) evaluate measures that would need to be taken to comply with the mitigation requirements of the United States Army Corps of Engineers in connection with any proposed new reservoirs, including identifying potential mitigation sites;

(5) consider whether the mitigation burden described by Subdivision (4) of this subsection may be shared by the Regions C and D Regional Water Planning Areas in proportion to the allocation to each region of water in any proposed reservoir;

(6) review innovative methods of compensation to affected property owners, including royalties for water stored on acquired properties and annual payments to landowners for properties acquired for the construction of a reservoir to satisfy future water management strategies;

(7) evaluate the minimum number of surface acres required for the construction of proposed reservoirs in order to develop adequate water supply; and

(8) identify the locations of proposed reservoir sites and proposed mitigation sites, as applicable, as selected in accordance with existing state and federal law, in the Regions C and D Regional Water Planning Areas using satellite imagery with sufficient resolution to permit land ownership to be determined.

(f) The study commission may not be assisted by any person that is a party to or is employed by a party to a contract to perform engineering work with respect to site selection, permitting, design, or construction of the proposed Marvin Nichols reservoir.

(g) The Texas Water Development Board, on request of the study commission, may provide staff support or other assistance necessary to enable the study commission to carry out its duties. The Texas Water Development Board shall provide funding for the study commission, including funding of any studies conducted by the study commission, from the regional planning budget of the board.

(h) Not later than December 1, 2010, the study commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives that includes:

(1) any studies completed by the study commission;

(2) any legislation proposed by the study commission;

(3) a recommendation as to whether Marvin Nichols should remain a designated reservoir site; and

(4) other findings and recommendations of the study commission.

(i) The study commission is abolished and this section expires December 31, 2011.

SECTION 4.05. EFFECTIVE DATE. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 5. LEGISLATIVE JOINT INTERIM COMMITTEE

SECTION 5.01. (a) In this section, "committee" means the joint interim committee on state water funding.

(b) The committee is composed of eight members as follows:

(1) the chair of the Senate Committee on Natural Resources and the chair of the House Committee on Natural Resources who shall serve as joint chairs of the committee;

(2) three members of the senate appointed by the lieutenant governor; and

(3) three members of the house of representatives appointed by the speaker of the house of representatives.

(c) An appointed member of the committee serves at the pleasure of the appointing official.

(d) The committee shall meet at least annually with the executive director of the Texas Commission on Environmental Quality and the executive administrator of the Texas Water Development Board to:

(1) receive information on water infrastructure needs as identified in the state water plan;

(2) receive information on infrastructure cost and funding options to be used by local entities to meet the needs identified in the state water plan;

(3) receive analyses of the funding gap and recommendations on how to address those funding needs;

(4) receive information on whether all water fees assessed are sufficient to support the required regulatory water-related state program functions and activities; and

(5) identify viable, sustainable, dedicated revenues and fee sources, or increases to existing revenue and fees, to support state water programs and to provide for natural resources data collection and dissemination, financial assistance programs, and water resources planning, including funding to implement water management strategies in the state water plan.

(e) The committee may hold hearings and may request reports and other information from state agencies as necessary to carry out this section.

(f) The Senate Committee on Natural Resources and the House Committee on Natural Resources shall provide staff necessary for the committee to fulfill its duties.

(g) Not later than December 1, 2008, the committee shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the committee's activities under Subsection (d) of this section. The report shall include recommendations of any legislative action necessary to address funding needs to support the state's water programs and water infrastructure needs.

ARTICLE 6. WATER DEVELOPMENT BOARD

SECTION 6.01. Section 16.344, Water Code, is amended by adding Subsections (d) through (i) to read as follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or wastewater services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after consulting with the attorney general, secretary of state, and commission, has not received an objection from any of those entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider the eligibility of areas that were the subject of a facility plan in the initial application and that may be determined to be eligible based on criteria in effect September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided by Subsections (d)-(f), if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

(h) The board may not accept or grant applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Subsections (d), (e), (f), (g), and (h) and this subsection expire September 1, 2009.

ARTICLE 7. RATE CLASSES FOR BILLING

SECTION 7.01. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2122 to read as follows:

Sec. 49.2122. ESTABLISHMENT OF CUSTOMER CLASSES.

(a) Notwithstanding any other law, a district may establish different charges, fees, rentals, or deposits among classes of customers that are based on any factor the district considers appropriate, including:

(1) the similarity of the type of customer to other customers in the class, including:

(A) residential;

(B) commercial;

(C) industrial;

(D) apartment;

(E) rental housing;

(F) irrigation;

(G) homeowner associations;

(H) builder;

(I) out-of-district;

(J) nonprofit organization; and

(K) any other type of customer as determined by the district;

(2) the type of services provided to the customer class;

(3) the cost of facilities, operations, and administrative services to provide service to a particular class of customer, including additional costs to the district for security, recreational facilities, or fire protection paid from other revenues; and

(4) the total revenues, including ad valorem tax revenues and connection fees, received by the district from a class of customers relative to the cost of service to the class of customers.

(b) A district is presumed to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

ARTICLE 8. STUDY OF ROLE OF LAKE SOMERVILLE IN ECONOMIC DEVELOPMENT

SECTION 8.01. The legislature finds that:

(1) in 1954, the United States Congress authorized the construction of Lake Somerville to provide flood control, water conservation, and other beneficial uses for nearby areas; subsequently, the United States Army Corps of Engineers began reservoir construction in 1962 and began to impound water in 1967;

(2) straddling the borders of Burleson, Washington, and Lee Counties, on Yegua Creek 20 river miles upstream from that creek's confluence with the Brazos River, the lake has a storage capacity of 337,700 acre-feet;

(3) operation of the lake is supervised by the Fort Worth District of the United States Army Corps of Engineers; the lake is one of nine federal reservoirs that are integrated into the Brazos River Authority's basin-wide system and associated water resource development master plan;

(4) the Brazos River Authority owns the stored water, a source from which it furnishes supplies to the City of Brenham according to a contract that was last renewed for a 10-year period in 2003;

(5) also significantly involved in the region is the Lower Colorado River Authority, which, from its diverse mix of power plants, provides wholesale electricity to various communities as well as offering them its economic research and expertise;

(6) although Lake Somerville has long been a tourist destination for fishing and other water recreation, the facility has not fully effectuated the three-county economic impact that originally was expected at the time that it was built; and

(7) a study of Lake Somerville's role in economic development would assist in explaining why the lake has not yet had that impact, beyond the tourism industry, and would help to identify impediments that currently restrict its contribution as well as strategies that would better maximize its economic potential.

SECTION 8.02. The Brazos River Authority and the Lower Colorado River Authority shall:

(1) conduct, with appropriate input from the public and private sectors, a joint baseline study of the role of Lake Somerville in the economic development of the surrounding vicinity; and

(2) jointly submit a full report of their findings and recommendations to the 81st Legislature when that legislature convenes in January 2009.

ARTICLE 9. AGUA SPECIAL UTILITY DISTRICT

SECTION 9.01. The heading to Chapter 7201, Special District Local Laws Code, is amended to read as follows:

CHAPTER 7201. AGUA ~~[LA JOYA]~~ SPECIAL UTILITY DISTRICT

SECTION 9.02. Section 7201.001, Special District Local Laws Code, is amended by amending Subdivision (3) and adding Subdivision (4) to read as follows:

(3) "Director" means a member of the board.

(4) "District" means the Agua ~~[La Joya]~~ Special Utility District.

SECTION 9.03. Subsection (c), Section 7201.002, Special District Local Laws Code, is amended to read as follows:

(c) ~~The [On the effective date of the Act enacting this chapter, the]~~ corporation shall be dissolved and succeeded without interruption by the district as provided by Subchapter A1.

SECTION 9.04. Section 7201.005, Special District Local Laws Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) ~~The [boundaries of the corporation and initial boundaries of the] district is composed of the territory described by Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection [are coextensive with the service areas covered by Certificates of Convenience and Necessity Nos. 10559 and 20785, as recorded on the Texas Commission on Environmental Quality maps associated with those certificates. Those maps are incorporated in this section by reference].~~

(b) The boundaries and field notes contained in Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection form a closure. A mistake made in the field notes or in copying the field notes in the legislative process [preparation, copying, or filing of the maps described by Subsection (a) and on file with the Texas Commission on Environmental Quality] does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to issue bonds; or
- (3) the legality or operation of the district.

(d) The territory of the district does not include and the district does not have jurisdiction over land that has never been in the service area of the corporation regardless of any erroneous inclusion of that land in the boundaries and field notes in Section 9.12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section.

SECTION 9.05. Section 7201.021, Special District Local Laws Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (f) to read as follows:

(a) Except as provided by this subsection, after the appointment of initial directors under Section 7201.051, the receiver for the corporation [On the effective date of the Act enacting this chapter, the corporation] shall transfer the assets, debts, and contractual rights and obligations of the corporation, including all legal claims against the corporation in effect on the date of the transfer, to the district and provide

notices and make recordings of the transfer required by the Water Code and general law. If the transfer of any debt requires the permission of the lender, the receiver shall initiate proceedings to obtain that permission.

(b) In accordance with the orders of the receivership court and not ~~[Not]~~ later than the 30th day after the date of the transfer under Subsection (a), the receiver for ~~[board of directors of]~~ the corporation shall commence dissolution proceedings of the corporation.

(d) The receiver for ~~[board of directors of]~~ the corporation shall notify the Texas Commission on Environmental Quality of the dissolution of the corporation and its succession in interest by ~~[the creation of]~~ the district in order ~~[to replace it]~~ to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(f) After the Texas Commission on Environmental Quality takes the action required by Subsection (e), the court shall terminate the receivership.

SECTION 9.06. Section 7201.022, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012 ~~[2008]~~.

SECTION 9.07. Section 7201.051, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.051. APPOINTMENT OF INITIAL ~~[TEMPORARY]~~ DIRECTORS.
(a) As soon as practicable after the effective date of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section, seven initial directors shall be appointed as provided by this section ~~[The directors of the corporation who hold office on the effective date of the Act enacting this chapter shall serve as the temporary directors of the district until successor directors are elected and qualify for office].~~

(b) To be eligible to be appointed as an initial director, an individual must meet the same requirements as a candidate for an elected position as director under Section 7201.052. The initial directors shall be appointed as follows:

(1) one director to represent the residents of the district in the City of Mission appointed by the governing body of that city;

(2) one director to represent the residents of the district in the City of Palmview appointed by the governing body of that city;

(3) one director to represent the residents of the district in the City of Penitas appointed by the governing body of that city;

(4) one director to represent the residents of the district in the City of Sullivan City appointed by the governing body of that city; and

(5) three directors to represent the residents of the district outside the municipalities listed in Subdivisions (1)-(4) appointed by the Hidalgo County Commissioners Court ~~[The temporary directors of the district are assigned position numbers as follows:~~

~~[(1) Position 1, Jose Luis Trigo;~~

~~[(2) Position 2, Jose Guadalupe Reyna;~~

~~[(3) Position 3, George Barreiro;~~

~~[(4) Position 4, Froilan Ramirez;~~

- ~~[(5) Position 5, Russell Wicker;~~
- ~~[(6) Position 6, Benito Salinas;~~
- ~~[(7) Position 7, Manuel Ricardo Garcia;~~
- ~~[(8) Position 8, Valente Alaniz, Jr.; and~~
- ~~[(9) Position 9, Juan Lino Garza].~~

(c) An initial director serves a term that expires on June 1 of the year in which the director's successor is elected under Section 7201.052 ~~[If there is a vacancy on the temporary board of directors of the district, the temporary board shall appoint a person to fill the vacancy for the remainder of the term for the vacated position until the applicable election under Section 7201.052].~~

SECTION 9.08. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.0512 and 7201.0513 to read as follows:

Sec. 7201.0512. INITIAL BOARD TRAINING. (a) Not later than the 60th day after the first date on which all of the initial directors have been appointed, each initial director shall complete at least 12 hours of training on district management and compliance with laws applicable to the district as determined by the receiver for the corporation.

(b) The district shall reimburse an initial director for the reasonable expenses incurred by the director in attending the training.

Sec. 7201.0513. EDUCATION PROGRAM. (a) Before the first election of directors under Section 7201.052, the initial board shall establish a program of education for directors that includes information on:

- (1) the history of the district;
- (2) the district's enabling legislation;
- (3) Chapters 49 and 65, Water Code, and other laws that apply to the district, including the requirements of the:
 - (A) open meetings law, Chapter 551, Government Code; and
 - (B) public information law, Chapter 552, Government Code;
- (4) relevant legal developments related to water district governance;
- (5) the duties and responsibilities of the board;
- (6) the requirements of conflict of interest laws and other laws relating to public officials; and
- (7) any applicable ethics policies adopted by the Texas Commission on Environmental Quality or the Texas Ethics Commission.

(b) The district shall pay any costs associated with the development of the education program from district revenue.

(c) The education program may include training provided by an organization offering courses that have been approved by the Texas Commission on Environmental Quality.

(d) The board may adopt bylaws modifying the education program as necessary to meet district needs.

SECTION 9.09. Section 7201.052, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.052. BOARD OF DIRECTORS. (a) Except as provided by Subsection (l), the [The] district shall be governed by a board of seven [not fewer than nine and not more than 11] directors, elected as follows:

(1) one director elected by the voters of the part of the City of Mission inside the district to represent that part of the city;

(2) one director elected by the voters of the City of Palmview to represent that city;

(3) one director elected by the voters of the City of Penitas to represent that city;

(4) one director elected by the voters of the City of Sullivan City to represent that city; and

(5) three directors elected at-large to numbered positions on the board by the district voters who do not reside in any of the municipalities listed in Subdivisions (1)-(4) to represent the part of the district that is not included in those municipalities, unless the number of at-large directors is increased under Subsection (1) ~~in accordance with Section 49.103, Water Code, notwithstanding Subsection (f)(2) of that section~~].

(b) A ~~[Except for a temporary director under Section 7201.051, a]~~ candidate for one of the numbered ~~[a position as]~~ director positions:

(1) ~~[is elected at large to represent the entire service area of the district;~~ ~~(2)]~~ must reside in the part of the service area of the district that is not included in any of the municipalities listed in Subsections (a)(1)-(4); and

(2) ~~(3)]~~ must be eligible to hold office under Section 141.001, Election Code.

(c) A candidate for one of the director positions representing a municipality listed in Subsection (a)(1), (2), (3), or (4):

(1) must reside in the municipality the candidate seeks to represent; and

(2) must be eligible to hold office under Section 141.001, Election Code.

(d) It is the policy of the district that the directors shall represent and reside in as broad a cross-section of the geographic area of the district as possible.

(e) ~~(d)]~~ The district shall fill a vacancy on the board in accordance with Section 49.105, Water Code.

(f) ~~(e)]~~ Except for the initial ~~[temporary]~~ directors ~~appointed~~ ~~[listed]~~ under Section 7201.051 or elected at the first election under Subsection (g), directors serve staggered terms of four ~~[three]~~ years.

(g) ~~(f)]~~ On the uniform election date in May 2008, or in May 2010, if the election is postponed under Subsection (h), the district shall hold an election to elect seven directors. On the ~~[2006, and on that]~~ uniform election date in May of each even-numbered ~~[every third]~~ year after that date, the district shall hold an election to elect the appropriate number of ~~[three]~~ directors ~~[to serve in positions 1, 4, and 7].~~

(h) The initial board by order may postpone until the uniform election date in May 2010 the first election for directors under Subsection (g) if the initial board determines that there is not sufficient time to comply with the requirements of law and to order the election of directors to be held on the first uniform election date specified by that subsection.

(i) The directors elected at the first election under Subsection (g) shall cast lots to determine which three directors shall serve terms expiring June 1 of the first even-numbered year after the year in which the directors are elected and which four directors shall serve terms expiring June 1 of the second even-numbered year after the year in which the directors are elected.

(j) A director may not serve consecutive terms.

(k) A person who has served as a member of the board of directors of the corporation is not eligible to serve as a district director.

(l) If, before the expiration of the term of a director elected to represent a municipality under Subsection (a)(1), (2), (3), or (4), the district determines that all of the incorporated territory of the municipality is outside the boundaries of the district, the position immediately becomes an at-large numbered position to be filled at the next general election of the district in accordance with Subsections (a)(5) and (b) ~~[(g) On the uniform election date in May 2007, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 2, 3, and 5.~~

~~[(h) On the uniform election date in May 2008, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 6, 8, and 9].~~

SECTION 9.10. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.053 and 7201.054 to read as follows:

Sec. 7201.053. DISTRICT TREASURER. (a) The board shall elect from among its members one director to serve as district treasurer.

(b) The district treasurer shall comply with the training requirements provided by Section 49.1571, Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS. (a) Except for an initial director whose term expires in 2008, each director shall complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was appointed or elected.

(b) The district shall reimburse a director for the reasonable expenses incurred by the director in attending the education program.

(c) A director who is elected to serve a subsequent term shall fulfill the education requirements specified by district bylaws.

SECTION 9.11. Section 7201.206, Special District Local Laws Code, is amended to read as follows:

Sec. 7201.206. RATES AND FEES FOR SERVICES. (a) The district, in connection with water or sewer retail public utility services, shall establish lifeline, senior citizen, or minimum consumption level rates for services. The rate impact of such services shall be allocated on the basis of costs of services to achieve conservation principles, while securing necessary reserves for the payment of operating expenses, sinking funds, principal, interest, and debt coverage factors, and any other objective established by the district's annual budget.

(b) Chapter 395, Local Government Code, does not apply to any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments.

(c) Notwithstanding Subsection (b), beginning on December 31, 2009, the district may not impose any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments unless the district readopts the fee, charge, or assessment or adopts a new fee, charge, or assessment in accordance with Chapter 395, Local Government Code. This subsection does not apply to a retail water or sewer rate adopted by the receiver or the district.

SECTION 9.12. (a) Except for the areas excluded under Subsection (b) of this section, the boundaries of the Agua Special Utility District are as follows:

Beginning at a point in the centerline of FM 495 (Mile 1 Road) a distance of approximately .18 miles west of the intersection of FM 495 and Inspiration Road.

Thence due north approximately 1.0 miles to a point approximately 166 feet south of the centerline of Mile 2 Road and approximately .18 miles west of the intersection of Mile 2 Road and Inspiration Road

Thence follow west along a straight westerly line approximately 180 feet south of Mile 2 Road approximately .51 miles to a point in the centerline of Schubach Road.

Following westerly in a straight line approximately .78 miles to the centerline of Bentsen Palm Drive.

From the point at the centerline of Bentsen Palm Road continue westerly approximately .78 miles to a point at 26 15 00 latitude and -98 22 10 longitude.

Turn right and due north and follow approximately 7.0 miles in a northerly direction .10 miles west and parallel to Bentsen Palm Drive to a point at 226 21 04 latitude and -98 21 06 longitude.

Turn left and follow westerly along a straight line a distance of approximately 1.66 miles to the intersection of Abram Road and 9 Mile Road.

Follow along the centerline of 9 Mile Road westerly approximately 1.65 miles to its intersection with Iowa Avenue. (Latitude: 26 21 31, Longitude: -98 24 16)

Continue westerly along a straight line from latitude 26 21 31, longitude -98 24 16 approximately 3.79 miles to the center line of FM 2221 (Jara Chinas Road)

Thence due south along FM 2221 (Jara Chinas Road) approximate distance of 8.02 Miles to a point approximately .75 miles north of the Intersection of Expressway 83 and FM 2221(Jara Chinas Road)

Thence at a distance of approximately .75 miles north of the centerline of Expressway 83 due west to northwest approximately 4 miles following along the same contour as Expressway 83 to the centerline of El Faro Road from a point .62 miles east of the intersection of El Faro Road and Expressway 83.

Turn right and follow due north down the centerline of El Faro Road until its end and continue northerly for a total of approximately 2.79 miles to a point at latitude 26 19 13 and longitude -98 32 40.

Turn left and follow northwesterly in a straight line along the east side of 16 Mile Road (Starr County) approximately 1.87 miles to a point located at 26 19 30 latitude and -98 34 27 longitude.

Turn right and follow northeasterly in a straight line approximately 1.02 miles to a point located at 26 20 22 latitude and -98 34 17 longitude.

Turn right and follow southeasterly in a straight line approximately 1.26 miles to a point located at 26 20 22 latitude and -98 33 05 longitude.

Turn right and follow northeasterly in a straight line along the west side of County Line Road (Starr County) approximately .61 miles to a point located at 26 20 43 latitude and -98 32 60 longitude.

Turn left and follow northwesterly in a straight line approximately 1.26 miles to a point located at 26 20 53 latitude and -98 34 12 longitude.

Turn right and follow northeasterly in a straight line along the east side of 16 Mile Road (Starr County) approximately 1.32 miles to a point located at 26 22 02 latitude and -98 33 59 longitude.

Turn left and follow northwesterly in a straight line approximately .55 miles to a point located at 26 22 07 latitude and -98 34 30 longitude.

Turn left and follow southwesterly in a straight line approximately 6.17 miles to a point located at 26 16 48 latitude and -98 35 29 longitude.

Turn left and follow southeasterly in a straight line approximately .91 miles to a point located at 26 16 30 latitude and -98 34 40 longitude, near the Hidalgo-Starr County line.

Turn right and follow southwesterly along the Hidalgo-Starr County line approximately 1.28 miles to its intersection with the Rio Grande River (U.S. side).

Thence due south approximately 7.77 miles to the northern winding banks (U.S. side) of the Rio Grande River

Thence east along the northern winding banks (US side) of the Rio Grande River approximately 22 miles to a point approximately 1.16 miles south of Greene Road

Thence from that center line on Bentsen Park Road approximately .82 miles east northeast to the centerline of Breyfogle/Shuerbach Road

Turn left and follow westerly in a straight line approximately .56 miles to a point located 26 11 20 latitude and -98 22 30 longitude.

Turn left and follow southerly in a straight line approximately .50 miles to the centerline of Military Road.

Turn right and follow northerly and then northwesterly along the north side of Military Road approximately .36 miles to its intersection with Farm-to-Market Road 2062.

Turn left and follow southerly along Farm-to-Market Road 2062 approximately .16 miles to a point located at 26 11 02 latitude and -98 22 46 longitude.

Turn right and follow northerly, westerly, southerly, southwesterly, northerly, westerly and then southwesterly for approximately 1.27 miles to a point located at 26 11 11 latitude and -98 23 38 longitude running just north of Park Road 43.

Turn right and follow northeasterly along a straight line for approximately .71 miles to the north side of Military Road.

Turn left and follow along westerly approximately .44 miles along the north side of Military Road to its intersection with Goodwin Road.

Turn right and follow northerly along the centerline of Goodwin Road approximately .33 miles to a point located at 26 12 07 latitude and -98 23 53 longitude.

Turn right and follow easterly, northerly, easterly and then southeasterly approximately .78 miles to the intersection with Green Road.

Turn left and follow northerly along the centerline of Green Road approximately .32 miles.

Turn right and follow easterly and then southwesterly approximately 1.16 miles to the north side of Military Road at points 26 11 42 latitude and -98 23 16 longitude.

Turn left and follow southeasterly along the north side of Military Road approximately 0.07 miles to a point located at 26 11 40 latitude and -98 23 13 longitude.

Turn left and follow northeasterly, northerly, northeasterly, northerly, northeasterly, easterly, southerly and then easterly approximately 2.04 miles to the centerline of Shuebach Road/Airfield Road

Turn left and follow northeasterly along the centerline of Airfield Road approximately 1.48 miles to its intersection with U.S. Highway 83 Business.

Turn right and follow easterly along the centerline of U.S. Highway 83 Business approximately .27 miles to its intersection with Moorefield Road.

Turn left and follow northerly along the centerline of Moorefield Road approximately .32 miles to a point located at 26 13 23 latitude and -98 21 21 longitude.

Make a slight right and follow northeasterly and then northerly along the west banks of the Edinburg Main Canal approximately .66 miles to that point on the centerline of FM 495 the beginning (Mile 1 Road) a distance of approximately .18 miles west of the intersection of FM 495 and Inspiration Road to Close.

(b) The territory of the Agua Special Utility District does not include the area within the city limits of La Joya, Texas, as it existed on January 1, 1991; the area within the Certificate of Convenience and Necessity of Hidalgo County Municipal Utility District No. 1 as reflected on the records of the Texas Commission on Environmental Quality as of January 1, 2007; and the area within the following boundary lines, which lie wholly within the district:

Beginning at a point located at 26 14 57 Latitude and -98 25 55 Longitude follow in a northwesterly direction along an unnamed creek approximately .23 Miles to a point located at 26 15 03 Latitude and -98 26 05 Longitude.

From the point located at 26 15 03 Latitude and -98 26 05 Longitude follow in a westerly direction along an unnamed creek approximately .24 Miles to a point located at 26 15 04 Latitude and -98 26 19 Longitude.

From the point located at 26 15 04 Latitude and -98 26 19 Longitude turn right and follow in a straight line northeasterly approximately .97 Miles to a point located at 26 15 54 Latitude and -98 26 09 Longitude.

From the point located at 26 15 54 Latitude and -98 26 09 Longitude turn right and follow in a straight line easterly-southeasterly approximately .43 Miles to a point located at 26 15 50 Latitude and -98 25 45 Longitude.

From a point located at 26 15 50 Latitude and -98 25 45 Longitude turn right and follow in a straight line southwesterly approximately 1.03 Miles to a point located at 26 14 57 Latitude and -98 25 55 Longitude and Place of Beginning.

SECTION 9.13. Initial directors of the board of the Agua Special Utility District shall be appointed in accordance with Section 7201.051, Special District Local Laws Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 9.14. Except as otherwise provided by Chapter 7201, Special District Local Laws Code, as amended by this Act, the Agua Special Utility District is subject to:

(1) any judicial or administrative order imposing an injunction against the La Joya Water Supply Corporation that is in effect on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act; or

(2) any judicial or administrative order imposing liability for monetary damages or a civil or administrative penalty against the La Joya Water Supply Corporation that:

(A) results from a legal proceeding that is pending on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act; or

(B) is unsatisfied on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act.

SECTION 9.15. (a) The legal notice of the intention to introduce the article of this Act that amends Chapter 7201, Special District Local Laws Code, setting forth the general substance of the article, has been published as provided by law, and the notice and a copy of the article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 9.16. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 10. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SECTION 10.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8269 to read as follows:

CHAPTER 8269. TRUE RANCH MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8269.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a board member.

(3) "District" means the True Ranch Municipal Utility District No. 1.

Sec. 8269.002. NATURE OF DISTRICT. The district is a municipal utility district in Hays County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8269.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8269.023 before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Hays County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2015.

Sec. 8269.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property in the district will benefit from the works and projects to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

Sec. 8269.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 10.02 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 10.02 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the right of the district to issue bonds, notes, or other indebtedness or to pay the principal of and interest on a bond;

(4) the validity of the district's bonds, notes, or other indebtedness; or

(5) the legality or operation of the district or the board.

[Sections 8269.006-8269.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8269.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office or if a vacancy occurs in the office of temporary director, the vacancy shall be filled as provided by Section 49.105, Water Code.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8269.023; or

(2) the date this chapter expires under Section 8269.003.

Sec. 8269.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Hays County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8269.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held under this section.

Sec. 8269.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8269.023 shall draw lots to determine which two serve until the first regularly scheduled election of directors under Section 8269.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8269.025. DATE OF FIRST REGULARLY SCHEDULED ELECTION OF DIRECTORS. The board by order may postpone the first election under Section 8269.052 following the confirmation and initial directors' election held under Section 8269.023 if:

(1) the election would otherwise occur not later than the 60th day after the date on which the confirmation election is held; or

(2) the board determines that there is not sufficient time to comply with the requirements of law and to order the election.

Sec. 8269.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2015.

[Sections 8269.027-8269.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8269.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8269.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8269.053-8269.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8269.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8269.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8269.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate arterials or main feeder roads or improvements in aid of those roads.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

Sec. 8269.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all valid and applicable requirements of any ordinance or resolution adopted by a municipality in the corporate limits or extraterritorial jurisdiction of which the district is located, including an ordinance or resolution adopted before September 1, 2007, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8269.105-8269.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8269.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8269.201(b), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an operation and maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8269.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8269.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8269.153-8269.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8269.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) The district may not issue bonds to finance projects authorized by Section 8269.103 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8269.103 may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8269.202. TAXES FOR BONDS. At the time bonds payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date; and
(C) pay the expenses of imposing the taxes.

SECTION 10.02. The True Ranch Municipal Utility District No. 1 includes all the territory contained in the following area:

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 465.71 ACRES, MORE OR LESS, OF LAND AREA IN THE JOHN INGRAIM SURVEY, ABSTRACT NO. 256, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT TRACT DESCRIBED AS 1279.69 ACRES IN A DEED FROM LESLIE TRUE VESPER ET AL TO LESLIE TRUE VESPER DATED AUGUST 10, 1992 AND RECORDED IN VOLUME 948, PAGE 789 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the southwest line of R.M. Highway No. 2325 and that tract described as an 80' R.O.W. in a deed from Cecil H. Hale, et al to the State of Texas dated August 29, 1956 and recorded in Volume 169, Page 304 of the Hays County Deed Records for the most northerly northwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract and east corner of that tract described as 592.30 acres in a deed from Leslie True Vesper et al to Ameritrust Texas, N.A., Trustee dated August 10, 1992 and recorded in Volume 949, Page 572 of the Hays County Official Public Records, from which a TXDOT concrete monument found bears N 69°45'42" W 162.75 feet;

THENCE leaving the Ameritrust Texas 592.30 acre tract and the PLACE OF BEGINNING as shown on that plat numbered 24587-06-3-d dated May 30, 2006 prepared for Leslie Vesper by Byrn & Associates, Inc., of San Marcos, Texas with the common northeast line of the Vesper 1279.69 acre tract and southwest line of R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract S 69°48'34" E 599.94 feet to a ½" iron rod set for the northwest corner of that tract described as "Tract 1-1.00 acres" in a deed from Thomas W. Slaughter et ux to Randy C. Brown et ux dated February 12, 1996 and recorded in Volume 1206, Page 780 of the Hays County Official Public Records, from which A TXDOT concrete monument found bears S 69°47'57" E 120.11 feet;

THENCE leaving R.M. Highway No. 2325 and the State of Texas 80' R.O.W. tract with the common east line of the Vesper 1279.69 acre tract and west and south lines of the Brown 1.00 acre Tract 1 the following two courses:

1. S 20°06'33" W 226.56 feet to a 2.5" pipe fence corner post found for corner, and

S 69°41'58" E 234.42 feet to a 2" pipe fence corner post found in the west line of that tract described as "Tract 2-5.347 acres" in the previously mentioned deed to Randy C. Brown et ux for the southeast corner of the Brown 1.00 acre Tract 1;

THENCE leaving the Brown 1.00 acre Tract 1 and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Brown 5.347 acre Tract 2, as fenced and used, the following three courses:

S 00°10'12" E 410.74 feet to a ½" iron rod set at the approximate centerline of an underground pipeline for angle point,

S 00°04'22" E 196.11 feet to a 2.5" pipe fence post found for angle point, and

S 00°24'09" E 15.83 feet to an iron rod found with an aluminum cap stamped "Pro-Tech Eng" at fence corner for the southwest corner of the Brown 5.347 acre Tract 2 and northwest corner of the remaining portion of that tract described as 187.78 acres in a deed from Henry Polvado & Lillie Polvado to Wesley Springs dated May 6, 1983 and recorded in Volume 393, Page 570 of the Hays County Deed Records (the Brown 5.347 acre Tract 2 being a portion of the Springs 187.78 acre tract);

THENCE leaving the Brown 5.347 acre Tract 2 and continuing with the east line of the Vesper 1279.69 acre tract and west line of the Springs 187.78 acre tract, as fenced and used, the following three courses:

S 00°00'57" E 1012.24 feet to a 2.5" pipe fence post found for angle point,

S 00°06'57" W 908.05 feet to a 4" pipe fence corner post found for angle point, and

S 00°03'12" E 354.80 feet to a 4" pipe fence corner post found for the southwest corner of the springs 187.78 acre tract and northwest corner of that tract described as 126.97 acres in a deed from Stanual W. Farris to the Stanual W. Farris Living Trust dated March 10, 2005 and recorded in Volume 2646, Page 385 of the Hays County Official Public Records;

THENCE leaving the Springs 187.78 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of Farris Living Trust 126.97 acre tract, as fenced and used, the following three courses:

S 00°12'25" W 952.36 feet to a 4" pipe fence post found for angle point,

S 00°09'57" W 1087.12 feet to a 4" cedar post found for angle point, and

S 00°22'11" W 1072.11 feet to a ½" iron rod found at fence corner for the southwest corner of the Farris Living Trust 126.97 acre tract and northwest corner of that tract described as 32.03 acres in a deed from Phil Harris to Shannon Harris dated April 8, 1998 and recorded in Volume 1463, Page 335 of the Hays County Official Public Records;

THENCE leaving the Farris Living Trust 126.97 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Shannon Harris 32.03 acre tract, as fenced and used, S 00°44'10" W 120.44 feet to a 4" cedar fence corner post found for the southwest corner of the Shannon Harris 32.03 acre tract and northwest corner of that tract described as 28.92 acres in a deed from A.J. Farris et ux to Philip D. Farris dated July 18, 1991 and recorded in Volume 882, page 620 of the Hays County Official Public Records;

THENCE leaving the Shannon Harris 32.03 acre tract and continuing with the common east line of the Vesper 1279.69 acre tract and west line of the Philip D. Farris 28.92 acre tract, as fenced and used, S 00°24'02" W 279.19 feet to a ½" iron rod found at fence corner for the southeast corner of this description and northeast corner of that tract described as 52.30 acres in a deed from Leslie True Vesper to Paul R. Eastup et ux dated June 5, 1996 and recorded in Volume 1240, Page 309 of the Hays County Official Public Records (the Eastup 52.30 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Phillip D. Farris 28.92 acre tract and entering the Vesper 1279.69 acre tract with the north line of the Eastup 52.30 acre tract, N 87°10'57" W 1356.38 feet to a ½" iron rod found in fence for the northwest corner of the Eastup 52.03 acre tract and northeast corner of that tract described as 209.16 acres in a deed

from Leslie True Vesper to James Nicholas Edwards and Lynn S. Edwards dated July 6, 2005 and recorded in Volume 2719, Page 740 of the Hays County Official Public Record (the Edwards 209.16 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Eastup 52.30 acre tract with the north line of the Edwards 209.16 acre tract, as fenced and used, the following five courses:

N 87°19'31" W 665.61 feet to a 4" pipe fence post found for angle point,

N 86°58'45" W 535.67 feet to a 3" cedar fence post found for angle point,

N 87°09'05" W 302.22 feet to a 3" cedar fence post found for angle point,

N 87°26'23" W 724.92 feet to a 4" cedar fence post found for angle point, and

N 86°46'01" W 426.90 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" in the east line of that tract described as 504.13 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated February 8, 1999 and recorded in Volume 1500, Page 452 of the Hays County Official Public Records (the Pierce 504.13 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Edwards 209.16 acre tract with the east line of the Pierce 504.13 acre tract the following two courses:

N 08°19'22" E 124.79 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for corner, and

N 87°41'56" W 751.30 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for the southwest corner of this description, an interior corner in the east line of the Pierce 504.13 acre tract, and the south corner of that tract described as 10.59 acres in a deed from Leslie True Vesper to James L. Pierce and David L. Pierce dated June 15, 2001 and recorded in Volume 1872, Page 802 of the Hays County Official Public Records (the Pierce 10.59 acre tract being a portion of the Vesper 1279.69 acre tract);

THENCE leaving the Pierce 504.13 acre tract with the east line of Pierce 10.59 acre tract the following two courses:

N 05°37'42" E (being the bearing basis for description) 734.58 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for angle point, and

N 16°12'16" E 1026.26 feet to a 16" cedar tree stump found in fence in the east line of the previously mentioned Pierce 504.13 acre tract for the north corner of the Pierce 10.59 acre tract;

THENCE leaving the Pierce 10.59 acre tract and continuing with the east line of the Pierce 504.13 acre tract, as fenced and used, the following eight courses:

N 20°34'38" E 42.67 feet to a 16" cedar tree stump found for angle point,

N 15°43'09" E 241.85 feet to a 12" cedar tree stump found for angle point,

N 08°41'46" E 86.90 feet to a 14" cedar tree stump found for angle point,

N 07°33'58" E 244.38 feet to a 2.5" pipe fence post found for angle point,

N 24°14'46" E 623.77 feet to a 6" cedar fence post found for angle point,

N 24°15'46" E 420.45 feet to a 2.5" pipe fence post found for angle point,

N 12°52'45" E 194.02 feet to a 2.5" pipe fence post found for angle point, and

N 01°30'08" E 340.55 feet to a 4" pipe fence corner post found in the south line of the previously mentioned Ameritrust Texas 592.30 acre tract and north line of the Vesper 1279.69 acre tract for the northeast corner of the Pierce 504.13 acre tract and exterior west corner of this description;

THENCE leaving the Pierce 504.13 acre tract with the common north line of the Vesper 1279.69 acre tract, and south line of the Ameritrust Texas 592.30 acre tract, as fenced and used, the following six courses:

N 73°32'00" E 130.18 feet to a 4" pipe fence post found for angle point,

S 48°36'36" E 170.02 feet to a ½" iron rod found for angle point,

S 76°17'07" E 88.03 feet to a 4" pipe fence post found for angle point,

S 86°44'44" E 798.24 feet to a 4" pipe fence post found for angle point,

S 86°55'19" E 913.16 feet to a 4" pipe fence post found for angle point, and

S 86°56'50" E 421.51 feet to a ½" iron rod found for the southeast corner of the Ameritrust Texas 592.30 acre tract and southwest corner of the panhandle portion of this description and the Vesper 1279.69 acre tract;

THENCE leaving the fence with the common west line of the panhandle portion of the Vesper 1279.69 acre tract and east line of the Ameritrust Texas 592.30 acre tract the following two courses:

N 00°00'32" E 1999.62 feet to a ½" iron rod found for angle point, and

N 32°23'54" E 1152.96 feet to the PLACE OF BEGINNING.

THERE are contained within these metes and bounds 465.71 acres, more or less, as prepared from public records and surveys made on the ground in 1999, 2001, 2005 and on May 30, 2006 by Byrn & Associates, Inc., of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey".

SECTION 10.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 10.04. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 11. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

SECTION 11.01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8823 to read as follows:

CHAPTER 8823. TABLEROCK GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8823.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Tablerock Groundwater Conservation District.

Sec. 8823.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Coryell County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8823.003. CONFIRMATION ELECTION REQUIRED. (a) If the creation of the district is not confirmed at a confirmation election held before September 1, 2012:

(1) the district is dissolved on September 1, 2012, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Coryell County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

(b) This section expires September 1, 2012.

Sec. 8823.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Coryell County, Texas.

Sec. 8823.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Sec. 8823.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8823.007-8823.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8823.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this chapter, five temporary directors shall be appointed as follows:

(1) the Coryell County Commissioners Court shall appoint one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of Coryell County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board, the authority who appointed the temporary director whose position is vacant shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8823.024; or

(2) the date this chapter expires under Section 8823.003.

Sec. 8823.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Coryell County Courthouse.

Sec. 8823.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b), (c), and (e)-(i), Water Code, and the Election Code. Section 36.017(d), Water Code, does not apply to the confirmation election.

(d) The ballot for the election must be printed in accordance with the Election Code and provide for voting for or against the proposition: "The creation of the Tablerock Groundwater Conservation District and the imposition of a maintenance tax at a rate not to exceed two cents on each \$100 of assessed valuation of taxable property in the district."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may hold a subsequent confirmation election. The subsequent election may not be held before the first anniversary of the date on which the previous election was held.

(f) The district may not impose a maintenance tax unless a majority of the votes cast at the election are in favor of the imposition of the maintenance tax.

Sec. 8823.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8823.023, the temporary directors become the initial directors and serve for the terms provided by Subsection (b).

(b) The initial directors representing commissioners precincts 2 and 4 serve until the election of directors under Section 8823.025, and the initial directors representing commissioners precincts 1 and 3 and the at-large director serve until the next regularly scheduled election of directors under Section 8823.053.

Sec. 8823.025. INITIAL ELECTION OF DIRECTORS. On the uniform election date in November of the first even-numbered year after the year in which the creation of the district is confirmed at an election held under Section 8823.023, the district shall hold an election of two directors to replace the initial directors who, under Section 8823.024(b), serve until that election.

Sec. 8823.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

[Sections 8823.027-8823.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8823.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8823.052. METHOD OF ELECTING DIRECTORS. One director is elected from each county commissioners precinct in Coryell County and one director is elected at large.

Sec. 8823.053. ELECTION DATE. The district shall hold an election in the district to elect directors on the uniform election date in November of each even-numbered year.

Sec. 8823.054. QUALIFICATIONS FOR ELECTION. (a) To be qualified for election as a director, a person must reside in the district.

(b) To be qualified for election as a director from a precinct, a person must reside in that precinct.

[Sections 8823.055-8823.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8823.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8823.102. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8823.103. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8823.104. ADOPTION OF RULES AND ISSUANCE OF PERMITS. Before the district adopts a management plan, the district may adopt rules and issue permits.

Sec. 8823.105. CONTRACTS WITH OTHER GOVERNMENTAL ENTITIES. (a) The district and another governmental entity, including a river authority located in the district, may contract for the performance by that entity of a district function.

(b) The district may accept a loan from Coryell County to pay for any initial costs of the district, including costs related to a confirmation election.

Sec. 8823.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 8823.107. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2011, the district boundaries must include at least one county adjacent to Coryell County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the Texas Commission on Environmental Quality determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

[Sections 8823.108-8823.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8823.151. REVENUE. To pay the maintenance and operating costs of the district and to pay any bonds or notes issued by the district, the district may:

(1) impose an ad valorem tax at a rate that:

(A) is approved by a majority of district voters voting at an election held for that purpose; and

(B) does not exceed two cents on each \$100 of assessed valuation of taxable property in the district;

(2) assess fees for services or for water withdrawn from nonexempt wells;

or

(3) solicit and accept grants from any private or public source.

[Sections 8823.152-8823.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 8823.201. ELECTION FOR DISSOLUTION. (a) If the district has no outstanding bond or other long-term indebtedness, the district may be dissolved by a favorable vote of a majority of the registered voters of the district at an election held for that purpose.

(b) The board shall hold a dissolution election if the board receives a petition for dissolution signed by at least 50 percent of the registered voters in the district as computed by using the list of registered voters for Coryell County.

(c) If the district is dissolved under this section, the board shall:

(1) notify the Texas Commission on Environmental Quality and the secretary of state of the dissolution; and

(2) transfer title to any assets of the district to Coryell County.

SECTION 11.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

ARTICLE 12. EDWARDS AQUIFER AUTHORITY

SECTION 12.01. Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (f) and adding Subsections (f-1) and (f-2) to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or own, finance, and maintain recharge [water supply] facilities. ~~[Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge [water supply] facility" means [includes] a dam, reservoir, ~~[treatment facility, transmission facility,]~~ or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs.

(f-1) The authority shall provide written notice of the intent to own, finance, design, construct, operate, or maintain recharge facilities to:

(1) each groundwater conservation district in the area in which the recharge facility will be located;

(2) the mayor of each municipality in the area in which the recharge facility will be located;

(3) the county judge of each county in the area in which the recharge facility will be located; and

(4) each member of the legislature who represents the area in which the proposed recharge facility will be located.

(f-2) Any entity within the county in which a recharge facility is to be constructed shall be provided opportunity for input and allowed to provide proposals for partnering with the authority to own, finance, design, construct, operate, or maintain the recharge facility.

SECTION 12.02. Subsections (a), (c), (e), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

(1) protect the water quality of the aquifer;

(2) protect the water quality of the surface streams to which the aquifer provides springflow;

(3) achieve water conservation;

(4) maximize the beneficial use of water available for withdrawal from the aquifer;

(5) recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater;

(6) protect aquatic and wildlife habitat;

(7) [(6)] protect species that are designated as threatened or endangered under applicable federal or state law; and

(8) [(7)] provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~[(d);~~ (f)[;] and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000 [400,000] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit [additional water as provided by Subsection (d) and then on an interruptible basis].

(f) If the level of the aquifer is equal to or greater than 660 [650] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. [The authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.]

(h) To accomplish the purposes of this article, ~~[by June 1, 1994,]~~ the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased adjustments to [reductions in] the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION 12.03. Subsection (g), Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or[;] cancelled[; or retired].

SECTION 12.04. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 [665] feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION 12.05. Subsection (a), Section 1.22, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

~~(3) holding those rights for resale [or retirement as a means of complying with pumping reduction requirements under this article; or~~

~~[(4) retiring those rights, including those rights already permitted].~~

SECTION 12.06. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the [The] authority by rule shall adopt [prepare and coordinate implementation of] a [plan for] critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article [on or before September 1, 1995]. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan [mechanisms] must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; [and]

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law; and

(5) allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE SAN ANTONIO POOL

Comal Springs Flow cfs	San Marcos Springs Flow cfs	Index Well J-17 Level MSL	Critical Period Stage	Withdrawal Reduction- San Antonio Pool
<225	<96	<660	I	20%
<200	<80	<650	II	30%
<150	N/A	<640	III	35%
<100	N/A	<630	IV	40%

TABLE 2
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES
FOR THE UVALDE POOL

Withdrawal Reduction-Uvalde Pool	Index Well J-27 Level MSL	Critical Period Stage
N/A	—	I
5%	<830	II
20%	<845	III
35%	<842	IV

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for federally listed threatened and endangered species associated with the aquifer to the extent required by federal law.

(f) Notwithstanding Subsections (d) and (e) of this section, the authority may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. This subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. The recovery implementation program shall be developed for the species that are:

- (1) listed as threatened or endangered species under federal law; and
- (2) associated with the aquifer.

(b) The authority shall enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders, not later than December 31, 2007, in order to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders shall jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal agencies, under Section 4 or

Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. The program document shall:

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by the authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;

(C) the Parks and Wildlife Department;

(D) the Department of Agriculture;

(E) the Texas Water Development Board;

(F) the San Antonio Water System;

(G) the Guadalupe-Blanco River Authority;

(H) the San Antonio River Authority;

(I) the South Central Texas Water Advisory Committee;

(J) Bexar County;

(K) CPS Energy; and

(L) Bexar Metropolitan Water District or its successor; and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial regular permit issued to a retail public utility located west of Bexar County, to be appointed by the authority;

(B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;

(C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;

(F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

(f) The steering committee shall work with Texas A&M University to:

(1) establish a regular meeting schedule and publish that schedule to encourage public participation; and

(2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.

(g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.

(h) Where reasonably practicable or as required by law, any meeting of the steering committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the steering committee must be open to the public.

(i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee shall, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the San Marcos Springs flow for the San Antonio pool should be made.

(l) In developing its recommendations, the Edwards Aquifer area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available; and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and associated facilities, structures, or works but does not include facilities designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(q) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;
(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

SECTION 12.07. Subsections (b), (h), and (i), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 ~~[52]~~, Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements ~~[Special fees collected under Subsection (e) or (d) of this section may not be used to finance a surface water supply reservoir project].~~

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary ~~[but not to exceed five percent of the money collected under Subsection (d) of this section,]~~ to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000

annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION 12.08. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, ~~build or~~ operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, ~~and~~ the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION 12.09. Subsections (b) and (d), Section 1.14, Section 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION 12.10. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

(1) the validity or implementation of this article; or

(2) the groundwater withdrawal amounts recognized in Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended by this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards Aquifer Authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 12.11. The change in law made by this article applies only to a cause of action filed on or after the effective date of this article. A cause of action that is filed before the effective date of this article is governed by the law in effect immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 12.12. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 13. TERRITORY OF CULBERSON COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION 13.01. Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 3A to read as follows:

Sec. 3A. In addition to the portions of Culberson County included in the boundaries of the district on August 31, 2007, the boundaries of the district include all of the remaining territory in Culberson County.

SECTION 13.02. (a) The annexation under Section 3A, Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, as added by this article, of the additional territory in Culberson County that was not included in the boundaries of the Culberson County Groundwater Conservation District on August 31, 2007, is subject to ratification at an election held under Section 36.328, Water Code, and this section in which only the voters residing in the territory to be annexed are eligible to vote.

(b) The board of directors of the Culberson County Groundwater Conservation District shall hold the ratification election on the first uniform election date that occurs after the effective date of this article that allows for compliance with the time requirements of the Election Code.

(c) If a majority of the voters voting at the ratification election vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries include all of Culberson County.

(d) If a majority of the voters voting at the ratification election do not vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries are unchanged and this article expires.

ARTICLE 14. EFFECTIVE DATE

SECTION 14.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 3** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 11

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 11** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CARONA
BRIMER
HINOJOSA

On the part of the Senate

CORTE
ESCOBAR
ISETT

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to homeland security and protection of the public, including protections against human trafficking; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
ARTICLE 1. CERTAIN DISASTER RESPONSE PROCEDURES FOR POLITICAL
SUBDIVISIONS

SECTION 1.01. Section 418.004, Government Code, is amended by adding Subdivisions (10) through (14) to read as follows:

(10) "Local government entity" means a county, incorporated city, independent school district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

(11) "Mutual aid" means a homeland security activity, as defined by Section 421.001, performed under the system or a written mutual aid agreement.

(12) "Requesting local government entity" means a local government entity requesting mutual aid assistance under the system.

(13) "Responding local government entity" means a local government entity providing mutual aid assistance in response to a request under the system.

(14) "System" means the Texas Statewide Mutual Aid System.

SECTION 1.02. Subchapter E, Chapter 418, Government Code, is amended by adding Section 418.1015 to read as follows:

Sec. 418.1015. EMERGENCY MANAGEMENT DIRECTORS. (a) The presiding officer of the governing body of an incorporated city or a county or the chief administrative officer of a joint board is designated as the emergency management director for the officer's political subdivision.

(b) An emergency management director serves as the governor's designated agent in the administration and supervision of duties under this chapter. An emergency management director may exercise the powers granted to the governor under this chapter on an appropriate local scale.

(c) An emergency management director may designate a person to serve as emergency management coordinator. The emergency management coordinator shall serve as an assistant to the emergency management director for emergency management purposes.

SECTION 1.03. Subsection (c), Section 418.107, Government Code, is amended to read as follows:

(c) A local government entity ~~[political subdivision or regional planning commission]~~ may render mutual aid to other local government entities ~~[political subdivisions or regional planning commissions]~~ under mutual aid agreements or the system.

SECTION 1.04. The heading to Section 418.109, Government Code, is amended to read as follows:

Sec. 418.109. AUTHORITY TO RENDER MUTUAL AID ASSISTANCE.

SECTION 1.05. Subsection (d), Section 418.109, Government Code, is amended to read as follows:

(d) A local government entity or ~~[municipality, county, emergency services district, fire protection agency, regional planning commission]~~ organized volunteer group~~[, or other emergency services entity]~~ may provide mutual aid assistance on request from another local government entity or ~~[municipality, county, emergency services district, fire protection agency, regional planning commission]~~ organized

volunteer group~~], or other emergency services entity~~. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity ~~[and consistent with any mutual aid plans developed by the emergency management council]~~.

SECTION 1.06. Section 418.110, Government Code, is amended to read as follows:

Sec. 418.110. STATEWIDE MUTUAL AID PROGRAM FOR FIRE EMERGENCIES. (a) The division, in consultation with state fire protection agencies and the Texas Commission on Fire Protection, may ~~shall~~ develop a statewide mutual aid program for fire emergencies.

(b) A program developed under this section:

(1) does not alter the legal obligations of a political subdivision participating in the system; and

(2) must be consistent with the state emergency management plan.

SECTION 1.07. Chapter 418, Government Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. TEXAS STATEWIDE MUTUAL AID SYSTEM

Sec. 418.111. CREATION OF THE TEXAS STATEWIDE MUTUAL AID SYSTEM. (a) The Texas Statewide Mutual Aid System is established to provide integrated statewide mutual aid response capability between local government entities without a written mutual aid agreement.

(b) A request for mutual aid assistance between local government entities is considered to be made under the system, unless the requesting and responding entities are parties to a written mutual aid agreement in effect when the request is made.

(c) This subchapter does not affect a written mutual aid agreement between local government entities in effect on or before the effective date of this subchapter or restrict the ability of local government entities to enter into a written mutual aid agreement as otherwise authorized by statute after the effective date of this subchapter. If a request is made between local government entities that are parties to a written mutual aid agreement, the terms of that agreement control the rights and obligations of the parties.

Sec. 418.112. ADMINISTRATION BY DIVISION. The division shall administer the system. In administering the system, the division shall encourage and assist political subdivisions in planning and implementing comprehensive all-hazards emergency management programs, including assisting political subdivisions to ensure that the local emergency management plan of each subdivision adequately provides for the rendering and receipt of mutual aid.

Sec. 418.113. DISASTER DISTRICTS. (a) This state is divided into disaster districts to engage in homeland security preparedness and response activities. The boundaries of the disaster districts coincide with the geographic boundaries of the state planning regions established by the governor under Chapter 391, Local Government Code.

(b) A disaster district committee is established for each disaster district. Each committee is composed of local representatives of the state agencies, boards, and commissions and organized volunteer groups with representation on the emergency management council.

(c) Each disaster district committee shall coordinate with political subdivisions located in the disaster district to ensure that state and federal emergency assets are made available as needed to provide the most efficient and effective response possible.

(d) The public safety director of the Department of Public Safety of the State of Texas shall appoint a commanding officer from the Texas Highway Patrol to serve as chair of each disaster district committee. The chair shall:

(1) inform the state Director of Homeland Security on all matters relating to disasters and emergencies as requested by the state Director of Homeland Security; and

(2) inform the public safety director of the Department of Public Safety of the State of Texas on all matters as requested by the public safety director.

(e) Representatives of the emergency management council assigned to each district shall assist the chair of their disaster district committee and provide guidance, counsel, and administrative support as required.

Sec. 418.114. PROCEDURES FOR MUTUAL AID. (a) The political subdivisions in each state planning region established by the governor under Chapter 391, Local Government Code, shall agree on procedures that specify the manner in which mutual aid will be provided in response to a request from:

(1) a political subdivision in the region;

(2) a political subdivision in another region; or

(3) this state.

(b) A copy of the procedures must be provided to the division and the disaster district committee chair.

Sec. 418.115. REQUESTING AND PROVIDING MUTUAL AID ASSISTANCE. (a) A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing not later than the 30th day after the date the request was made.

(b) If a request for mutual aid assistance is made to a department or agency of a political subdivision, the chief or highest ranking officer of the department or agency, with the approval and consent of the presiding officer of the governing body of the political subdivision or that officer's designee, may provide the requested assistance in accordance with the policies, ordinances, and procedures established by the governing body of the political subdivision.

Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE. (a) When contacted with a request for mutual aid assistance, a local government entity shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

(b) A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Sec. 418.1152. SUPERVISION AND CONTROL. When providing mutual aid assistance under the system:

(1) the response effort must be organized and function in accordance with the National Incident Management System guidelines;

(2) the personnel, equipment, and resources of a responding local government entity being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;

(3) direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the responding local government entity;

(4) unless otherwise agreed in advance, an emergency medical service organization providing assistance under the system shall use the medical protocols authorized by the organization's medical director;

(5) the designated supervisory personnel of the responding local government entity shall:

(A) maintain daily personnel time records, material records, and a log of equipment hours;

(B) be responsible for the operation and maintenance of the equipment and other resources furnished by the responding local government entity; and

(C) report work progress to the requesting local government entity; and

(6) the responding local government entity's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Sec. 418.1153. DURATION OF AID. The provision of mutual aid assistance under the system may continue until:

(1) the services of the responding local government entity are no longer required; or

(2) the responding local government entity determines that further assistance should not be provided.

Sec. 418.116. RIGHTS AND PRIVILEGES. (a) A person assigned, designated, or ordered to perform duties by the governing body of the local government entity employing the person in response to a request under the system is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

(b) The local government entity employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Sec. 418.117. LICENSE PORTABILITY. If the assistance of a person who holds a license, certificate, permit, or other document evidencing qualification in a professional, mechanical, or other skill is requested by a local government entity under the system, the person is considered licensed, certified, permitted, or otherwise documented in the political subdivision in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or the governing body of the requesting local government entity.

Sec. 418.118. REIMBURSEMENT OF COSTS: STATE REQUEST OR FEDERAL DISASTER DECLARATION. (a) The division shall administer all requests for reimbursement for costs associated with providing mutual aid assistance in response to a request made by the division for an incident resulting in the issuance of a disaster declaration by the president of the United States. A request for reimbursement made to the division must be made in accordance with procedures developed by the division.

(b) The division may directly request the provision of mutual aid assistance from any local government entity participating in the system. If the division requests the provision of assistance and the local government entity responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity. The state shall pay reimbursements from available state money. If funds are made available from the disaster contingency fund, the division shall make reimbursement from the disaster contingency fund for eligible expenses to the extent that available state money is inadequate.

(c) If federal money is available to pay costs associated with the provision of mutual aid assistance in response to a request made by the division, the division shall make the claim for the eligible costs of the responding local government entity on the division's grant application and shall disburse the federal share of the money to the responding local government entity, with sufficient state funds to cover the actual costs incurred by the responding local government entity in providing the assistance.

Sec. 418.1181. REIMBURSEMENT OF COSTS: REQUEST BY LOCAL GOVERNMENT ENTITY. (a) If a local government entity requests mutual aid assistance from another local government entity under the system, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Section 418.111.

(b) The requesting local government entity shall pay the reimbursement from available funds. If federal money is available to pay costs associated with the provision of mutual aid assistance, the requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the

requesting entity's subgrant application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance.

SECTION 1.08. Subdivision (9), Section 418.004, and Subsections (a), (b), and (c), Section 418.109, Government Code, are repealed.

SECTION 1.09. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 2. AMATEUR RADIO OPERATORS

SECTION 2.01. Subchapter Z, Chapter 661, Government Code, is amended by adding Section 661.919 to read as follows:

Sec. 661.919. AMATEUR RADIO OPERATORS. (a) A state employee who holds an amateur radio station license issued by the Federal Communications Commission may be granted leave not to exceed 10 days each fiscal year to participate in specialized disaster relief services without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time if the leave is taken:

(1) with the authorization of the employee's supervisor; and

(2) with the approval of the governor.

(b) The number of amateur radio operators who are eligible for leave under this section may not exceed 350 state employees at any one time during a state fiscal year. The division of emergency management in the governor's office shall coordinate the establishment and maintenance of the list of eligible employees.

SECTION 2.02. Subsection (c), Section 37.082, Education Code, is amended to read as follows:

(c) In this section, "paging device" means a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor. The term does not include an amateur radio under the control of an operator who holds an amateur radio station license issued by the Federal Communications Commission.

ARTICLE 3. CERTAIN OPEN MEETINGS PROVISIONS RELATED TO SCHOOLS AND GOVERNMENTAL BODIES; TEXAS SCHOOL SAFETY CENTER

SECTION 3.01. Subsection (b), Section 12.1051, Education Code, is amended to read as follows:

(b) With respect to the operation of an open-enrollment charter school, any requirement in Chapter 551 or 552, Government Code, or another law that concerns open meetings or the availability of information, that applies to a school district, the board of trustees of a school district, or public school students applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or students attending an open-enrollment charter school.

SECTION 3.02. Subsection (c), Section 37.108, Education Code, is amended to read as follows:

(c) A school district shall report the results of the security audit conducted under Subsection (b) to the district's board of trustees and, in the manner required by the Texas School Safety Center, to the Texas School Safety Center.

SECTION 3.03. Subsection (a), Section 37.203, Education Code, is amended to read as follows:

- (a) The center is advised by a board of directors composed of:
- (1) the attorney general, or the attorney general's designee;
 - (2) the commissioner, or the commissioner's designee;
 - (3) the executive director of the Texas Juvenile Probation Commission, or the executive director's designee;
 - (4) the executive director of the Texas Youth Commission, or the executive director's designee;
 - (5) the commissioner of the ~~[Texas]~~ Department of State ~~[Mental]~~ Health Services ~~[and Mental Retardation]~~, or the commissioner's designee; ~~[and]~~
 - (6) the commissioner of higher education, or the commissioner's designee;
- and
- (7) the following members appointed by the governor with the advice and consent of the senate:

- (A) a juvenile court judge;
- (B) a member of a school district's board of trustees;
- (C) an administrator of a public primary school;
- (D) an administrator of a public secondary school;
- (E) a member of the state parent-teacher association;
- (F) a teacher from a public primary or secondary school;
- (G) a public school superintendent who is a member of the Texas Association of School Administrators;
- (H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and
- (I) two members of the public.

SECTION 3.04. Section 37.207, Education Code, is amended to read as follows:

Sec. 37.207. MODEL SAFETY AND SECURITY AUDIT PROCEDURE. (a) The center shall develop a model safety and security audit procedure for use by school districts that includes:

- (1) providing each district with guidelines and a training video showing proper audit procedures;
- (2) reviewing each district audit, providing the results of the review to the district, and making recommendations for improvements based on the audit; and
- (3) incorporating the findings of district audits in a statewide report on school safety made available by the center to the public.

(b) Each school district shall report the results of its audits to the center in the manner required by the center.

SECTION 3.05. Subchapter G, Chapter 37, Education Code, is amended by adding Section 37.213 to read as follows:

Sec. 37.213. INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) An institution of higher education may use any appropriate model plan developed by the center under Section 37.205(4).

(c) The center may provide an institution of higher education with on-site technical assistance and safety training.

(d) The center may charge a fee to an institution of higher education for assistance and training provided under Subsection (c).

SECTION 3.06. Section 551.045, Government Code, is amended by adding Subsection (e) to read as follows:

(e) For purposes of Subsection (b)(2), the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Section 551.047 not later than one hour before the meeting.

SECTION 3.07. Section 551.076, Government Code, is amended to read as follows:

Sec. 551.076. DELIBERATION REGARDING SECURITY DEVICES OR SECURITY AUDITS; CLOSED MEETING. This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) the deployment, or specific occasions for implementation, of security personnel or devices; or

(2) a security audit.

ARTICLE 4. PROVISIONS RELATED TO TOLL ROADS

SECTION 4.01. Subsection (a), Section 228.054, Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (e), the operator of a vehicle, other than an authorized emergency vehicle, as defined by Section 541.201, that is driven or towed through a toll collection facility shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

(1) responding to an emergency;

(2) displaying a flashing light; or

(3) marked as an emergency vehicle.

SECTION 4.02. Section 284.070, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) An authorized emergency vehicle, as defined by Section 541.201, is exempt from payment of a toll imposed under this chapter regardless of whether the vehicle is:

(1) responding to an emergency;

(2) displaying a flashing light; or

(3) marked as an emergency vehicle.

SECTION 4.03. Subsection (a), Section 366.178, Transportation Code, is amended to read as follows:

(a) A motor vehicle other than an authorized emergency vehicle, as defined by Section 541.201, [a police or emergency vehicle] that passes through a toll collection facility, whether driven or towed, shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as a police or emergency vehicle.

SECTION 4.04. Subsection (a), Section 370.177, Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (a-1), the operator of a vehicle, other than an authorized emergency vehicle as defined by Section 541.201, that is driven or towed through a toll collection facility of a turnpike project shall pay the proper toll. The operator of a vehicle who drives or tows a vehicle through a toll collection facility and does not pay the proper toll commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$250. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as an emergency vehicle.

SECTION 4.05. Subtitle G, Title 6, Transportation Code, is amended by adding Chapter 371 to read as follows:

CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF
TOLL PROJECT

Sec. 371.001. VEHICLES USED BY NONPROFIT DISASTER RELIEF ORGANIZATIONS. (a) In this section:

(1) "Toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project is:

- (A) a part of the state highway system; or
- (B) subject to the jurisdiction of the department.

(2) "Toll project entity" means an entity authorized by law to acquire, design, construct, finance, operate, and maintain a toll project, including:

- (A) the department under Chapter 227 or 228;
- (B) a regional tollway authority under Chapter 366;
- (C) a regional mobility authority under Chapter 370; or
- (D) a county under Chapter 284.

(b) A toll project entity may not require a vehicle registered under Section 502.203 to pay a toll for the use of a toll project.

SECTION 4.06. Section 541.201, Transportation Code, is amended by adding Subdivision (13-a) to read as follows:

(13-a) "Police vehicle" means a vehicle of a governmental entity primarily used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes.

SECTION 4.07. Subsection (d), Section 228.058, Transportation Code, is repealed.

ARTICLE 5. OPERATION OF DESIGNATED EMERGENCY VEHICLES

SECTION 5.01. Section 418.013, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The emergency management council shall make recommendations to the Department of Public Safety as to which private emergency organizations, such as the American National Red Cross, the Salvation Army, Radio Amateur Civil Emergency Service, and other similar organizations with the capability to supplement the state's resources in disaster situations, should be authorized to operate certain vehicles as designated emergency vehicles in the case of a disaster.

SECTION 5.02. Subchapter A, Chapter 546, Transportation Code, is amended by adding Section 546.006 to read as follows:

Sec. 546.006. DESIGNATED EMERGENCY VEHICLE DURING DECLARED DISASTERS. (a) From recommendations made under Section 418.013(c), Government Code, the department shall designate which vehicles may be operated by which designated organizations as emergency vehicles during declared disasters.

(b) A vehicle designated under Subsection (a) may be operated by a designated organization as if the vehicle were an authorized emergency vehicle under this subtitle if:

(1) the governor declares a state of disaster under Section 418.014, Government Code;

(2) the department requests assistance from the designated organization; and

(3) the vehicle is operated by the designated organization or a member of the designated organization in response to the state of disaster.

(c) The department shall adopt rules as necessary to implement this section.

ARTICLE 6. INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS

SECTION 6.01. Section 4, Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE AUTHORIZED. A judge of competent jurisdiction may issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of:

(1) a felony under Section 19.02, 19.03, or 43.26, Penal Code;

(2) a felony under:

(A) Chapter 481, Health and Safety Code, other than felony possession of marihuana;

(B) Section 485.033, Health and Safety Code; or

(C) Chapter 483, Health and Safety Code; ~~or~~

(3) an offense under Section 20.03 or 20.04, Penal Code;

(4) an offense under Chapter 20A, Penal Code;

(5) an offense under Chapter 34, Penal Code, if the criminal activity giving rise to the proceeds involves the commission of an offense under Title 5, Penal Code, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense under Title 5; or

(6) an attempt, conspiracy, or solicitation to commit an offense listed in this section.

ARTICLE 7. EMERGENCY ALERT SYSTEM

SECTION 7.01. Subsection (a), Section 418.042, Government Code, is amended to read as follows:

(a) The division shall prepare and keep current a comprehensive state emergency management plan. The plan may include:

(1) provisions for prevention and minimization of injury and damage caused by disaster;

(2) provisions for prompt and effective response to disaster;

(3) provisions for emergency relief;

(4) provisions for energy emergencies;

(5) identification of areas particularly vulnerable to disasters;

(6) recommendations for zoning, building restrictions, and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(7) provisions for assistance to local officials in designing local emergency management plans;

(8) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, fire, or other disaster;

(9) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;

(10) organization of manpower and channels of assistance;

(11) coordination of federal, state, and local emergency management activities;

(12) coordination of the state emergency management plan with the emergency management plans of the federal government;

(13) coordination of federal and state energy emergency plans; ~~and~~

(14) provisions for education and training of local officials on activation of the Emergency Alert System established under 47 C.F.R. Part 11; and

(15) other necessary matters relating to disasters.

ARTICLE 8. TEMPORARY CARDBOARD TAGS ON VEHICLES

SECTION 8.01. Section 503.005, Transportation Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A dealer who submits information to the database under Section 503.0631 satisfies the requirement for the dealer to notify the department of the sale or transfer of a motor vehicle, trailer, or semitrailer under this section.

(d) The notice required under this section is in addition to the application for vehicle registration and certificate of title a dealer is required to submit under Section 501.0234.

SECTION 8.02. Subsection (d), Section 503.062, Transportation Code, is amended to read as follows:

(d) The department may not issue a dealer temporary cardboard tag or contract for the issuance of a dealer temporary cardboard tag but shall prescribe:

(1) the specifications, form, and color of a dealer temporary cardboard tag;
~~[and]~~

(2) procedures for a dealer to generate a vehicle-specific number using the database developed under Section 503.0626 and assign it to each tag;

(3) procedures to clearly display the vehicle-specific number on the tag; and

(4) the period for which a tag may be used for or by a charitable organization.

SECTION 8.03. Subsection (e), Section 503.0625, Transportation Code, is amended to read as follows:

(e) The department may not issue a converter temporary cardboard tag or contract for the issuance of a converter temporary cardboard tag but shall prescribe:

(1) the specifications, form, and color of a converter temporary cardboard tag;

(2) procedures for a converter to generate a vehicle-specific number using the database developed under Section 503.0626 and assign it to each tag; and

(3) procedures to clearly display the vehicle-specific number on the tag.

SECTION 8.04. Subchapter C, Chapter 503, Transportation Code, is amended by adding Section 503.0626 to read as follows:

Sec. 503.0626. DEALER'S AND CONVERTER'S TEMPORARY TAG DATABASE. (a) The department shall develop and maintain a secure, real-time database of information on vehicles to which dealers and converters have affixed temporary cardboard tags. The database shall be managed by the vehicle titles and registration division of the department.

(b) The database must allow law enforcement agencies to use the vehicle-specific number assigned to and displayed on the tag as required by Section 503.062(d) or Section 503.0625(e) to obtain information about the dealer or converter that owns the vehicle.

(c) Before a dealer's or converter's temporary cardboard tag may be displayed on a vehicle, the dealer or converter must enter into the database through the Internet information on the vehicle and information about the dealer or converter as prescribed by the department. The department may not deny access to the database to any dealer who holds a general distinguishing number issued under this chapter or who is licensed under Chapter 2301, Occupations Code, or to any converter licensed under Chapter 2301, Occupations Code.

(d) The department shall adopt rules and prescribe procedures as necessary to implement this section.

SECTION 8.05. Section 503.063, Transportation Code, is amended by amending Subsections (a), (e), and (f) and adding Subsections (g) and (h) to read as follows:

(a) Except as provided by this section, a dealer shall ~~may~~ issue to a person who buys a ~~[an unregistered]~~ vehicle one temporary cardboard buyer's tag for the vehicle.

(e) The department may not issue a buyer's tag or contract for the issuance of a buyer's tag but shall prescribe:

(1) the specifications, color, and form of a buyer's tag; and

(2) procedures for a dealer to:

(A) generate a vehicle-specific number using the database developed under Section 503.0631 and assign it to each tag;

(B) generate a vehicle-specific number using the database developed under Section 503.0631 for future use for when a dealer is unable to access the Internet at the time of sale; and

(C) clearly display the vehicle-specific number on the tag.

(f) The department shall ensure that a dealer may generate in advance a sufficient amount of vehicle-specific numbers under Subsection (e)(2)(B) in order to continue selling vehicles for a period of up to one week in which a dealer is unable to access the Internet due to an emergency. The department shall establish an expedited procedure to allow affected dealers to apply for additional vehicle-specific numbers so they may remain in business during an emergency.

(g) Using the same vehicle-specific number generated under Subsection (e)(2)(A), a ~~[A]~~ dealer may issue an additional temporary cardboard buyer's tag to a person after the expiration of 20 working ~~[24]~~ days after the issue of a temporary cardboard buyer's tag, and the person may operate the vehicle for which the tag was issued on the additional temporary cardboard buyer's tag if the dealer has been unable to obtain on behalf of the vehicle's owner the necessary documents to obtain permanent metal license plates because the documents are in the possession of a lienholder who has not complied with the terms of Section 501.115(a) ~~[of this code]~~. An additional tag issued under the terms of this subsection is valid for a maximum of 20 working ~~[24]~~ days after the date of issue.

(h) For each buyer's temporary cardboard tag other than an additional temporary cardboard buyer's tag under Subsection (g), a dealer shall charge the buyer a registration fee of not more than \$5 as prescribed by the department to be sent to the comptroller for deposit to the credit of the state highway fund.

SECTION 8.06. Subchapter C, Chapter 503, Transportation Code, is amended by adding Sections 503.0631 and 503.0632 to read as follows:

Sec. 503.0631. BUYER'S TEMPORARY TAG DATABASE. (a) The department shall develop and maintain a secure, real-time database of information on persons to whom temporary buyer's tags are issued that may be used by a law enforcement agency in the same manner that the agency uses vehicle registration information. The database shall be managed by the vehicle titles and registration division of the department.

(b) The database must allow law enforcement agencies to use a vehicle-specific number assigned to and displayed on the tag as required by Section 503.063(e)(2) to obtain information about the person to whom the tag was issued.

(c) Except as provided by Subsection (d), before a buyer's temporary cardboard tag may be displayed on a vehicle, a dealer must enter into the database through the Internet information about the buyer of the vehicle for which the tag was issued as prescribed by the department and generate a vehicle-specific number for the tag as required by Section 503.063(e). The department may not deny access to the database to any dealer who holds a general distinguishing number issued under this chapter or who is licensed under Chapter 2301, Occupations Code.

(d) A dealer shall obtain 24-hour Internet access at its place of business, but if the dealer is unable to access the Internet at the time of the sale of a vehicle, the dealer shall complete and sign a form, as prescribed by the department, that states the dealer has Internet access, but was unable to access the Internet at the time of sale. The buyer shall keep the original copy of the form in the vehicle until the vehicle is registered to the buyer. Not later than the next business day after the time of sale, the dealer shall submit the information required under Subsection (c).

(e) The department shall adopt rules and prescribe procedures as necessary to implement this section.

(f) The dealer may charge a reasonable fee not to exceed \$20 for costs associated with complying with this section.

Sec. 503.0632. NOTICE TO BUYER. (a) Each dealer shall provide a one-page written notice to a buyer that explains:

(1) the requirements of the law regarding a buyer's temporary cardboard tag;

(2) any criminal penalties relating to a buyer's temporary cardboard tag;

(3) any action the buyer is required to take concerning a buyer's temporary cardboard tag; and

(4) any other information related to the process of purchasing and registering a vehicle as prescribed by the department.

(b) The dealer shall require the buyer to sign a statement indicating the buyer received the notice under this section.

(c) The department shall adopt rules to:

(1) prescribe the specifications and form of the written notice and statement used under this section; and

(2) establish a procedure to determine dealer compliance with this section.

SECTION 8.07. The heading to Section 503.067, Transportation Code, is amended to read as follows:

Sec. 503.067. UNAUTHORIZED REPRODUCTION, PURCHASE, USE, OR SALE OF TEMPORARY CARDBOARD TAGS.

SECTION 8.08. Section 503.067, Transportation Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) A person ~~[other than a dealer]~~ may not produce or reproduce a ~~[buyer's or dealer's]~~ temporary cardboard tag or an item represented to be a temporary cardboard tag for the purpose of distributing the tag to someone other than a dealer or converter.

(c) A person other than a dealer or converter may not purchase a temporary cardboard tag.

(d) A person may not sell or distribute a temporary cardboard tag or an item represented to be a temporary cardboard tag unless the person is:

(1) a dealer issuing the tag in connection with the sale of a vehicle; or

(2) a printer or distributor engaged in the business of selling temporary cardboard tags solely for uses authorized under this chapter.

SECTION 8.09. Section 503.094, Transportation Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Except as otherwise provided by this section, an [An] offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$5,000.

(d) An offense involving a violation of:

(1) Section 503.067(b) or (c) is a Class C misdemeanor;

(2) Section 503.067(d) is a Class A misdemeanor;

(3) Section 503.067(a) is a state jail felony; and

(4) Section 503.067(b), (c), or (d) is a state jail felony if the person who committed the offense criminally conspired to engage in organized criminal activity.

SECTION 8.10. Subsection (a), Section 2301.651, Occupations Code, is amended to read as follows:

(a) The board may deny an application for a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder if the applicant or license holder:

(1) is unfit under standards described in this chapter or board rules;

(2) makes a material misrepresentation in any application or other information filed under this chapter or board rules;

(3) violates this chapter or a board rule or order;

(4) violates any law relating to the sale, distribution, financing, or insuring of motor vehicles;

(5) fails to maintain the qualifications for a license;

(6) wilfully defrauds a purchaser; ~~[or]~~

(7) fails to fulfill a written agreement with a retail purchaser of a motor vehicle; or

(8) violates the requirements of Section 503.0631, Transportation Code.

SECTION 8.11. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation shall adopt rules to implement Sections 503.0626 and 503.0631, Transportation Code, as added by this article.

(b) The Texas Department of Transportation may not enforce Section 503.0626 or 503.0631, Transportation Code, as added by this article, until the rules adopted under Subsection (a) of this section take effect and the databases are operational and available to dealers with a general distinguishing number or a converter's license issued under Chapter 2301, Occupations Code.

SECTION 8.12. The changes in law made by this article to Sections 503.067 and 503.094, Transportation Code, apply to an offense committed on or after the effective date of this Act. 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 that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

ARTICLE 9. INFORMATION PROVIDED BY CRITICAL INFRASTRUCTURE ENTITIES

SECTION 9.01. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.024 to read as follows:

Sec. 21.024. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES CONSIDERED TO BE CRITICAL INFRASTRUCTURE. (a) A utility, a common carrier, or a transporter of oil, gas, or the products of oil or gas is considered to be within the definition of critical infrastructure under Section 421.001, Government Code. Notwithstanding any other law, an entity which is considered critical infrastructure and which is authorized by law to take private property through the use of eminent domain is required to produce information as provided by this section if the information is requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding, but only if the information is related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court in the county in which the entity has its principal place of business that has jurisdiction over condemnation proceedings under this chapter.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

(g) If an entity that received a request in accordance with this section does not produce the requested information on or before the 30th day after the request is made, the attorney general may file an action in a court described by Subsection (e) to enforce this section on the request of the person who made the request for the information. If the court determines that the failure to produce the information is a violation of this section, the court may award the attorney general's reasonable expenses incurred to compel the production of the information.

(h) If the attorney general files an action under Subsection (g), the person who requested that the attorney general file the action may not file a private action to enforce this section with respect to the same request for information.

(i) Section 552.0037, Government Code, does not apply in relation to those entities described in Subsection (a).

ARTICLE 10. LEAVE OF ABSENCE FOR URBAN SEARCH AND RESCUE
TEAMS

SECTION 10.01. Section 431.005, Government Code, is amended to read as follows:

Sec. 431.005. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND EMPLOYEES. (a) Except as provided by Subsection (b), a person who is an officer or employee of the state, a municipality, a county, or another political subdivision of the state and who is a member of the state military forces, ~~[or]~~ a reserve component of the armed forces, or a member of a state or federally authorized Urban Search and Rescue Team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a federal fiscal year. During a leave of absence the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time.

(b) A member of the legislature is entitled to pay for all days that the member is absent from a session of the legislature and engaged in training and duty as provided by Subsection (a).

(c) A state employee who is a member of the state military forces, ~~[or]~~ a reserve component of the armed forces, or a member of a state or federally authorized Urban Search and Rescue Team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

ARTICLE 11. LICENSE PLATES FOR THE MILITARY

SECTION 11.01. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.3011 to read as follows:

Sec. 504.3011. DESIGN OF CERTAIN LICENSE PLATES FOR THE MILITARY. (a) License plates issued under Section 504.303 must at a minimum bear a color depiction of the emblem of the appropriate branch of the United States armed forces.

(b) License plates issued under Section 504.308(a) or 504.315(e), (f), or (g) must at a minimum bear a color depiction of the appropriate medal.

(c) The department shall design license plates to which this section applies in consultation with veterans organizations.

ARTICLE 12. IMMUNIZATION RECORDS OF FIRST RESPONDERS AND
RECORDS OBTAINED DURING CERTAIN DISASTERS

SECTION 12.01. Section 161.0001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (1-b) to read as follows:

(1) "Data elements" means the information:

(A) a health care provider who administers a vaccine is required to record in a medical record under 42 U.S.C. Section 300aa-25, as amended, including:

(i) ~~[(A)]~~ the date the vaccine is administered;

(ii) ~~[(B)]~~ the vaccine manufacturer and lot number of the vaccine;

(iii) any adverse or unexpected events for a vaccine; and

(iv) ~~[(C)]~~ the name, the address, and if appropriate, the title of the health care provider administering the vaccine; and

(B) specified in rules adopted to implement Section 161.00705.

(1-a) "First responder" has the meaning assigned by Section 421.095, Government Code.

(1-b) "Immediate family member" means the parent, spouse, child, or sibling of a person who resides in the same household as the person.

SECTION 12.02. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Sections 161.00705, 161.00706, and 161.00707 to read as follows:

Sec. 161.00705. RECORDING ADMINISTRATION OF IMMUNIZATION AND MEDICATION FOR DISASTERS AND EMERGENCIES. (a) The department shall maintain a registry of persons who receive an immunization, antiviral, and other medication administered to prepare for a potential disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. A health care provider who administers an immunization, antiviral, or other medication shall provide the data elements to the department.

(b) The department shall maintain the registry as part of the immunization registry required by Section 161.007.

(c) The department shall track adverse reactions to an immunization, antiviral, and other medication administered to prepare for a potential disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. A health care provider who administers an immunization, antiviral, or other medication may provide data related to adverse reactions to the department.

(d) Sections 161.007, 161.0071, 161.0072, and 161.0074 apply to the data elements submitted to the department under this section, unless a provision in those sections conflicts with a requirement in this section.

(e) The executive commissioner of the Health and Human Services Commission by rule shall determine the period during which the information collected under this section must remain in the immunization registry following the end of the disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(f) Unless an individual or, if a child, the child's parent, managing conservator, or guardian consents in writing to continued inclusion of the child's or other individual's information in the registry, the department shall remove the immunization records collected under this section from the registry on expiration of the period prescribed under Subsection (e).

(g) The immunization information of a child or other individual received by the department under this section, including individually identifiable information, may be released only:

(1) on consent of the individual or, if a child, the child's parent, managing conservator, or guardian; or

(2) to a state agency or health care provider consistent with the purposes of this subchapter or the purposes of aiding or coordinating communicable disease prevention and control efforts during a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(h) The report required under Section 161.0074 must also include the number of complaints received by the department related to the department's failure to remove information from the registry as required by Subsection (f).

(i) The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement this section.

Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION.

(a) A person 18 years of age or older who is a first responder or an immediate family member of a first responder may:

(1) request that a health care provider who administers an immunization to the person provide data elements regarding the immunization to the department for inclusion in the immunization registry; or

(2) provide the person's immunization history directly to the department for inclusion in the immunization registry.

(b) A health care provider, on receipt of a request under Subsection (a)(1), shall submit the data elements to the department in a format prescribed by the department. The department shall verify the person's request before including the information in the immunization registry.

(c) The executive commissioner of the Health and Human Services Commission shall:

(1) develop rules to ensure that immunization history submitted under Subsection (a)(2) is medically verified immunization information;

(2) develop guidelines for use by the department in informing first responders about the registry; and

(3) adopt rules necessary for the implementation of this section.

(d) A person's immunization history or data received by the department under this section may be released only on consent of the person or to any health care provider licensed or otherwise authorized to administer vaccines.

(e) A person whose immunization records are included in the immunization registry as authorized by this section may request in writing that the department remove that information from the registry. Not later than the 10th day after receiving a request under this subsection, the department shall remove the person's immunization records from the registry.

(f) The report required under Section 161.0074 must also include the number of complaints received by the department related to the department's failure to comply with requests for removal of information from the registry under Subsection (e).

Sec. 161.00707. INFORMATION AND EDUCATION FOR FIRST RESPONDERS. The department shall develop a program for informing first responders about the immunization registry and educating first responders about the benefits of being included in the immunization registry, including:

(1) ensuring that first responders receive necessary immunizations to prevent the spread of communicable diseases to which a first responder may be exposed during a public health emergency, declared disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency; and

(2) preventing duplication of vaccinations.

SECTION 12.03. Section 161.007, Health and Safety Code, is amended by amending Subsections (a), (b), and (j) and adding Subsection (b-1) to read as follows:

(a) The department, for the primary purpose ~~[purposes]~~ of establishing and maintaining a single repository of accurate, complete, and current immunization records to be used in aiding, coordinating, and promoting efficient and cost-effective childhood communicable disease prevention and control efforts, shall establish and maintain an [a-childhood] immunization registry. The department by rule shall develop guidelines to:

(1) protect the confidentiality of patients in accordance with Section 159.002, Occupations Code;

(2) inform a parent, managing conservator, or guardian of each patient younger than 18 years of age about the registry;

(3) require the written consent of a parent, managing conservator, or guardian of a patient younger than 18 years of age before any information relating to the patient is included in the registry; ~~and~~

(4) permit a parent, managing conservator, or guardian of a patient younger than 18 years of age to withdraw consent for the patient to be included in the registry; and

(5) determine the process by which consent is verified, including affirmation by a health care provider, birth registrar, regional health information exchange, or local immunization registry that consent has been obtained.

(b) The ~~[childhood]~~ immunization registry must contain information on the immunization history that is obtained by the department under:

(1) this section of each person who is younger than 18 years of age and for whom consent has been obtained in accordance with guidelines adopted under Subsection (a);

(2) Section 161.00705 of persons immunized to prepare for or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency; and

(3) Section 161.00706 of first responders or their immediate family members.

(b-1) The department shall remove from the registry information for any person for whom consent has been withdrawn. The department may not retain individually identifiable information about any person:

(1) for whom consent has been withdrawn;

(2) for whom a consent for continued inclusion in the registry following the end of the declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency has not been received under Section 161.00705(f); or

(3) for whom a request to be removed from the registry has been received under Section 161.00706(e).

(j) Except as provided by Sections 161.00705, 161.00706, and ~~[Section]~~ 161.008, information obtained by the department for the immunization registry is confidential and may be disclosed only with the written consent of the individual or, if a child, the child's parent, managing conservator, or guardian.

SECTION 12.04. Subsections (a) and (c), Section 161.0073, Health and Safety Code, are amended to read as follows:

(a) Except as provided by Section 161.00705, ~~[The]~~ information that individually identifies a child or other individual that is received by the department for the immunization registry is confidential and may be used by the department for registry purposes only.

(c) A person required to report information to the department for registry purposes or authorized to receive information from the registry may not disclose the individually identifiable information of a child or other individual to any other person without written consent of the individual or, if a child, the parent, managing conservator, or guardian of the child, except as provided by Chapter 159, Occupations Code, or Section 602.053, Insurance Code.

SECTION 12.05. Section 161.0075, Health and Safety Code, is amended to read as follows:

Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided by Section 161.009, the following persons subject to this subchapter that act in compliance with Sections 161.007, 161.00705, 161.00706, 161.0071, 161.0073, 161.0074, and 161.008 are not civilly or criminally liable for furnishing the information required under this subchapter:

- (1) a payor;
- (2) a health care provider who administers immunizations; and
- (3) an employee of the department.

SECTION 12.06. Subsection (a), Section 161.009, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) negligently releases or discloses immunization registry information in violation of Section 161.007, 161.0071, 161.0073, or 161.008;

(2) fails to exclude a child's immunization information in violation of Section 161.0071; ~~[or]~~

(3) fails to remove a person's immunization information in violation of Section 161.00705 or 161.00706; or

(4) negligently uses information in the immunization registry to solicit new patients or clients or for other purposes that are not associated with immunization or quality-of-care purposes, unless authorized under this section.

SECTION 12.07. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0102 to read as follows:

Sec. 161.0102. DISASTER PREPARATION. The department shall consult with public health departments and appropriate health care providers to identify adult immunizations that may be necessary to respond to or prepare for a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

SECTION 12.08. Subsection (a), Section 161.0105, Health and Safety Code, is amended to read as follows:

(a) A health care provider who acts in compliance with Sections 161.007, 161.00705, 161.00706, and 161.008 and any rules adopted under those sections is not civilly or criminally liable for furnishing the information required under those sections. This subsection does not apply to criminal liability established under Section 161.009.

SECTION 12.09. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules required under Sections 161.00705 and 161.00706, Health and Safety Code, as added by this article.

SECTION 12.10. The change in law made by this article to Section 161.009, Health and Safety Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

ARTICLE 13. HIGH PRIORITY ACTIVITY FUNDS

SECTION 13.01. Section 644.102, Transportation Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A municipality or county that engages in enforcement under this chapter:

- (1) shall pay all costs relating to the municipality's or county's enforcement;
- (2) may not be considered, in the context of a federal grant related to this

chapter:

(A) a party to a federal grant agreement, except as provided by Subsection (b-1); or

(B) a grantee under a federal grant to the department; and

(3) must comply with the standards established under Subsection (a).

(b-1) Subsection (b) does not prohibit a municipality or county from receiving High Priority Activity Funds provided under the federal Motor Carrier Safety Assistance Program.

ARTICLE 14. DISEASE MANAGEMENT

SECTION 14.01. Section 81.082, Health and Safety Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A health authority may designate health care facilities within the health authority's jurisdiction that are capable of providing services for the examination, observation, quarantine, isolation, treatment, or imposition of control measures during a public health disaster or during an area quarantine under Section 81.085. A health authority may not designate a nursing home or other institution licensed under Chapter 242.

SECTION 14.02. Section 81.083, Health and Safety Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) If the department or a health authority has reasonable cause to believe that a group of five or more individuals has been exposed to or infected with a communicable disease, the department or health authority may order the members of

the group to implement control measures that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease in this state. If the department or health authority adopts control measures under this subsection, each member of the group is subject to the requirements of this section.

(l) An order under Subsection (k) must be in writing and be delivered personally or by registered or certified mail to each member of the group, or the member's parent, legal guardian, or managing conservator if the member is a minor. If the name, address, and county of residence of any member of the group is unknown at the time the order is issued, the department or health authority must publish notice in a newspaper of general circulation in the county that includes the area of the suspected exposure and any other county in which the department or health authority suspects a member of the group resides. The notice must contain the following information:

(1) that the department or health authority has reasonable cause to believe that a group of individuals is ill with, has been exposed to, or is the carrier of a communicable disease;

(2) the suspected time and place of exposure to the disease;

(3) a copy of any orders under Subsection (k);

(4) instructions to an individual to provide the individual's name, address, and county of residence to the department or health authority if the individual knows or reasonably suspects that the individual was at the place of the suspected exposure at the time of the suspected exposure;

(5) that the department or health authority may request that an application for court orders under Subchapter G be filed for the group, if applicable; and

(6) that a criminal penalty applies to an individual who:

(A) is a member of the group; and

(B) knowingly refuses to perform or allow the performance of the control measures in the order.

SECTION 14.03. Section 81.151, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) A single application may be filed for a group if:

(1) the department or health authority reasonably suspects that a group of five or more persons has been exposed to or infected with a communicable disease; and

(2) each person in the group meets the criteria of this chapter for court orders for the management of a person with a communicable disease.

SECTION 14.04. Subchapter G, Chapter 81, Health and Safety Code, is amended by adding Section 81.1511 to read as follows:

Sec. 81.1511. APPLICABILITY OF SUBCHAPTER TO GROUP. To the extent possible, and except as otherwise provided, if a group application is filed under Section 81.151(e), the provisions of this subchapter apply to the group in the same manner as they apply to an individual, except that:

(1) except as provided by Subdivision (2), any statement or determination regarding the conduct or status of a person must be made in regard to the majority of the members of the group;

(2) any finding or statement related to compliance with orders under Section 81.083 must be made for the entire group;

(3) any notice required to be provided to a person must:

(A) in addition to being sent to each individual in the group for whom the department or health authority has an address, be published in a newspaper of general circulation in the county that includes the area of the suspected contamination and any other county in which the department or health authority suspects a member of the group resides;

(B) state that the group is appointed an attorney but that a member of the group is entitled to the member's own attorney on request; and

(C) include instructions for any person who reasonably suspects that the person was at the place of the suspected exposure at the time of the suspected exposure to provide the person's name, address, and county of residence to the department or health authority; and

(4) an affidavit of medical evaluation for the group may be based on evaluation of one or more members of the group if the physician reasonably believes that the condition of the individual or individuals represents the condition of the majority of the members of the group.

SECTION 14.05. Section 81.152, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A group application must contain the following information according to the applicant's information and belief:

(1) a description of the group and the location where the members of the group may be found;

(2) a narrative of how the group has been exposed or infected;

(3) an estimate of how many persons are included in the group;

(4) to the extent known, a list containing the name, address, and county of residence in this state of each member of the group;

(5) if the applicant is unable to obtain the name and address of each member of the group:

(A) a statement that the applicant has sought each of the unknown names and addresses; and

(B) the reason that the names and addresses are unavailable; and

(6) a statement, to be included only in an application for inpatient treatment, that the members of the group fail or refuse to comply with written orders of the department or health authority under Section 81.083, if applicable.

SECTION 14.06. Subchapter G, Chapter 81, Health and Safety Code, is amended by adding Section 81.1531 to read as follows:

Sec. 81.1531. APPOINTMENT OF ATTORNEY FOR GROUP. (a) A judge shall appoint an attorney to represent a group identified in a group application under Section 81.151(e) and shall appoint an attorney for each person who is listed in the application if requested by a person in the group who does not have an attorney.

(b) To the extent possible, the provisions of this chapter that apply to an individual's attorney apply to a group's attorney.

SECTION 14.07. Subsection (a), Section 81.159, Health and Safety Code, is amended to read as follows:

(a) The commissioner shall designate health care facilities throughout the state that are capable of providing services for the examination, observation, isolation, or treatment of persons having or suspected of having a communicable disease. However, the commissioner may not designate:

(1) a nursing home or custodial care home required to be licensed under Chapter 242; or

(2) an intermediate care facility for the mentally retarded required to be licensed under Chapter 252.

SECTION 14.08. Section 81.162, Health and Safety Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding Section 81.161 or Subsection (c), a judge or magistrate may issue a temporary protective custody order before the filing of an application for a court order for the management of a person with a communicable disease under Section 81.151 if:

(1) the judge or magistrate takes testimony that an application under Section 81.151, together with a motion for protective custody under Section 81.161, will be filed with the court on the next business day; and

(2) the judge or magistrate determines based on evidence taken under Subsection (d) that there is probable cause to believe that the person presents a substantial risk of serious harm to himself or others to the extent that the person cannot be at liberty pending the filing of the application and motion.

(g) A temporary protective custody order issued under Subsection (f) may continue only until 4 p.m. on the first business day after the date the order is issued unless the application for a court order for the management of a person with a communicable disease and a motion for protective custody, as described by Subsection (f)(1), are filed at or before that time. If the application and motion are filed at or before 4 p.m. on the first business day after the date the order is issued, the temporary protective custody order may continue for the period reasonably necessary for the court to rule on the motion for protective custody.

SECTION 14.09. Subsections (b) and (d), Section 81.165, Health and Safety Code, are amended to read as follows:

(b) The hearing must be held not later than 72 hours after the time that the person was detained under the protective custody order. If the period ends on a Saturday, Sunday, or legal holiday, the hearing must be held on the next day that is not a Saturday, Sunday, or legal holiday. The judge or magistrate may postpone the hearing for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions that threaten the safety of the person or another essential party to the hearing. If the area in which the person is found, or the area where the hearing will be held, is under a public health disaster, the judge or magistrate may postpone the hearing until the period of disaster is ended.

(d) The person and his attorney shall have an opportunity at the hearing to appear and present evidence to challenge the allegation that the person presents a substantial risk of serious harm to himself or others. If the health authority advises the court that the person must remain in isolation or quarantine and that exposure to the judge, jurors, or the public would jeopardize the health and safety of those persons

and the public health, a magistrate or a master may order that a person entitled to a hearing for a protective custody order may not appear in person and may appear only by teleconference or another means the magistrate or master finds appropriate to allow the person to speak, to interact with witnesses, and to confer with the person's attorney.

SECTION 14.10. Subsections (b) and (c), Section 81.167, Health and Safety Code, are amended to read as follows:

(b) A person under a protective custody order shall be detained in an appropriate inpatient health facility that has been designated by the commissioner or by a health authority and selected by the health authority under Section 81.159.

(c) A person under a protective custody order may be detained in a nonmedical facility used to detain persons who are charged with or convicted of a crime only with the consent of the medical director of the facility and only if the facility has respiratory isolation capability for airborne communicable diseases. The person may not be detained in a nonmedical facility under this subsection for longer than 72 hours, excluding Saturdays, Sundays, legal holidays, ~~and~~ the period prescribed by Section 81.165(b) for an extreme weather emergency, and the duration of a public health disaster. The person must be isolated from any person who is charged with or convicted of a crime.

SECTION 14.11. Subsection (c), Section 81.168, Health and Safety Code, is amended to read as follows:

(c) The head of a facility shall discharge a person held under a protective custody order if:

(1) the head of the facility does not receive notice within 72 hours after detention begins, excluding Saturdays, Sundays, legal holidays, ~~and~~ the period prescribed by Section 81.165(b) for an extreme weather emergency, and the duration of a public health disaster, that a probable cause hearing was held and the person's continued detention was authorized;

(2) a final court order for the management of a person with a communicable disease has not been entered within the time prescribed by Section 81.154; or

(3) the health authority or commissioner determines that the person no longer meets the criteria for protective custody prescribed by Section 81.162.

SECTION 14.12. Section 81.169, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (d), if the health authority advises the court that the person must remain in isolation or quarantine and that exposure to the judge, jurors, or the public would jeopardize the health and safety of those persons and the public health, a judge may order that a person entitled to a hearing may not appear in person and may appear only by teleconference or another means that the judge finds appropriate to allow the person to speak, to interact with witnesses, and to confer with the person's attorney.

SECTION 14.13. Section 81.176, Health and Safety Code, is amended to read as follows:

Sec. 81.176. DESIGNATION OF FACILITY. In a court order for the temporary or extended management of a person with a communicable disease specifying inpatient care, the court shall commit the person to a health care facility designated by the commissioner or a health authority in accordance with Section 81.159.

SECTION 14.14. Section 81.177, Health and Safety Code, is amended to read as follows:

Sec. 81.177. COMMITMENT TO PRIVATE FACILITY. (a) The court may order a person committed to a private health care facility at no expense to the state if the court receives:

(1) an application signed by the person or the person's guardian or next friend requesting that the person be placed in a designated private health care facility at the person's or applicant's expense; and

(2) a written agreement from the head of the private health care facility to admit the person and to accept responsibility for the person in accordance with this chapter.

(b) Consistent with Subsection (a), the court may order a person committed to a private health care facility at no expense to the state, a county, a municipality, or a hospital district if:

(1) a state of disaster or a public health disaster has been declared or an area quarantine is imposed under Section 81.085;

(2) the health care facility is located within the disaster area or area quarantine, as applicable; and

(3) the judge determines that there is no public health care facility within the disaster area or area quarantine, as applicable, that has appropriate facilities and the capacity available to receive and treat the person.

(c) Nothing in this section prevents a health care facility that accepts a person under this section from pursuing reimbursement from any appropriate source, such as a third-party public or private payor or disaster relief fund.

ARTICLE 15. CERTAIN MUTUAL ASSISTANCE AGREEMENTS

SECTION 15.01. Section 51.212, Education Code, is amended to read as follows:

Sec. 51.212. PEACE ~~[SECURITY]~~ OFFICERS AT PRIVATE INSTITUTIONS.

(a) The governing boards of private institutions of higher education, including private junior colleges, are authorized to employ and commission peace officers ~~[campus security personnel]~~ for the purpose of enforcing:

(1) state law ~~[the law of this state]~~ on the campuses of private institutions of higher education; and

(2) state and local law, including applicable municipal ordinances, at other locations, as permitted by Subsection (b) or Section 51.2125.

(b) Any officer commissioned under the provisions of this section is vested with all the powers, privileges, and immunities of peace officers if the officer:

(1) is ~~[while]~~ on the property under the control and jurisdiction of the respective private institution of higher education or is otherwise performing ~~[in the performance of his assigned]~~ duties assigned to the officer by the institution, regardless of whether the officer is on property under the control and jurisdiction of

the institution, but provided these duties are consistent with the educational mission of the institution and are being performed within a county in which the institution has land; or

(2) to the extent authorized by Section 51.2125, is:

(A) requested by another law enforcement agency to provide assistance in enforcing state or local law, including a municipal ordinance, and is acting in response to that request; or

(B) otherwise assisting another law enforcement agency in enforcing a law described by Paragraph (A).

(c) Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that the officer ~~[he]~~ will fairly, impartially, and faithfully perform the duties as may be required of the officer ~~[him]~~ by law. The bond may be sued on from time to time in the name of the person injured until the whole amount is recovered.

(d) ~~[(b)]~~ The governing boards of private institutions of higher education are authorized to hire and pay on a regular basis peace ~~[law enforcement]~~ officers commissioned by an incorporated city. The officers shall be under the supervision of the hiring institution, but shall be subject to dismissal and disciplinary action by the city. An incorporated city is authorized to contract with a private institution of higher education for the use and employment of its commissioned officers in any manner agreed to, provided that there is no expense incurred by the city.

(e) ~~[(e)]~~ In this section, "private institution of higher education" means a private or independent institution of higher education as defined ~~[has the meaning assigned]~~ by Section 61.003 ~~[61.003(15) of this code]~~.

SECTION 15.02. Subchapter E, Chapter 51, Education Code, is amended by adding Sections 51.2125 and 51.2126 to read as follows:

Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO MUTUAL ASSISTANCE AGREEMENT. (a) This section applies only to a private institution of higher education that has a fall head count enrollment of more than 10,000 students and that has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a municipality with a population of more than one million. For purposes of this section, a private institution of higher education is a private or independent institution of higher education as defined by Section 61.003.

(b) In addition to exercising the authority provided under Section 51.212(d), the governing board of a private institution of higher education to which this section applies and the governing body of each municipality, regardless of the municipality's population, that is contiguous to, or the boundaries of which contain any part of, property under the control and jurisdiction of the private institution of higher education may enter into a written mutual assistance agreement in which peace officers commissioned by the institution or the applicable municipality serve the public interest by assisting, without any form of additional compensation or other financial benefit, the peace officers of the other party to the agreement in enforcing state or local law, including applicable municipal ordinances. The agreement must be

reviewed at least annually by the institution and the municipality and may be modified at that time by a written agreement signed by each party. The agreement may be terminated at any time by a party to the agreement on the provision of reasonable notice to the other party to the agreement.

(c) A mutual assistance agreement authorized by this section may designate the geographic area in which the campus peace officers are authorized to provide assistance to the peace officers of the municipality, except that if the agreement is entered into with a municipality with a population of more than one million, the designated geographic area consists of each of the election districts of the municipality's governing body that contains any part of the campus of the institution and each of the election districts of the governing body that is contiguous to another municipality that contains any part of the campus of the institution.

(d) This section does not affect a municipality's duty to provide law enforcement services to any location within the boundaries of the municipality.

(e) A peace officer providing assistance under a mutual assistance agreement authorized by this section may make arrests and exercise all other authority given to peace officers under other state law. The municipal law enforcement agency has exclusive authority to supervise any campus peace officer operating under the agreement to assist the peace officers of the municipality. A municipal peace officer operating under the agreement to assist the campus peace officers remains under the supervision of the municipal law enforcement agency.

(f) In the same manner and to the same extent as a municipality is liable for an act or omission of a peace officer employed by the municipality, a private institution of higher education is liable for an act or omission of a campus peace officer operating under a mutual assistance agreement authorized by this section at a location other than property under the control and jurisdiction of the institution.

(g) This section does not limit the authority of a campus peace officer to make a warrantless arrest outside the officer's jurisdiction as described by Article 14.03(d), Code of Criminal Procedure.

Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) A campus peace officer acting under a mutual assistance agreement authorized by Section 51.2125 who is demoted, suspended, or terminated by the applicable private institution of higher education or who experiences a promotional bypass by the institution may elect to appeal the institution's action to an independent third party hearing examiner under this section.

(b) To elect to appeal to an independent third party hearing examiner under this section, the campus peace officer must submit to the head of the institution's law enforcement agency not later than the 30th day after the date of the action being appealed a written request stating the officer's decision to appeal to such a hearing examiner.

(c) The hearing examiner's decision is final and binding on all parties. If a campus peace officer elects to appeal the institution's action to an independent third party hearing examiner under this section, the officer or institution may appeal the examiner's decision to a district court only as provided by Subsection (j).

(d) If a campus peace officer elects to appeal to a hearing examiner, the officer and the head of the institution's law enforcement agency or their designees shall attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner before the 10th day after the date the appeal is filed, the parties immediately shall request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The officer and the agency head or their designees may agree on one of the seven neutral arbitrators on the list. If the parties do not agree before the fifth business day after the date the parties receive the list, the parties or their designees shall alternate striking a name from the list, and the single name remaining after all other names have been struck is selected as the hearing examiner. The parties or their designees shall agree on a date for the hearing.

(e) The appeal hearing must begin as soon as an appearance by the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing before the 45th day after the date of selection, the campus peace officer may, within 48 hours after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d).

(f) In a hearing conducted under this section, the hearing examiner has the same duties and powers that a civil service commission has in conducting a hearing or hearing an appeal under Chapter 143, Local Government Code, including the right to issue subpoenas. The hearing examiner may:

(1) order that the campus peace officer be reinstated to the same position or status in which the officer was employed immediately before the demotion, suspension, or termination or, in the case of a promotional bypass, to the position or status with respect to which the officer experienced the bypass; and

(2) award the officer lost wages and any other compensation lost as a result of the disciplinary action or promotional bypass, as applicable.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall issue a decision on the appeal not later than the 10th day after the date the hearing is completed.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to issue a decision on the appeal not later than the 30th day after the later of the date the hearing is completed or the briefs are filed. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action or promotional bypass, or the hearing examiner's final decision.

(i) The hearing examiner's fees and expenses shall be paid in equal amounts by the parties. The costs of a witness shall be paid by the party who calls the witness.

(j) A district court may hear an appeal of a hearing examiner's decision only on the grounds that the hearing examiner was without jurisdiction or exceeded the examiner's jurisdiction or that the decision was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the district court having jurisdiction in the municipality in which the institution is located.

ARTICLE 16. TRAFFICKING OF PERSONS

SECTION 16.01. Section 20A.01, Penal Code, is amended to read as follows:

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, that are performed or provided by another person and obtained through an actor's:

(A) causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;

(B) restraining or threatening to restrain the person or another person in a manner described by Section 20.01(1) or causing the person performing or providing labor or services to believe that the person or another person will be restrained; [or]

(C) knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported:

- (i) government records;
- (ii) identifying information; or
- (iii) personal property;

(D) threatening the person with abuse of the law or the legal process in relation to the person or another person;

(E) threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;

(F) exerting financial control over the person or another person by placing the person or another person under the actor's control as security for a debt to the extent that:

(i) the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt;

(ii) the duration of the services provided by the person or another person is not limited and the nature of the services provided by the person or another person is not defined; or

(iii) the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or

(G) using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.

(2) "Traffic" means to transport, ~~[another person or to]~~ entice, recruit, harbor, provide, or otherwise obtain another person by any means ~~[for transport by deception, coercion, or force]~~.

SECTION 16.02. Subsections (a) and (b), Section 20A.02, Penal Code, are amended to read as follows:

(a) A person commits an offense if the person:

(1) knowingly trafficks another person with the intent or knowledge that the trafficked person will engage in~~+~~

~~[(+)]~~ forced labor or services; or

(2) intentionally or knowingly benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services ~~[conduct that constitutes an offense under Chapter 43]~~.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Section 43.02 ~~[offense is committed under Subsection (a)(2)]~~ and the person who is trafficked is younger than 18 ~~[14]~~ years of age at the time of the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

SECTION 16.03. Section 125.002, Civil Practice and Remedies Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION 16.04. Section 125.045, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION 16.05. (a) Not later than September 1, 2008, the attorney general, in consultation with the Health and Human Services Commission, shall prepare and issue a report:

(1) outlining how existing laws and rules concerning victims and witnesses address or fail to address the needs of victims of human trafficking; and

(2) recommending areas of improvement and modifications in existing laws and rules.

(b) Not later than September 1, 2008, the Health and Human Services Commission, in consultation with the attorney general, shall prepare and issue a report:

(1) outlining how existing social service programs address or fail to address the needs of victims of human trafficking;

(2) with respect to those needs, outlining the interplay of existing social service programs with federally funded victim service programs; and

(3) recommending areas of improvement and modifications in existing social service programs.

SECTION 16.06. Sections 20A.01 and 20A.02, Penal Code, as amended by this article apply only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this article if any element of the offense occurs before the effective date.

SECTION 16.07. Subsection (f-1), Section 125.002, and Subsection (a-1), Section 125.045, Civil Practice and Remedies Code, as added by this article, apply only to a suit filed on or after the effective date of this article. A suit filed before the effective date of this article is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

ARTICLE 17. REGULATION OF FIREWORKS IN DISASTER DECLARATION

SECTION 17.01. Section 418.108, Government Code, is amended to read as follows:

Sec. 418.108. **DECLARATION OF LOCAL DISASTER.** (a) Except as provided by Subsection (e), the presiding officer of the governing body of a political subdivision may declare a local state of disaster.

(b) A declaration of local disaster may not be continued or renewed for a period of more than seven days except with the consent of the governing body of the political subdivision or the joint board as provided by Subsection (e), as applicable.

(c) An order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary, the county clerk, or the joint board's official records, as applicable.

(d) A declaration of local disaster activates the recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The preparedness and response aspects of the plans are activated as provided in the plans and take effect immediately after the local state of disaster is declared.

(e) The chief administrative officer of a joint board has exclusive authority to declare that a local state of disaster exists within the boundaries of an airport operated or controlled by the joint board, regardless of whether the airport is located in or outside the boundaries of a political subdivision.

(f) The county judge or the mayor of a municipality may order the evacuation of all or part of the population from a stricken or threatened area under the jurisdiction and authority of the county judge or mayor if the county judge or mayor considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(g) The county judge or the mayor of a municipality may control ingress to and egress from a disaster area under the jurisdiction and authority of the county judge or mayor and control the movement of persons and the occupancy of premises in that area.

(h) For purposes of Subsections (f) and (g):

(1) the jurisdiction and authority of the county judge includes the incorporated and unincorporated areas of the county; and

(2) to the extent of a conflict between decisions of the county judge and the mayor, the decision of the county judge prevails.

(i) A declaration under this section may include a restriction that exceeds a restriction authorized by Section 352.051, Local Government Code. A restriction that exceeds a restriction authorized by Section 352.051, Local Government Code, is effective only:

(1) for 60 hours unless extended by the governor; and

(2) if the county judge requests the governor to grant an extension of the restriction.

ARTICLE 18. MISCELLANEOUS PROVISIONS RELATING TO HOMELAND SECURITY AND BORDER SECURITY

SECTION 18.01. Subchapter A, Chapter 421, Government Code, is amended by adding Section 421.0025 to read as follows:

Sec. 421.0025. BORDER SECURITY COUNCIL. (a) The Border Security Council consists of members appointed by the governor.

(a-1) At least one-third of the members appointed under Subsection (a) must be residents of the Texas-Mexico border region, as defined by Section 2056.002.

(b) The Border Security Council shall develop and recommend to the office of the governor performance standards, reporting requirements, audit methods, and other procedures to ensure that funds allocated by the office of the governor for purposes related to security at or near this state's international border are used properly and that the recipients of the funds are accountable for the proper use of the funds.

(c) The Border Security Council shall advise the office of the governor regarding the allocation of funds by the office for purposes related to security at or near this state's international border. Recommendations relating to the allocation of those funds must be made by a majority of the members of the council.

(d) The governor shall designate one member of the Border Security Council as the chair. The chair shall arrange meetings of the Border Security Council at times determined by the members of the council.

(e) The meetings of the Border Security Council are subject to the requirements of Chapter 551 to the same extent as similar meetings of the Public Safety Commission. The plans and recommendations of the Border Security Council are subject to the requirements of Chapter 552 to the same extent as similar plans and recommendations of the Department of Public Safety of the State of Texas.

(f) Service on the Border Security Council by a state officer or employee or by an officer or employee of a local government is an additional duty of the member's office or employment.

SECTION 18.02. The heading to Subchapter E, Chapter 421, Government Code, is amended to read as follows:

SUBCHAPTER E. TEXAS FUSION ~~[INFRASTRUCTURE PROTECTION COMMUNICATIONS]~~ CENTER

SECTION 18.03. Section 421.081, Government Code, is amended to read as follows:

Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The Department of Public Safety of the State of Texas shall provide facilities and administrative support for the Texas Fusion ~~[Infrastructure Protection Communications]~~ Center.

SECTION 18.04. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. CERTAIN CONTRACTS FOR HOMELAND SECURITY OR LAW ENFORCEMENT TECHNOLOGY. A state governmental entity that issues a request for proposals for technological products or services for homeland security or law enforcement purposes must allow a business entity to substitute the qualifications of its executive officers or managers for the qualifications required of the business entity in the request for proposals.

SECTION 18.05. Subsection (c), Article 61.02, Code of Criminal Procedure, is amended to read as follows:

(c) Criminal information collected under this chapter relating to a criminal street gang must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:

(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang;

(B) a self-admission by the individual of criminal street gang membership that is made during a judicial proceeding; or

(C) any two of the following:

(i) ~~[(A)]~~ a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding;

(ii) ~~[(B)]~~ an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) ~~[(C)]~~ a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) ~~[(D)]~~ evidence that the individual frequents a documented area of a criminal street gang and[-] associates with known criminal street gang members;

(v) evidence that the individual~~[-and]~~ uses, in more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of the format or

medium in which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by Subparagraph (iv); or

(vi) ~~(4)~~ evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity.

SECTION 18.06. Subsection (c), Article 61.06, Code of Criminal Procedure, is amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the three-year period does not include any period during which the individual who is the subject of the information is:

(1) confined in a correctional facility operated by or under contract with the ~~institutional division or the state jail division of the~~ Texas Department of Criminal Justice;

(2) committed to a secure correctional facility operated by or under contract with the Texas Youth Commission, as defined by Section 51.02, Family Code; or

(3) confined in a county jail or a facility operated by a juvenile board in lieu of being confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice or being committed to a secure correctional facility operated by or under contract with the Texas Youth Commission.

SECTION 18.07. Chapter 61, Code of Criminal Procedure, is amended by adding Article 61.075 to read as follows:

Art. 61.075. RIGHT TO REQUEST EXISTENCE OF CRIMINAL INFORMATION. (a) A person or the parent or guardian of a child may request a law enforcement agency to determine whether the agency has collected or is maintaining, under criteria established under Article 61.02(c), criminal information relating solely to the person or child. The law enforcement agency shall respond to the request not later than the 10th business day after the date the agency receives the request.

(b) Before responding to a request under Subsection (a), a law enforcement agency may require reasonable written verification of the identity of the person making the request and the relationship between the parent or guardian and the child, if applicable, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

ARTICLE 19. EMERGENCY MANAGEMENT TRAINING

SECTION 19.01. Subchapter A, Chapter 418, Government Code, is amended by adding Section 418.005 to read as follows:

Sec. 418.005. EMERGENCY MANAGEMENT TRAINING. (a) This section applies only to an appointed public officer:

(1) whose position description, job duties, or assignment includes emergency management responsibilities; or

(2) who plays a role in emergency preparedness, response, or recovery.

(b) Each person described by Subsection (a) shall complete a course of training provided or approved by the division of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as an appointed public officer; or

(2) otherwise assumes responsibilities as an appointed public officer, if the person is not required to take an oath of office to assume the person's duties.

(c) The division shall develop and provide a training course related to the emergency management responsibilities of state-level officers and a training course related to the emergency management responsibilities of officers of political subdivisions. The division shall ensure that the training courses satisfy the requirements of Subsection (b).

(d) The division may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The division shall ensure that at least one course of training approved or provided by the division is available on videotape or a functionally similar and widely available medium at no cost.

(e) The division or other entity providing the training shall provide a certificate of course completion to public officers who complete the training required by this section. A public officer who completes the training required by this section shall maintain and make available for public inspection the record of the public officer's completion of the training.

(f) The failure of one or more public officers of the state or a political subdivision to complete the training required by this section does not affect the validity of an action taken by the state or the political subdivision.

(g) The hours spent in a training course required by Subsection (b) may be applied toward the continuing education requirements for county commissioners under Section 81.0025, Local Government Code.

SECTION 19.02. Not later than January 1, 2009, each public officer who has taken the oath of office for a state or local government office before January 1, 2008, and who is required to complete a course of training under Section 418.005, Government Code, as added by this article, must complete the training.

ARTICLE 20. PUBLIC SAFETY AGENCIES

SECTION 20.01. Subsections (b), (c), and (d), Section 411.003, Government Code, are amended to read as follows:

(b) The commission is composed of five [~~three~~] citizens of this state appointed by the governor with the advice and consent of the senate. Members must be selected because of their peculiar qualifications for the position and must reflect the diverse geographic regions and population groups of this state. Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin. In making an appointment the governor shall consider, among other things, the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability.

(c) Members serve staggered six-year terms with the terms [~~term~~] of either one or two members [~~member~~] expiring January 1 of each even-numbered year.

(d) The governor shall designate one member of the commission as chairman of the commission to serve in that capacity at the pleasure of the governor. The commission shall meet at the times and places specified by commission rule or at the

call of the chairman ~~[or any two members]~~. The chairman shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each member at least seven days before the meeting.

SECTION 20.02. Promptly after this article takes effect, the governor shall appoint two additional members to the Public Safety Commission. Of those members, the governor shall designate one to serve a term expiring January 1, 2010, and one to serve a term expiring January 1, 2012.

ARTICLE 21. ENHANCED DRIVER'S LICENSE OR PERSONAL
IDENTIFICATION CERTIFICATE

SECTION 21.01. Subchapter B, Chapter 521, Transportation Code, is amended by adding Section 521.032 to read as follows:

Sec. 521.032. ENHANCED DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. (a) The department may issue an enhanced driver's license or personal identification certificate for the purposes of crossing the border between this state and Mexico to an applicant who provides the department with proof of United States citizenship, identity, and state residency. If the department issues an enhanced driver's license or personal identification certificate, the department shall continue to issue a standard driver's license and personal identification certificate and offer each applicant the option of receiving the standard or enhanced driver's license or personal identification certificate.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or personal identification certificate. An applicant for an enhanced driver's license or personal identification certificate must submit a biometric identifier as designated by the department, which, notwithstanding any other law, may be used only to verify the identity of the applicant for purposes relating to implementation of the border crossing initiative established by this section. An applicant must sign a declaration acknowledging the applicant's understanding of the one-to-many biometric match.

(c) The enhanced driver's license or personal identification certificate must include reasonable security measures to protect the privacy of the license or certificate holders, including reasonable safeguards to protect against the unauthorized disclosure of information about the holders. If the enhanced driver's license or personal identification certificate includes a radio frequency identification chip or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized information access.

(d) The requirements of this section are in addition to any other requirements imposed on applicants for a driver's license or personal identification certificate. The department shall adopt rules necessary to implement this section. The department shall periodically review technological innovations related to the security of driver's licenses and personal identification certificates and amend the rules as appropriate, consistent with this section, to protect the privacy of driver's license and personal identification certificate holders.

(e) The department may set a fee for issuance of an enhanced driver's license or personal identification certificate in a reasonable amount necessary to implement and administer this section.

(f) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between this state and Mexico. The department may enter into an agreement with Mexico, to the extent permitted by federal law, to implement a border crossing initiative authorized by this section. The department shall implement a statewide education campaign to educate residents of this state about the border crossing initiative. The campaign must include information on:

(1) the forms of travel for which the existing and enhanced driver's license and personal identification certificate can be used; and

(2) relevant dates for implementation of laws that affect identification requirements at the border with Mexico.

(g) A person may not sell or otherwise disclose biometric information accessed from an enhanced driver's license or any information from an enhanced driver's license radio frequency identification chip or similar technology to another person or an affiliate of the person. This subsection does not apply to a financial institution described by Section 521.126(e).

ARTICLE 22. EFFECTIVE DATE

SECTION 22.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

The Conference Committee Report on **SB 11** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas

May 26, 2007

Honorable David Dewhurst

President of the Senate

Honorable Tom Craddick

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT

ELTIFE

SHAPIRO

HEGAR

On the part of the Senate

PUENTE

GUILLEN

MORRISON

STRAUS

On the part of the House

The Conference Committee Report on **HB 3** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 12**

Senator Estes submitted the following Conference Committee Report:

Austin, Texas
May 26, 2007

Honorable David Dewhurst
President of the Senate
Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 12** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ESTES
JACKSON
OGDEN

HILDERBRAN
FLORES
GATTIS
D. HOWARD
O'DAY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 12** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 1181 by Ellis, In memory of Lee Hage Jamail.

Congratulatory Resolutions

SR 1173 by Shapleigh, Congratulating Robert T. Burns for receiving the May, 2007, Adelante con Ganas Award.

SR 1178 by Shapiro, Recognizing Tom and Doris Adams of Calera, Oklahoma, for writing a poem about Texas.

SR 1179 by Lucio, Congratulating Monica Joy Morales and Nolan Leon Counts on the occasion of their marriage.

HCR 253 (Brimer), Honoring Thomas L. Johnson, Sr., on his induction into the Texas Transportation Institute Hall of Honor.

HCR 273 (Hinojosa), Paying tribute to the life of Dr. Hector P. Garcia on the third Wednesday of September in 2007 and in 2008.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 7:00 p.m. adjourned until 1:30 p.m. tomorrow.

APPENDIX

SENT TO GOVERNOR

May 26, 2007

SB 7, SB 29, SB 155, SB 161, SB 552, SB 606, SB 737, SB 747, SB 760, SB 772, SB 778, SB 792, SB 827, SB 831, SB 992, SB 1007, SB 1032, SB 1050, SB 1053, SB 1161, SB 1169, SB 1180, SB 1237, SB 1238, SB 1255, SB 1274, SB 1288, SB 1310, SB 1404, SB 1446, SB 1456, SB 1504, SB 1510, SB 1524, SB 1526, SB 1531, SB 1723, SB 1743, SB 1829, SB 1877, SB 1954, SB 1974, SB 1986, SB 1997, SB 2000, SB 2002, SB 2014, SB 2037, SB 2054, SCR 1, SCR 9, SCR 60, SCR 84

FILED WITHOUT SIGNATURE OF GOVERNOR

May 26, 2007

SB 453

