

July 2001

# Highlights of the 77<sup>th</sup> Texas Legislature

*Regular Session*

*A Summary  
of the  
Most  
Significant  
Legislative  
Action*



*Senate Research Center*

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*Compiled by Candy Black and Tammy Edgerly, SRC  
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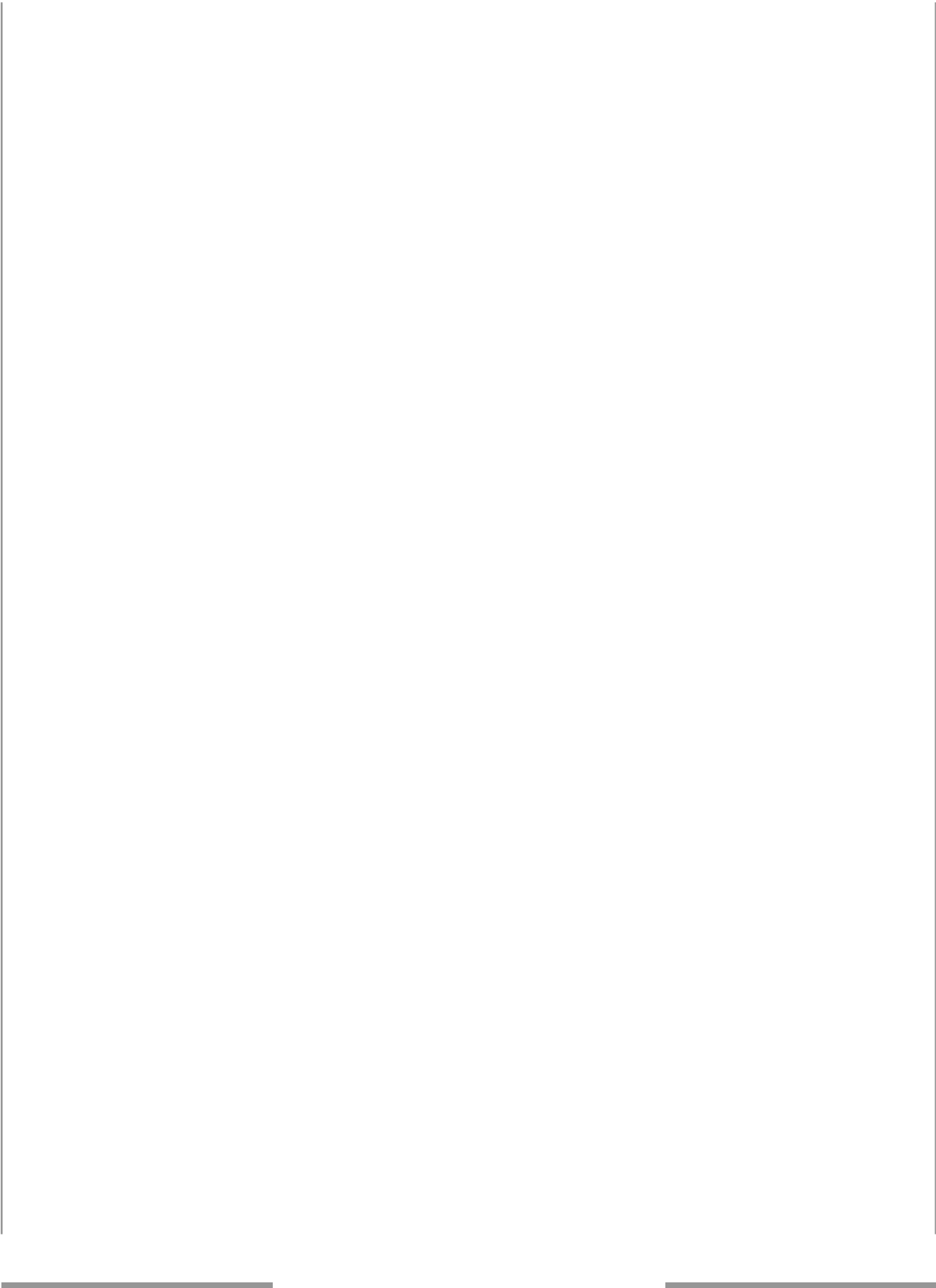
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# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

### General Appropriations Act - S.B. 1

by Senator Ellis, et al.

House Sponsor: Representative Junell

Final recommended appropriations for the 2002-2003 biennium total \$113.8 billion from all fund sources for state government operations. The recommendations provide an \$11.8 billion, or 11.6 percent, increase from the 2000-2001 biennial level. Emergency appropriations made during the 77<sup>th</sup> Legislature are included in the totals for the 2000-2001 biennium; the totals for the 2002-2003 biennium have not been adjusted to reflect appropriations vetoed by the governor.

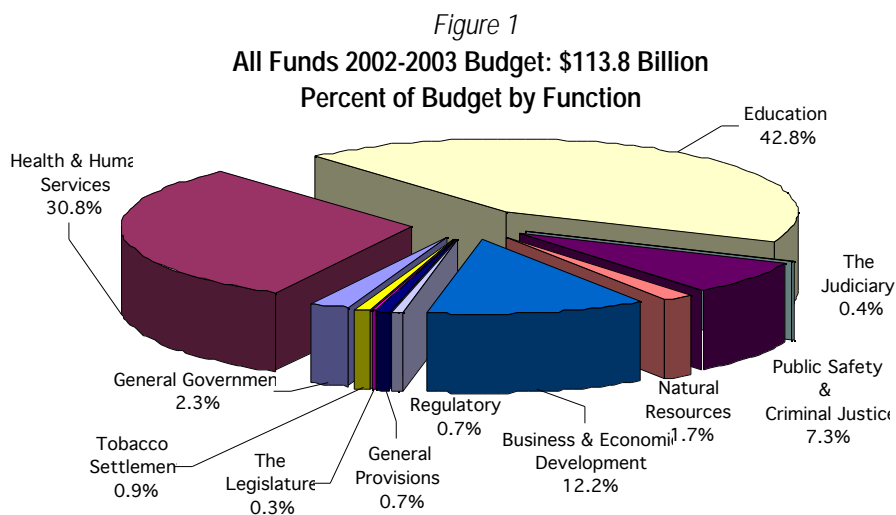


Table 1  
Comparison of All Funds  
2002-2003 Budget Recommendations to 2000-2001  
(In Millions)

| Appropriation Areas              | 2000-2001<br>Biennium* | 2002-2003<br>Biennium | Biennial<br>Change | Percentage<br>Change (%) |
|----------------------------------|------------------------|-----------------------|--------------------|--------------------------|
| General Government               | \$2,469.8              | \$2,626.0             | \$156.3            | 6.3                      |
| Health & Human Services          | \$29,876.2             | \$34,989.6            | \$5,113.4          | 17.1                     |
| Education                        | \$45,239.3             | \$48,680.9            | \$3,441.6          | 7.6                      |
| Public Education                 | \$31,173.8             | \$33,216.5            | \$2,042.7          | 6.6                      |
| Higher Education                 | \$14,065.5             | \$15,464.3            | \$1,398.9          | 9.9                      |
| The Judiciary                    | \$383.7                | \$430.7               | \$47.1             | 12.3                     |
| Public Safety & Criminal Justice | \$8,084.4              | \$8,289.5             | \$205.1            | 2.5                      |
| Natural Resources                | \$1,911.8              | \$1,951.0             | \$39.2             | 2.0                      |
| Business & Economic Development  | \$12,731.1             | \$13,890.8            | \$1,159.6          | 9.1                      |
| Regulatory                       | \$528.8                | \$771.7               | \$243.0            | 45.9                     |
| General Provisions               | \$0.0                  | \$764.4               | \$764.4            | 100.0                    |
| The Legislature                  | \$282.5                | \$294.4               | \$11.8             | 4.2                      |
| <b>Total</b>                     | <b>\$101,507.7</b>     | <b>\$112,689.0</b>    | <b>\$11,181.3</b>  | <b>11.0</b>              |
| Tobacco Settlement               | \$418.2                | \$1,076.6             | \$658.3            | 157.4                    |
| <b>Grand Total</b>               | <b>\$101,925.9</b>     | <b>\$113,765.6</b>    | <b>\$11,839.7</b>  | <b>11.6</b>              |

Excludes interagency contracts.

Totals may not add due to rounding.

\*Includes anticipated supplemental spending needs.

Source: Legislative Budget Board

# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

General Revenue funding totals \$61.7 billion for the 2002–2003 biennium, an increase of \$5.1 billion, or 9.1 percent, over the anticipated 2000-2001 biennial spending level. General Revenue funding, including funds dedicated within the General Revenue Fund, totals \$66.2 billion. The largest share of General Revenue funding was \$38.2 billion (57.7 percent) appropriated to state-funded education.

Figure 2  
General Revenue and General Revenue-Dedicated Funds 2002-  
2003 Budget: \$66.2 Billion - Percent of Budget by Function

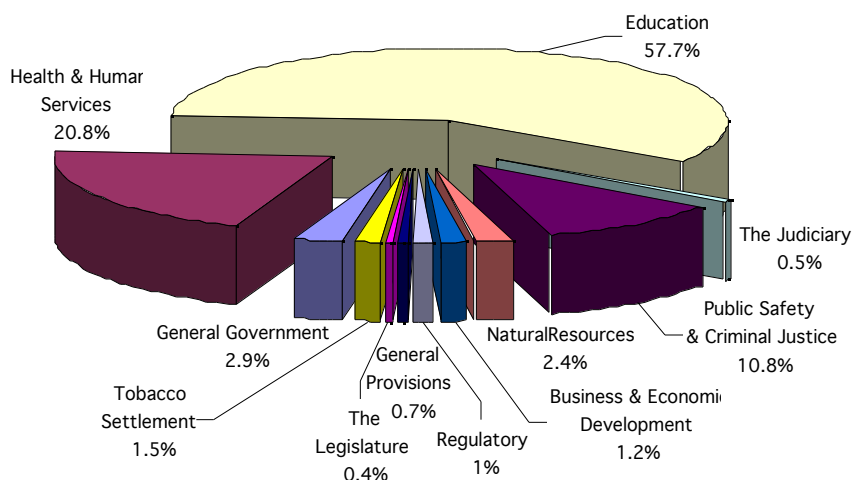


Table 2  
General Revenue & General Revenue-Dedicated Funds  
2002-2003 Budget Recommendations to 2000-2001  
(In Millions)

| Appropriation Areas              | 2000-2001<br>Biennium* | 2002-2003<br>Biennium | Biennial<br>Change | Percentage<br>Change (%) |
|----------------------------------|------------------------|-----------------------|--------------------|--------------------------|
| General Government               | \$1,731.8              | \$1,895.5             | \$163.7            | 9.5                      |
| Health & Human Services          | \$12,026.6             | \$13,770.8            | \$1,744.2          | 14.5                     |
| Education                        | \$36,483.4             | \$38,222.5            | \$1,739.1          | 4.8                      |
| Public Education                 | \$25,468.3             | \$25,978.5            | \$510.2            | 2.0                      |
| Higher Education                 | \$11,015.1             | \$12,244.0            | \$1,228.9          | 11.2                     |
| The Judiciary                    | \$317.7                | \$353.1               | \$35.4             | 11.1                     |
| Public Safety & Criminal Justice | \$6,840.8              | \$7,148.9             | \$308.1            | 4.5                      |
| Natural Resources                | \$1,540.3              | \$1,573.8             | \$33.6             | 2.2                      |
| Business & Economic Development  | \$801.3                | \$793.5               | (\$7.8)            | -1.0                     |
| Regulatory                       | \$515.1                | \$753.6               | \$238.5            | 46.3                     |
| General Provisions               | \$0.0                  | \$443.3               | \$443.3            | 100.0                    |
| The Legislature                  | \$279.1                | \$291.0               | \$11.8             | 4.2                      |
| <b>Total</b>                     | <b>\$60,536.0</b>      | <b>\$65,246.0</b>     | <b>\$4,710.0</b>   | <b>7.8</b>               |
| Tobacco Settlement               | \$326.3                | \$985.2               | \$658.9            | 201.9                    |
| <b>Grand Total</b>               | <b>\$60,826.3</b>      | <b>\$66,231.2</b>     | <b>\$5,368.9</b>   | <b>8.8</b>               |

Excludes interagency contracts.

Totals may not add due to rounding.

\*Includes anticipated supplemental spending needs.

Source: Legislative Budget Board

# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

S.B. 1 provides for an increase of 1,049 full-time equivalent (FTE) positions from the 2001 level of 229,313 to 230,093 total FTEs in 2002 and 230,362 total FTEs in 2003. The growth of the number of statewide FTEs is primarily because of increases in higher education staff and faculty. The budget also includes a \$308.5 million General Revenue Funds increase (\$592.8 million in All Funds) for a pay raise (including longevity) for state employees and non-faculty employees of institutions of higher education. An \$800.2 million All Funds increase (\$621.7 million in General Revenue Funds) is provided in S.B. 1 to cover the increased cost of group insurance for state employees.

In accordance with Article IV, Section 14, Texas Constitution, the governor has the right to file objections to individual items or appropriation thereof and make proclamation of the same, and such item or items of appropriation objected to shall be of no force or effect. The vetoes total \$75.1 million in certified appropriations and another \$480.8 million in appropriations contingent on certification of additional revenue available at a later time. Governor Perry said he objected to spending every available dollar and other than the Rainy Day Fund and does not providing care for unforeseen issues or problems, such as the recent tragic Southeast Texas floods, as well as a some items of appropriation in the proposed bill. He said the bill also contained provisions intended to obligate expenditure of funds beyond what the Comptroller of Public Accounts (comptroller) is willing to certify as available, and this could limit the ability of the Seventy-eighth Legislature to address the state's needs in a fiscally responsible manner in 2004-2005.

The proposed budget stays within the four limits required by the constitution: spending limit; "pay-as-you-go"; limit on welfare spending; and limit on tax-supported debt.

**Spending Limit** – Article VIII, Sec. 22(a), Texas Constitution. This constitutional limit restricts the growth of appropriations from state tax revenue (not dedicated by the constitution) from exceeding the state's estimated rate of economic growth adopted by the Legislative Budget Board (LBB).

Previous to each legislative session, LBB adopts the "Items of Information", which include: the estimated rate of growth of the Texas economy for the upcoming biennium. The limit on appropriations for the 2002-2003 biennium was determined by multiplying the 2000–2001 base biennium by the growth of Texas personal income from the 2000–2001 biennium. The 2002-2003 limit was set at \$51.1 billion of appropriations supported by tax revenue not dedicated by the constitution, and the amount spent by the 77th Legislature was \$49.5 billion (excluding contingency appropriations). S.B. 1 recommended \$1.6 billion below the Article VIII limit, excluding contingency appropriations. If all contingency appropriations are certified, the recommended appropriations will still fall below the Article VIII constitutional limit.

**"Pay-As-You-Go"** – Article III, Sec. 49a, Texas Constitution. Prohibits the Legislature from appropriating more revenue than will be collected, unless approved by a four-fifths vote of each house. The Tax Relief Amendment of 1978 limits the growth of appropriations from state tax revenues, not dedicated by the constitution, to the estimated growth of the state's economy. It requires that bills making appropriations be sent to the comptroller for certification that the appropriations are within available revenue.

The comptroller's January 2001 estimate of the amount available for spending from the General Revenue Fund was \$60.8 billion. The comptroller later added \$143 million to the estimate for tobacco settlement revenue and reduced the estimate by \$18 million for possible losses in the tobacco products tax. Legislation adopted by the 77<sup>th</sup> Legislature and items contained in the General Appropriations Act would

# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

add another \$1.2 billion in revenue, bringing the total amount available for certification from General Revenue Funds to \$62.2 billion for the 2002-2003 biennium.

The amount appropriated in the 77<sup>th</sup> Legislature's General Appropriations Act for the 2002-2003 biennium totals \$61.7 billion, and other bills appropriate an additional \$390 million. Total General Revenue Fund appropriations, then, are \$62.1 billion, which is under the expected available revenue estimate.

Comptroller Carole Keeton Rylander certified \$61.7 billion in funds currently expected to be available 2002-2003 biennial budget. The budget certified by the comptroller appropriates a total of \$113.8 billion from All Funds for the 2002-2003 biennium. Of that amount, \$61.7 billion is from General Revenue, \$4.5 billion is General Revenue-dedicated, and \$47.5 billion is from federal and Other Funds. All Funds appropriations of \$113.8 billion for the next biennium represent an increase of 11.6 percent or \$11.8 billion compared to the 76<sup>th</sup> Legislature's total appropriations of \$101,925.9 billion from All Funds (including anticipated supplemental spending needs).

The comptroller stated that \$61.7 billion is a balanced figure that masks underlying discrepancies that could make the budget next session a challenge. Rylander said the 2002-2003 budget relies on a projected \$2.9 billion surplus from this biennium as part of the revenue base used to fund the \$61.7 billion in appropriations, and an additional \$800 million is funded by one-time measures that cannot be repeated next biennium. The comptroller warned legislators that next session the beginning state budget could be \$5 billion in the red.

The appropriations base for General Revenue for the subsequent biennium (2004–2005) will begin at least \$1.4 billion higher than the \$61.7 billion base adopted in this session. S.B. 1 includes funding for only one year of teacher health insurance at \$1.25 billion and delays the last Medicaid premium payment of \$150 million. The next legislature will need to continue funding teacher health insurance and make the last Medicaid premium payment before determining the budget for the 2004-2005 biennium.

**Limit on Welfare Spending** – Article III, Sec. 51-a, Texas Constitution. The constitutional limit for this budget cycle is \$113,756.6 million. The amount that may be paid out of state funds for assistance grants to or on behalf of needy dependent children and their caretakers shall not exceed one percent of the state budget in any biennium. In accordance with the Human Resources Code, Section 31.053, the 2002-2003 maximum biennial amount of one percent of the state budget is \$1,137.7 million. The amount included in S.B. 1 subject to that limit is \$243.2 million in state dollars paid out as the Temporary Assistance for Needy Families grant. This amount is \$894.5 million less than the one percent of the state budget for the 2002-2003 biennium.

**Limit on Tax-Supported Debt** – Article III, Section 49j, Texas Constitution. Prohibits the legislature from authorizing additional state debt if, in any fiscal year, the resulting maximum annual debt service payable from the General Revenue Fund, excluding revenues constitutionally dedicated for purposes other than payment of state debt, exceeds five percent of the average annual unrestricted General Revenue for the previous three years. Based on the constitutional provision, LBB estimates indicate that the average unrestricted General Revenue for the three years immediately preceding Fiscal Year (FY) 2001 was \$24,273,345,000. The maximum annual amount of five percent of the average unrestricted General Revenue for the three years immediately preceding FY 2001 is estimated at \$1,213,667,000.

# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

General Revenue bond debt service costs applicable to the bond debt limit, including the amount contained in the recommended General Appropriations Act for the 2002-2003 biennium; debt service amounts for the Higher Education Coordinating Board bonds receiving constitutional appropriation; General Services Commission leases with option-to-purchase payments; and Master Lease Purchase Program payments total \$376,397,000 for FY 2003. Debt Service on outstanding debt as a percentage of unrestricted General Revenue is estimated at 1.6 percent for FY 2002. The debt service costs included in the recommendations total \$464.3 million in FY 2002 and \$554.3 million in FY 2003, a biennial increase of \$57.3 million in General Revenue Funds for debt service from the 2000–2001 level.

**Economic Stabilization Fund** (The Rainy Day Fund) - Ended FY 2000 with a balance of \$84.7 million. As a result of natural gas tax collections in FY 2000, the fund received a transfer of \$103.1 million from the General Revenue Fund in November 2000. The transfer plus interest earnings brought the Economic Stabilization Fund balance to \$189.6 million as of January 2001.

\$327 million in FY 2002 and \$290 million in FY 2003 would be transferred to the Rainy Day Fund under the comptroller's 2002-2003 Biennial Revenue Estimate. The comptroller estimated the Rainy Day Fund's balance, including interest, will reach at least \$881 million by the end of the next biennium, and possibly increase to more than \$1.1 billion.

### *Recommended Appropriations*

The recommended appropriations include continuing the state contribution rate to the Employees Retirement System of Texas (ERS), the Teacher Retirement System of Texas (TRS) and Optional Retirement Program at the current level of six percent, resulting in increases in All Funds of \$59.2 million, \$263.0 million, and \$21.1 million, respectively, to account for payroll growth.

Recommendations relating to group insurance premium contribution rates for state and higher education employees provide for increases above the FY 2001 rates of 26 percent in FY 2002 and an additional 12.4 percent in fiscal year 2003 to cover anticipated increases in claims and medical inflation. The amount for FY 2002 includes a 12 percent increase to catch up with current costs. ERS group insurance contributions will increase by \$511.6 million, primarily because of the increase in premiums. General Revenue funding for Higher Education Group Insurance is increased by \$290 million, or 46.7 percent above the 2000-2001 levels, because of increases in premium rates and the need to cover current employee enrollment. General Revenue funding for public school retirees' health insurance is increased by \$403.6 million, or 164.5 percent. Included in the recommendations is \$452.2 million (a \$375.9 million increase over 2000–01) to cover the projected deficit in the trust fund for TRS-Care.

The General Appropriations Act reflects an increase in All Funds of \$117.1 million for Social Security caused by payroll growth. Of this increase, \$42.3 million is attributable to institutions of higher education. The recommendations for Benefit Replacement Pay assume annual decreases resulting from employee turnover, and reflect a decrease in All Funds of \$28.4 million, or 15.3 percent, for Benefit Replacement Pay for state employees.

# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

S.B. 1 makes a \$1.1 billion biennial appropriation of Comprehensive Tobacco Settlement Agreement and Release (Tobacco Settlement) receipts. The earnings of permanent funds and endowments are made in Article XII and include funding for:

- The Children's Health Insurance Program (CHIP) — \$419.1 million;
- Department of Human Services — \$143.8 million;
- Medicaid Simplification — \$122.6 million;
- Medicaid Provider Rates — \$120 million;
- Other healthcare services — \$124 million; and
- Distributions from funds and endowments — \$134.1 million.

The increase in appropriations from 2000–2001 is primarily due to the implementation of CHIP and the funding of additional health and human services programs with Tobacco Settlement receipts. Tobacco Settlement receipts anticipated revenue for the 2002–2003 biennium is estimated to be \$445 million in FY 2002 and \$484.5 million in FY 2003.

From receipts collected pursuant to the Tobacco Settlement and other funding sources, and pursuant to H.B. 1676 and H.B. 1945, 76<sup>th</sup> Legislature, the following appropriations for the 2002–2003 biennium were recommended in S.B. 1 with a grand total of \$530,607,115 for FY 2002 and \$528,587,270 for FY 2003:

- Appropriations made from Tobacco Settlement receipts, Total — \$463,557,115 for FY 2002 and \$461,537,270 for FY 2003;
- Appropriations made from permanent funds Created by H.B. 1676 and H.B. 1945, 76<sup>th</sup> Legislature, Total — \$40,275,000 for FY 2002 and \$40,275,000 for FY 2003;
- Appropriations to institutions of higher education from endowment funds established for the those institutions of higher education, Total — \$26,775,000 for FY 2002 and \$26,775,000 for FY 2003; and
- Supplemental appropriations made in riders, Total — \$8,000,000 in FY 2002 and \$5,000,000 in FY 2003.

The estimated appropriation and unexpended balance of the Tobacco Settlement receipts appropriated to higher education from endowment funds are out of the amounts available for distribution or investment returns of the funds. Amounts available for distribution or investment returns in excess of the amounts estimated above are also appropriated to the specified agency or institution. All balances of appropriated funds, except for any General Revenue of agencies and institutions named in this article at the close of the fiscal year ending August 31, 2001, and the income to said funds during the fiscal years beginning September 1, 2001, are appropriated. Any unexpended appropriations made above as of August 31, 2002, are appropriated to the same agencies and institutions for the same purposes for FY 2003. The estimated amounts appropriated out of the Permanent Fund for Tobacco Education and Enforcement, the Permanent Fund for Children and Public Health, the Permanent Fund for Emergency Medical Services and Trauma Care, the Permanent Fund for Rural Health Facility Capital Improvement, and the Community Hospital Capital Improvement Fund (Small Urban Hospitals) are out of the available earnings of the funds. Available



# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

earnings in excess of the amounts estimated above are appropriated to the specified recipient of the available earnings of the fund in applicable law. Any unexpended appropriations made above as of August 31, 2002, are appropriated to the same agencies and institutions for the same purposes for fiscal year 2003.

### *Factors Affecting the State Budget*

Public and higher education enrollment, prison incarceration, and certain health and human service programs are among the most significant factors influencing the cost of state government. During the last ten years, average daily attendance in public schools increased by 20.5 percent; higher education enrollment in general academic institutions is up by 0.8 percent; community college enrollment has grown by 17.7 percent; average monthly caseload for Temporary Assistance for Needy Families (TANF) grants (includes TANF-Basic and TANF-UP) has decreased by 43.4 percent; average monthly caseload for nursing home clients has increased by 10.6 percent; average monthly caseload for Medicaid clients has increased by 50.3 percent; inmate population in the Department of Criminal Justice has grown by 214.9 percent; new adjudications to the juvenile probation system have grown by 154.7 percent; and CHIP—Phase II served 37,175 children in FY 2000 and is projected to serve more than 425,000 children by September 2001.

### *Performance Measures and Targets*

There are four types of performance measures used in the appropriations process: “outcome” (results/impact), “output” (volume), “efficiency”, and “explanatory.” Each serves a different purpose.

Performance measures contained in the General Appropriations Act are designated as key measures, and for key outcome, output, and efficiency performance measures, a target is established for each year of the biennium for which funds are appropriated. The recommended appropriations for the 2002–2003 biennium contain 2,167 key performance measures, which represent a 0.7 percent increase in the total number of key performance measures from the 2000-2001 biennial level and a 21.7 percent reduction from the 1998–1999 biennial level.

| Types of Measures        | Number of Measures        |                           |                           | Conference Recommended |
|--------------------------|---------------------------|---------------------------|---------------------------|------------------------|
|                          | Appropriated<br>1996-1997 | Appropriated<br>1998-1999 | Appropriated<br>2000-2001 |                        |
| Outcome (Results/Impact) | 1,118                     | 1,012                     | 902                       | 894                    |
| Output (Volume)          | 1,445                     | 1,123                     | 828                       | 841                    |
| Efficiency               | 512                       | 491                       | 300                       | 304                    |
| Explanatory              | 175                       | 143                       | 121                       | 128                    |
| Total                    | 3,250                     | 2,769                     | 2,151                     | 2,167                  |

Source: Legislative Budget Board

*General Government*

S.B. 1 appropriated \$2,626 million of All Funds for the 2002-2003 biennium for agencies in the General Government function. This is an increase of \$156.3 million, or 6.3 percent, from the previous biennium. General Revenue and General Revenue-Dedicated Funds appropriations total \$1,895.5 million, an increase of \$163.7 million, or 9.5 percent, when compared to the 2000–2001 biennium. Significant budget recommendations for agencies in the General Government function include the following:

Provides the Office of the Attorney General an increase of \$65.8 million General Revenue–Dedicated Funds from the Compensation to Victims of Crime Fund.

Provides the Office of the Governor an increase of \$8.4 million in General Revenue unexpended balances for emergency/deficiency and disaster grant and a \$2.7 million increase due to residential substance abuse programs.

Provides an increase of \$18.2 million in General Revenue Funds for the comptroller due to increased spending demands for unclaimed property, mixed beverage sales, and tort claims and federal court judgment program areas.

Provides the Comptroller of Public Accounts-Fiscal Programs an increase of \$27.9 million in General Revenue Funds for advanced tax compliance and debt collections and an increase of \$13 million in General Revenue Funds for the Unclaimed Property Program.

Provides the Commission on State Communications an increase of \$15.5 million due primarily to an \$8 million additional appropriation for wireless 9-1-1 service improvements contingent on the collection of additional fees from wireless service providers and a \$4 million increase to fund recurring equipment maintenance and addressing costs for the statewide 9-1-1 system.

Provides the General Services Commission an increase of \$1.3 million for building design and construction management (a portion of this increase was appropriated through H.B. 1333, 77<sup>th</sup> Legislature, relating to making emergency appropriations) and the authority to carry forward unexpended balances.

Provides the Trusteed Programs within the Office of the Governor an increase of \$2.5 million in General Revenue Funds, including \$1.5 million for criminal justice grants to drug courts \$1 million for grants to eligible counties that have reached or exceeded the constitutional limit on property tax rates, and an increase of \$2.9 million in funding for programs to combat drug-related crimes and violence.

Provides the Texas Historical Commission the continuation of \$50 million in General Revenue Funds for the Texas Historic Courthouse Preservation Program, \$2.5 million in General Revenue Funds for the Preservation Trust Fund, and continuation of \$1.1 million in General Revenue Funds Juneteenth funding.

Provides an increase of \$0.6 million in General Revenue Funds to the Department of Information Resources for implementation of statewide Internet security study recommendations, and an increase of \$0.5 million in Other Funds for continued operation and expansion of the TexasOnline Project.

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## 77<sup>th</sup> Texas Legislature

Provides the Library and Archives Commission an increase of \$12.6 million in Other Funds due to an inter-agency grant from the Telecommunications Infrastructure Board, which will be used to provide statewide licensing of databases and access to library collections for TexShare libraries, and an increase of \$5.8 million from the Telecommunications Infrastructure Fund for the Loan Star Libraries Program.

Provides an increase of \$0.4 million in General Revenue Funds for the Texas Veterans Commission to market the agency's services to veterans, provide an additional Veterans Assistance Counselor, and provide additional travel for outreach.

### *Health and Human Services*

S.B. 1 appropriated \$34,989.6 million from All Funds for the 2002-2003 biennium for health and human services agencies, which is an increase of \$5,113.4 million, or 17.1 percent, from the previous biennium. General Revenue and General Revenue-Dedicated Funds appropriations total \$13,770.8 million, an increase of \$1,744.2 million, or 14.5 percent, when compared to the 2000-2001 biennium. The majority of funding for health and human services is associated with the Medicaid program. A total of \$25 billion is recommended in All Funds, with \$10 billion in General Revenue and \$15 billion in federal funds in Medicaid appropriations contained in Article II and Article XII, excluding employee benefits. Tobacco Settlement receipts total \$968.1 million in Article XII, of which \$465.8 million is recommended for Medicaid-related programs for health and human services programs and activities. Funding for the acute care component of the Medicaid program was transferred from the Department of Health to the Health and Human Services Commission. Significant increases in the Medicaid program include the following:

- A \$2.1 billion General Revenue Funds increase for the Medicaid program (\$4.3 billion in All Funds).
- A \$1,281.9 million General Revenue Funds increase (\$3,225.1 million in All Funds) to support caseload growth and increases related to cost and utilization for acute care, community care, and nursing facility and hospice care services.
- A \$206.1 million increase related to a less favorable Federal Medical Assistance Percentage matching rate.
- A \$387 million General Revenue Funds increase (\$970 million in All Funds) for various acute care, community care, and nursing facility rate increases.
- A \$122.6 million Tobacco Settlement receipts increase for Medicaid Simplification.
- A \$263 million Tobacco Settlement receipts increase in Article XII relating to CHIP and an \$18 million General Revenue Funds increase in copay revenues and a \$628.7 million Federal Funds increase at the Health and Human Services Commission for the CHIP.

Recommendations for federal TANF funding total \$1,159.6 million for the 2002-2003 biennium, compared with \$1,179.2 for the 2000-2001 biennium, including TANF funding outside of Article II health and human services agencies. An estimated \$224.5 million in TANF funds will be carried forward into the 2002-2003 biennium.

Two reductions are contained in Article II, Special Provisions: a decrease of \$10 million in General Revenue Funds relating to savings from business process improvements to be realized by the Health and

# APPROPRIATIONS ACT

## 77<sup>th</sup> Texas Legislature

Human Services Commission and a decrease of \$479.9 million in All Funds, of which \$205 million is General Revenue Funds, for various Medicaid cost containment and savings efforts to be realized by the Health and Human Services Commission.

Overall, full-time-equivalent (FTE) positions will increase by 194 in FY 2002 and increase by 262 in FY 2003 from fiscal year 2001 levels. The total number of FTE positions recommended for health and human services agencies is 50,855 in FY 2002 and 50,923 in FY 2003. The increases are associated with additional positions at the Department of Protective and Regulatory Services and additional locally/federally funded positions at the Department of Human Services.

Federal Funds increases include: \$49.2 million for the TANF Program, \$27.5 million for Nutrition Assistance, \$2.6 for Refugee Assistance, \$0.3 million for Family Violence Prevention, and \$5.2 million in Compensation to Victims of Crime funding to expand Family Violence Services.

### *Specific Appropriations to Agencies*

Provides the Department on Aging an increase of \$12.3 million in Federal Funds for the National Caregiver Support Program.

Provides a \$76.1 million increase for Public Health programs and includes a \$54.2 million Federal Funds increase for the Women, Infants and Children (WIC) program, a \$6.2 million General Revenue Funds increase in rebates for the Kidney Health Care and Children with Special Health Care Needs program, a \$0.5 million in General Revenue Funds increase to continue the Medically Needy Pilot Program, and a \$8.8 million decrease in other federal grants, including the Abstinence Education grant and the Preventive Health and Health Services Block Grant.

Provides the Health and Human Services Commission an overall increase of \$15,488.5 million in All Funds, of which \$5,805.8 million is General Revenue Funds and \$9,654.9 million is Federal Funds. Most of the increase is associated with the transfer of Medicaid acute care strategies from the Department of Health.

Authorizes an increase of \$20 million from the Telecommunications Infrastructure Fund for technology grants to facilitate communication for persons with disabilities and an increase of \$1.7 million for telecommunications infrastructure relating to the Texas Information and Referral Network or the 2-1-1 telephone line development project.

Provides the Department of Human Services an overall increase of \$1,284.0 million in All Funds. Recommendations include \$125.8 million for the Community Care Services strategy; \$175.2 million for caseload growth of approximately five percent per year in Medicaid nonwaiver community care, annualization of Medicaid waiver caseloads, and 2001 costs; \$44.3 million for increased client acuity; \$125.9 million to reduce Long-term Care interest lists for Community-based Alternatives, Community Living Assistance and Support Services (CLASS), Deaf-Blind, Medically Dependent Children's Program, and In-home and Family Support; \$114.1 million for Community Care attendants salaries; and \$5 million in General Revenue Funds for in-home and family support to assist elderly and persons with disabilities to maintain their independence.

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Funding for the Nursing Facility and Hospice Payments strategy provides \$123.6 million in All Funds to fund caseload growth of less than one percent in the Nursing Facility and Hospice Programs.

A \$19.1 million increase in All Funds for TANF grants to maintain the maximum monthly grant for families at 17 percent of the federal poverty level, maintain a program providing once-a-year grants to TANF-eligible children, and maintain the earned income disregard at levels established by the 76<sup>th</sup> Legislature.

A \$0.6 million increase in All Funds for the Community Alzheimer's Resources and Education (CARE) Program.

Provides the Department of Mental Health and Mental Retardation an \$86.3 million, or 2.4 percent, All Funds increase. Specific program recommendations include:

- A \$19.4 million All Funds increase for Campus and Community-based Mental Health Services for Adult Mental Health Community Services, such as Assertive Community Treatment, Supported Employment, and Supported Housing, and to annualize levels of New Generation Medications.
- A \$5.9 million All Funds increase, including a \$4.7 million General Revenue Funds increase, for Children's Mental Health Services, to maintain FY 2001 service levels and an \$0.8 million General Revenue Funds increase for Mental Health Community Hospitals for outpatient medication services.
- A \$61.7 million All Funds increase for Home-based and Community-based Services (HCS), to annualize caseload growth. Included in Article XII, Tobacco Settlement Receipts, is \$29.8 million General Revenue Funds for a rate increase for HCS providers and 130 placements for persons moving from state schools, 276 placements for persons moving from Intermediate Care Facilities-Mental Retardation, and 259 placements for persons on the community waiting list.
- An \$11 million General Revenue Funds increase for Mental Retardation Community Services to maintain FY 2001 service levels.
- An \$11.1 million All Funds increase to align methods of finance. Included in this increase is \$3.5 million General Revenue Funds for Mexia State School decertified (from Medicaid) beds and \$4.6 million General Revenue Funds and \$7 million Federal Funds for increased costs of utilities and prescription drugs.

Provides the Department of Protective and Regulatory Services an increase of \$79.8 million in General Revenue Funds and General Revenue–Dedicated Funds. Specific program recommendations include the following:

Provides a \$20.7 million General Revenue Funds increase for Child Protective Services for adoption subsidy caseload and rate increases and a \$19.8 million General Revenue Funds and General Revenue–Dedicated Funds increase for foster care caseload and rate increases.

Provides the Texas Rehabilitation Commission a \$1.1 million General Revenue Funds increase and a \$4.1 million Federal Funds increase to allow for projected growth in federal Vocational Rehabilitation Funds in FY 2002 and FY 2003.

***Health and Human Services Appropriation items vetoed by Governor Perry***

- Health and Human Services Commission: Reduced by \$269,840,001 in All Funds, including \$107,747,112 in General Revenue Match for Medicaid. Authorizes the Health and Human Services Commission to defer its August 2003 premium payment to the National Heritage Insurance Company until September 2003 and provides that the August 2003 payment will be paid from fiscal year 2004 appropriations.
- Department of Human Services - for Payment of August 2003 Nursing Home Payment: Reduced by \$134,760,919 in All Funds, including \$53,634,846 in General Revenue Match for Medicaid. Authorizes the Texas Department of Human Services to defer its August 2003 nursing home payment until September 2003, and provided that the August 2003 payment will be paid from fiscal year 2004 appropriations.

*These veto actions delete appropriations contingent on the certification of additional revenue by the comptroller. Deleting the above appropriations may allow the Contingency Reserve authorized by Article IX, Section 10.06 to be funded instead. The reserve could be used to pay for the 25<sup>th</sup> month of Medicaid or be used for other unforeseen circumstances.*

***Education***

S.B. 1 appropriated \$48,680.9 million of All Funds for the 2002-2003 biennium for education agencies, which is an increase of \$3,441.6 million, or 7.6 percent, from the previous biennium. General Revenue and General Revenue-Dedicated Funds appropriations total \$38,222.5 million, an increase of \$1,739.1 million, or 4.8 percent, when compared to the 2000–2001 biennium.

The significant recommendations for public schools and retired teachers:

Provides sufficient General Revenue funding in the Foundation School Program to fund current legal obligations incurred in the Instructional Facilities Allotment, increase formula funding to school districts to address equity within the system, and provide funding for a school district health insurance program.

Provides an increase of \$102 million General Revenue Funds for public school new textbook adoptions;.

Provides an increase of \$900 million in Federal Funds for the Texas Education Agency for the School Breakfast and School Lunch Programs, Special Education Grants, and programs for needy children.

Recommends a \$376 million General Revenue Funds increase over fiscal years 2000-2001 to cover a projected deficit in the Teacher Retirement System-Care retiree health insurance fund and a \$232.5 million General Revenue Funds increase for contributions to the Teacher Retirement System to help fund payroll growth in public and higher education.

The significant recommendations for public higher education:

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- A \$280.2 million General Revenue Funds increase for the Toward EXcellence, Access, and Success (TEXAS) Grant Program and a \$10 million increase in General Revenue Funds contingent upon enactment of S. B. 1596, 77th Legislation, 2001, for the TEXAS Grant II Program.
- A \$160.1 million General Revenue Funds increase to fund enrollment growth at general academic and two-year institutions.
- A \$127.4 million General Revenue Funds increase to higher education formula funding.
- An \$111.7 million General Revenue Funds increase to fund new and enhanced special items at general academic and health-related institutions.
- A \$40 million General Revenue Funds increase for the Tuition Equalization Grants Program.
- A \$11.1 million increase in General Revenue Funds to create a trusteed fund for enrollment growth (including nursing growth) for general academic institutions at the Texas Higher Education Coordinating Board (THECB) (moved from institutions' appropriation bill patterns).
- A \$73.8 million increase to the Available University Fund (AUF) attributable to Proposition 17, approved in the November 1999 statewide election, allowing distributions to the AUF from capital gains as well as income return and allowing for payment of Permanent University Fund (PUF) expenses from the PUF.

### Other significant recommendations:

Changes the Growth Supplement methodology from using enrollment forecasts to using actual growth Fall-to-Fall in weighted semester credit hours. Growth funds are trusteed to the THECB.

Provides increases in General Revenue Funds for higher education group insurance to meet current employment levels and increases in premiums.

Provides the Optional Retirement Program a \$18.9 million General Revenue Funds increase and a \$2.2 million General Revenue–Dedicated Funds increase to account for payroll growth among participating higher education employees.

Recommends for the Higher Education Group Insurance program an increase of \$290 million in General Revenue Funds due to growth in enrollment and current rate premium increases.

### Provides General Academic Institutions:

- Continuation of the \$68.1 million increase in General Revenue Funds for faculty and nonfaculty salary increases added by the 76<sup>th</sup> Legislature, and distribution of amounts among the institutions through the funding formulas.
- A \$71.7 million increase in General Revenue Funds to fund enrollment growth of 3.1 percent.
- An increase of \$50 million in General Revenue Funds to comply with the Texas commitment to the United States Office of Civil Rights' Priority Plan for Texas Southern University and Prairie View A&M University.

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- Distribution of \$23.4 million in General Revenue Funds for the hold harmless formula, to address potential shortfalls during the 2002–2003 biennium.

Provides Health-Related Institutions:

- Continuation of the \$31.6 million increase in General Revenue Funds for fiscal year 2000–2001 nonfaculty salary increases and fiscal year 2000 faculty salary increases added by the 76<sup>th</sup> Legislature.
- An increase in General Revenue Funds of \$64.7 million for new and enhanced special items, including \$34.2 million to support research special items, \$16.5 million for special items related to instruction, and \$14 million for health care-related special items.
- An increase of \$5.6 million in General Revenue Funds to provide formula hold harmless to ensure that all institutions receive at least the same amount of formula funding as in 2000–2001.

***Education Appropriation items vetoed by Governor Perry***

- Special provisions relating only to state agencies of higher education: deletes the utility funding increase for public higher education institutions. *The veto action deletes a rider contingent upon the certification of additional revenue by the comptroller.*
- Contingency Appropriation: S.B. 1783 - Telecommunications Infrastructure Fund Board. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

***Judiciary***

S.B. 1 appropriated \$430.7 million from All Funds for the 2002-2003 biennium for the judiciary agencies, which is an increase of \$47.1 million, or 12.3 percent, from the previous biennium. General Revenue and General Revenue-Dedicated Funds appropriations total \$353.1 million, an increase of \$35.3 million, or 11.1 percent, when compared to the 2000–2001 biennium. Significant budget recommendations for agencies and courts in the judiciary function include the following:

- An increase of \$4.3 million for providing unexpended balance authority between biennia for the appellate courts and the Basic Civil Legal Services Program.
- An increase of \$2.3 million for the Court of Criminal Appeals to annualize costs of expanded training programs.
- An increase of \$1.1 million for the Prison Prosecution Unit for additional staff and expanded operations, including costs for a projected increase in death penalty cases.
- A contingency appropriation of \$19.8 million and five FTEs for the establishment of the Task Force on Indigent Defense within the Texas Judicial Council. The Task Force will have authority to make grants to counties for indigent defense services.
- A General Revenue Funds increase of \$0.9 million to annualize costs of the Foster Care Courts Program, funded in the second year of the 2000–2001 biennium; and a General Revenue–Dedicated Funds (Compensation to Victims of Crime Funds) increase of \$2.2 million and an



additional 15 FTEs for the creation of eight new foster care courts funded through the Office of Court Administration.

- A General Revenue Funds increase of \$0.4 million to the State Commission on Judicial Conduct for an additional 2 FTEs, a Public Awareness program, and Judicial Diversion (Amicus Curiae) program.
- An Other Funds increase of \$1.7 million to the Court of Criminal Appeals for the costs of expanded training and technical assistance to criminal defense attorneys who regularly represent indigent defendants in criminal matters.
- Continued funding of the Judicial Committee on Information Technology (JCIT), including a \$5.7 million increase in General Revenue Funds.
- A General Revenue Funds reduction of \$2 million and 22 FTEs, due to the elimination of the Metropolitan Court Backlog Reduction Program.

***Public Safety and Criminal Justice***

S.B. 1 appropriated \$8,289.5 million of All Funds for the 2002-2003 biennium for Public Safety and Criminal Justice agencies, which is an increase of \$205.1 million, or 2.5 percent, from the previous biennium. General Revenue and General Revenue-Dedicated Funds appropriations total \$7,148.9 million, an increase of \$308.1 million, or 4.5 percent, when compared to the 2000–2001 biennium. Significant budget recommendations for Public Safety and Criminal Justice agencies include the following:

- A \$185.9 million General Revenue Funds increase to provide salary increases and extend the career ladders for adult and juvenile correctional officers, parole officers, juvenile probation officers, and other correctional personnel.

Provides the Alcoholic Beverage Commission a \$0.7 million increase in General Revenue Funds for additional personnel for the agency’s Port-of-Entry Program contingent on certification that the additional personnel will result in an increase in tax collections on cigarettes and alcoholic beverages in an amount sufficient to support the costs of program expansion.

Provides the Department of Criminal Justice:

- An increase of \$146 million in General Revenue Funds to provide salary increases and extend the career ladder for correctional officers, parole officers, and other correctional personnel.
- An increase of \$31 million to enhance mental health services in the criminal justice system.
- An increase of \$13.3 million for projected increases in felony community supervision (probation) and parole populations.
- An increase of \$12.6 million for multi-year contract rate increases for contract prisons and privately operated state jails.
- The replacement of \$9.1 million in Federal Funds (for incarcerated aliens) with General Revenue Funds to compensate for an anticipated reduction in the federal award.

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- A contingency appropriation of \$80 million in General Obligation Bond proceeds for capital expenditures related to the repair and rehabilitation of facilities and the expansion of the Western Regional Medical Facility.

Provides the Juvenile Probation Commission:

- An increase of \$1.4 million for the Juvenile Justice Alternative Education Program and an increase of \$1.9 million for annualization of three post-adjudication facilities that began operation during 2000–2001.
- \$20.5 million for salary increases, including fringe benefits, of \$3,000 per year for juvenile probation officers and \$1,500 per year for juvenile detention and juvenile correctional officers.
- A \$4 million increase for specialized caseloads that address mentally impaired juveniles.

Provides the Department of Public Safety:

- A \$21.4 million increase in General Revenue Funds and a \$19.2 million increase in Fugitive Apprehension Account Funds to replace funds from a General Revenue–Dedicated source for the purpose of maintaining the increases in the Schedule C Classification Salary Schedule approved by the 76<sup>th</sup> Legislature.
- A \$6.4 million increase in General Revenue Funds to be covered by fee revenue to expand the vehicle emissions program.
- A \$18.5 million increase in General Obligation Bond proceeds to provide in-car cameras to local police agencies to prevent racial profiling.

Provides the Youth Commission:

- An increase of \$8.4 million to provide sufficient bed capacity and direct supervision to address projected growth in youth served by the agency for the 2002–2003 biennium.
- An increase of \$19.4 million to provide salary increases and extend the career ladder for juvenile correctional officers.
- A \$2.8 million increase related to educational services for projected growth in youth served by the agency.
- An increase of \$3.2 million for increased security staffing, gang intervention specialists, and educational program improvements.
- A \$2.2 million increase in General Revenue Funds for medical cost increases in managed health care contracts.

### *Natural Resources*

S.B. 1 appropriated \$1,951 million of All Funds for the 2002-2003 biennium for Natural Resources agencies, which is an increase of \$39.2 million, or 2 percent, from the previous biennium. General

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Revenue and General Revenue-Dedicated Funds appropriations total \$1,573.8 million, an increase of \$33.6 million, or 2.2 percent, when compared to the 2000–2001 biennium. Significant budget recommendations for agencies in the natural resources function include the following:

Provides the Texas Natural Resource Conservation Commission:

- \$179.7 million in General Revenue–Dedicated Funds for petroleum storage tank remediation and program administration contingent upon passage of H.B. 2912, 77<sup>th</sup> Legislature.
- An increase of \$9.5 million in General Revenue–Dedicated Funds to address problems relating to waste tires.
- An increase of \$4 million to refine air quality models used to demonstrate attainment for federal air quality standards.
- An increase of \$1.5 million in funding for total maximum daily load assessments.

Provides the Parks and Wildlife Department:

- An increase of \$12.3 million, including an \$8.5 million increase to restore or establish services at existing state parks and the World Birding Center.
- Continued progress on infrastructure improvements with an increase of \$3.9 million in General Revenue Funds for debt service payments.
- A \$0.7 million decrease in Other Funds due to progress on the parks infrastructure repairs program during the 2000-2001 biennium and the addition of \$36.7 million in bond funds for construction projects in FY 2003, contingent on enactment H.B. 3064 and voter approval of a constitutional amendment (HJR 97) in November 2001.

Provides the General Land Office an increase of \$0.5 million in Other Funds due to creation of the new Texas Veterans Homes Administration Fund to administer loans for veterans' homes and an increase of \$0.2 million in Other Funds due to the increased participation of eligible Texas veterans in the Veterans Land Program Administration.

Provides the Department of Agriculture an increase of \$5 million for administration of the Weather Modification Grant Program and \$50 million for continuation of boll weevil eradication.

Provides the Trusteed Program within the General Land Office continued appropriations totaling \$12.6 million in General Revenue Funds and \$2.4 million out of Coastal Protection Account No. 27 for the Coastal Erosion Control Program established by H.B. 2560, 76<sup>th</sup> Legislature.

Provides the Railroad Commission an increase of \$3.7 million in General Revenue Funds to fund the Oil and Gas Technology Migration Project.

Provides the Soil and Water Conservation Board a continuation of \$9.2 million for the Brush Control Program and \$15.0 million in Agricultural Water Bond proceeds for the Brush Control Program, contingent

upon passage of legislation authorizing the Water Development Board to make grants from the proceeds of Texas Agricultural Water Conservation Bonds.

Provides the Water Development Board an increase of \$1.9 million for wastewater improvement grants for cities in the North Bosque River watershed.

Provides Debt Service Non-Self-Supporting Water Bonds an increase of \$18.1 million in General Revenue Funds for debt service, including a \$7.7 million increase for the Economically Distressed Areas Program (EDAP).

***Natural Resources Appropriation item vetoed by Governor Perry***

- TNRCC - Contingency Appropriation: S.B. 1541. Contingent upon passage of S.B. 1541, or similar legislation relating to the permanent management of low-level radioactive waste, by the 77<sup>th</sup> Legislature, Regular Session, TNRCC is hereby appropriated any fee revenues generated to the Low-level Radioactive Waste Account No. 88 as a result of the bill's enactment. This appropriation shall be used to implement the provisions of the bill. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

***Business and Economic Development***

S.B. 1 recommends appropriating \$13,890.8 million of All Funds for the 2002-2003 biennium for Business and Economic Development agencies, which is an increase of \$1,159.6 million, or 9.1 percent, from the previous biennium. General Revenue and General Revenue-Dedicated Funds appropriations total \$1,573.8 million, an increase of \$793.5 million, or 1 percent, when compared to the 2000–2001 biennium. Significant budget recommendations for agencies in business and economic development functions include the following:

Provides the Texas Aerospace Commission an increase of \$1.5 million for the pursuit of spaceport initiatives.

Provides the Texas Department of Economic Development a \$3.7 million increase in General Revenue–Dedicated Funds for economic development loan guarantees, maintenance of \$54 million in funding for the Smart Jobs Program (set to expire in December 2001), and a \$1 million Federal Funds increase for the Empowerment Zone Program.

Provides the Department of Housing and Community Affairs a \$17.9 million increase (System Benefit Funds) for the Weatherization Program.

Provides the Department of Transportation:

- An increase of \$6.5 million for auto theft prevention grants.
- A \$960.8 million Federal Funds increase for highway planning and construction, aviation, and public transportation.

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- A \$104.5 million increase in state highway funds.
- An offset of \$12.8 million in State Highway Fund support for a \$12.8 million decrease in oil overcharge funding that is no longer available to support the Public Transportation Program.

Provides an increase of \$159 million in federal Child Care and Development funds to the Texas Workforce Commission and an increase of \$36.3 million of TANF funds for the Choices Program.

A \$26.3 million recommendation for the Reimbursement to the Unemployment Compensation Benefit Account is attributable to a slight increase in payout requirements for the 2002–2003 biennium compared with the 2000–2001 biennium. The requirement that General Revenue and special fund agencies pay 50 percent of their unemployment insurance claims out of appropriated funds is continued.

### *Regulatory*

S.B. 1 appropriated \$771.7 million of All Funds for the 2002–2003 biennium for Regulatory agencies, which is an increase of \$243 million, or 45.9 percent, from the previous biennium. General Revenue and General Revenue-Dedicated Funds appropriations total \$753.6 million, an increase of \$238.5 million, or 46.3 percent, when compared to the 2000–2001 biennium. Significant budget recommendations for agencies in the regulatory function include the following:

Provides a \$208.4 million increase for the Public Utility Commission associated with electric deregulation and the System Benefit Fund as the result of the adoption of S.B. 7 by the 76<sup>th</sup> Legislature.

Provides the Workers Compensation Commission a \$1 million increase in General Revenue Funds for the Business Process Redesign project to automate processes, ensure network stability, and format required forms for electronic submittal.

Contingency riders authorizing a fee-generated General Revenue Funds increase of \$10.3 million and up to 81.5 full-time-equivalent (FTE) positions in the event additional resources are needed to adequately regulate the financial industry. The Department of Banking could receive up to \$8.7 million, the Savings and Loan Department up to \$1.3 million, and the Credit Union Department up to \$0.3 million.

Provides a \$4.3 million increase in General Revenue Funds related to salary increases for financial examiners affecting the Department of Banking, Office of Consumer Credit Commissioner, Savings and Loan Department, Credit Union Department, Department of Insurance, and Texas Workers' Compensation Commission.

S.B. 1 instructs agencies to explore the feasibility of relocating outside the Austin area for leases which expire during the biennium.

### *Article IX General Provisions Appropriation items vetoed by Governor Perry*

Contingent reduction items (Sec. 10.16). Contingent upon a finding of fact by the comptroller at the time of certification of this Act that sufficient revenue is not available from the General Revenue Fund and special

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funds to certify the General Appropriations Act, authorizes reductions that will be implemented among the listed entities and items by the comptroller based on the amounts, timing, or other information to be determined by LBB following the comptroller's finding of fact. *This veto action deletes a rider that is no longer necessary. The comptroller certified this Act without making any of the proposed reductions.*

Additional appropriations priorities contingent on availability of revenue (Sec. 10.17). Contingent on the comptroller certifying that sufficient revenue is available, appropriations are made for the purposes specified. *This veto action deletes the appropriate sections of this rider to conform with other veto actions contained in this proclamation.*

Contingency appropriation: S.B. 697. Contingent upon the enactment of S.B. 697, or similar legislation relating to the regulation of the practice of professional Engineering. *S.B. 697 was vetoed by the governor; consequently, this veto action eliminates funding proposed for the implementation of that bill.*

Contingency appropriation for S.B. 1622. Contingent upon the enactment of S.B. 1622, or similar legislation relating to the regulation of amusement rides. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

Contingency appropriation for S.B. 1586. Contingent upon the enactment of S.B. 1586, or similar legislation relating to fees for copies of birth and death certificates. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

Contingency appropriation for S.B. 516. Contingent upon the enactment of S.B. 516 or similar legislation, relating to the creation of a rural physician relief program and appropriations to the Texas Department of Health. *This bill was vetoed by the governor; consequently, this veto action eliminates funding proposed for the implementation of that bill.*

Contingency appropriation for H.B. 877. Contingent upon the enactment of H.B. 877, or similar legislation relating to providing benefits to survivors of public safety workers killed in the line of duty. *Since the General Revenue funds listed in this rider are estimated amounts, they will be sufficient to pay for the implementation of H.B. 877; consequently, this veto action deletes the appropriation of Crime Victims Compensation funds for this purpose.*

Contingency appropriation for H.B. 2430. Contingent upon the enactment of H.B. 2430, or similar legislation relating to a consumer assistance program for health benefit plan consumers applying to the Texas Department of Insurance and the Office of Public Insurance Counsel. *H.B. 2430 was vetoed by the governor; consequently, this veto action eliminates funding proposed for the implementation of that bill.*

Contingency appropriation for H.B. 3064 and H.J.R. 97. Contingent upon enactment of H.B. 3064, or similar legislation relating to the authorization of general obligation bonds, and the adoption and voter approval of H.J.R. 97, or similar legislation, in addition to amounts appropriated elsewhere in this Act, some state agencies listed in H.J.R. 97, are hereby appropriated proceeds of the general obligation bonds or notes in the amounts specified below for construction and repair projects and equipment acquisitions for the fiscal year beginning September 1, 2002. *The Texas Historical Commission received an appropriation*

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*from general revenue for the Courthouse Preservation program; this veto action deletes a duplicative appropriation of bond proceeds intended for the same purpose.*

Contingency appropriation for S.B. 391. Contingent upon the enactment of S.B. 391 or similar legislation relating to the automation of the compulsory motor vehicle inspection system. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

Contingency appropriation for S.B. 1198. Contingent upon the enactment of S.B. 1198, or similar legislation relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, and related equipment. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

Contingency appropriation for H.B. 7. Contingent upon enactment of H.B. 7 or similar legislation relating to creating the Office of Rural Community Affairs. *This veto action strikes one year of the appropriation of additional funds to the Office of Rural Community Affairs, limiting the new agency to \$1,000,000 for the 2002-03 biennium. Since each of the programs transferred to the new agency receive administrative funding, \$1,000,000 is deemed sufficient to cover transition expenses.*

Judicial Salaries. The following courts and agencies are hereby appropriated out of the General Revenue Fund amounts for the purpose of providing salary increases (reduced to \$6,832,658 in fiscal year 2003 and additional benefits of \$3,167,353 in fiscal year 2003). *This veto action deletes the first year of the proposed increase in judicial salaries, bringing the total increase more in line with the increase proposed for state employees.*

Contingency appropriation for H.B. 2. Contingent upon enactment of H.B. 2, or similar legislation relating to the regulation of political contributions, political expenditures, and political advertising, authorizes an appropriation to the Texas Ethics Commission contingent upon the Comptroller of Public Accounts certifying that funds will be available. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

Contingency appropriation for S.B. 940. Contingent upon enactment of S.B. 940, or similar legislation relating to the establishment of the Joint Admission Medical Program to assist certain economically disadvantaged students in preparing for and succeeding in medical school. *H.B. 2879 (passed) appropriated funding for the implementation of S.B. 940 (passed); consequently, this rider is no longer necessary. The veto deletes a rider that duplicates an appropriation and would provide funding for similar programs and activities.*

Contingency appropriation, New District Courts. Contingent on the enactment of H.B. 3171, or similar legislation. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*

Contingency Appropriation for H.B. 2513. Contingent upon the enactment of H.B. 2513, or similar legislation relating to financial assistance for persons seeking certification as public school teachers, including revisions to the Teach for Texas Grant program, authorizes appropriations to the State Board for Educator Certification and the Texas Higher Education Coordinating Board. *This veto action deletes a rider*

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*that duplicates the provisions of another rider in this Act. Article IX, Sec. 11.20, Texas Constitution, provides funding for similar programs and activities.*

Contingent appropriation for H.B. 3452. Contingent upon the enactment of H.B. 3452 and the transfer of the funds in the Smart Jobs Trust Fund 891 to a new general revenue-dedicated account, authorizes the Texas Workforce Commission to appropriate an amount from the new general revenue-dedicated account necessary to bring the balance of the Unemployment Compensation Fund from a deficit to the designated floor amount. *This veto action deletes a rider that was contingent upon proposed legislation that did not pass.*



**Texas, the United Mexican States, and Transportation - S.B. 224**

*by Senators Shapleigh and Lucio*  
*House Sponsor: Representative Noriega*

With the advent of NAFTA and the increase in truck traffic, Texas highways, bridges, and the entire infrastructure face major transportation issues. Input from the Texas Department of Transportation (TxDOT) and their counterparts from the United Mexican States on these issues is needed.

Requires TxDOT, to the extent possible, to meet at least semiannually with the relevant group from Mexico to discuss transportation and infrastructure issues.

**Economic Plans Between Texas and the United Mexican States - S.B. 326**

*by Senators Lucio and Shapleigh*  
*House Sponsor: Representative Solis*

Requires the Texas Department of Economic Development (TDED) to appoint at least one TDED representative and one staff person from certain agencies and offices to serve on the Texas-Mexico Commerce and International Relations Initiative Unit.

Authorizes the plan to include both short-term recommendations and initiatives for certain periods of time, regarding, for instance, increased and improved trade with Mexico and the states that border this state.

**Living Wage Rates on the Border - S.B. 350**

*by Senators Truan and Lucio*  
*House Sponsor: Representative Oliveira*

Along the Texas-Mexico border, the prevailing wage rates for many construction trade jobs are below the poverty level.

Authorizes a school district, located in a county within 50 miles of the border and where the general prevailing wage rate is less than the poverty rate, to include in its construction bid requests the requirement that contractors pay a living wage and include the wage rate in the bid request and contracts.

**Texas Statewide Health Coordinating Council and NAFTA - S.B. 424**

*by Senator Shapleigh*  
*House Sponsor: Representative Coleman*

The Texas Statewide Health Coordinating Council (council) prepares and reviews a proposed state health plan every six years, updating the plan biennially. However, the effects of growth in trade, transportation, the economy, and population resulting from the North American Free Trade Agreement (NAFTA) are not taken into consideration. The impact of these changes affects the entire state.

Requires the Texas Department of Health (TDH), with assistance from the Health and Human Services Commission, the Texas Natural Resource Conservation Commission, and the University of Texas School

of Public Health at Houston, to study the health of Texas residents and develop a strategic health plan for the state, addressing concerns relating to the potential effects of NAFTA on Texas, as well.

Specifies that TDH examine the potential impact of increased contact and commerce between Texas and Mexico and adds health problems associated with environmental contamination in communities containing or in close proximity to state and federal industrial clean-up sites.

### **A Study of Bi-National Health Benefit Plan Coverage - S.B. 496**

*by Senator Shapleigh*

*House Sponsor: Representative Wise*

Employment along the Texas-Mexico border includes many middle-class Mexican residents who may work on either side of the border, but are not covered by any health benefit plan. Mexican health insurance policies do not generally cover medicine and medical services rendered in the United States.

Authorizes the commissioner of the Texas Department of Insurance (TDI) and the Texas Board of Health to jointly appoint an advisory committee to assist in conducting a study to examine the legal and practical impediments to providing bi-national health plan coverage.

### **Environmental Projects in the United Mexican States - S.B. 749**

*by Senators Shapleigh and Lucio*

*House Sponsor: Representative Haggerty*

Attempts to address certain environmental issues along the borders of Texas and the United Mexican States. Currently, the Texas Natural Resource Conservation Commission (TNRCC) does not have the authority to participate in environmental projects in order to yield certain environmental benefits to Texas.

Authorizes TNRCC, in cooperation with governmental authorities in the United Mexican States, to take and finance certain actions that the agency deems necessary and legal to benefit the environment.

### **Border Health Institute - S.B. 837**

*by Senator Shapleigh*

*House Sponsor: Representative Chavez*

When the Border Health Institute was created by the 76th Legislature in 1999 to facilitate and assist the activities of international, national, regional, and local health-related institutions working in the Texas-Mexico border region, no provision was made requiring its governing board to develop and implement a strategic plan.

Requires the governing board of the Border Health Institute to develop a 10-year strategic plan, update the plan every two years, present the plan to the legislature and the Texas Higher Education Coordinating Board.

**Medicaid and CHIP in the Texas-Mexico Border Region - S.B. 1053**

*by Senator Shapleigh, et al.*

*House Sponsors: Representative Chavez, et al.*

Currently, the Medicaid reimbursement and Children's Health Insurance Program (CHIP) capitation rates for the 43 border counties are significantly lower than those of other counties in the state. Border counties are some of the poorest in the state, and these counties have been unable to build an adequate health infrastructure, resulting in barriers to access of health care services and a lower historical utilization of services. Since the historical utilization of services is a significant factor in Medicaid reimbursement and the original CHIP capitation rates, border healthcare providers have disproportionately lower reimbursement and capitation rates for professional services.

Requires the Health and Human Services Commission (HHSC) to increase the Medicaid reimbursement rate and to provide a financial incentive to physicians who provide services to certain Medicaid and CHIP enrollees in the Texas-Mexico border region.

Requires HHSC to appoint an advisory committee (committee) to develop a strategic plan for eliminating reimbursement disparities between the Texas-Mexico border region and other areas of the state.

Requires the committee to periodically prepare a report analyzing and comparing CHIP and Medicaid reimbursement rates and expenditures between the Texas-Mexico border region and other areas of the state.

Authorizes HHSC, with advice from the committee and other appropriate groups, to vary the amount of any rate increases for services.

Requires HHSC to develop mechanisms to pass any rate increase required directly to providers, including providers in Medicaid managed care service delivery areas with health maintenance organizations, prepaid health plans, or primary care case management models.

**General Obligation Bonds and Notes for Border Colonias - S.B. 1296**

*by Senator Lucio, et al.*

*House Sponsor: Representative Flores*

Unscrupulous development and substandard housing conditions along the Texas-Mexico border are prohibited by state law. However many neighborhoods, known as colonias, were built in this region prior to 1989, and as a result many Texas residents unable to afford improvements continue to live in neighborhoods without basic services.

Requires the Texas Public Finance Authority to take certain actions relating to the issuance of general obligation bonds and notes and the distribution of the proceeds from the sale of the bonds and notes to aid counties in roadway improvement projects to serve colonias.

Authorizes the office of the governor to determine the amount of bonds and the times at which bonds may be issued.

Requires the Texas Transportation Commission to establish a program to administer the use of the proceeds of the bonds and notes, to be administered by TxDOT in cooperation with the office of the governor, the secretary of state, and the Texas A&M University Center for Housing and Urban Development.

### **Border Emissions Reduction Program - S.B. 1561**

*by Senator Shapleigh*

*House Sponsor: Representative Haggerty*

Authorizes the Texas Natural Resource Conservation Commission (TNRCC) for certain emissions control or permit programs, as allowed under federal law, to:

- authorize the use of emissions reductions achieved outside the United States to satisfy applicable emissions reduction requirements, if TNRCC finds that the foreign emissions reductions are surplus to requirements imposed by applicable law and are appropriately quantifiable and enforceable; and
- allow the use of reductions in emissions of one air contaminant to satisfy applicable requirements for emission reductions of another air contaminant if TNRCC finds that the air contaminant emissions reductions to be substituted are of equal or greater significance to the overall air quality of the affected area than reductions in emissions of the other air contaminant.

Provides that TNRCC may authorize or allow such substitutions provisions only if:

- reductions in emissions of one air contaminant for which the area has been designated as nonattainment are substituted for reductions in emissions of another air contaminant for which the area has been designated as nonattainment; and
- TNRCC finds that the substitution will clearly result in greater health benefits for the community as a whole than would reductions in emissions at the original facility.

### **Colonias and General Obligation Bonds in Texas-Mexico Border Counties - S.J.R. 37**

*by Senator Lucio, et al.*

*House Sponsor: Representative Flores*

Authorizes the Texas Public Finance Authority to issue general obligation bonds or notes of the State of Texas in an aggregate amount not to exceed \$175 million and to enter into related credit agreements.

Authorizes proceeds from the sale of bonds and notes to be used only to provide financial assistance to counties for projects to provide access roads to connect border colonias with public roads.

Authorizes the Texas Transportation Commission to determine what constitutes a border colonia for purposes of selecting the counties and projects that may receive assistance.

### **Border Economic and Enterprise Development Center - H.B. 323**

*by Representatives Oliveira and Solis*

*Senate Sponsor: Senator Lucio*

Requires the board of regents of The University of Texas to establish a center for border economic and enterprise development at The University of Texas at Brownsville to develop and manage an economic database, perform economic development planning and research, provide technical assistance to industry and governmental agencies, and cooperate with other state agencies in this area.

### **Dental Health for Children on the Texas-Mexico Border - H.B. 2614**

*by Representative Jim Solis, et al.*

*Senate Sponsor: Senator Lucio*

The Senate Subcommittee on Border Affairs studied dental health as a part of a broader charge to find ways to improve the overall condition of health along the border. Only 26 percent of children eligible for Medicaid received dental screenings in 1996, and the estimate was lower for those in rural areas.

Establishes a dental care pilot program in the border region to serve indigent individuals

### **Border Services Provided Through Telemedicine - H.B. 2700**

*by Representative Chavez, et al.*

*Senate Sponsor: Senator Duncan*

Texas faces unique challenges within its health care system. Texas has experienced a large population increase in the last decade, including an increase in the Hispanic population. Rural border areas are often medically underserved and tend to have lower Medicaid reimbursement rates.

Requires the Health and Human Services Commission to establish telemedicine pilot programs in medically underserved areas to enhance health care services and provides for reimbursement and regulation of telemedicine services.

## Investment and Management of the Permanent School Fund - S.B. 512

*by Senators Duncan and Lindsay  
House Sponsors: Representatives Gallego and Keel*

Under current law, the State Board of Education (SBOE) is responsible for the investments of the permanent school fund (PSF). The members of SBOE are not required to possess any investment expertise, which makes it more difficult to manage the fund with prudence and to avoid conflicts of interest. S.B. 512 establishes a permanent school fund investment advisory committee to advise SBOE regarding the management of the PSF.

Amends the Education Code to create a permanent school fund investment advisory committee (committee) composed of nine members, three each appointed by the governor, the lieutenant governor, and the speaker of the house. Requires the committee to advise SBOE regarding the management and investment of the fund. Provides that a person appointed to the committee must possess substantial experience and expertise in investments.

Provides that if an interested person serves as a consultant and fails to disclose a potential conflict of interest, the arrangement is voidable and SBOE or the comptroller may declare the person ineligible to contract for business relating to the management or investment of the fund.

Provides that an interested person may be barred from contracting with SBOE for violating an ethics policy or conflict of interest restriction.

Requires the legislative audit committee to select a qualified independent firm to evaluate investment management practices and performance relating to the fund as often as the audit committee determines necessary.

## Annual Reports of State Agencies that Adjust Local Matching Funds - S.B. 519

*by Senator Shapleigh  
House Sponsor: Representative Gutierrez*

Current law provides that certain state programs require communities to contribute local matching funds to receive a grant or other form of financial assistance from a state agency. State agencies may waive or adjust any matching funds requirement for an economically disadvantaged county or economically disadvantaged census tract for such programs.

Requires each agency that adjusts a matching funds requirement to prepare and submit an annual report describing each adjustment made by the agency during the preceding state fiscal year and the effects of each adjustment on the agency's programs.

Requires a state agency to state the amount of each adjustment, the program under which the adjustment was made, and the name of each county or the location of each census tract that benefited from the adjustment.

Requires a state agency to produce an annual report.

### **LBB Report on the Performance of the State's Major Investment Funds - S.B. 734**

*by Senator Duncan*

*House Sponsor: Representative Woolley*

The various state entities investing state treasury funds typically issue an annual report, which provides information about the fund's performance.

Requires the Legislative Budget Board (LBB) to evaluate and publish an annual report on the risk-adjusted performance of each state investment fund that in the opinion of the board contains a relatively large amount of assets belonging to or administered by the state.

Requires the LBB in its report to compare the risk-adjusted performance of the funds and examine the risk-adjusted performance, within and among the funds, or similar asset classes and comparable portfolios within asset classes.

### **Self-Directed Semi-Independent Agency Pilot Project - S.B. 736**

*by Senator Duncan*

*House Sponsor: Representative Wilson*

During the 76th Legislature a self-directed semi-independent pilot project was established in which the State Board of Accountants, the State Board of Architects, and the State Board of Engineers were allowed greater budget flexibility, freedom from various state agency requirements, and general autonomy in the operation of their respective agencies. During the interim, these agencies were precluded from commencing the pilot because allowances had not been made for agency funds to be held outside the state treasury and they were, therefore, required to comply with all provisions of Article IX of the General Appropriations Act.

Amends the Self-Directed Semi-Independent Agency Project Act by directing all fees collected and any funds appropriated to a project agency to be deposited in the Texas Safekeeping Trust Company outside the treasury.

Requires that if a state agency no longer has status under this Act as a self-directed semi-independent project agency either because of the expiration of this Act or for any other reason, unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company are to be transferred to the state.

Requires examination fees collected prior to September 1, 2001, for examinations conducted after September 1, 2001, to be made available to the project agency to be spent as the agency directs.

Establishes the Self-Directed Semi-Independent Agency Pilot Project and designates the State Board of Public Accountancy, the Board of Professional Engineers, and the Board of Architectural Examiners as part of the pilot project.

Removes the project agencies from the legislative budgeting process and generally allows them to operate outside the provisions of the General Appropriations Act.

### **Investment Advisory Board for the Comptroller of Public Accounts - S.B. 1547**

*by Senators Duncan and Lucio  
House Sponsor: Representative McCall*

Currently, the comptroller of public accounts (comptroller) has an informal, internal investment advisory committee made up of senior executive staff.

Establishes an IAB to advise the comptroller regarding investments that the comptroller makes, not including the deposit of state funds in a state depository.

Requires the comptroller to appoint to the IAB members who possess the expertise appropriate for providing advice with regard to investments that the comptroller might make.

### **Emergency Appropriation - H.B. 1333**

*by Representative Junell  
Senate Sponsor: Senator Ellis*

Each legislative session, state agencies project the costs of fulfilling their functions and for providing important services. The greater portion of the state's general revenue budget is based on projected public school enrollment, caseloads in the Medicaid program, and the prison population. Actual caseloads in Medicaid and the prison population have exceeded projections made during the 76th legislative session and several other agencies need additional funding as well. H.B. 1333 transfers unencumbered amounts to provide emergency appropriations to the Texas Department of Health (TDH), Texas Department of Criminal Justice (TDCJ), the State Office of Risk Management (SORM), as well as other state agencies.

H.B. 1333 authorizes emergency appropriations and other actions for the following state programs:

- Appropriates \$489,944,000 to TDH in fiscal year (FY) 2001 to provide Medicaid services, through transfers of existing appropriation authority from other agencies and new appropriations from non-tax revenue. In addition to the funding provided by the bill, \$105,343,000 in existing appropriation authority would be transferred to TDH from other health and human services agencies by the Commissioner of Health and Human Services, bringing the total amount of new 2001 TDH funding to \$595,287,000.
- Appropriates \$109,300,000 to TDCJ for FY 2001, through transfers of existing appropriation authority from other agencies and new appropriations from General Revenue-Dedicated accounts. \$29,819,000 is to provide additional prison capacity and for contracts with counties for additional temporary capacity. \$35,700,000 is for expenditures relating to correctional officer, sergeant, and food service and laundry manager career ladder salary adjustments.
- Transfers \$6,300,000 in appropriation authority from the Office of the Governor to SORM and appropriates \$6,700,000 in interest earnings to the State Office of Risk Management for higher than anticipated workers' compensation claim payments in FY 2001.
- Transfers \$600,000 in 2001 appropriation authority from the General Services Commission to the Adjutant General's Department for utilities to pay utility costs.



- Appropriates \$5,442,000 to the Texas Natural Resource Conservation Commission (TNRCC) from the Low-Level Radioactive Waste account for FY 2001. (This appropriation would be offset by a transfer of an equal amount of general revenue fund appropriation from TNRCC to the Department of Criminal Justice for 2001.)
- Authorizes the Texas Department of Transportation to transfer \$50,000,000 in FY 2001 appropriations from construction to fund planning and design contracts.
- Transfers \$1,000,000 in 2001 appropriation authority from the Office of Court Administration to the Department of Protective and Regulatory Services for a higher than expected caseload.
- Authorizes the Texas Department of Economic Development to spend \$4,000,000 of its existing Smart Jobs Fund appropriation for awarding grants to communities in the state in connection with the creation of qualified defense-related jobs.

Appropriates a total of \$66,889,231 from the General Revenue Fund for FY 2002 as follows:

- \$2,781,375 to the Office of the Governor for the purposes for which the Criminal Justice Planning Account may be appropriated;
- \$13,000,000 to the Office of the Governor for the purpose of making emergency and deficiency grants and disaster grants;
- \$39,000,000 to Higher Education Coordinating Board for Texas Excellence, Access and Success grants;
- \$1,000,000 to the Texas Historical Commission;
- \$6,500,000 to the State Preservation Board;
- \$4,490,000 to the General Services Commission; and
- \$118,231 to the Texas Natural Resource Conservation Commission.

### **Allocation of Certain Settlement Money Awarded to the State - H.B. 2065**

*by Representative Eiland  
Senate Sponsor: Senator Ellis*

Currently, it is not clear in statute whether the attorney general has the authority to appropriate settlement money for a specific purpose other than general revenue.

Authorizes the attorney general to certify to the comptroller of public accounts (comptroller) and the Legislative Budget Board (LBB) that money awarded to the state to settle a claim is money to be credited to an account kept by the comptroller for a particular appropriation if it is not clear to which account the money should be credited under current law.

Requires the comptroller to act in accordance with the certification received within certain timeframes.

## Payment of Certain Miscellaneous Claims and Judgments - H.B. 2852

*by Representative Junell  
Senate Sponsor: Senator Ellis*

Sets forth sums of money to be appropriated for payment of itemized claims and judgments plus interest, if any, against the State of Texas. The biennial cost for payment of claims and judgments totals \$1,239,941 and is appropriated from the following state accounts:

- the General Revenue Fund No. 0001;
- the State Highway Fund No. 0006;
- the Operators and Chauffeurs License Fund Account No. 0099;
- the Law Enforcement Officer Standards and Education Fund Account No. 0116;
- the Federal Adult Blind Fund Account No. 0141;
- the Watermaster Administration Fund Account No. 0158;
- the Federal Civil Defense and Disaster Relief Fund Account No. 0221;
- the General Revenue Compensation to Victims of Crime Fund Account No. 0469;
- the Safety Responsibility Trust Account No. 0914;
- the Unemployment Compensation Clearance Account Fund No. 0936; and
- the Workforce Commission Federal Fund Account No. 5026.

Requires the amounts appropriated to the Texas Department of Human Services for payments of itemized claims to be drawn out of General Revenue Fund No. 0001 and from federal funds.

Authorizes and directs the comptroller to issue one or more warrants on the state treasury, as soon as possible following the effective date of the Act, in favor of each of the individuals, firms, or corporations named to be paid sums of money appropriated out of various accounts, in an amount not to exceed the amount set opposite their respective names (subject to the conditions and restrictions in the Act and provisions stated in the judgments).

Provides that before any claim or judgment may be paid from money appropriated by the Act, the claim or judgment must be verified and substantiated by the administrator of the special fund or account against which the claim is to be charged and be approved by the attorney general and the comptroller.

Prohibits any claim or judgment itemized in the Act that has not been verified and substantiated by the administrator of the special fund or account and approved by the attorney general and the comptroller by August 31, 2002, from being paid from money appropriated by the Act.

## Relating to State Fiscal Matters - H.B. 2914

*by Representative Bonnen  
Senate Sponsor: Senator Duncan*

H.B. 2914 makes technical and policy changes to several statutes relating to the state's fiscal management and the comptroller's duties to administer those laws based on the comptroller's recommendations to the 77<sup>th</sup> Legislature to streamline and enhance the administration of the state's fiscal matters.

Amends rulemaking authority relating to:

- the rollback tax rate limit;
- the intellectual property of the comptroller;
- the collection of delinquent taxes and debts to the state;
- state property accounting;
- advisory committees;
- determining the fiscal year to charge for certain state expenditures;
- financial reporting by state agencies;
- administration of the energy management center;
- longevity pay;
- hazardous duty pay;
- temporary reassignments of state employees;
- automatic payment of interest to vendors;
- the applicability and collection of 9-1-1 fees and surcharges;
- the payment of credit interest on local revenue funds;
- the deadline of governmental entities to claim refund of the state hotel occupancy tax; and
- reports about the franchise tax credit for after school care.

Repeals the Texas Business Corporation Act.

Lays out rulemaking authority delegated to the state energy conservation office and to the comptroller of public accounts. Provides that the Energy Management Center is consolidated into the State Energy Conservation Office, and all functions and activities performed by the General Services Commission, in statute or rule, that relates to energy conservation under Chapter 447 or 2305, Government Code, are transferred to the comptroller.

Requires the comptroller to transfer certain lottery proceeds to the Foundation School Fund prior to the August distribution of the Foundation School Fund revenue to school districts.

Increases longevity pay for state employees to \$20 for every three years of service.

Provides a waiver of sovereign immunity in order to preserve the legislature's interest in managing state fiscal matters through the appropriations process and amends the Government Code providing that the legislature retains the authority to deny or grant a waiver of immunity to suit against a unit of state government by statute, resolution, or any other means the legislature may determine appropriate.

Provides, as part of the transfer of personnel and appropriations made by H.B. 819, that any appropriation to the Texas Department of Economic Development relating to the Office of Rural Affairs is transferred to the Department of Agriculture.

Creates a task force to evaluate employee compensation and provide recommendations to the legislature no later than January 1, 2003.

Appropriates receipts of the new Emissions Reduction Account in the Clean Air Account to the Texas Natural Resources Conservation Commission (TNRCC) contingent on legislation relating to certain nitrous oxide emission reductions.

Directs TNRCC, by rule, to develop a program for the reduction of emissions of nitrogen oxides from reciprocating internal combustion engines associated with pipelines that are required to reduce hourly emissions of nitrogen oxides by at least 50 percent and provides that the program may include incentives as developed by TNRCC.

Directs the comptroller to report to the legislature as to the feasibility, methodology, and cost of calculating the effect of each provision on the distribution of the tax burden by ethnicity from the data included in the Tax Exemptions and Tax Incidence Report by September 1, 2002.

Appropriates \$15,000,000 to the Texas Forest Service from the new Volunteer Fire Department Assistance Fund to administer the Rural Volunteer Fire Department Assistance Program.

Makes provisions relating to the Texas Treasury Safekeeping Trust Company.

Directs the comptroller to create the Product Development and Small Business Incubator Board (board) and makes provision for the board's administration.

### **Investments of Public Money - H.B. 2957**

*by Representative Phil King*  
*Senate Sponsor: Senator Sibley*

State law determines if a federal home loan bank (FHLB) letter of credit can serve as collateral for a municipal fund depository. The Public Funds Investment Act provides an indirect reference to FHLB letters of credit by providing that obligations of United States agencies and instrumentalities are authorized investments that may serve as collateral for the deposit of public funds. However, since letters of credit are not specifically mentioned, some municipalities are wary of relying on FHLB letters of credit to serve as collateral for their deposit funds.

Provides that letters of credit by governmental entities constitute an authorized investment for purposes of providing security for a deposit of public funds and adds letters of credit to the list of authorized investments of the Public Funds Investment Act.

### **Abolition and Consolidation of Fund Accounts - H.B. 3088**

*by Representative Sylvester Turner  
Senate Sponsor: Senator Ellis*

The 72nd Legislature enacted provisions relating to the consolidation of funds in existence before August 31, 1993. These provisions provided for the abolishment of dedications in existence prior to August 31, 1995, unless otherwise expressly exempted.

Abolishes funds, accounts, and revenue dedications created by the 77<sup>th</sup> Legislature, Regular Session, unless specifically exempted in this bill.

Allows the comptroller, as directed by the legislature, to reduce balances in dedicated accounts by the amounts which estimated revenues and unobligated balances exceeded appropriations on August 31, 2003.

Sets forth statutory dedications, funds, accounts, and increases in fees or other revenue that are exempt from being abolished.

Provides that the Act prevails over any other Act of the 77th Legislature, regardless of the relative dates of enactment, that purports to create or recreate a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose, including other specified funds, accounts, or revenue dedications that were abolished.

Requires revenues that, under the terms of another Act of the 77th Legislature, would be deposited to the credit of a special account or fund to be deposited to the credit of the unobligated portion of the General Revenue Fund, unless the fund, account, or dedication is exempted under the Act.

Creates the Young Farmer Loan Guarantee Account and an account for the System Benefit Fund. The System Benefit Fund is a trust fund that will have no fiscal impact in the 2002-2003 biennium.

Provides that effective August 27, 2001, the following accounts and funds in the state treasury and the revenue deposited to the credit of the accounts and funds are exempt from abolition:

- The Fair Campaign Spending Account;
- The System Benefit Fund created as an account;
- The Young Farmer Loan Guarantee Account;
- The Tertiary Care Account (recreated);
- The Permanent Management Facility Decommissioning Account;
- The Assured Isolation Conversion Account;

- The Private Sector Prison Industry Expansion Account;
- The Volunteer Fire Department Assistance Fund created as an account;
- The Rural Water Assistance Fund;
- The Vital Statistics Enhancement Fund;
- The Work and Family Policies Fund (recreated);
- The Colonia Self-Help Account;
- The Scholarship Fund for Architectural Examination Applicants (recreated);
- The Interagency Water Policy Account;
- The Environmental Testing Laboratory Accreditation;
- The Texas Peace Officer Flag Account;
- The Special Account for Administrative Penalties collected by the Department of Public Safety;
- The Governor For A Day Account;
- The Speaker's Reunion Day Account;
- The Inaugural Endowment Fund;
- The Rural Volunteer Fire Department Insurance Fund;
- The Water Infrastructure Fund;
- The Rural Water Assistance Fund;
- The Interagency Water Advisory Account;
- The Texas Emissions Reduction Plan Fund;
- The Environmental Research Fund;
- The dedicated account established as a successor to the Texas Healthy Kids Fund;
- The Technology Workforce Development Account;
- The Rural Physician Relief Program Account;
- The Smart Jobs Fund;
- The Child Abuse and Neglect Prevention Operating Fund Account;
- The Child Abuse and Neglect Prevention Trust Fund Account;
- The Floating Cabins Purchase Account;
- The Mobile Amusement Ride Regulation Account; and
- Any account created by S.B. 5 (Air Emissions Reduction Plan) and not otherwise listed in this Act, other than a trust account subject to Section 8(a) of this Act.

Provides that the following funds in the state treasury or funds otherwise with the comptroller are recreated as accounts in the General Revenue Fund and the accounts and the revenue deposited to the credit of the accounts are exempt from abolition, if created or recreated by an Act of the 77<sup>th</sup> Legislature:

- The Rural Water Assistance Fund;
- The Work and Family Policies Fund (recreated);
- The Owner-Builder Revolving Loan Fund;
- The Colonia Model Subdivision Revolving Loan Fund;
- The Smart Jobs Fund;
- The Gas Utility Service Assistance Trust Fund;
- The Barber School Tuition Protection Account created as a trust fund with the comptroller;
- The Spaceport Trust Fund;
- The Quality Assurance Fund;
- The Stabilization Reserve Fund (recreated); and
- Any fund created by S.B. 5 (Air Emissions Reduction Plan) and not otherwise listed in this Act, other than a trust fund subject to Section 8(a) of this Act.

Re-creates the Pan American Games Trust Fund initially created in the 76<sup>th</sup> Legislature and requires the comptroller to manage the trust fund as an account in the General Revenue Fund and to dedicate revenue as if the fund was not abolished.

Makes the Telecommunications Infrastructure Fund an account in the General Revenue Fund which would increase the amount available for certification from the General Revenue Fund in the 2002-2003 biennium.

### **Temporary Transfer of Tobacco Endowment Program Funds - H.B. 3244**

*by Representative Gallego  
Senate Sponsor: Senator Duncan*

Current law provides the Texas Department of Health (TDH) with appropriated funds from the interest proceeds of the emergency medical services and trauma care tobacco endowment. Initially, interest deposits appropriated for the program were made monthly. However, this was changed to quarterly deposits during the last fiscal year. Consequently, some grant recipients now wait up to three months for fund reimbursement, which may present a financial hardship.

Authorizes TDH to direct the comptroller to temporarily transfer money appropriated to TDH to pay an obligation that TDH is authorized to incur under and for which money is appropriated under the Community Hospital Capital Improvement Fund, the Permanent Fund for Children and Public Health, the Permanent Fund for Emergency Medical Services and Trauma Care, and the Permanent Fund for Tobacco Education and Enforcement if TDH determines that the transfer is necessary for cash management purposes. Requires TDH, as soon as possible after the transfer, to direct the comptroller to transfer back the transferred amount.

**Family Violence Services - S.B. 47**

*by Senators Zaffirini and Lucio*

*House Sponsor: Representative Naishtat*

The Texas Department of Human Services (DHS) estimates that 857,745 women were victims of domestic violence during the fiscal year 2000. That same year, DHS provided family violence services to 41,203 women, or about five percent of those in need. Many victims of family violence do not need residential services, but may require other services such as counseling, court accompaniment, as well as referral to community resources. Nonresidential programs are not recognized in the Human Resources Code and, therefore, not eligible to receive state funding.

Authorizes DHS to award funds to nonresidential family violence centers and family violence special projects.

Requires DHS to develop and maintain a plan for delivering family violence services in this state, considering the geographic distribution of services, the need for services, and the need for increasing services to underserved populations.

**Providing for Protective Orders Regarding Dating Violence - S.B. 68**

*by Senator Moncrief, et al.*

*House Sponsors: Representative McCall, et al.*

According to a 1995 Nebraska publication, "Dating Violence and Acquaintance Assault," up to one-third of young adults between the ages of 16 and 24 have reported being involved in at least one abusive dating situation and more than 80 percent of all sexual assaults occur between people who know each other, including sexual assaults on dates. Many of these victims of violence are unable to obtain a protective order from family violence because their attackers are not family or household members.

Defines "dating violence" and "dating relationship" and expands the definition of "family violence" to include "dating violence."

Authorizes an adult victim of dating violence to file an application for a protective order. Any adult may apply for a protective order to protect a child.

**No Firearms for Family Violence Perpetrators - S.B. 199**

*by Senators West and Van de Putte*

*House Sponsor: Representative Goodman*

Under current state law, it is an offense to sell or transfer a firearm to someone subject to a protective order, and under current federal law, it is an offense to possess a firearm while subject to a protective order or after a misdemeanor family violence conviction. There are no state provisions that regulate the possession of a firearm while subject to a protective order or after certain family violence convictions.



# \_\_\_\_\_ CRIMINAL JUSTICE/Domestic Violence

77<sup>th</sup> Texas Legislature

Prohibits a person subject to a protective order or convicted of an offense involving family violence from possessing a firearm.

Makes it an offense if a person, who has been convicted of an assault punishable as a Class A misdemeanor and involving a member of the person's family or household, possesses a firearm before the fifth anniversary of the later of that person's release from confinement or community supervision.

Provides that a person, other than a peace officer, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to a protective order, commits an offense if the person possesses a firearm after receiving notice of the order and before expiration of the order.

## **Expanding Access to the Texas Crime Victim's Compensation Fund - H.B. 519**

*by Representative Gallego*  
*Senate Sponsor: Senator Zaffirini*

Victims of domestic violence are currently eligible to file a claim with the Texas Crime Victim's Compensation Fund to seek compensation for certain costs, including relocation costs. However, the term "domestic violence" is not defined under certain statutes and this omission may exclude certain persons who could benefit from assistance with relocation costs.

Establishes a definition that enables a victim of sexual assault who is assaulted in the victim's place of residence to qualify for compensation.

## **Address Confidentiality in Protective Orders - H.B. 593**

*by Representative Goodman*  
*Senate Sponsor: Senator Harris*

Deletes requirement that the address of the individual alleged to have committed family violence be included in an application for a protective order.

Strikes provisions that, in a suit affecting the parent-child relationship, required the following information: the sex, place of birth, and residence of the child; the ages and residences of the petitioner or the parents; and the residences of a managing conservator, custodian, guardian, possessory conservator, persons having possession of or access to the child, and the alleged father of the child.

Deletes requirement that the obligor's and obligee's addresses be included in a registration for enforcement of a support order.

**Training to Help Victims of Domestic Violence - H.B. 1175**

*by Representatives Raymond and Naishtat*

*Senate Sponsor: Senator Zaffirini*

Victims of domestic violence are impacted not only in their family life, but often in their work life. A financial assistance recipient who is being victimized at home may have difficulty successfully entering the workforce.

Requires a financial assistance counselor of the Texas Department of Human Services (DHS), Office of the Attorney General (OAG), Texas Workforce Commission, and local workforce development boards to receive not less than four hours of training on domestic violence.

Requires DHS or OAG, before recommending or applying a sanction or penalty based on failure of an individual to cooperate in establishing paternity or comply with work requirements, to make reasonable attempts to contact the individual to determine the cause of the failure to cooperate or comply.

Requires DHS or OAG, if it determines that family violence contributed to the failure to cooperate or comply, to ensure that a person trained in family violence issues interviews the individual to identify the types of services necessary to assist the individual in safely and successfully entering the workforce.

**Training Related to Dual Arrests & Dominant Aggressor Determination - H.B. 3491**

*by Representative Hinojosa*

*Senate Sponsor: Senator Moncrief*

Family violence is the deliberate, often repetitive, physical abuse by one family member against another. In some cases of alleged family violence, police officers may be unable to identify the primary aggressor in the incident and will arrest all parties involved. As a result, victims of the incident are disqualified from receiving crime victim compensation, access to emergency shelters, and other public benefits.

Requires training for officers and recruits in the investigation of cases involving family violence, including instruction in preventing dual arrests and conducting a thorough investigation to determine which person is the predominant aggressor when allegations of family violence from two or more opposing persons arise from the same incident.

### **Preservation of DNA Evidence and Postconviction DNA Testing - S.B. 3**

*by Senator Duncan, et al.*

*House Sponsors: Representative Hinojosa, et al.*

Requires the state in a criminal case resulting in a conviction to preserve evidence that:

- was in the state's possession during the prosecution of the case; and
- at the time of conviction was known to contain biological material that, if scientifically tested, would more likely than not establish the identity of the person committing the offense or exclude a person from the group of persons who could have committed the offense.

Sets out how long the evidence must be preserved and allows the state to destroy the evidence if certain notice is given and no objection is made within a set period.

Allows a convicted person, even if one who plead guilty or nolo contendere, to make a motion for forensic DNA testing of evidence containing biological material. A convicted person may request such testing only if the evidence was secured in relation to the offense, in the state's possession during the trial, and:

- was not tested because DNA testing was not available, was not technologically capable of providing probative results, or through no fault of the convicted person; or
- although previously tested, newer testing techniques provide a reasonable likelihood of more accurate and probative results.

Provides a convicted person is entitled to counsel during such proceeding.

Authorizes a court to order forensic DNA testing only if the court finds that:

- the evidence exists, is in a condition making DNA testing possible, and has been subjected to a chain of custody sufficient to establish that it has not been altered in any material respect;
- identity was or is an issue in the case; and
- the convicted person establishes by a preponderance of the evidence that a reasonable probability exists that the person would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing and the testing request is not made to unreasonably delay the execution of sentence.

Sets out the procedure for ordering testing and for appeal.

Permits testing results to be entered into the state's DNA database.

### **Harassment by E-mail Banned - S.B. 139**

*by Senators Carona and Barrientos*

*House Sponsors: Representative Deshotel, et al.*

Makes it a Class A or B misdemeanor for a person to send repeated e-mails in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another person.

**Refunding Bail Money to Defendant - S.B. 173**

*by Senator Carona*

*House Sponsor: Representative Hinojosa*

A criminal defendant is refunded all cash funds posted for his or her bail bond when the defendant has complied with all of the conditions of that bond.

Allows all cash funds posted on a criminal defendant's bail bond to be refunded to a surety if there is a surety on the bond. Clarifies that if there are funds to be refunded to the defendant, the custodian of funds is authorized to deduct any outstanding fines and court costs owed by the defendant.

**Misdemeanor Process in Alternate County - S.B. 219**

*by Senator Armbrister*

*House Sponsor: Representative Carter*

Currently, a person arrested in a county other than the one in which the person committed an offense is required to be taken before a magistrate of the county in which the offense occurred. This process can be inconvenient and costly.

Requires a magistrate to accept from a person arrested under a warrant issued in another county for an offense punishable by a fine only a written plea of guilty or nolo contendere, set a fine, determine costs, accept payment of the fine and costs, give credit for time served, determine indigency, or on satisfaction of the judgment, discharge the defendant, as the case may indicate.

**Lower Costs for Inmate Prescription Drugs Using Federal Pricing Program - S.B. 347**

*by Senator Brown*

*House Sponsor: Representative Haggerty*

Currently, the University of Texas Medical Branch at Galveston (UTMB) purchases pharmaceutical drugs for the Texas prison system through a drug consortium, thus reducing the cost. By participating in the federal "340B" drug pricing program, pharmaceutical drugs can be purchased for an even lower cost if UTMB, the Correctional Managed Health Care Committee (CMHCC), the Texas Department of Criminal Justice (TDCJ), and the Texas Tech University Health Sciences Center make the necessary administrative and contract modifications in order to qualify for the program.

Requires TDCJ to modify its contracts with CMHCC so that UTMB can purchase prescription drugs for the prison population at federal "340B" prices.

**No Skipping Out on Hotel Bills - S.B. 437**

*by Senator Staples*

*House Sponsor: Representative Allen*

Texas lodging properties have had problems with patrons who, after checking into a room for a designated number of days, have refused to vacate the room at the agreed checkout time. Local police departments have indicated that they are without statutory authority to assist lodging properties in vacating persons who refuse to depart the property after the agreed checkout time.

Provides that a person commits theft of service if the person, with the intent to avoid payment for service, intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make payment after receiving notice demanding payment.

Makes it a defense to prosecution that the defendant secured the performance of the service by giving a post-dated check and the check was accepted.

### **Collection and Reporting of Data on Offenders with Mental Impairments - S.B. 644**

*by Senator Moncrief*

*House Sponsor: Representative Gray*

Certain agencies that provide services regarding offenders with mental impairments are required to adopt a memorandum of understanding establishing their responsibilities in instituting continuity of care and service programs for offenders with mental impairments. However, the memorandum presents no clear provision regarding the collection and reporting of data on offenders with mental impairments.

Requires that the memorandum of understanding:

- establish methods for collecting and reporting prevalence rate data to the Texas Council on Offenders with Mental Impairments (council);
- develop standards for the continuation of care by criminal justice and mental health agencies, including the Commission on Jail Standards, and local jails; and
- establish a process to report implementation activities to the council.

Requires local and state criminal justice agencies to contract, whenever possible, with local mental health or mental retardation authorities to maximize Medicaid funding.

### **Texas Controlled Substances Act in Line with Federal Law - S.B. 753**

*by Senator Van de Putte*

*House Sponsors: Representative Keel, et al.*

Federal law has reclassified certain controlled substances and classified new controlled substances in the federal penalty groups. As a result, changes in the Texas Controlled Substances Act are necessary if state law is to be consistent with federal law.

- Modifies and adds to the controlled substance penalty groups;
- Includes officials of political subdivisions of this and other states among those officials who may possess controlled substances;
- Imposes criminal penalties for crimes related to prescription forgery; and
- Restricts accessibility to certain related information.

### **Increased Penalties for Making False Statements to Law Enforcement - S.B. 904**

*by Senator Bernsen*

*House Sponsor: Representative Ritter*

It is a Class B misdemeanor to make a false statement regarding a criminal investigation to a peace officer or a law enforcement agency employee conducting the investigation, regardless of the type of crime being investigated. Since the punishment for this offense is relatively minor, there may be little deterrent to making false statements.

Increases the penalty to a state jail felony for knowingly making a false statement to a peace officer or a law enforcement employee that is material to the investigation of a felony.

Adds the penalty of a Class A misdemeanor for false statements in applications for protective orders and a Class C misdemeanor for false reports of family violence.

Adds the penalty of a Class A misdemeanor for false reports of child abuse or neglect or a state jail felony if the defendant has a prior conviction of this offense.

### **Retailer and Consumer Fraud Protection - S.B. 923**

*by Senator Staples*

*House Sponsor: Representative Goolsby*

Current law does not provide that it is an offense if, with intent to defraud or harm another, a person destroys, removes, conceals, alters, substitutes, or otherwise impairs the verity, legality, or availability of a universal product code label (UPC).

Adds UPC labels to the Penal Code definition of "writing" in relation to the offense of fraudulent destruction, removal, or concealment of writing.

### **Motor Fuel Theft - S.B. 968**

*by Senators Bivins and Haywood*

*House Sponsors: Representatives Smithee and Bob Turner*

With the recent increase in gasoline prices, gasoline retailers are concerned about the increased number of thefts in which a person dispenses motor fuel into a vehicle and then leaves the premises without paying for the motor fuel, known as a "driveoff."

- Instructs a judge on entering affirmative findings in the judgment of a case, including circumstance where a special affirmative finding is required; and
- Provides for the suspension and denial of the driver's license of persons convicted of motor fuel theft.

**Racial Profiling - S.B. 1074**

*by Senator West, et al.*

*House Sponsors: Representative Thompson, et al.*

Prohibits a peace officer from engaging in racial profiling. Defines racial profiling as a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity

Requires police chiefs and peace officers to be trained on racial profiling.

Requires each law enforcement agency to adopt a detailed written policy on racial profiling. Requires the policy to:

- clearly define acts constituting racial profiling;
- strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- implement a complaint process so that an individual who believes a peace officer has engaged in racial profiling with respect to the individual may file a complaint;
- provide public education on the complaint process;
- require appropriate corrective action to be taken against a peace officer who is shown to have engaged in racial profiling;
- require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to the race or ethnicity of the individual detained and whether a search was conducted and, if so, whether the person detained consented to the search; and
- require each local law enforcement agency to submit to the governing body of the agency an annual report (Report A) of the race, ethnicity, and search information collected.

Prohibits the data collected as a result of the reporting requirement from constituting prima facie evidence of racial profiling.

Requires a law enforcement agency, upon adoption of a racial profiling policy, to examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle or motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment, the racial profiling written policy adopted by the agency must include standards for reviewing video and audio documentation.

Prohibits the annual report from including identifying information about persons involved in a traffic stop.

Requires the law enforcement agency to promptly provide a copy of the recording of a stop to a peace officer on the commencement of an investigation of a complaint relating to a stop in which a video or audio recording was made.

Requires a peace officer who stops a motor vehicle for a traffic violation or a pedestrian for any suspected offense to report to the law enforcement agency:

- a physical description (including gender and race or ethnicity, as stated by the person or, if not stated, as determined by the officer) of each person stopped;
- the alleged violation;
- whether a search was conducted and, if so, whether consent was given for the search;
- information on any contraband discovered;
- facts supporting that a probable cause to conduct a search existed;
- whether an arrest was made and the offense charged;
- the address or approximate location of the stop; and
- whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Requires a law enforcement agency to compile and analyze information gathered regarding traffic and pedestrian stops. Requires the agency to submit a report (Report B) to its governing body by March 1 of each year.

Requires Report B to contain a comparative analysis determining the prevalence of racial profiling by the agency's peace officers and examining the disposition of traffic and pedestrian stops, and information relating to each racial profiling complaint. Requires the report to be de-identified.

Prohibits the data collected as a result of reporting requirements from constituting prima facie evidence of racial profiling.

Exempts peace officers and agencies from the reporting requirements of Report B if:

- each motor vehicle used for traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment, each motorcycle is equipped with transmitter-activated equipment, and each stop that is capable of being recorded is recorded; or
- the governing body, in conjunction with the law enforcement agency, certifies to the Department of Public Safety (DPS), that the agency needs help in obtaining audio equipment and the agency does not receive from state funds or equipment sufficient for the agency to equip its vehicles.

Requires the agencies that are exempt from submitting Report B to retain the video and/or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. Requires the agency to retain the video and/or audio documentation of any stop subject to a complaint until the final disposition of the complaint.

Provides that a peace officer is not liable for damages arising from an act related to the collection or reporting of information as required by this bill.

Requires DPS to adopt rules related to distributing funds or video and audio equipment to law enforcement agencies, including specifying criteria on how to prioritize distribution of funding or equipment. Allows the criteria to include consideration of tax effort, financial hardship, available revenue, and budget surpluses.



Requires the criteria to give priority to agencies that employ peace officers whose primary duty is traffic enforcement, smaller jurisdictions, and municipal and county law enforcement agencies.

Requires law enforcement agencies to adopt the required policies and begin collecting the required information by January 1, 2002. The first Report A is due on March 1, 2003. The first Report B is due March 1, 2004.

### **Impairment or Interruption of Public Water - S.B. 1174**

*by Senator Wentworth*

*House Sponsor: Representative Bob Turner*

Interruption, impairment, or diversion of public water can result in both water supply contamination and revenue loss for the water supplier. This offense is difficult to prosecute because it is virtually impossible to prove the amount of water diverted in order to estimate the amount of pecuniary loss.

Provides that regardless of the amount of pecuniary loss it is a Class A misdemeanor if an actor causes impairment or interruption of public water supplies or causes public water supplies to be diverted in any manner.

### **Possession of an Alcoholic Beverage in a Motor Vehicle - H.B. 5**

*by Representative Dunnam, et al.*

*Senate Sponsor: Senator Nelson*

Under current federal law, states are required to enact laws that meet federal requirements for both repeat driving-while-intoxicated (DWI) offenders and open container laws. If a state fails to enact or is not enforcing an open container law or a law relating to repeat DWI offenders, federal law requires that a percentage of federal highway funds apportioned to the state be diverted for use in traffic safety programs. Currently, 1.5 percent of funds are being transferred in this manner. Beginning October 1, 2002, the percentage doubles if Texas does not meet or exceed the requirements set by federal law.

Under current Texas law regarding consumption or possession of an alcoholic beverage in a motor vehicle, a person commits an offense if the person consumes an alcoholic beverage while operating a motor vehicle in a public place and is observed doing so by a peace officer. This "open container" legislation:

Establishes provisions for the purpose of bringing Texas into compliance with federal open container laws and federal laws for repeat DWI offenders.

### **Immediate Driver's License Confiscation for Certain Intoxication Offenses - H.B. 63**

*by Representative Wolens, et al.*

*Senate Sponsor: Senator Zaffirini*

The Department of Public Safety (DPS) is authorized to suspend the driver's license of an individual who refuses to submit to a breath or chemical test or who provides a specimen with a prohibited concentration. Many drivers opt to have their driver's licenses suspended, rather than face the consequences of failing a breath test.

Authorizes an arresting peace officer to take possession of a person's driver's license at the time of arrest for refusal to take, or failure of, a breath test. Increases the driver's license suspension period for refusal to take, or failure of, a breath test. Includes a commercial driver's license or a commercial driver learner's permit.

Raises the fee required for the reinstatement of a suspended driver's license.

### **Additional Drugs Regulated by the Texas Controlled Substances Act - H.B. 139**

*by Representative Wise  
Senate Sponsor: Senator Cain*

Nitrous oxide and ketamine belong to a group of drugs known as dissociative anaesthetics, which separate perception from sensation and may lead to dependency and health complications. Although these drugs have legitimate legal uses, problems continue with teenager drug abuse and the use of these drugs in some sex offenses.

Adds nitrous oxide to the list of volatile chemicals under the Texas Controlled Substances Act. Makes the possession or use of nitrous oxide by a person and the sale or delivery of nitrous oxide to a minor illegal under certain conditions.

Adds ketamine to the list of opiates classified under Penalty Group 1. Provides that it is an offense if a person administers or provides ketamine to a victim of an aggravated sexual assault with the intent of facilitating the commission of that offense.

### **Increased Penalties for Kidnapping - H.B. 141**

*by Representative Wise  
Senate Sponsor: Senator Van de Putte*

Makes kidnapping a second degree felony if a kidnapper exposes the person abducted to a risk of serious bodily injury.

Provides that a person commits aggravated kidnapping if, among other things, the actor holds the person abducted to coerce a third person to perform some act, holds the person abducted in a condition of involuntary servitude, or the person abducted is younger than 17 years of age or is incompetent.

### **Use of a Child in the Commission of an Offense - H.B. 156**

*by Representative Homer, et al.  
Senate Sponsor: Senator Shapiro*

Increases the penalty of certain offenses one degree if the defendant used or attempted to use a child younger than 18 years of age to commit or assist in the commission of an offense, unless the defendant used or threatened to use force against the child or another to gain the child's assistance, in which event the punishment is a felony of the first degree.

**Attempted Church Burning a Felony - H.B. 171**

*by Representative Glenn Lewis, et al.*

*Senate Sponsor: Senator Nelson*

Texas law states that no crime has been committed if an intentionally set fire does not continue and no damage is caused. The burning of a place of worship is considered a first-degree felony, and damages under \$20,000 to places of worship or human burial, public monuments, and community centers that provide medical, social, or educational programs are considered a state jail felony.

Makes attempting to destroy property by fire a second-degree felony, regardless of the continuation of the fire.

Makes the burning of, the attempt to burn, or the bombing of a place of assembly or habitation a first-degree felony.

Makes the destruction or damage to a public or private elementary school, secondary school, or institute of higher education a state jail felony if the property loss is \$1,500 or more but less than \$20,000.

**Prohibiting the Execution of a Person with Mental Retardation - H.B. 236**

*by Representative Hinojosa, et al.*

*Senate Sponsor: Senator Ellis*

Defines "mental retardation" as significantly subaverage general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period.

Prohibits a defendant who is convicted of a capital offense and determined to be a person with mental retardation from being sentenced to death.

Requires a defendant in a capital case to file notice of intent to submit the defendant's mental retardation as a special issue with the court and the attorney representing the state not later than the 30th day before the date the trial commences.

Requires the court, if raised by the evidence and on the written request of the attorney representing the defendant, to instruct the jury that if the jury returns affirmative findings that there is a probability that the defendant would commit criminal acts of violence constituting a continuing threat to society and the defendant caused or intended the death of the deceased or anticipated that a human life, the jury must answer whether the defendant is a person with mental retardation.

Requires the court, on the written request of the attorney representing the defendant, to instruct the jury that if the jury answers that the defendant is a person with mental retardation, the court will sentence the defendant to imprisonment in the institutional division of the Texas Department of Criminal Justice for life.

Provides that if the jury then returns a finding that the defendant is not a person with mental retardation, the defendant may immediately file a petition for a hearing regarding whether the defendant is a person with mental retardation.

Requires the court to appoint two disinterested experts experienced and qualified in the field of diagnosing mental retardation to examine the defendant and determine whether the defendant is a person with mental retardation.

Provides that after the examination of the defendant by the experts, the court, in a hearing, shall consider those experts' findings and the findings of other experts offered by attorneys representing the state or defendant.

Requires the court to sentence the defendant to life imprisonment if, at such hearing, the court finds by a preponderance of the evidence that the defendant is a person with mental retardation. If the court does not make such a finding, the court shall sentence the defendant to death.

Authorizes the defendant and the state to seek a direct appeal to the court of criminal appeals of the court's finding and requires the court of criminal appeals to give priority to the review of such an appeal.

### **Increasing the Penalty for Prostitution - H.B. 460**

*by Representative Hartnett, et al.*

*Senate Sponsor: Senator West*

Increases the penalty for a third or subsequent conviction for prostitution from a Class B misdemeanor to a state jail felony.

### **James Byrd, Jr. Hate Crimes Act - H.B. 587**

*by Representative Thompson, et al.*

*Senate Sponsor: Senator Ellis*

This bill is referred to as the "James Byrd, Jr. Hate Crimes Act." Hate crimes are acts committed primarily because of the actor's bias or prejudice against the victim. Even though hate crimes are not always reported and some counties do not keep such statistics, according to the Texas Department of Public Safety report, "Crime in Texas 1997: The Texas Crime Report," the total number of hate crime incidents in 1997 was 331. These incidents involved 361 victims, 420 offenders, and resulted in a total of 360 offenses.

Enhances penalties for crimes motivated by hate, prejudice, or bias against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference.

Provides the means for obtaining resources and assistance for the investigation and prosecution of hate crimes.

Provides the means for obtaining and enforcing protective orders regarding defendants found to be likely to engage in prohibited conduct that is motivated by bias or prejudice in the future.

Adds hate crime reporting requirements between the clerk of a district or county court and the Texas Judicial Council.

Adds requirements for community education relating to hate crime law and training for prosecutors related to punishment enhancement for a defendant who commits an offense motivated by bias or prejudice.

**Expanding the Offenses Requiring an Inmate to Provide a DNA Specimen - H.B. 588**

*by Representatives Garcia and Allen*

*Senate Sponsor: Senator Jackson*

Amends existing law to require any inmate serving a sentence for a felony in the institutional division of the Texas Department of Criminal Justice (TDCJ) to provide blood samples or other specimens to create a DNA record.

Provides that if, at the beginning of a fiscal year, the TDCJ executive director determines that insufficient funds have been appropriated to TDCJ to obtain a sample from each inmate covered by the Act, the executive director shall direct the institutional division to give priority to obtaining samples from inmates:

- ordered by a court to give the sample or specimen;
- serving sentences for murder, aggravated assault, certain burglary offenses, or any offense for which the inmate is required to register as a sex offender; or
- previously convicted or adjudicated of murder, aggravated assault, certain burglary offenses, or any offense for which the inmate is required to register as a sex offender or a similar offense under federal law or the laws of another state.

Increases the offense for knowingly disclosing information in a DNA record or related to a DNA analysis of a blood specimen, except as authorized by law, from a misdemeanor to a state jail felony.

Provides that this Act takes effect on the date on which the Department of Public Safety director certifies to the governor, the lieutenant governor, and the speaker of the house of representatives that the state has received funds from the federal government or from other sources in a sufficient amount to pay all costs to TDCJ associated with expanding the list of offenses for which samples or specimens are taken for the purpose of creating a DNA record.

**Cruelty to Animals - H.B. 653**

*by Representative Najera, et al.*

*Senate Sponsor: Senator Cain*

Research has confirmed a correlation between violence against animals and violence toward humans. Current penalties may not be sufficient to deter future offenses of animal cruelty.

Increases penalties for cruelty to animals, and requires a child who has committed cruelty to animals to participate in psychological counseling.

**Biometric Identifier - H.B. 678**

*by Representative McCall*

*Senate Sponsor: Senator Duncan*

It is foreseeable that transactions that now require a password or some other form of identification will use biometric technology in the future.

Prohibits a person from capturing an individual's biometric identifier (retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry) for a commercial purpose without receiving the individual's consent to capture the identifier.

Prohibits a person or governmental body from selling, leasing, or otherwise disclosing a person's biometric identifier, unless certain conditions are met.

Requires a person or governmental body to store, transmit, and protect from disclosure the biometric identifier in a manner that is equal to or more protective than that of other confidential information.

Exempts biometric identifiers in the possession of a governmental body from the Public Information Act.

### **Long-Term Medical Care for TDCJ Inmates in Alternative Facilities - H.B. 772**

*by Representatives Haggerty and Allen  
Senate Sponsor: Senator Armbrister*

Currently, the Texas Department of Criminal Justice (TDCJ) houses more than 1,000 elderly inmates, approximately 200 of whom suffer from chronic medical conditions that require 24-hour nursing care. TDCJ's elderly population is expected to rise to more than 10,000 by 2008. The legislature has created a special needs parole program to release these inmates to alternative facilities where federal funds can be used to defray some of their expenses. This legislation:

Authorizes the release of inmates needing long-term care into a medically recommended intensive supervision program.

### **Defendants Who May Have Mental Illness or Mental Retardation - H.B. 1071**

*by Representatives Farabee and Uher  
Senate Sponsor: Senator Armbrister*

Although there are a number of mechanisms in place to divert certain offenders with mental illness or mental retardation from jails to appropriate facilities, current law does not expressly define the procedures for diverting persons to these mental health facilities. As a result, many judges and attorneys are uncertain of how to determine which individuals are appropriate for diversion and may be hesitant to divert individuals to mental health facilities.

Incorporates specific references to the role of local mental health and mental retardation authorities in performing evaluations of defendants and making recommendations to the court in regard to diverting certain offenders from jail to mental health facilities.

Modifies the content of the defendant's evaluation report and provisions relating to mental health examinations and the release of a defendant on personal bond.

### **Raising Educational Requirements to Train as a Peace Officer - H.B. 1121**

*by Representative Bob Turner  
Senate Sponsor: Senator West*

The Texas Commission on Law Enforcement Officer Standards and Education (commission) is required to set minimum standards for a person to enroll in a training program for peace officers and county jailers.

Prohibits a person from enrolling in a peace officer training program unless the person has a high school diploma, has a GED certificate and 12 hours of college or university credit with a specified grade point average, or has served in the armed forces for at least two years and left with an honorable discharge.

Prohibits the commission from requiring a person seeking a license to be a peace officer training instructor to have an associate's degree.

### **Drug Court Program - H.B. 1287**

*by Representative Thompson, et al.  
Senate Sponsor: Senator Whitmire*

Authorizes the commissioners court of a county to establish a drug court program to provide treatment and other alternatives to incarceration for persons arrested for, charged with, or convicted of alcohol or drug offenses.

Requires counties with a population of more than 550,000 to establish a drug court program and have at least 100 participants during the first four months of operation of the drug court program.

Authorizes the establishment of a legislative oversight committee to oversee and audit the drug court program.

Authorizes a drug court program to collect participant fees not to exceed \$1,000.

### **Expunction of Quashed Records - H.B. 1323**

*by Representative Shields  
Senate Sponsor: Senator Staples*

Under current Texas law, when a person is arrested for a crime records are created. If the indictment or information used to charge the person for the alleged crime is quashed because of non-prosecution or other showing of lack of probable cause, no provisions exist for the application of expunction of the records against a person in such a situation.

Allows the expunction of criminal records after an indictment or information is quashed.

**Expunction Related to Deferred Adjudication Cases - H.B. 1415**

*by Representatives Farrar and Grusendorf*  
*Senate Sponsor: Senator Armbrister*

Currently, while many people accept a conviction on deferred adjudication, they generally do so with the expectation that the offense will not affect their permanent criminal record. However, as the law currently stands, a deferred adjudication remains a part of that record and may impede a person's ability to obtain a desired job or position for many years after the offense.

Prohibits a criminal justice agency from disclosing to the public a person's criminal record information regarding a deferred adjudication on or after the fifth anniversary of the discharge and dismissal if the offense was a misdemeanor or on or after the 10th anniversary of the discharge and dismissal if the offense was a felony.

**Good Time Credit for Inmates and Parolees - H.B. 1585**

*by Representative Gallego, et al.*  
*Senate Sponsor: Senator Staples*

Currently, the Government Code provides sanctions for a person whose parole or mandatory supervision is revoked. A person released on parole, mandatory supervision, or conditional pardon may be required to serve the remaining portion of the sentence on which the inmate was released without credit for the period the person was released, but there is no distinction made between types of releasees.

Establishes distinctions in sanctions for releasees whose parole, mandatory supervision, or conditional pardon is revoked.

Authorizes the Texas Department of Criminal Justice (TDCJ) to restore good conduct time forfeited due to commission of an offense while incarcerated, violation of a TDCJ rule while incarcerated, or revocation of parole.

**Organization and Duties of the Board of Pardons and Paroles - H.B. 1649**

*by Representative Gallego, et al.*  
*Senate Sponsor: Senator Staples*

Currently, the primary duty of the Board of Pardons and Paroles (board) is the discretionary release of eligible inmates sentenced to the institutional division of the Texas Department of Criminal Justice. The board is composed of 18 members appointed by the governor. Six of these members are chosen by the governor to serve as policy board members who adopt rules relating to the decision-making process and administer the board's responsibilities. Some concerns have been raised regarding the efficiency of the administration of the board's duties.

Sets forth provisions relating to the administration of the board and certain duties of the policy board.



**Counties Must Notify TDCJ of Certain Dismissals of Criminal Cases - H.B. 1658**

*by Representative Ritter*  
*Senate Sponsor: Senator Staples*

The Code of Criminal Procedure fails to address a court's responsibility for notifying the Texas Department of Criminal Justice (TDCJ) when a convicted defendant's case is subsequently dismissed. Some courts do not inform TDCJ when charges are dropped, and inmates are being housed longer than needed while TDCJ confirms that an inmate is free to be released.

Requires a county to immediately notify an officer designated by TDCJ when charges against a defendant or an inmate transferred to TDCJ are dismissed.

**Unsolved Crimes Investigation Team - H.B. 1748**

*by Representatives Giddings and Sylvester Turner*  
*Senate Sponsor: Senator Barrientos*

Advances in genetic and forensic sciences increase the possibility of solving "cold" crimes.

Creates an unsolved crimes investigation team (team) under the command of the chief of the Texas Rangers.

Requires peace officers of the team to have a college degree in law, accounting, or computer science or two or more years of experience in homicide or major felony investigation.

Authorizes the team to assist local law enforcement in the investigation of crimes.

**Prohibiting Weapons Near a Place of Execution - H.B. 1925**

*by Representative Haggerty*  
*Senate Sponsor: Senator Staples*

A dangerous situation could occur if individuals participating in death penalty demonstrations near the execution site display weapons.

Makes it a third degree felony offense for a person to intentionally, knowingly, or recklessly possess or take a firearm, illegal knife, club, or prohibited weapon within 1,000 feet of a place of execution. Provides for certain exceptions to the prohibition.

**Liability for Manufacturing Methamphetamine - H.B. 2087**

*by Representative Clark, et al.*  
*Senate Sponsor: Senator Haywood*

Makes a person who manufactures methamphetamine strictly liable for damages for personal injury, death, or property damage arising from the manufacture.

Sets the minimum damages for any exposure by an individual to the manufacturing process, including exposure to the methamphetamine or any resulting byproducts or waste and provides there is no limit on exemplary damages in an action for damages arising from such manufacture.

Provides that a person who is found liable for any amount of damages arising from such manufacture is jointly liable with any other defendant for the entire amount of damages.

### **Disposition of Weapons Seized as Evidence in a Criminal Case - H.B. 2184**

*by Representative Smith*  
*Senate Sponsor: Senator Harris*

Current law regarding the disposition of seized weapons provides unclear time frames in which courts and magistrates must function and has resulted in an excessive accumulation of seized weapons in the storage of evidence and established circuitous methods by which individuals are entitled to retrieve their weapons.

Clarifies and modifies provisions regarding the disposition of certain seized weapons and court-ordered destruction or forfeiture of the weapons.

### **Increasing the Consequences for Certain Intoxication Offenses - H.B. 2250**

*by Representative Smith, et al.*  
*Senate Sponsor: Senator Moncrief*

Increases the penalty for operating a motor vehicle, aircraft, or watercraft, or operating or assembling an amusement ride while intoxicated (intoxication offense) by making it a third degree felony if it is shown at trial that the person had previously been convicted of manslaughter intoxication (causing the death of another by accident or mistake during an intoxication offense) under Texas law or the substantially similar law of another state.

Revises provisions regarding enhancement for intoxication offenses by providing that a prior conviction for an intoxication offense may not be used for purposes of enhancement if that conviction was final and the current offense was committed more than 10 years after a certain date.

Provides, however, that a manslaughter intoxication conviction involving the operation of a motor vehicle may be used for the purposes of enhancement, regardless of when the conviction occurred.

### **Corroboration of Testimony in Controlled Substances Cases (Tulia Case) - H.B. 2351**

*by Representatives Hinojosa and Thompson*  
*Senate Sponsor: Senator Van De Putte*

Provides that a defendant may not be convicted of an offense under the Texas Controlled Substances Act on the testimony of a person who is not a licensed peace officer or special investigator, but who is acting covertly on behalf of a law enforcement agency or under the color of law enforcement, unless the testimony is corroborated by other evidence tending to connect the defendant with the offense. The corroboration is insufficient if it only shows the commission of the offense.

### **Interstate Compact for Adult Offender Supervision - H.B. 2494**

*by Representative Haggerty*

*Senate Sponsor: Senator Armbrister*

The Council of State Governments and the National Institute of Corrections have drafted the Interstate Compact for Adult Offender Supervision (compact), a new compact for the management, monitoring, and supervision of adult parolees and probationers who are located in states other than the state in which they were sentenced. The compact is currently enacted in 14 states and will become effective if it is adopted into law by 35 states.

Enters Texas into the interstate compact and provides for the establishment of the Texas State Council for Interstate Adult Offender Supervision.

### **Personnel Policies of TDCJ - H.B. 3185**

*by Representative Bob Turner, et al.*

*Senate Sponsor: Senator Whitmire*

Some factors that may contribute to the current Texas Department of Criminal Justice corrections officer shortage are: low pay; officers' frustration with a pay schedules that top out after three years of employment; a complicated grievance process; and limited training opportunities.

Amends personnel policies regarding TDCJ corrections officers and establishes regular labor-management meetings.

### **Prohibiting Activity Related to the Manufacture of Methamphetamine - H.B. 3351**

*by Representative Keffer, et al.*

*Senate Sponsor: Senator Haywood*

The illicit manufacture of methamphetamine is a serious problem. Prosecutors have encountered difficulty with appellate law concerning possession of a controlled substance, meaning methamphetamine precursors, with intent to manufacture methamphetamine. The courts have held that "manufacture" constitutes a finished product, and the penalty is associated with the quantity of finished product.

Makes it an offense if, with the intent to unlawfully manufacture a controlled substance, a person possesses or transports anhydrous ammonia, an immediate precursor, or a chemical precursor. Provides that the offense ranges from a Class A misdemeanor to a second degree felony.

Increases the penalties for possessing, transporting, or illegally holding in a container anhydrous ammonia.

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**No Lottery Tickets for Children - S.B. 257**

*by Senator Carona*

*House Sponsor: Representative Goolsby*

While current Texas law prohibits sales agents or their employees from selling lottery tickets to minors, the law does not prohibit minors from purchasing lottery tickets.

Makes it an offense for persons younger than 18 years of age to purchase lottery tickets or to falsely represent themselves as adults. Provides that such an offense is punishable by a fine not to exceed \$250.

Provides a defense to false representation if the persons are participating in an inspection investigation of entities that sell tickets.

**Teen Court Program - H.B. 822**

*by Representative Giddings, et al.*

*Senate Sponsor: Senator West*

Extends from 90 to 180 days the period that justice or municipal courts may defer proceedings against certain defendants who are under the age of 18 or enrolled full time in an accredited secondary school in a program leading toward a high school diploma.

Extends the time a juvenile court may defer adjudication in certain proceedings from 90 days to not more than 180 days.

Requires a defendant or a child for whom proceedings are deferred to complete the teen court program not later than the 90th day after the date the teen court hearing to determine punishment is held or the last day of the deferral period, whichever date is earlier.

**Juvenile Justice Code - H.B. 1118**

*by Representative Goodman, et al.*

*Senate Sponsor: Senator West*

Juvenile justice practitioners and officials, many of whom assisted in the extensive juvenile justice reforms three sessions ago, met prior to this session to identify problem areas for possible legislation. H.B. 1118 includes a number of substantive amendments to the Juvenile Justice Code and related statutes dealing primarily with provisions related to youth records (automatic restriction of access to juvenile records, destruction of records for housekeeping purposes), sex offender registration review, delineation of juvenile board duties, activities of justice and municipal courts, timely appointment of counsel, Texas Youth Commission (TYC) commitment criteria, and temporary custody for fingerprints and photographs among others.

***Automatic Restriction of Access to Records***

Provides that sex offender registration records, criminal combination or criminal street gang records, and records in determinate sentence or adult certification cases be exempt from automatic restriction of access to records.

Requires the Department of Public Safety (DPS) to certify to the juvenile court or the juvenile probation department the records that are subject to automatic restriction of access, to not disclose the existence of the records or any information in them and, when information is requested, to respond that the records do not exist. These records include all juvenile files and records of persons at least 21 years of age who were not given deferred adjudication for or convicted of a felony or a jailable misdemeanor for an offense committed after the person became 17.

Upon its receipt of DPS certification, requires the juvenile court to order TYC, the probation department, court clerk, prosecutor's office, appropriate law enforcement agency, and other agencies that provided care or custody to allow access to the records only when it is authorized and to respond to requests for the records that no record exists.

Authorizes access to the certified records only for the limited purpose of latent fingerprint comparison, investigations of criminal offenses, enhancement of punishment in criminal cases, use in the penalty phase of criminal cases, adult presentence investigation reports, criminal trial preparation in felony or jailable misdemeanor cases, or research by the Criminal Justice Policy Council (CJPC), TYC, and the Texas Juvenile Probation Commission (TJPC).

Requires DPS to request the FBI to place the information in its files on restricted access status with access only by a criminal justice agency for a criminal justice purpose or, if that is not feasible, to delete information concerning the case from its database.

Does not restrict the sealing or destruction of records under other laws. Permits the youth and the youth's attorney to have access to the restricted records for the purpose of preparing a motion to seal or destroy the records.

Applies to records relating to a juvenile case without regard to whether those records existed or were maintained before, on, or after the effective date of this Act.

***Destruction of Records for Housekeeping Purposes***

Authorizes physical files or records to be destroyed without restriction when they are placed on microfilm or microfiche or replaced with an electronic version that contains the same information.

Authorizes the juvenile board (in relation to probation department records), the head of a law enforcement agency (in relation to law enforcement records), and the prosecuting attorney (in relation to prosecution records) to destroy files and records (including computer files and microfilm, etc) in closed cases when:

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- the youth becomes 18, if the most serious allegation or adjudication in the case was conduct indicating a need for supervision (CINS) or was administrative in nature and did not charge delinquent conduct or CINS;
- the youth becomes 21, if the most serious allegation or adjudication was a jailable misdemeanor or the most serious allegation was a felony, but no felony adjudication occurred; or
- when the youth becomes 31, if the most serious allegation adjudicated was a felony.

*Hearing to Determine Need for Sex Offender Registration of a Juvenile*

Authorizes the juvenile court, on the youth's motion, to excuse the youth's compliance with sex offender registration requirements, in this state and in other states, if the court finds after a hearing on the matter that the protection of the public would not be increased by registration or that any potential increase would be clearly outweighed by the anticipated substantial harm of registration to the youth and the youth's family.

Authorizes the court, after hearing or under a plea agreement, to defer a decision regarding registration until the youth has completed a sex offender treatment program as a condition of probation or while committed to TYC. Authorizes the court, then, to require or to excuse registration at any time during the treatment program or on its completion. During the period of deferral, registration may not be required.

Authorizes the court, after hearing or under a plea agreement, to enter an order requiring registration but providing that the registration information be available only for use of law enforcement and criminal justice agencies and not be posted on the Internet or released to the public.

Provides that the Act applies to a youth adjudicated for an offense for which registration is required and applies without regard to whether the offense and adjudication occurred before, on, or after the Act's effective date.

*Timely Appointment of Counsel*

Requires the appointment of counsel for youth from indigent families at the time of the initial detention hearing or immediately thereafter when the youth are detained and within five working days following the filing of a petition in the case when the youth are not detained.

Requires such appointment within five working days of the filing of a motion or petition to modify disposition to commit a youth to TYC or to place a youth in a secure correctional facility.

Once appointed, requires that the attorney in all cases continue to represent the youth until the case is terminated, the family retains counsel, or new counsel is appointed.

*Justice and Municipal Courts*

Authorizes a justice or municipal court (with written consent of the city council or commissioners court), individually or jointly with other justice or municipal courts, to employ a case manager for juvenile cases and, if it does so, to retain jurisdiction over the third fine-only offense committed by a youth instead of transferring the case to juvenile court.

Authorizes a justice or municipal court to impose up to a \$500 fine, order nonsecure custody for a single period of time not to exceed six hours, or order a driver's license suspension if a person violates a court order, including a violation that occurs after age 17 that was imposed on the person when the person was younger than age 17 or a violation that occurs before age 17, but the contempt proceedings could not be held until after age 17. Prohibits any term of confinement. Prohibits transfer to juvenile court as a penalty for contempt after the person reaches age 17. Deletes the definition of "child" in Section 52.027(i), Family Code, to conform with this provision relating to children younger than age 17 (instead of age 18).

*TYC Commitment Criteria*

Authorizes commitment to the Texas Youth Commission following an adjudication of a Class A or Class B misdemeanor if there has been at least one previous felony adjudication.

Provides that this applies only to a disposition made on or after the effective date of this Act without regard to whether previous adjudications occurred before, on, or after the effective date.

*Temporary Custody for Fingerprints and Photographs*

Authorizes a law enforcement officer having probable cause to believe that a child has engaged in delinquent conduct and the child's fingerprints will match latent prints or the child's photograph will materially assist the investigation to take temporary custody of the child in order to take the fingerprints or photographs.

Requires the child's immediate release when fingerprints and photographs have been secured, without information related to the temporary custody being entered in the Juvenile Justice Information System.

Requires the law enforcement officer to immediately destroy the fingerprints and photographs if they do not lead to a positive comparison or identification and to make a reasonable effort to notify parents, guardians, or custodians of the actions taken.

Authorizes fingerprinting and photographing of a runaway child if necessary to determine the child's identity. Once the child is identified or once it is determined the child cannot be identified by them, the fingerprints or photographs must be destroyed.

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### *Miscellaneous*

Sets forth responsibilities of juvenile boards, juvenile courts, and juvenile probation departments.

Requires that jury selection in determinate sentence cases be in accordance with criminal statutes, including giving the state and defendant each ten strikes, instead of the six allocated under the civil rules.

Authorizes the juvenile court to appoint an administrative body (rather than the court) to conduct yearly permanency planning hearings that may be required by federal regulations for children placed outside the home in foster care with federal Title IV-E funds.

Requires that a thumbprint be (and permits a photograph to be) affixed to the order in jailable misdemeanor cases just as is currently required in felony cases, because both can now be used in the punishment phase of adult proceedings.

Prohibits confinement in a post-adjudication secure correctional facility for a first-time status offense and prohibits such confinement or TYC commitment for a child adjudicated for contempt of a justice or municipal court.

Requires that the Texas Department of Mental Health and Mental Retardation provide the same standard of care for services ordered by the juvenile court as are provided for other court-ordered services, except that the intent-to-discharge notice must be sent to the juvenile court by certified mail, return receipt requested, at least 10 days prior to discharge by mental health facilities and at least 20 days prior to discharge or furlough by residential care facilities.

Provides a simple, no cost process for expunging a person's justice and municipal court records on or after age 17 when the records relate to a case handled prior to age 17 that involved only one jailable misdemeanor (other than public intoxication) or one violation of a local ordinance. The person need only submit an unsworn written request to the court stating that the person had no other convictions involving these offenses before age 17. If the court finds that true, it must order all documents relating to the offense expunged from the person's record. This process would replace Article 58.01, Code of Criminal Procedure, related to mandatory sealing. The same process may be used to expunge records of a person under 17 that involved a complaint that was dismissed under Sections 261.103(a) and 261.405, Family Code.

Requires that when a person sentenced to commitment to TYC for capital murder is transferred to TDCJ, the person become eligible for parole in accordance with provisions applicable to Section 3g (Article 42.12, CCP) offenses or an offense in which a deadly weapon finding has been made.

Extends the prohibition against a juvenile probation officer's carrying a firearm on duty to include juvenile detention and correctional officers as well. This provision does not apply to TYC employees.

Includes employees of a facility operated by or under contract with a juvenile board to the list of correctional and peace officers for whom it is an offense to knowingly deny or impede a person in custody in the exercise of their rights (Class A Misdemeanor) or to engage in sexual contact, sexual intercourse, or deviate sexual intercourse with a person in custody (State Jail Felony).

*-excerpt from summary provided by Neil Nichols, General Counsel, TYC*



**Health and Human Services for Female Juvenile Offenders - H.B. 1758**

*by Representatives Sylvester Turner and Naishtat*  
*Senate Sponsor: Senator Moncrief*

Female juvenile offenders commit different types of offenses than their male counterparts. Females are three times as likely to experience sexual abuse, which may be an underlying factor in some female delinquency. Service providers must take these differences into account when designing services and treatment programs for teenage girls. Sometimes, a substantially new approach is necessary to effectively treat and serve females.

Directs each state health and human services agency that provides services for females under the age of 18 years of age to assess the effectiveness of its services for females and report its progress to the Health and Human Services Commission.

**Juveniles with Mental Health and Substance Abuse Disorders - H.B. 1901**

*by Representative Sylvester Turner, et al.*  
*Senate Sponsor: Senator Whitmire*

Currently, one of the most significant issues facing the Texas Juvenile Justice System is the number of youth, up to 40 percent of offenders, who have a diagnosable mental health disorder. As Texas juvenile facilities attempt to prepare for the needs of these children, the state has yet to develop a comprehensive and coordinated effort to address the scope of this issue.

Requires the Texas Council on Offenders with Mental Impairments to perform a comprehensive study to develop a plan for juveniles with mental health and substance abuse disorders who are involved or who are at risk of becoming involved in the juvenile justice system.

Authorizes pilot projects to be implemented to address prevention, intervention, and continuity of care for juveniles with mental health and substance abuse disorders.

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## **DNA Specimen Required to be Obtained from Sex Offenders - S.B. 638**

*by Senator Barrientos, et al.*

*House Sponsors: Representative Kitchen, et al.*

Requires a DNA specimen to be obtained from persons indicted of, arrested for, or convicted of certain sexual offenses.

Requires a magistrate to require, as a condition of release of a defendant described under this Act, that the defendant provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record.

Authorizes certain defendants to voluntarily provide a DNA specimen.

Requires a court, if the defendant is acquitted or the case is dismissed, to order the law enforcement agency taking the specimen to immediately destroy the record of the collection of the specimen and require the Texas Department of Public Safety to destroy the specimen and the record of its receipt.

Sets forth procedures for collection and analysis of the DNA specimen.

Makes it a third degree felony for a person to knowingly disclose information in a DNA record or information related to a DNA analysis of a blood specimen taken under this Act, except as authorized by law. A violation constitutes official misconduct.

## **Notifying Licensing Authorities of Sex Offender Registrant Status - S.B. 654**

*by Senator Staples*

*House Sponsors: Representatives Hope and Allen*

Currently, there is no mechanism for professional licensing organizations to be notified when a person is required to register as a sex offender (registrant) with local law enforcement.

Requires registrants to inform the Department of Public Safety of each professional license sought or held and requires DPS to notify the licensing authorities that an applicant for a license or a licensee is a registrant.

Provides that a recent color photograph or, if possible, an electronic digital image of a registrant be collected as part of the registration program.

## **Restructuring the Sex Offender Registration Screening Tool - S.B. 1206**

*by Senator Jackson*

*House Sponsor: Representative Allen*

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As part of the sex offender registration process, many states use sex offender screening tools to assign a numeric rating indicating the offender's level of risk to the community.

Changes the rating system of a sex offender's risk of reoffending to include three levels of risk: level one representing low risk; level two moderate risk; and level three high risk.

Moves the task of assigning the risk level from the risk assessment review committee (committee) to the Texas Department of Criminal Justice (TDCJ) for adult offenders and to the Texas Youth Commission (TYC) for juvenile offenders.

Requires the committee to oversee the assignment of risk levels and authorizes the committee, TDCJ, TYC, or a court to override a risk level assignment if the entity can document the reason for its contention that the risk level assigned is inaccurate.

## Sex Offender Registration Program - S.B. 1380

*by Senator Armbrister*

*House Sponsor: Representative Allen*

Requires juvenile and adult sex offenders, whether incarcerated or on community supervision, to submit a blood sample or other specimen for the purpose of creating a DNA record.

Extends the Texas sex offender registration program to those required to register under federal or military law.

Provides that DPS is responsible for determining whether a sex offense under laws of another state, federal law, or military law contains elements substantially similar to Texas laws, thus making the offender subject to the sex offender registration program.

Requires the notice indicating a sex offender is moving into the neighborhood to be in English and Spanish.

Requires DPS to post, on any DPS website related to the sex offender registration database, any photograph of the registrant obtained from DPS's driver's license or identification card database.

Expands the list of persons persons required to register for life as sex offenders to include individuals who, having a previous conviction for a reportable offense, commit indecency with a child without contact, unlawful restraint of a child, kidnapping of a minor, and aggravated kidnapping without intent to sexually abuse.

## Covert Photographing or Visual Recording of Another for Sexual Purposes - H.B. 73

*by Representative Garcia, et al.*

*Senate Sponsor: Senator West*

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Makes it an offense punishable by a state jail felony if a person photographs, videotapes, or, by other electronic means, visually records another without that person's consent and with the intent to arouse or gratify the sexual desire of any person.

## Registered Sex Offender Requirements - H.B. 121

*by Representative West*  
*Senate Sponsor: Senator Staples*

A person subject to registration as a sex offender who is not supervised by a juvenile probation officer, community supervision and corrections department officer, or parole officer (officer) is required to report to the local law enforcement authority regarding any change in the person's physical health or job status. A person subject to registration as a sex offender who is being supervised by an officer is not required to report to the local law enforcement authority. However, an officer supervising the person is required to notify the local law enforcement authority if the officer receives such information.

Requires any person subject to registration as a sex offender to report any change in the person's physical health or job status not later than the seventh day after the date of the change.

## "Contraband" Definition Expanded for Sexual Offenses Against Children - H.B. 510

*by Representative Olivo, et al.*  
*Senate Sponsor: Senator West*

Many sexual offenses against children involve the use of computers and several of these offenses involve the possession of child pornography or the enticement of children over the Internet. Under current Texas law, property used to commit these offenses is not considered contraband and is not subject to forfeiture.

Expands the definition of "contraband" to include property used in the commission of a felony involving the possession or promotion of child pornography, indecency with a child, sexual performance by a child, or certain offenses involving the criminal solicitation of a minor.

## Sexual Assault Offense Statute of Limitations - H.B. 656

*by Representative Goolsby, et al.*  
*Senate Sponsor: Senator Wentworth*

Only a small percentage of sexual assaults are reported each year, and in many cases, the statute of limitations expires before a person reports the crime. Recent advances in DNA technology have made it possible to solve older sexual offense cases in which DNA collected at a crime scene will either link a suspect to a crime or eliminate the person as a suspect.

Extends the statute of limitations to bring a felony indictment for all sexual assaults from five to ten years.

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Eliminates the statute of limitations where DNA evidence is collected and subject to DNA testing with results that do not match the victim or any other known person.

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## Uncorroborated Testimony of Certain Victims of Sexual Offenses - H.B. 1209

*by Representative Williams*  
*Senate Sponsor: Senator Shapiro*

A conviction for sexual assault or aggravated sexual assault is supportable on the uncorroborated testimony of the victim if the victim informed any person, other than the defendant, of the alleged offense within one year after the date on which the offense is alleged to have occurred. Currently, only a person under the age of 18 is exempt from the requirement that the victim tell another person of the alleged offense. Age is not the only factor that can hinder a victim's ability to tell another of an alleged offense. In some cases, victims who by reason of age or physical or mental disease, defect, or injury are incapable of caring for themselves may be unable to report an alleged crime to another person.

Exempts from the requirements that the victim inform another person of sexual assault or aggravated sexual assault within one year a person who, at the time of the alleged offense, was age 17 or younger, age 65 or older, or age 18 or older who by reason of age or physical or mental disease, defect, or injury was substantially unable to satisfy the person's need for food, shelter, medical care, or protection from harm.

## Advocates Present During Medical Exam of Victims of Sexual Assault - H.B. 1234

*by Representatives Naishtat and Elvira Reyna*  
*Senate Sponsor: Senator Zaffirini*

Requires a physician or other medical services personnel conducting a forensic medical examination of a person for the collection of evidence for an alleged sexual assault, before conducting the examination, to offer the person the opportunity to have an advocate from a sexual assault program who has completed a sexual assault training program to be present during the examination, if the advocate is available at the time of the examination.

Requires a penal institution, if a person alleging to have sustained injuries as the victim of a sexual assault was confined in a penal institution at the time of the alleged assault, to provide, at the person's request, a representative to be present with the person at any forensic medical examination for the purpose of collecting and preserving evidence related to the investigation or prosecution of the alleged assault.

Requires the representative to be approved by the penal institution and to be a psychologist, sociologist, chaplain, social worker, case manager, or volunteer who has completed a sexual assault training program described by state law.

Authorizes the advocate or representative to only provide the injured person with counseling and other support services and information regarding the rights of crime victims.

Prohibits the advocate, the sexual assault program, or the representative from delaying or impeding the screening or stabilization of an emergency medical condition.

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Requires the sexual assault program providing the advocate to pay all costs associated with providing the advocate. Exempts an individual or entity, including a health care facility, providing an advocate with access to a person undergoing an examination from civil or criminal liability for providing that access.

## **Sexual Conduct with Persons in Custody - H.B. 2097**

*by Representative Morrison, et al.*

*Senate Sponsor: Senator Staples*

Current law provides that it is a state jail felony for an official or employee of a correctional facility or a peace officer to engage in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody.

Extends the prohibition against engaging in improper sexual activity with an individual in custody to a person other than an employee who works for compensation at a correctional facility and to a volunteer at a correctional facility.

## **Issuance and Renewal of Driver's Licenses of Sex Offenders - H.B. 2663**

*by Representative Grusendorf*

*Senate Sponsor: Senator Armbrister*

Currently, a person required to register as a sex offender (registrant) must renew a driver's license or identification card in person. However, current law does not address the issuance of commercial licenses, learning permits, hardship licenses, and provisional licenses to registered sex offenders.

Requires registrants to apply for or renew their commercial driver's licenses or commercial driver learner's permits in person.

Authorizes the Department of Public Safety to issue a learner's permit or hardship license to registrant, but requires the permit and license to include a photograph of the person.

Prohibits a registrant from renewing any type of driver's license by mail or electronic means.

Sets the fee for the issuance or renewal of any type of driver's license for a registrant at \$20. Provides that registrants who are veterans are not exempt from the fee.

## **Barring Contact Between Sex Offenders and Their Victims - H.B. 2890**

*by Representative McClendon*

*Senate Sponsor: Senator Madla*

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Makes it a Class A misdemeanor or a third degree felony for an incarcerated sex offender to contact by letter, telephone, or any other means, either directly or through a third party, a victim of the sex offense or a member of the victim's family if:

- the victim was younger than 17 at the time of the sex offense; and
- the director of the correctional facility has not received written consent from the victim, if an adult, or an adult member of the victim's family.

Prohibits the person confined from giving the written consent.

Provides that it is an affirmative defense to prosecution if the contact was indirect contact made through an attorney representing the sex offender and was solely for the purpose of representing the sex offender in a criminal proceeding.

Provides that a correctional facility or an officer or employee of a correctional facility is not liable for damages arising from an act of illegal contact between a sex offender and victim, unless the officer or employee of the correctional facility knowingly assists or participates in the illegal contact.

Makes it a Class C misdemeanor for a public servant or other person who has access to or obtains the name, address, or telephone number of a minor victim of a sex offense to knowingly disclose the information to any person not assisting in the investigation, prosecution, or defense of the case. This does not apply to releasing information to the victim or the victim's family.

## **Ages of the Defendant and Victim in Certain Sex Offenses - H.B. 2987**

*by Representative Deshotel, et al.*  
*Senate Sponsor: Senator Van de Putte*

Requires a judge, in trial for indecency with a child, sexual assault, aggravated sexual assault, or sexual performance of a child, to make an affirmative finding of fact and enter the finding in the judgment case if the judge determines that:

- at the time of the offense, the defendant was younger than 19 years of age and the victim was at least 13; and
- the conviction is based solely on the ages of the defendant and the victim or intended victim at the time of the offense.

Requires the judge to make the same finding of fact and place that finding with the case papers when placing a defendant charged with such offenses on community supervision.



**Statewide Economic Development Unified Budget - S.B. 275**

*by Senator Shapleigh*

*House Sponsor: Representative Jim Solis*

Brings certain aspects of economic development throughout the state into an integrated, unified economic development budget.

Requires funding information on the state's economic programs for every agency receiving such funding to be brought together by the comptroller of public accounts in order to provide information for each regular session of the legislature.

**Powers of Local Government Corporations - S.B. 354**

*by Senator Lindsay*

*House Sponsor: Representative Coleman*

Prior to 1999, legislation relating to local government corporations (LGC) primarily dealt with functions of transportation and required LGCs to be governed by the Texas Transportation Commission (commission). Currently, however, LGCs are not governed by the commission and are authorized to provide other functions and services, creating confusion about the applicability of state purchasing restrictions and procedures to LGCs.

Provides that LGCs are subject to all state laws related to the design and construction of projects, including the procurement of design and construction services that apply to the local government that created the corporation.

**Spaceport Trust Fund - S.B. 813**

*by Senator Brown, et al.*

*House Sponsors: Representative Seaman, et al.*

The Texas Aerospace Commission advocates the building of a commercial spaceport in Texas as a private-public commercial enterprise created to launch satellites into orbit using reusable launch vehicles.

Establishes the spaceport trust fund to provide for the development of spaceport-related infrastructure.

**Anticipation Notes for Rural Economic Development - S.B. 827**

*by Senator Duncan*

*House Sponsors: Representative Hawley, et al.*

Authorizes rural cities and counties to issue anticipation notes to the Texas Agricultural Finance Authority. These communities currently must issue municipal bonds to generate funds, an expensive process requiring the Texas attorney general's review. Allowing rural communities access to small loan amounts in a simple and cost-effective manner will encourage economic development.

### **Moratorium Adoption Procedures for Municipalities - S.B. 980**

*by Senator Carona*

*House Sponsor: Representative Walker*

Municipalities are not required to hold public hearings and provide notice before adopting a moratorium ordinance. This can cause uncertainty and potential hardship for property developers.

Requires a municipality, before a moratorium on property development is authorized to be imposed, to conduct public hearings.

### **Economic Incentives and Horse Racing - S.B. 1096**

*by Senator Cain, et al.*

*House Sponsor: Representative Brimer*

Provides a funding mechanism for a race track awarded the Breeders' Cup horse race to recover costs associated in connection with bringing the race to Texas.

Authorizes an association conducting the Breeders' Cup races to apply for the reimbursement of certain costs during the year in which the association hosts the races, limited to an amount equal to the lesser of the aggregate amount contributed to pay Breeders' Cup costs by political subdivisions and development organizations or \$2 million.

Requires the Texas Racing Commission to make disbursements from the Breeders' Cup Development Account to reimburse Breeders' Cup costs actually incurred and paid by the association, after a request has been filed by the association.

### **Establishing the Texas Wine Marketing Assistance Program - H.B. 892**

*by Representatives Swinford and Green*

*Senate Sponsor: Senator Duncan*

The growth of the Texas wine industry has had a positive impact on the Texas economy and although the state is a significant consumer of wine, demand is not being supplied by Texas wineries. H.B. 892 establishes the Texas Wine Marketing Assistance Program to assist the Texas wine industry promote and market its wines. The bill also contains provisions for the direct shipment of wine and for local option elections.

Requires the Texas Wine Marketing Assistance Program to:

- organize a network of package stores to participate in promoting Texas wines and to deliver wine to consumers;
- develop and maintain a database of Texas wineries and package stores;
- operate a toll-free telephone number to receive inquiries from persons wishing to purchase particular Texas wines and to disseminate information about Texas wineries and wine;
- use market research to develop a Texas wine industry marketing plan; and
- educate the public about Texas wines.

With regard to the sale and shipment of wine in Texas by a purchaser at a winery, the bill:

- allows a person who purchases wine while at a winery in Texas to ship the wine to the person's residence if the winery verifies that the person purchasing the wine is 21 years of age or older; and
- requires the person to be present when the wine is delivered to the person's residence.

With regard to the sale and shipment of wine in Texas by a purchaser not physically present at the winery, the bill:

- allows a person to have the winery ship the wine to a package store;
- requires the package store to notify the purchaser that the wine is available for pick up;
- allows the package store to charge a \$3.50 handling fee;
- requires the package store and the purchaser to agree on shipping arrangements if the purchaser elects to have the store ship the wine to the purchaser; and
- allows the package store to return the wine to the winery if no pick up has occurred before the 30th day after the date the purchaser is notified.

With regard to the delivery of wine in a dry county in Texas, the bill allows a package store participating in the program to ship wine to a person residing in a dry area if:

- the delivery is made by the holder of a carrier permit; and
- the package is clearly labeled as requiring the signature of a person 21 years of age or older for delivery.

For a local option election relating to the legal sale of wine on the premises of the holder of a winery permit, a petition must have the actual signatures, residence addresses, and voter registration certificate numbers of a number of qualified voters of the political subdivision equal to 25 percent of the registered voters in the subdivision who voted in the most recent general election.

Allows wineries in a dry area to sell wine to consumers in unbroken packages, in an amount not to exceed 25,000 annually.

Allows wineries in dry areas to hold wine festivals no more than four times a year to promote wine and to sell and dispense wine under certain conditions.

Requires the Texas Alcoholic Beverage Commission to develop a standard invoice for shipping wine in Texas, allowing it to monitor the sale and delivery of wine through the program.

### **A Statewide Economic Development Plan with Five-Year Updates - H.B. 931**

*by Representative Solis*

*Senate Sponsor: Senator Shapleigh*

Requires the Texas Department of Economic Development to develop a coordinated, comprehensive economic development plan in consultation with the comptroller to provide for orderly economic development in the state.

Requires that the plan provide for establishing goals and standards to measure whether state efforts are having a positive economic effect; tracking benefits and wage and retention performance measures; and reevaluating economic development initiatives that offer fewer benefits in relation to their costs. Requires that the plan be updated every five years.

### **Development Zones in Economically Distressed Areas - H.B. 1053**

*by Representative Coleman  
Senate Sponsor: Senator Gallegos*

Authorizes municipalities and counties to create commercial and industrial development zones in areas of pervasive poverty, unemployment, or economic distress to promote and encourage commercial development including business development in the technology field; workforce development; excellence in education; public and private sector partnerships; and the revitalization of neighborhoods.

Requires that such zones be adjacent to major transportation nodes and thoroughfares, which may be used for exporting products to major airports, railways, and ports.

Authorizes a creating body to use tax increment financing to fund a development zone.

### **Texas Economic Development Act - H.B. 1200**

*by Representative Brimer, et al.  
Senate Sponsor: Senator Harris*

Creates the Texas Economic Development Act (TEDA) and authorizes certain ad valorem tax incentives for economic development, including authorizing school districts to provide tax relief for certain corporations and limited liability companies that make large investments that create jobs in this state, authorizing the imposition of certain impact fees, and continuing the Property Redevelopment and Tax Abatement Act.

The provisions of the bill concerning property value limitations and school tax credits expire December 31, 2007.

Pertains only to property owned by a corporation or limited liability company which applies for tax relief.

Requires that to be eligible for a limitation on appraised value, the corporation or limited liability company must use the property in connection with manufacturing, research and development, or renewable energy electric generation.

Provides that for purposes of determining an applicant's eligibility, the land on which a building or component of a building is located is not considered a qualified investment; property that is leased under a capitalized lease may be considered a qualified investment; property that is leased under an operating lease may not be considered a qualified investment; and property that is owned by a person other than the applicant and that is pooled or proposed to be pooled with property owned by the applicant may not be included in determining the amount of the applicant's qualifying investment.

Requires that, to be eligible for a limitation on appraised value, at least 80 percent of all the new jobs created by the property owner must be qualified jobs.

Authorizes the owner of qualified property to apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property.

Requires the governing body, if the governing body of the school district does elect to consider an application, to engage a third person to conduct an economic impact evaluation of the application on behalf of the school district and approve or disapprove an application before the 121st day after the date the application is filed, unless an extension is agreed to by the governing body and the applicant.

Requires the comptroller, before the 61st day after the date the copy of the application is received, to submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

Provides that if the person's application is approved by the governing body of the school district, for each of the first eight tax years that begin after the applicable qualifying time period, the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district in the school district may not exceed the lesser of the market value of the property or the amount agreed to by the governing body of the school district.

Provides that information provided to a school district in connection with an application for a limitation on appraised value that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application is confidential and not subject to public disclosure unless the governing body of the school district approves the application.

Prohibits the governing body of the school district, if the governing body of a school district grants an application for a limitation on appraised value, from adopting a tax rate that exceeds the school district's rollback tax rate for each of the first two tax years that begins after the date the application is approved.

Provides that if, in any tax year in which a restriction on the school district's tax rate is in effect, the governing body approves a subsequent application for a limitation on appraised value, the restriction on the school district's tax rate is extended until the first tax year that begins after the second anniversary of the date the subsequent application is approved.

Provides that property subject to a limitation on appraised value in a tax year is not eligible for tax abatement by a school district in that tax year.

Requires the comptroller to adopt rules and forms necessary for the implementation and administration of this law, including rules for determining whether a property owner's property qualifies as a qualified investment and provide without charge one copy of the rules and forms to any school district and to any person who states that the person intends to apply for a limitation on appraised value or a tax credit.

Provides a limitation on appraised value of property in certain rural school districts and provides that property owners are required to create at least 10 new jobs on the owner's qualified property and requires that at least 80 percent of all the new jobs created be qualifying jobs.

Provides that, in addition to the limitation on the appraised value of the person's qualified property, a person is entitled to a tax credit from the school district that approved the limitation in an amount equal to

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the amount of ad valorem taxes paid to that school district that were imposed on the portion of the appraised value of the qualified property that exceeds the amount of the limitation agreed to by the governing body of the school district in each year in the applicable qualifying time period.

Prohibits a person delinquent in the payment of an additional tax from submitting a subsequent application or receiving a tax credit in a subsequent year.

### *Amends the Tax Code, as follows:*

Requires that each year the chief appraiser compile and send to the Texas Department of Economic Development a list of properties in the appraisal district that in that tax year meets certain requirements.

Authorizes the governing body of a school district, notwithstanding any other provision to the contrary, to designate an area entirely within the territory of the school district as a reinvestment zone if the governing body finds that, as a result of the designation and the granting of a limitation on appraised value for property located in the reinvestment zone, the designation is reasonably likely to meet certain requirements.

Authorizes the governing body of the school district to seek the recommendation of the commissioners court of each county and the governing body of each municipality that has territory in the school district before designating an area as a reinvestment zone.

Provides that, if not continued in effect, Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, expires September 1, 2005, rather than 2001.

### *Amends Chapter 42E, Education Code, as follows:*

Provides that for each school year, a school district, including a school district that is otherwise ineligible for state aid under Chapter 42E (Financing the Program), is entitled to state aid in an amount equal to the amount of all tax credits credited against ad valorem taxes of the district in that year.

Provides school district taxes for which credit is granted under the Texas Economic Development Act are considered taxes collected by the school district as if the taxes were paid when the credit for the taxes was granted.

### *Adds the following to the Government Code:*

Requires the attorney general, the comptroller, the Texas Department of Economic Development, and the Council on Workforce and Economic Competitiveness to conduct a survey of tax incentive laws and economic development laws enacted in other states since 1990 and deliver to the governor, the lieutenant governor, and the speaker of the house of representatives a joint report of the results of the survey. The initial joint report is to be delivered before December 31, 2002, and an update of the joint report is to be delivered before December 31 of each subsequent year.

**Municipal Industrial Development Districts - H.B. 1390**

*by Representatives Najera and Pickett*

*Senate Sponsor: Senator Shapleigh*

Addresses the unintended consequences of legislative actions and modifications to the Development Corporation Act of 1979 authorizing cities in counties with a population of 500,000 or fewer, and cities in counties with a population of 750,000 or more, to adopt up to a one-half percent sales tax on local retail sales to support local economic development projects. Counties which fall between these two populations, including El Paso, Hildalgo, and Travis, have been prevented from utilizing this economic development tool.

Lowers the population requirement for an "eligible city" where the combined rates of sales and use taxes do not exceed 8.25 percent to include a city located in a county with a population of 500,000 or more.

**Tax Abatements Encouraging Property Redevelopment Continue (Sunset) - H.B. 1449**

*by Representative Oliveira*

*Senate Sponsor: Senator Sibley*

Local governments use tax abatements to attract new industry and commercial enterprises and to encourage the retention and development of existing businesses. Over 700 tax abatement agreements have been executed by local governments in Texas since the early 1980s and these agreements are credited with producing approximately 275,000 new or retained jobs. Currently, incorporated cities, counties, school districts, and special districts are allowed to enter into tax abatement agreements. In 1995, the legislature reauthorized local governments to use property tax abatements until September 1, 2001.

Continues the Property Redevelopment and Tax Abatement Act, Tax Code, until September 1, 2009.

**Local Workforce Development Boards in Rural Areas - H.B. 1723**

*by Representative Seaman, et al.*

*Senate Sponsor: Senator Armbrister*

There is concern that more populated urban areas may receive greater attention and funding than less populated rural counterparts under the workforce development programs provided by local workforce development boards (LWDBs). State block grants for employment, training, and child care are administered to the LWDBs by the Texas Workforce Commission, and rural communities have problems that need to be addressed by these programs.

Authorizes the commissioners court of a county with a population of 50,000 or less to establish a county employment development board for the purpose of supplementing existing workforce development programs administered by an LWDB.

**Tax Incentives for Certain Businesses - H.B. 2686**

*by Representative Solis, et al.*

*Senate Sponsor: Senator Lucio*

The Texas Enterprise Zone Program was created to generate capital investment and job creation in economically distressed areas of Texas. The program provides communities with an economic development tool to offer state and local incentives and program priority to new or expanding businesses in these designated areas. The Defense Economic Readjustment Zone Program was established to assist adversely impacted defense-dependent communities in responding to or recovering from closures or realignments of defense installations or reductions or termination of defense contracts. H.B. 2686 makes substantive changes to the Texas Enterprise Zone Program and Defense Economic Readjustment Zone Program and provides for increased incentives for certain businesses located in an enterprise zone, federal empowerment zone, or federal enterprise community.

Prohibits the number of new permanent jobs or retained jobs eligible to be included in a computation of a tax refund for the enterprise project from exceeding 250, or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as an enterprise, whichever is less.

Provides that an enterprise project and a defense readjustment project are entitled to a franchise tax rather than to a deduction from taxable capital.

Requires the comptroller to report to the Texas Department of Economic Development (TDED) the statewide amount of franchise tax refunds and credits given for enterprise projects during that fiscal year.

Authorizes TDED to monitor a qualified business or enterprise project or a defense readjustment project to determine whether and to what extent the business or project has followed through on any commitments made by it or on its behalf.

Amends the Tax Code to provide that an enterprise project is eligible for a refund of certain taxes imposed on purchases of tangible personal property purchased and consumed in the normal course of business in the enterprise zone and taxable services.

Provides that an enterprise project, subject to certain limitations, qualifies for a refund of taxes of \$5,000, rather than \$2,000, for each new permanent job or job that has been retained by the enterprise project for a qualified employee.

Amends the Tax Code to authorize a corporation to claim a credit or take a carry-forward credit without regard to whether the strategic investment area, enterprise zone, or readjustment zone in which it created the qualifying jobs subsequently loses its designation as a strategic investment area, enterprise zone, or readjustment zone, if applicable.

Authorizes a corporation that has been designated as an enterprise project or as a defense readjustment project to claim the entire credit earned during an accounting period against the taxes imposed for the corresponding reporting period.

Provides that the franchise tax provisions relating to enterprise and readjustment projects take effect January 1, 2003, and apply to a report originally due on or after that date.



**North American Free Trade Agreement Impact Zones - H.B. 2808**

*by Representatives Chavez and Solis*

*Senate Sponsor: Senator Shapleigh*

Border communities have shown some signs of economic growth following ratification of the North American Free Trade Agreement (NAFTA). In order to expedite the construction of new businesses in these communities, the establishment of zones in which certain construction fees are waived, taxes are refunded or reduced, and baseline performance standards established would provide incentives for certain building opportunities.

Authorizes a municipality to create a NAFTA impact zone (zone) if it is determined that such a zone would promote business opportunities and economic development as well as employment opportunities for residents of the zone.

Requires a business that would operate in this zone to receive certain benefits as a result of the waiver or adoption of fees related to the construction of buildings in the zone.

Requires businesses to report annually to the governing bodies of the municipality on the percentage of individuals hired by the business that receive NAFTA assistance.

**Commercialization of Fuel Cell Technologies - H.B. 2845**

*by Representative Danburg*

*Senate Sponsor: Senator Cain*

Increased population in urban areas combined with a growing high tech industry has increased the need for reliable electrical power which in the past has been met through the construction of large central station power plants.

Requires the State Energy Conservation Office (energy office) to develop a statewide plan for the coordinated acceleration of the commercialization of fuel cell generation in this state. Sets forth requirements for the plan.

Requires the energy office, in developing the plan and proposed rules, guidelines, and operating procedures, to seek the assistance and support of certain entities. Sets forth requirements for the plan.

Requires the energy office to appoint a fuel cell initiative advisory committee to advise the energy office regarding development of the plan and to assist the energy office in meeting the goals of this Act.

**Counties May Create Economic Development Programs - H.B. 2870**

*by Representative Ramsay*

*Senate Sponsor: Senator Staples*

Under Texas law, a municipality may offer tax abatements to certain businesses to promote economic development. H.B. 2870 explicitly extends this mandate to counties.

**Texas Engineering and Technical Consortium - S.B. 353**

*by Senator Ellis, et al.*

*House Sponsor: Representative McCall*

According to a 1998 report of the Governor's Science and Technology Council, Texas currently has between 26,000 and 34,000 technology-related job vacancies.

Establishes the Texas Engineering and Technical Consortium to increase:

- the number of engineering and computer science graduates from private and public Texas institutions of higher education; and
- collaborative efforts between universities, engineering and computer science departments, and private technology companies.

**Higher Education Opportunity - S.B. 573**

*by Senator Bivins, et al.*

*House Sponsor: Representative Rangel*

During the last interim, the Special Commission on 21<sup>st</sup> Century Colleges and Universities recommended a statewide advertising campaign to attract more students to attend institutions of higher education.

Authorizes the Texas Higher Education Coordinating Board (board) to establish a statewide public awareness campaign promoting the value, types of institutions and degree programs, financial aid, and preparation for higher education.

Requires the campaign to be targeted to elementary and secondary students, emphasizing those student groups that have been under-represented in higher education.

Directs the board to cooperate with other agencies.

Authorizes the board to use any available revenue and to solicit and accept gifts, grants, and donations.

**Regulation of Private Youth Camps - S.B. 575**

*by Senator Staples*

*House Sponsor: Representative Sadler*

Exempts a facility or program operated by or on the campus of public, private, and independent universities from regulation under the youth camp section of the Health and Safety Code.

**University of North Texas System - S.B. 576**

*by Senator West, et al.*

*House Sponsors: Representative Jesse Jones, et al.*

In 1999, the 76<sup>th</sup> Legislature established the University of North Texas System comprised of the University of North Texas, located in Denton, and the University of North Texas Health Science Center in Fort Worth. In addition, the current University of North Texas System Center at Dallas offers junior, senior, and graduate courses. However, to meet the needs of the diverse population of the city of Dallas, a full undergraduate university is under consideration.

Establishes the University of North Texas at Dallas as a four-year institution of higher education (IHE) as part of the University of North Texas System. This institution was formerly established as the North Texas System Center at Dallas.

Expands the programs offered by the University of North Texas Health Science Center at Fort Worth and makes it a coeducational IHE. Prohibits the center from awarding an M.D. degree.

**Texas Grant II, the Sequel - S.B. 1596**

*by Senator Bivins, et al.*

*House Sponsors: Representatives Rangel and Jesse Jones*

Establishes the Toward Excellence, Access, & Success (TEXAS) grant II program for use by eligible students to earn a two-year degree at junior and state colleges or public technical institutes.

Authorizes the Texas Higher Education Coordinating Board to adopt rules necessary to operate a grant program that gives the highest priority to students who demonstrate the greatest financial need.

Requires a student in each semester to meet eligibility criteria including maintaining a 2.5 grade point average and earning credit for 75 percent of course work attempted.

Establishes the grant amount to be the average cost of tuition and fees for a full-time student in an associate or certificate program in state institutions.

Prohibits an eligible institution from charging a Texas grant II recipient more than the grant amount for tuition and fees or selecting applicants based on Texas grant II status.

**Increasing College Enrollment - H.B. 400**

*by Representative Giddings*

*Senate Sponsor: Senator Van de Putte*

Requires the Texas Education Agency (TEA) and institutions of higher education (IHE) to cooperate to increase the number of students who attend college from high schools that have a low rate of graduates who attend college.

Requires TEA to collaborate with the Texas Higher Education Coordinating Board to identify school districts that have the lowest percent of students attending college and to link those high schools with a nearby IHE to develop a plan with clear measurable attainable goals to send more graduates to college.

**Bonds for Capital Projects at Public Institutions of Higher Education - H.B. 658**

*by Representative Junell, et al.*

*Senate Sponsor: Senator Ellis*

Under current law, the governing board of an institution of higher education (institution) is authorized to issue bonds or notes to acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, and other infrastructure related to the institution. Certain systems and institutions may need more funds to finance these types of projects. H.B. 658 authorizes the board of regents for certain universities and university systems to issue additional bonds to fund infrastructure projects at the specified institutions.

The bond proceeds are to be used for the acquisition, purchase, construction, renovation, or equipping of buildings, facilities, and infrastructure. These bonds are payable from pledged revenue, including student tuition, and are not general obligations of the state. However, the issuance of these bonds would have fiscal implications for the state. Although tuition income is pledged against the bonds, historically the legislature has appropriated General Revenue funds to reimburse institutions of higher education for tuition used to pay the debt service. It is assumed that the legislature would continue this policy.

Amends the Education Code to authorize the board of regents of The Texas A&M University System, The University of Texas System, the University of Houston System, the Texas State University System, the University of North Texas System, Texas Woman's University, Midwestern State University, Stephen F. Austin State University, the Texas Tech University System, Texas Southern University, and the Texas State Technical College System to issue bonds for specified institutions and entities to finance the acquisition, purchase, construction, improvement, renovation, enlargement, or equipping of certain infrastructure with these bonds in accordance with stipulated guidelines in an aggregate principal amount not to exceed the amount specified for each project.

Authorizes each board to pledge irrevocably to pay the bonds with all or any part of the revenue funds of any entity of their respective university systems.

Prohibits the reduction or abrogation of the amount of a pledge made under these provisions while the bonds or bonds issued to refund those bonds are outstanding.

Authorizes a board to transfer funds among entities of its university system to ensure equitable and efficient resource allocation, if the board does not have sufficient funds available to meet its obligations under these provisions and the bond was issued for an entity of the system.

Authorizes the use of any proceeds of bonds that are for one or more specified projects at an institution that is not required for the specified project for the renovation of existing structures and facilities at the institution.

Prohibits the issuance of bonds for certain facilities at Prairie View A&M University and Texas Southern University before March 1, 2003.

Authorizes the following institutions or systems of institutions of higher education to issue up to \$1.1 billion of revenue bonds:

- Prairie View A&M University - \$68 million
- Tarleton State University - \$18.7 million
- Texas A&M University - Commerce - \$15.0 million
- Texas A&M University - Corpus Christi - \$34 million
- Texas A&M International University - \$21.6 million
- Texas A&M University at Galveston - \$10.0 million
- Texas A&M University Kingsville - \$20.1 million
- Texas A&M University - Texarkana - \$17 million
- West Texas A&M University - \$22.8 million
- Texas A&M University Health Science Center - \$14.3 million
- The University of Texas at Arlington - \$16.6 million
- The University of Texas at Brownsville - \$26.0 million
- The University of Texas at Dallas - \$22.0 million
- The University of Texas at El Paso - \$12.8 million
- The University of Texas - Pan American - \$30.0 million
- The University of Texas of the Permian Basin - \$5.6 million
- The University of Texas at San Antonio - \$23.0 million
- The University of Texas at Tyler - \$20.9 million
- The University of Texas Southwestern Medical Center at Dallas - \$40 million
- The University of Texas Medical Branch at Galveston - \$20 million
- The University of Texas Health Science Center at Houston - \$20.0 million
- The University of Texas Health Science Center at San Antonio - \$28.9 million
- The University of Texas System Administration - Regional Academic Health Center - \$25.5 million
- The University of Texas Health Center at Tyler - \$11.5 million
- The University of Texas M.D. Anderson Cancer Center - \$20 million
- University of Houston - \$51.0 million
- University of Houston - Downtown - \$18.2 million
- University of Houston-Clear Lake - \$30.9 million
- University of Houston-Victoria - \$2.8 million
- Angelo State University - \$16.9 million
- Lamar University - Beaumont - \$21.8 million
- Lamar Institute of Technology - \$5.3 million
- Lamar State College-Orange - \$2.1 million

- Lamar State College-Port Arthur - \$7.7 million
- Sam Houston State University- \$18 million
- Southwest Texas State University - \$18.4 million
- Sul Ross State University- \$15.2 million
- University of North Texas - \$52.9 million
- University of North Texas Health Science Center at Fort Worth - \$27.5 million
- Texas Woman's University - \$25.8 million
- Midwestern State University - \$9.0 million
- Stephen F. Austin State University - \$14.1 million
- Texas Tech University - \$23.6 million
- Texas Tech University Health Sciences Center - \$66.9 million
- Texas Southern University - \$79 million
- Texas State Technical College - Harlingen - \$3.4 million
- Texas State Technical College - Marshall - \$1.8 million
- Texas State Technical College - Waco - \$3.4 million
- Texas State Technical College - West Texas - \$2.3 million

### **No Tuition or Fees for Educational Aides Studying to be Teachers - H.B. 1130**

*by Representative Rangel, et al.*  
*Senate Sponsor: Senator Barrientos*

The 75th Legislature created the Educational Aide Exemption Program to fund tuition and fee exemptions for educational aides who attend college to become certified teachers.

Expands the number of teacher aides who are eligible to receive the exemption from tuition and fees and requires school districts and universities to adopt plans designed to facilitate the use of the program and increase the number of certified teachers in Texas.

The Texas Higher Education Coordinating Board estimates that following the passage of the bill the number of participants in the program will double from 1,700 to 3,400. The General Appropriations Bill includes a rider that increases the transfer from the Texas Education Agency to the Coordinating Board for this and other tuition credit programs. In the General Appropriations Bill, the Coordinating Board strategy related to the Educational Aide Program is increased from \$1 million to \$2 million a year to reflect the increase in the rider transfer. Therefore the resulting increase in costs as a result of this bill are already provided for in the General Appropriations Bill.

**Transfer College Credits - H.B. 1359**

*by Representatives Villarreal and Rangel  
Senate Sponsor: Senator Shapleigh*

In 1997, the legislature directed the Texas Higher Education Coordinating Board (board) to develop fields of study curricula for all degree programs to allow college students to transfer course credits among institutions of higher education (IHEs); since then the board has completed two programs.

Requires the board to institute a decentralized management system to improve productivity.

Requires the board, by January 1, 2003, to complete field of study curricula for 10 degree programs that are in high-demand by transfer students and another five by January 1, 2004.

Requires IHEs to include in both course catalogs and websites the common course numbering system developed by the board.

**Counting Students in the Top Ten Percent - H.B. 1387**

*by Representative Dukes  
Senate Sponsor: Senator Barrientos*

An Austin high school, which included both a magnet and a non-magnet program, experienced conflict over the designation of students in the top 10 percent of the graduating class for automatic college admissions. The bill's scope is limited to one high school in the state. The bill preserves the automatic college admission status of the non-magnet graduates while keeping magnet graduates ranked in the upper half of the graduating class for other college admission purposes.

Authorizes a school board to treat a magnet school or other special program conducted in a high school that has students not assigned to the magnet program as an independent high school with its own graduating class for the top 10-percent admission rule if the program:

- existed before the 2000-2001 school year;
- enrolls only students recruited and admitted to the program from a school district with 10 high schools;
- treats the students of the magnet program as a separate student body within the high school;
- makes up at least 35 percent of the high school enrollment;
- has a different curriculum from the host high school; and
- issues a diploma that refers to the magnet or special program.

Applies to college admission of a student who graduated before the effective date of this bill if the school district treated the graduating class of the special program as a separate graduating class.

**Tuition for Resident Children - H.B. 1403**

*by Representative Noriega, et al.*  
*Senate Sponsor: Senator Van de Putte*

Children of state residents may not be eligible for resident tuition at state postsecondary institutions. Aliens may live in the state for most of their lives but still must pay non-resident tuition at any college located outside of the counties that border Mexico. Children of a resident citizen may live in another state as a result of divorce.

Allows a student to pay resident tuition if the student lived with parents, or in another family arrangement, in the state for three years, graduated from a Texas high school or earned a GED, entered a postsecondary institution in 2001 or later, agreed to file an application for residency at earliest opportunity, and did not establish residency outside the state.

Allows a student who moved out of the state with one parent while another lives in the state to pay resident tuition.

Allows an alien who has filed for or has a petition pending with the Immigration and Naturalization Service for legal status to pay resident tuition.

Allows a Mexican citizen who enrolls at the University of Texas at San Antonio to pay resident tuition.

**UT- Pan American Expands to Rio Grande City - H.B. 1753**

*by Representative Gutierrez, et al.*  
*Senate Sponsor: Senator Zaffirini*

The University of Texas – Pan American, located in Edinburg, will be able to extend the availability of upper-division courses to Rio Grande City, about 45 miles from Edinburg.

Authorizes the university to enter into a partnership with South Texas Community College to offer baccalaureate degrees in Rio Grande City.

Allows the university to open an extension campus to offer upper-division courses to students who have successfully completed lower-division courses at STCC.

**Research and Excellence Funds - H.B. 1839**

*by Representative Junell, et al.*  
*Senate Sponsor: Senator Ellis*

The economic future of Texas depends on the state's ability to remain at the forefront of scientific and technological innovation. Texas is favorably located and has the infrastructure needed to facilitate growth in the high-tech industry and is positioned to meet the technological challenges of the next century. Currently, Texas ranks second in the nation in the total number of high-tech jobs and first in the number of



new jobs created since 1990. There are 772,000 high-tech employees in Texas, approximately 11 percent of the state's workforce.

Creates two new funds, the Texas Excellence Fund (TEF) and University Research Fund (URF) to promote research and provide excellence funds for certain comprehensive research universities.

Authorizes a portion of the annual \$50 million deposit from General Revenue to the Permanent Higher Education Fund (PHEF) to instead be deposited into the TEF. The portion is an amount equal to the portion of the total return on investment assets of the higher education fund in the preceding state fiscal year computed by multiplying that total return by the percentage of the total return on all investment assets of the permanent fund for tobacco education and enforcement that constitutes available earnings as determined by the comptroller.

Requires the legislature in each fiscal year to appropriate or provide an amount into the URF equal to the amount deposited in the TEF in that fiscal year.

Authorizes the legislature to appropriate or provide for the transfer of any available money to the credit of the TEF and requires the comptroller to distribute all assets in the university research fund as soon as practicable to eligible institutions.

Authorizes an institution to use money appropriated from the TEF or the URF only for the support and maintenance of educational and general activities that promote increased research capacity and develop institutional excellence

Directs the formation of a committee to conduct a study to: examine the feasibility of creating a single research enhancement fund to provide funding for institutions of higher education that have a proven research history; examine how institutions have historically utilized "excellence funds"; and consider whether a portion of the annual distribution from the permanent university fund to the available university fund appropriated to The University of Texas System under Section 18(f), Article VII, Texas Constitution, should be appropriated or made available for appropriation for the support and maintenance of institutions of higher education in The University of Texas System other than The University of Texas at Austin.

### **Loan Repayment Assistance for Public Service Attorneys - H.B. 2323**

*by Representative Gallego*  
*Senate Sponsor: Senator Shapleigh*

Attorneys working in nonprofit organizations that provide free representation to indigent clients and attorneys working in rural county or district attorney's offices need help repaying law school loans.

Authorizes the Texas Higher Education Coordinating Board to assist those attorneys who apply to repay tuition loans from money donated for the purpose.

Establishes eligibility, application process, amount and time limitations, and employment requirements to qualify.

## Various Bills Addressing Tuition and Fees at Public Institutions of Higher Education

H.B. 2531 (Junell/Bivins) increases the current tuition of \$40 per semester credit hour by \$2 each year until 2005-2006, when tuition will be \$50 per semester credit hour, and S.B. 1814 (Ellis/Rangel) allows a board of regents to set graduate or professional pharmacy program tuition at an amount up to three times that in H.B. 2531.

Each fee bill allows regents to adopt fee increases and usually requires student elections to approve the proposals and provides a maximum fee. Fees may be increased from year to year if approved by a student vote. Several bills include language that requires a vote of registered students in an election called for the purpose before increasing a fee more than 10 percent, but an election is also required to increase the fee by less than 10 percent.

Two bills (H.B. 120 by West/Duncan and S.B. 628 by Staples/Berman) institute intercollegiate athletics fees at The University of Texas System components. The regents may impose a \$7 per semester credit hour (\$84 per 12-hour semester) at UT Tyler and \$5 per semester credit hour (\$60) at UT Permian Basin. Neither fee is included in determining the maximum fee restrictions.

Three bills (H.B. 462 by Crownover/Haywood, H.B. 467 by Solomons/Nelson, and S.B. 462 by Duncan/Delwin Jones) allow increases in student medical services fees. Regents at Texas Woman's University may increase fees from \$30 per semester to a maximum of \$55. Regents of the University of North Texas system may increase its medical services fee from \$25 to \$75 per semester at each component institution, though the fee is limited to \$30 for the 2001-2002 academic year unless approved by a student election and may not be included in determining the maximum fee cap. Texas Tech regents may raise the medical services fee from \$55 to \$100, though increases of more than 10 percent must be approved by a student election.

H.B. 2575 by Representative Goolsby and Senator Shapiro raises the fee cap for all IHEs outside the UT system or University of Houston system from \$150 to \$250 per year, but, if the total compulsory fee exceeds \$150, an increase must be approved by a student election. In subsequent years, an increase of more than 10 percent must be approved by a student vote.

The Texas A&M University System (TAMU) board of regents will have the opportunity to increase its maximum student center complex fee from \$40 to \$100 per semester (H.B. 1024 by Brown/Ogden) and the recreational sports fees at component institutions from \$50 to a maximum of \$100 per semester (H.B. 1023 by Brown/Ogden). Both bills require approval in a student election before any increase becomes effective, but the recreational sports fee will not be included in calculating the maximum fee cap. UT Tyler students may pay both the aforementioned intercollegiate athletics fee as well as a new recreational facility fee (S.B. 628 by Staples/Berman) of \$40 per regular semester. The fee is in addition to any other fee and not included in calculating the maximum fee cap.

S.B. 1472 (Ogden/Williams) will allow each IHE to increase its required property deposit from \$10 to an amount up to \$100 from which deductions to cover losses, damage, and breakage in libraries and laboratories will be made.

Medical and dental students now must purchase health insurance.

Several bills will improve access to higher education by:

- Granting resident tuition to a Mexican citizen who enrolls in an IHE located in a border county (S.B. 743 by Lucio/Coleman);
- Establishing a pilot program allowing one-half the regular tuition rate for students enrolling in summer sessions at TAMU and TAMU-Kingsville (H.B. 152 by Brown/Ogden);
- Waiving tuition and fees for children of dead or disabled peace officers and fire fighters (H.B. 459 by Carter/Moncrief) and a person employed as a school classroom aide (H.B. 1130 by Rangel/Barrientos);
- Waiving tuition and room and board at college residency properties, until a bachelor's degree is awarded or 200 credit hours are completed, for a surviving parent, spouse, or child of certain public employees killed in the line of duty. (H.B. 877 by Flores/Barrientos);
- Allowing a person to include living costs in the amount of a student loan (H.B. 1938 by Solis/Bivins);
- Providing a saving program for living costs during post secondary education (S.B. 555 by Ellis/Junell);
- Extending from one to two years the time a person who graduated from a Texas high school and who is 22 years old or younger and formerly received Temporary Assistance for Needy Families qualifies for the one-year waiver of tuition and fees (H.B. 2279 by Naishtat/Barrientos);
- Allowing summer-session students to make time payments on tuition and fees (H.B. 1212 by Dunnam/Fraser);
- Allowing students to be considered residents for tuition if they graduated from a state high school (H.B. 1403 by Noriega/Van de Putte);
- Allowing the Texas Higher Education Coordinating Board to extend the time allowed under the Texas Grant Program (S.B. 1057 by Ellis/Rangel);
- Establishing a pilot program allowing students who enroll in a community college in off-peak times to pay a lower tuition (H.B. 1465 by Kitchen/Barrientos);
- Allowing spouses and dependent children of members of military formerly stationed in Texas for six months to pay resident tuition (H.B. 1941 by Delisi/Truan); and
- Establishing a pilot program allowing UT Austin to offer flat rate tuition and fees for students enrolling in more than 14 semester credit hours in two of its colleges (H.B. 3524 by Hochberg/Zaffirini).

**Touch Those Toes - S.B. 19**

*by Senator Nelson, et al.*

*House Sponsors: Representative Dunnam, et al.*

Authorizes the State Board of Education to require by rule one-half hour of daily physical activity as part of the physical education curriculum or through structured activity during recess.

Requires each district to create a local health education advisory council whose members include a majority of district parents, to ensure local values are included in health education curriculum.

Replaces Human Sexuality Instruction with a program of broad-based health instruction. Authorizes the advisory council to recommend the length of instruction of health education with appropriate grade-level curriculum that may include a coordinated program to prevent obesity, cardiovascular disease, and diabetes, as well as human sexuality instruction.

**School Days, School Days - S.B. 108**

*by Senator Lucio, et al.*

*House Sponsor: Representative Dutton*

Prohibits a school district from holding the first day of school prior to the week that includes August 21.

Allows districts to apply for a waiver after publishing notice 60 days before filing, holding a hearing, and including a summary of public comments and authorizes the commissioner of education to issue waivers.

**Financial Accountability - S.B. 218**

*by Senator Shapiro*

*House Sponsor: Representative Smith*

Requires the commissioner of education and the comptroller of public accounts to develop and implement a financial accountability system for school districts.

Requires school districts to complete the financial management report and hold hearings for public comment.

**Relating to Assessment of Academic Skills of LEP Students - S.B. 676**

*by Senator Zaffirini, et al.*

*House Sponsor: Representative Oliveira*

Current law requires students to take either TAAS or Spanish TAAS in grades three through eight. Some students in all grades come to school in Texas without any education. This bill provides more school time for some students, including those with limited English proficiency (LEP), before taking TAAS.

Requires the State Board of Education to develop rules for testing those students who are not already exempt.

Defines a recent unschooled immigrant as a student who initially enrolled in school in the United States no more than 12 months previous to TAAS testing and has no foundation in the essential knowledge and skills of the curriculum.

Allows an exemption from TAAS for up to one year for a student who has not demonstrated proficiency in English or up to three years for a student who is a recent unschooled immigrant or is enrolled in a grade in which no assessment in the student's primary language. Requires a student in these categories who becomes proficient before an exemption expires to take the test at its next administration.

Adds to the list of campus academic performance indicators, the percentage of students of LEP exempted under the bill.

### **Closing the Gap - S.B. 702**

*by Senator West*

*House Sponsor: Representative Oliveira*

Requires school districts to:

- adopt intensive instruction programs for students at-risk of dropping out that enable the student to catch up to grade level by the beginning of the next school year;
- evaluate the effectiveness of the programs; and
- report on steps taken to close TAAS performance gaps.

Revises definition of "at-risk" to include students who:

- have been retained one year;
- have average scores below 70 in two courses in grades 7 through 12;
- do not perform acceptably on a readiness test in pre-kindergarten through third grade TAAS;
- have been placed in alternative education programs, expelled, or adjudicated; or
- have been reported as drop-outs.

### **Prohibiting the Use of Seclusion Methods for Discipline in Schools - S.B. 1196**

*by Senator Truan*

*House Sponsor: Representative Hochberg*

Prohibits using a locked box, locked closet, or other locked space to discipline or manage the behavior of a student with disabilities.

Prohibits a school district employee, volunteer, or independent contractor of a district from placing a student in seclusion, that is, a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that is designed solely to seclude a person and contains less than 50 square feet of space.

Requires the commissioner of education to adopt rules on procedures for use of restraints and time-out with a student in special education.

Allows the use of seclusion when waiting for law enforcement to take custody of a student with a weapon.

Includes open enrollment charter schools in the scope of this bill.

### **Get to School or Else - S.B. 1432**

*by Senator West, et al.*

*House Sponsor: Representative Arthur Reyna*

Addresses many problems associated with truancy, high school equivalency programs (GED), and juvenile justice procedures.

Requires a school to record the name, address, and birth date of the person enrolling a student.

Includes among the duties and powers of peace and attendance officers of schools the requirement to: investigate, enforce and maintain records of each violation of compulsory attendance law; file a complaint against the parent with or refer the parent to the appropriate court; and visit or contact a student's parent or other person in parental authority (parent).

Authorizes a justice or municipal court to consolidate offenses, hold a parent in contempt if absences continue, and authorize a peace officer to take the truant into custody.

Requires a district at the beginning of the school year to notify each parent that unexcused absences of more than 10 days or parts of days in six months in the same school or three days in a four-week period can result in referral of the student to juvenile court and to notify a parent when a student has been absent for three days that the parent is responsible for attendance and arrange a conference with the parent.

Requires the district to refer to court a student who has been absent 10 days in a six-month period in the same school or the parent or both, or to file a complaint against the student or parent, or to refer the student to juvenile court for supervision.

Authorizes the commissioner of education (commissioner) to allow districts or charter schools that operated a GED program on May 1, 2001, to operate one in the future; to allow enrollment to grow no more than five percent above the 2001 enrollment; and to limit enrollment to students with specific characteristics.

Authorizes the court to require the student to attend school, attend a GED program, or attend programs ranging from substance abuse to manners to violence avoidance and to require a student and parent to attend classes on at-risk behaviors. Failure to comply is an offense. Provides for expunction after the student's 18<sup>th</sup> birthday if the student has been convicted of one offense only.

Authorizes local governmental entities and courts to employ truancy case managers to handle duties currently performed by judges.

Lists powers of the court in regard to both student and parent and the conditions under which the court may take a student into custody.

Authorizes a peace officer to take a juvenile into custody for violation of a curfew and sets forth requirements for holding the student.

Classifies unexcused absences of 10 days in a six-month period in the same school or three days in any four-week period as conduct requiring supervision in counties with a population less than 100,000.

### **Open-Enrollment Charter School Changes - H.B. 6**

*by Representative Dunnam, et al.*

*Senate Sponsor: Senator Bivins*

Open-enrollment charter schools (OECS), operating for up to five years, have revealed the need for enhanced academic and fiscal accountability measures.

Authorizes the State Board of Education (board) to approve charters for only those applicants that meet all standards adopted by the commissioner of education (commissioner).

Limits the number of OECS the board may authorize to 215.

Requires OECS to abide by municipal zoning ordinances governing public schools in cities with population above 20,000.

Allows the commissioner to permit OECS to receive services from educational regional service centers and to participate in state programs for school districts.

Identifies a charter school and its governing body as governmental entities for the purpose of open-meeting laws, as those laws apply to public schools and boards of trustees. Designates charter school records as governmental records and provides for transfer and safekeeping of records from a charter school that ceases to operate.

Requires OECS to abide by state laws on public purchasing and contracting, conflict of interest, and nepotism.

Limits the number of employees or relatives serving on a governing body unless the charter school has been rated acceptable for two of the last three years.

Extends school board liability limits to OECS governing body members.

Bases state funding for OECS on statewide averages, rather than the revenue generated in the school district in which each student resides.

Allows OECS to participate in grant and discretionary programs unless specifically prohibited.

Authorizes the commissioner to adopt rules to provide and account for state funding.

Establishes that state funding for an OECS deposited in a bank is a public fund held in trust for its students and requires the OECS governing body to deliver a depository contract with a bank to the commissioner.

Requires a charter holder who receives state funds after September 1, 2001, to be subject to and accept liability for public funds held in trust.

Allows OECS to charge fees as public schools do.

Requires the commissioner to notify each school board and each member of the legislature of a charter application in or affecting their districts.

Transfers authority to modify, place on probation, revoke, or deny renewal of a charter from the board to the commissioner; includes protecting health, safety, and welfare of students as grounds for commissioner action; requires the commissioner to adopt rules for hearings; requires the commissioner to include the charter holder, rather than charter school operator, in the hearing process; and exempts a hearing from the administrative procedures act, Chapter 2001, Government Code.

Prohibits a OECS that loses its charter from operating as a charter school or receiving state funding after the end of the school year if the charter is withdrawn during the school year.

Authorizes the commissioner to impose sanctions on a charter school for violating its charter, financial mismanagement, or violating an applicable rule or law.

Requires commissioner to hold a hearing within three days of an action and issue a decision immediately after the hearing.

Authorizes the commissioner to conduct an audit of a charter school, a charter holder, or a management company and restricts the audit to charter-related matters.

Requires OECS to admit students by lottery if more apply than can be accommodated or in order of applications received before deadline if the charter school advertised enrollment opportunities and the application deadline.

Prohibits persons with criminal records or a substantial interest in the management company from serving on a governing body.

Establishes the responsibility for management, operation, and accountability of a charter school in the governing body. Authorizes the attorney general to bring suit against a member of the governing body for breach of fiduciary duty. Requires the commissioner to adopt rules for and provide training of members of the OECS governing body and officers.

Prohibits a charter holder, governing body, member, or officer from accepting a loan from a managing company that has a contract with a charter school under the control of the former.

Requires a management company to keep charter school records separate from all other company records. Authorizes the commissioner to prohibit, deny renewal of, suspend, or revoke a contract between a charter school and a management company for certain reasons.

Establishes property purchased or leased with state funds as state property, including real estate when purchased with at least 50 percent state revenue and authorizes the commissioner to take possession and dispose of property when a charter ceases to operate.

Requires teachers to have a high school diploma at minimum and requires the school to notify parents of a teacher's qualifications.

Authorizes the board to grant charters to a public senior college or university (IHE) to operate a charter school on its campus or one located in the same county.



Requires OECS to obtain a criminal background check for any person the school intends to employ or use as a volunteer and requires law enforcement agencies to release the information.

Allows charters schools to hire school attendance officers and, when a school declines to employ a school attendance officer, requires county peace officers to perform those duties, and includes OECS in the compulsory attendance laws.

Authorizes the commissioner to develop an alternative accreditation status pilot program for the 2001-2002 school year for districts, campuses, and OECS that primarily serve students at-risk of dropping out or that are not required to administer TAAS tests. Requires the pilot project to evaluate student progress at each campus using the academic excellence indicators or reading diagnosis tests in addition to the regular accountability rating process. Authorizes the commissioner to determine additional circumstances that require special accreditation investigations. Includes closing OECS in the list of accreditation sanctions available to the commissioner.

Excludes OECS from allotments for instructional facilities or existing debt of public school districts.

Authorizes the Texas Public Finance Authority to establish a nonprofit corporation and create a bond program for OECS facilities in a fund in the comptroller's office, under which the obligation is limited to the amount of the fund, which may accept donations but has no appropriation; does not create an obligation of the state; and provides that the facilities are tax exempt under certain conditions.

Requires an OECS to prepare an annual financial report, submit the report to a local newspaper of general circulation, and make the report available to the public, as do other governmental bodies.

Provides a 12-year phase-in of the new OECS funding mechanism included in this bill.

### **Reducing Teachers' Written Reports - H.B. 106**

*by Representative Gutierrez  
Senate Sponsor: Senator Zaffirini*

Requires each school board to adopt a policy to reduce redundant written reports required of teachers. Allows boards to require teachers to prepare written reports on students' grades on particular assignments or at the end of a grading period, a textbook report, lesson plan reports, attendance reports, reports required for accreditation review, those required by law or State Board of Education rule, or other report directly related to the professional duties of the classroom teacher, or report required by federal or state law or rule that only a teacher could prepare.

Requires each school board to review required paperwork and transfer all possible reports from the classroom teacher to a non-instructional staff person. Allows boards to request additional reports if participation by teacher is voluntary, without coercion and no retaliation for not participating occurs.

### **Career and Technology Revisions - H.B. 660**

*by Representative Seaman, et al.  
Senate Sponsor: Senator Van de Putte*

Adds a new objective to public education requiring school districts to offer programs of study for broad career concentrations in areas of agriculture science technology, arts and communication, business education, family and consumer science, health occupations technology, trade and industry, and technology education that will prepare students for continued learning and postsecondary education in employment settings.

Requires school boards to appoint a business and industry representative on its district- and campus-level planning and decision-making committees.

Authorizes an unpaid and unreimbursed nine-member Career and Technology (CT) Education Advisory Board appointed by the commissioner of education (commissioner) to advise the agency and school districts.

Allows property-wealthy school districts to reduce their recapture amount by providing an area-CT education program for students from other districts, after receiving the commissioner's approval.

### **Improving Academic Preparation - H.B. 1144**

*by Representative Grusendorf, et al.*

*Senate Sponsor: Senator Harris*

Requires TEA and The Texas Higher Education Coordinating Board to ensure that student data is in standardized, compatible formats that can allow assessment of a student's entire academic record.

Requires school districts to enroll high school students in the recommended or advanced curriculum unless the student, parents, and school counselor or administrator agree to enroll the student in the minimum curriculum beginning with ninth graders in 2004-2005.

#### ***Math Initiative***

Authorizes the commissioner of education (commissioner) to award grants to institutions to improve math instruction preparation.

Establishes a math homework and exam grading service with funds appropriated for teachers, not students.

Requires the State Board of Educator Certification to establish a master mathematics teacher certification and establishes the selection criteria.

Authorizes the commissioner to establish a master mathematics teacher grants program to develop training materials and resources for school districts with funds appropriated for the purpose. Requires the commissioner to establish professional development institutes in mathematics and pay, from funds appropriated, stipends to teachers who complete a training course. Requires the commissioner to develop and distribute mathematics-skills assessment and diagnosis instruments for use by school districts.

Authorizes school districts to establish after-school and intensive mathematics instruction programs and the commissioner to award grant programs, from funds appropriated for the purpose.

Authorizes the commissioner to participate in multi-state efforts to develop standardized end-of-course exams and allows the commissioner to require school districts to administer the test.

Requires the commissioner to develop an Algebra I end-of-course exam and authorizes the commissioner to require school districts to administer it.

### ***Dropout Issues***

Requires a school district's performance report to include a dropout rate and a completion rate for grades nine through 12 and the performance record of its graduates in the first academic year of enrollment in colleges and universities.

Requires each school district to have its dropout figures audited annually by an outside public accountant as prescribed by the commissioner, submit the report, with trustees approval, or letter stating why the trustees did not approve the report, to TEA for review and commissioner's response, which could include civil or criminal prosecution by the appropriate authorities, if warranted.

### ***Accountability***

Requires the commissioner, by June 2002, to develop a gold performance-rating program for school districts that improve student performance to apply to the 2001-2002 district accountability ratings.

Authorizes the commissioner, regardless of a district's accreditation rating, to appoint a board of managers, if it has had a master or management team for one or more years, to operate the district in place of the board of trustees, for up to two years. Provides for an election to be held to create a new board of trustees.

## **Master Technology Teacher Certification - H.B. 1475**

*by Representative Kitchen, et al.  
Senate Sponsor: Senator Ellis*

Requires the commissioner of education (commissioner) to establish a master technology teacher (MTT) grant program.

Authorizes the commissioner, from funds appropriated for this purpose, to make grants to school districts to pay stipends to MTTs who teach at high-need campuses.

Establishes a district's right to receive the stipend payments for the succeeding two years if it continues the terms of the grant as well as the teachers right to the stipend. Provides that a property right to a grant or a stipend is not created and authorizes the commissioner to decide how to distribute grants when the state appropriation is not sufficient to fully fund the grant program.

Requires the State Board of Educator Certification to establish a MMT certificate.

**School Finance Fine Print - H.B. 2879**

*by Representative Sadler  
Senate Sponsor: Senator Bivins*

Increases salary factors for professional school employees.

Provides a new calculation of wealth per student for a property-wealthy school district that does not have a secondary school.

Adjusts state funding for school districts that lose two percent or more of their average daily attendance.

Authorizes the commissioner of education (commissioner) to determine the compensatory education enrollment, for a school district that does not serve lunch, from the number of students who would be eligible for the national free lunch program.

Authorizes the commissioner to either adjust state payments for a school district that has a major taxpayer, which, in disputing its valuation, refuses to pay all or part of its taxes or reduce state recapture from a property wealthy/Chapter 41 district.

Authorizes school districts to use for bond payments funds other than current year tax collections, for funds collected for the 1999-2000 school year or later.

Updates school districts' existing bonds eligible for state funding and increases state debt subsidy to 29 cents of district debt-tax rate, but, in the 2002-2003 school year, only if funds are available.

**Notifying Parents About Class-Size Waivers - H.B. 3313**

*by Representatives Dunnam and Chavez  
Senate Sponsor: Senator Bernsen*

Requires school districts that received class-size waivers to notify parents within 31 days of its effect.

Requires district and campus reports to include the number of campuses and classes at each campus for which a class size waiver was given and the number of classes taught by teachers who are not certified in the content area.

**School Employee Health Insurance - H.B. 3343**

*by Representative Sadler, et al.  
Senate Sponsor: Senator Bivins*

Ten years after requiring school districts to make health insurance available to school employees, the legislature adopted H.B. 3343 and put more than \$1 billion in state revenue into the program. It requires small school districts to participate in a state school employee health insurance plan (plan) for school

employees operated by the Teacher Retirement System (TRS). The state will contribute about \$900 per school employee for health insurance.

Authorizes TRS to operate a health insurance program for employees of school districts, educational districts, charter schools, and regional education service center (employers).

Requires school districts and centers with 500 or fewer employees to participate in the program beginning September 1, 2002. Allows school districts with between 500 and 1,000 employees to participate beginning September 1, 2002. Allows school districts with more than 500 employees to participate beginning September 1, 2005, unless TRS determines it can serve these districts earlier. Allows a risk pool in operation before January 1, 2001, which insures 500 or fewer school employees, to participate in the plan.

Allows self-insured ISDs and education service centers with fewer than 500 employees to opt-out of the plan.

Allows a school district with a contract for health insurance to join the pool at the end of its contract.

Requires enrollment in catastrophic care coverage of all full- and part-time employees who are members of TRS unless the employee waives coverage, selects a higher level of insurance coverage, or is expelled.

Establishes the Texas school employees uniform group coverage trust fund.

Provides state aid of \$900 per year per employee to employers through the school finance formula to assist in purchasing group health insurance.

Requires school districts to make a contribution to the plan and employees to pay cost of coverage choices that exceeds the state and district contribution unless the district chooses to pay some or all of the employee share.

Authorizes TRS to distribute in equal monthly payments \$1,000 per year per employee to each employer to hold in trust for its employees' benefit.

Requires an employer with a cafeteria plan of benefits to deposit the state contribution in the cafeteria plan and allow its employees to choose benefit options that must include medical saving accounts, health care reimbursement accounts, additional benefits, or treatment as supplemental compensation.

Requires employers without cafeteria plans to distribute these payments as supplemental compensation.

Requires each employer to maintain at least its current level of health insurance contributions, defined as the total cost of insurance per employee in 2000-2001 school year multiplied by the number of employees in a later school year.

Requires employers to contribute a minimum of \$1,800 per employee per year for health insurance, but provides up to \$1,800 per employee in state assistance for employers who contribute less, assistance that is reduced by \$300 per year through FY 2007.

Provides additional state assistance for school districts that are property-wealthy and do not receive state aid; school districts that do not have adequate tax rate capacity available to contribute \$1,800 per year per employee; those that do not receive state aid to pay the additional cost of the plan; and districts that pay Social Security taxes and would owe additional payroll taxes for those employees who elect to take supplemental salary.

Requires employers whose current contributions exceed the requirements to use that remaining revenue for other employee compensation.

Provides comparable insurance coverage for children made ineligible for the federal children's health insurance plan (CHIP) by the plan.  
Eliminates the effect of state appropriations for the plan on the salary schedule for professional employees.

Increases the wealth limit for recapture from property wealthy school districts from \$295,000 to \$300,000 and \$305,000 per weighted student for FY 2002 and 2003, respectively.

Requires the commissioner to notify each employer of the increase in its funding due to the effects of H.B. 3343 in the 2001-2002 school year. Requires employers to use that revenue for nonrecurring expenses or debt service.

Modifies the school finance formula by increasing the guaranteed level of state and local funding from \$24.70 per penny per weighted student to \$25.81 and \$27.14 in FY 2002 and 2003, respectively.

Revises the roll-back tax-election trigger through 2008 to avoid elections based on property-tax increases to pay the school districts' share of the plan.

### **Mineral Interests for Permanent School Fund - H.B. 3558**

*by Representative Junell  
Senate Sponsor: Senator Ellis*

Authorizes the State Board of Education to designate proceeds of current and future mineral leases and royalties from mineral interests to acquire mineral and royalty interests for the benefit of the permanent school fund.

Requires the board to use the money and royalties from leases to purchase interests in real property within two years of deposit.

### **Alternate Interest Rate Charges for Certain Loans - S.B. 272**

*by Senator Carona*

*House Sponsor: Representative Thompson*

The maximum interest rate for consumers who qualify for large loans is less than the maximum interest rate for consumers who qualify for smaller loans. Some concern exists that consumers who qualify for only the minimum loan amounts may seek alternative means to obtain additional funds, including loans that originate outside the state.

Authorizes a loan, not secured by real property, to provide for a rate or amount of interest computed by using the daily earnings method or the scheduled installment earnings method, and that does not exceed certain yearly interest rate percentages based on certain criteria offered by the consumer credit commissioner, using a reference base index divided into the consumer price index, with varying reference base amounts.

Requires the establishment of a program to address alternatives to high-cost lending in this state to be set up by the consumer credit commissioner.

### **Department of Banking (Sunset) - S.B. 314**

*by Senator Sibley*

*House Sponsor: Representative McCall*

The Department of Banking (department) oversees the safety and soundness of the financial system of this state. The department charters, supervises, and examines state chartered banks. The department also oversees depository institutions and their affiliates, companies selling money orders and checks, foreign currency exchange and transmission businesses, perpetual care cemetery funds, and prepaid funeral contract sellers. The department was under Sunset review and due to be abolished on September 1, 2001, unless continued by the legislature.

Provides for the continuation of the department and incorporates certain recommendations of the Sunset Advisory Commission.

Requires the Finance Commission to establish a standard disclosure to be included in each contract to inform purchasers of the goods and services under certain contracts.

Authorizes the banking commissioner to impose penalties on persons who violate certain rules.

### **Office of Consumer Credit Commissioner (Sunset) - S.B. 317**

*by Senator Sibley*

*House Sponsor: Representative McCall*

The Office of Consumer Credit Commissioner (OCCC) recently underwent Sunset Commission review.

Continues the OCCC for 12 years and sets forth standard sunset language regarding conflicts of interest, equal employment opportunities, complaint procedures, and employee training.

Authorizes OCCC to set fees and make rules regarding pawnshops, car loans, consumer loans, deferred presentment transactions, and sale-leaseback transactions.

Establishes licensing requirements for car sales.

Requires OCCC to conduct a study of mortgage lending practices with an emphasis on identifying possible predatory and discriminatory lending patterns or practices.

### **The State Infrastructure Bank and Road and Bridge Construction - S.B. 407**

*by Senator Cain, et al.*

*House Sponsor: Representative Pickett*

A 1999 opinion from the attorney general's office regarding whether a county may borrow money from the State Infrastructure Bank (SIB) for road and bridge construction without issuing bonds or other obligations evidencing the loan generally held that entering into debt must be statutorily, explicitly authorized.

Authorizes public entities in this state, including cities, counties, and state agencies, to borrow funds from the SIB based on credit of the public entity.

Requires money borrowed to be segregated from other funds under the control of the public entity, among certain conditions.

### **Internal Revenue Service E-File Providers and Consumer Loans - S.B. 935**

*by Senator Armbrister*

*House Sponsor: Representative Pitts*

Currently, tax preparers who are Internal Revenue Service (IRS) authorized e-file providers who facilitate loans on behalf of their customers for a bank are required to be licensed by the consumer credit commissioner.

Authorizes certain IRS e-file providers to be exempted from the requirement to be licensed by the consumer credit commissioner.

### **Small Loans and Refunds - H.B. 198**

*by Representatives Averitt and Elizabeth Jones*

*Senate Sponsor: Senator Carona*

Repeals the provision that refunds the \$10 acquisition charge on loans in excess of \$100.

### **Savings and Loan Department (Sunset) - H.B. 1636**

*by Representative McCall, et al.*

*Senate Sponsor: Senator Sibley*

One of the roles of the Texas Savings and Loan Department (department) is to protect depositors by ensuring the safe and sound operation of state-chartered savings institutions. In 1999, the legislature also gave the department the responsibility for licensing mortgage brokers. The Sunset Advisory Commission began a review of the department in this capacity after the session and made, among many recommendations, several related to the licensing of mortgage brokers, criminal background information, and routine inspections.



Sets forth standard sunset provisions related to employees and licensing and continues the department until 2013.

### **Finance Commission (Sunset) - H.B. 1763**

*by Representative McCall, et al.*

*Senate Sponsor: Senator Sibley*

The Finance Commission of Texas (finance commission) is the governing body for the Department of Banking, the Savings and Loan Department, and the Office of Consumer Credit Commissioner. The Sunset Advisory Commission reviewed the commission and recommended that it be continued with certain changes.

Requires the finance commission to prepare and periodically update a strategic plan for coordination of the state financial system.

Requires each finance agency to cooperate in preparation of the plan.

Requires one member, rather than two members, of the finance commission to be a banking executive, one member, rather than two, to be a savings executive, and one member each to be a consumer credit executive and a mortgage broker, respectively.

Requires five members of the finance commission to be representatives of the general public, with at least one to be a certified public accountant.

### **Texas Department of Banking and Regulatory Reform - H.B. 1768**

*by Representative Grusendorf*

*Senate Sponsor: Senator Sibley*

Essentially a housekeeping bill, as the technological advancements and regulatory reform at both the state and national levels may have rendered some aspects of the state's laws regarding financial institutions obsolete.

Requires an industry-related member of the Finance Commission (commission) to be appropriately qualified at the time of appointment and at all times thereafter, rather than qualified only at the time of appointment.

Authorizes the Texas Department of Banking Commissioner (commissioner) to issue a written order that articulates the required finding in order to close and liquidate a trust company.

Requires the commissioner to follow certain guidelines as to the findings on which the closing of a state trust company are based.

Requires the commissioner, after closing a state trust company, to tender the state trust company to the Federal Deposit Insurance Company or take certain other actions.

### **Vehicles and Title Registration Fees - H.B. 1994**

*by Representative Marchant*

*Senate Sponsor: Senator Carona*

Current law allows the seller of a vehicle to charge, and include on the retail installment contract, a documentary fee in the amount of \$50 for the preregistration of certain documents relating to the titling and registration of a vehicle that is the subject of the sale.

Increases from \$50 to \$75 the maximum allowable documentary fee.

### **Debt Cancellation Agreements and Automobiles - H.B. 2139**

*by Representative Marchant*  
*Senate Sponsor: Senator Carona*

A debt cancellation agreement is insurance coverage that reimburses the retail buyer with the amount of the difference between the proceeds of the buyer's basic collision insurance policy on the motor vehicle and the remaining amount owed on the vehicle, if the vehicle has been rendered a total loss. While a retail buyer and retail seller may agree in a motor vehicle retail installment contract (contract) to include a separate charge for a debt cancellation agreement, disagreement comes when there is a remaining amount owed on the vehicle and the vehicle is rendered a total loss. This confusion arises due to the difference between the insurance coverage that reimburses the retail buyer and the amount remaining owed.

Provides that a debt cancellation agreement or waiver included in a contract is not insurance or an insurance product or service and that a separate charge for the debt cancellation agreement or waiver may be included in a retail installment contract.

Authorizes a contract to include as a separate charge an amount for a debt cancellation agreement or waiver under certain conditions.

### **Modernization of Financial Services (Gramm-Leach-Bliley Act) - H.B. 2155**

*by Representative Averitt*  
*Senate Sponsor: Senator Sibley*

As a result of the federal Gramm-Leach-Bliley Act (GLBA) passed in November 1999, states must comply with certain licensing law that formerly prohibited common ownership of entities in insurance, securities, and banking activities. GLBA also preempts state agent licensing laws that prohibit or interfere with a depository institution's ability to sell insurance. Activities available to national banks are expanded due to the passage of GLBA, but in an effort to ensure the future viability of state charters, Texas state agencies with regulatory authority over financial institutions seek to address the inconsistencies between current state law and the limit for compliance under GLBA.

Provides that state bank and trust company charters be allowed to compete on a level with national banks by authorizing activities beyond those allowed for national banks and their subsidiaries as determined by the Commissioner of the Texas Department of Banking.

**State Securities Board (Sunset) - H.B. 2255**

*by Representative McCall, et al.*

*Senate Sponsor: Senator Harris*

Continues the board for 12 years and sets forth standard sunset language related to board membership, conflicts of interest, and complaint procedures.

**Liens and Manufactured Homes - H.J.R. 5**

*by Representative Solomons*

*Senate Sponsor: Senator Shapleigh*

The Texas Constitution currently provides that homesteads are protected from forced sale for the payment of all debts, except in certain situations. One exception is for work and material used in constructing improvements under certain conditions, after the owner makes an application for any extension of credit for work and material.

Proposes a constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property.

Includes the conversion and refinancing of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property protected from a forced sale.

\_\_\_ HEALTH AND HUMAN SERVICES/Child Care  
77<sup>th</sup> Texas Legislature

**Teacher Education and Compensation Helps (T.E.A.C.H.) and Child Care - S.B. 1294**

*by Senator Van de Putte*

*House Sponsor: Representative Solis*

Establishes Teacher Education and Compensation Helps (T.E.A.C.H.) pilot projects to assist in retaining teachers in the field of child care.

Requires the Texas Workforce Commission to establish a pilot program to assist teachers in retaining employment in this field and operate the pilot program in at least three locations throughout the state, one of which must be rural, one urban, and one a community bordering the United Mexican States.

**Child Care Development Board Abolished and Duties Transferred - S.B. 1496**

*by Senator Barrientos*

*House Sponsor: Representative Danburg*

Abolishes the Child Care Development Board (board) effective September 1, 2001, and transfers its responsibilities to the General Services Commission (GSC).

Changes existing law regarding the composition of a child care advisory committee to include two representatives of nonprofit organizations involved with the delivery or support of child care services and strikes provisions requiring the appointment of one representative each from the United Way of Texas and the Texas Association for the Education of Young Children.

Provides that the standards of the child care program may comply with standards for quality child care set by the National Child Care Association.

Requires GSC, in consultation with the Child Care Advisory Committee, to adopt standards regarding child care services for state agencies or to determine whether a child care facility may be included in a state-owned building.

**Family Home Child Care Pilot Programs for Young, Low-Income Children - S.B. 1732**

*by Senator Cain*

*House Sponsor: Representative Tillery*

Child-care management system vendors often place children in large child-care facilities which can bear lower-than-market-price reimbursement rates. These facilities may not be convenient for parents or provide the "home-like" environment in which children under the age of four thrive. Studies show that such an environment is more conducive to learning and provides a continuity of care, due to lower turnover.

Raises the reimbursement rate for operators of family day care homes and provides for pilot projects in support of these facilities.

# HEALTH AND HUMAN SERVICES/Child Care

## 77<sup>th</sup> Texas Legislature

Requires the Texas Workforce Commission (commission) to select one or more vendors to operate pilot programs in three different areas of the state under which child care is provided by operators of eligible family homes to children under four years of age. Requires each pilot program to include at least 10 operators of eligible family homes. Requires at least one pilot program to be located in a rural area.

Requires each board in an affected area of the state, after selection of the vendors, to administer and fund the pilot program operating within that area, subject to guidelines established by the commission. Requires each of those boards to allocate a portion of the board's federal child care development funds to pay the costs of the pilot program operating within that area.

Requires the commission to select vendors based on a competitive procurement process. Requires a vendor to have at least seven years of relevant experience to be eligible to participate in a pilot program.

Prohibits the commission from implementing the pilot program in a manner that in any way has the effect of limiting parental choice regarding state-subsidized child care.

### **Scholarships for Early Education Teachers - H.B. 1309**

*by Representative Villarreal*  
*Senate Sponsor: Senator Shapleigh*

Requires early education teachers who receive scholarships funded by the federal Child Care Development Fund to complete their obligated eighteen months of early education teaching in child care facilities that accept federal Child Care Development Fund subsidies and are located within the attendance zone of a low-performing school campus or in an economically disadvantaged community.

### **Grants to Local Workforce Development Boards for Child Care Projects - H.B. 1348**

*by Representative Villarreal*  
*Senate Sponsor: Senator Shapleigh*

Authorizes the Texas Workforce Commission to make grants available on a one-time basis to local workforce development boards to enable the boards to design and implement child-care demonstration projects.

Requires that these grants be used for expanding child care services in under-served rural workforce areas; creating or expanding existing pilot programs based on demonstration models from other states that provide strategies for successfully recruiting and retaining child care providers; creating pilot programs to assist low-income, at-risk parents receiving child-care services; and developing initiatives that foster school readiness in young children.

**Texas Workforce Commission and Child Care Funding - H.B. 2265**

*by Representative Villarreal  
Senate Sponsor: Senator Shapleigh*

Funding for child care services in Texas is provided through a collection of federal and state sources. These sources are designed to provide services to low-income families with parents who are working or attending school or training.

Requires the Texas Workforce Commission to fund child care subsidies for children from households having incomes of not more than 66 percent of the state median income.

**Child Care Intervention Project - H.B. 2543**

*by Representative Naishtat, et al.  
Senate Sponsor: Senator Duncan*

Severe antisocial behavior in children such as frequent fighting, stealing, and vandalism are the strongest predictors of chronic delinquency. It has been proposed that early childhood interventions may help prevent chronic delinquency.

Establishes the Child Care Intervention Pilot Program to be implemented by the Department of Protective and Regulatory Services (DPRS) to provide integrated family services to eligible families and specialized training to child care facilities.

Requires DPRS to award grants to or contract with community-based organizations experienced in parenting skills training to provide child-care intervention services to child care facilities and to parents of children who are at least 18 months of age but not more than five years of age and who are identified as exhibiting several behavioral problems in a child care environment.

**Workforce Boards and Child Care Services - H.B. 2763**

*by Representatives Solis and Clark  
Senate Sponsor: Senator Jackson*

Federal child care funds are under-utilized in certain instances due to the lack of local workforce boards defining after school services that take place on a school campus or at a Head Start Center as child care.

Requires that local workforce development boards use money and services provided by local school districts or education agencies for the purposes of obtaining federal matching funds for child care services.

**Scope of Child Care Services Funded by Local Workforce Boards - H.B. 2769**

*by Representative Solis, et al.  
Senate Sponsor: Senator Jackson*

Local workforce boards do not define after-school services that take place on a school campus or at a Head Start Center as child care. As a result, many programs neither apply for nor utilize local funds as matching funds for drawing federal child care funds.

Authorizes eligible children to receive certain child care services while enrolled in either a federal Head Start program or an after-school program.

**Texas Workforce Commission and Child Care Subsidies - H.B. 3578**

*by Representative Villarreal  
Senate Sponsor: Senator Shapleigh*

The evidence that quality child care programs lead to certain advantages continues to grow; academic success, along with reduced delinquency and crime, are among those often cited. The Texas Workforce Commission (TWC) is responsible for allocating funds for child-care subsidies. According to federal law, at least four percent of the funds that the state receives through the child care and development block grant must be used to enhance the quality of these programs.

Requires TWC to ensure federal child care development funds are used for the intended purposes.

# HEALTH AND HUMAN SERVICES/Child Custody

## 77<sup>th</sup> Texas Legislature

### **Parental Rights Limited for Child Abusers - S.B. 140**

*by Senator Moncrief, et al.*

*House Sponsor: Representative Naishtat*

Current law precludes the appointment of persons with a history or pattern of abuse as joint managing conservators, but does not provide the court direction regarding decisions about sole managing conservatorship, conservators with the exclusive right to determine the primary residence of a child, or visitation rights.

Creates a rebuttable presumption that it is not in the best interest of a child to appoint a parent as the sole managing conservator or as conservator with exclusive right to determine the primary residence of a child if the parent has a history or pattern of abuse or child neglect.

Creates a rebuttable presumption that it is not in the best interest of the child to give a parent unsupervised visitation if the parent has a history or pattern of abuse or child neglect.

### **Drivers or Professional License Taken Away for Impeding Visitation - S.B. 700**

*by Senator Ellis*

*House Sponsor: Representative Sylvester Turner*

Authorizes the suspension of a license of an individual who has failed to comply with the terms of a court order providing for the possession of or access to a child.

Sets forth information which must be contained in a petition seeking such license suspension and makes other conforming changes in the Texas Family Code.

### **Notice of the Right to Modify a Child Custody Order - S.B. 769**

*by Senator Harris*

*House Sponsors: Representatives Arthur Reyna and Menendez*

Currently, when a court issues an order regarding custody of a child, the noncustodial parent does not have to be informed of the noncustodial parent's right to file for modification of that order.

Requires a custody order to inform the noncustodial parent of the parent's right to modification and list the grounds for modification.

### **Child Custody Issues - H.B. 596**

*by Representative Goodman*

*Senate Sponsor: Senator West*

Makes 12 years of age, rather than 10, the age at which a child may choose a managing conservator.

Provides a uniform standard for modification of conservatorship, possession and access, or determination for residence.

Authorizes the court to allocate increased expenses resulting from a change of residence on a fair and equitable basis, taking into account the cause of the increased expenses and the best interest of the child.



# HEALTH AND HUMAN SERVICES/Child Custody

## 77<sup>th</sup> Texas Legislature

Provides that conviction or receipt of deferred adjudication on charges of sexual abuse of a child or family violence is grounds for temporary modification of conservatorship and visitation rights. Makes it a Class B misdemeanor to file a suit to modify based on these grounds, knowing the grounds are false.

### **Taking Emergency Possession of Certain Abandoned Children - H.B. 706**

*by Representatives Morrison and Coleman*  
*Senate Sponsor: Senator Truan*

Under current Texas law, an emergency medical services provider is required to take possession of a child 30 days old or younger if the child is voluntarily delivered to the provider by the child's parent and the parent does not express an intent to return for the child.

Expands the list of designated emergency infant care providers (provider) required to take possession of a child who is voluntarily left by a parent who does not intend to return to include emergency medical services providers, hospitals, and certain child-placing agencies.

Provides that a provider has no legal duty to:

- detain or pursue the parent and may not do so unless the child appears to have been abused or neglected; or
- determine the parent's identity.

Provides there is a rebuttable presumption in a suit to terminate parental rights that a parent who abandons a child to a provider consents to the termination of parental rights.

### **Uniform Parentage Act - H.B. 920**

*by Representative Goodman*  
*Senate Sponsor: Senator West*

Enacts the Uniform Parentage Act, which addresses:

- the parent-child relationship;
- establishing paternity;
- the paternity registry;
- genetic testing;
- adjudicating parentage or paternity; and
- children of assisted reproduction.

# HEALTH AND HUMAN SERVICES/Child Custody

## 77<sup>th</sup> Texas Legislature

### **Use of Collaborative Law in Divorce and Child Custody Cases - H.B. 1363**

*by Representatives Goodman and Hope*

*Senate Sponsor: Senator Harris*

Provides that the parties and their attorneys in dissolution of a marriage or a suit affecting the parent-child relationship may, by written agreement, conduct the proceeding under collaborative law procedures.

Provides that a party is entitled to judgment on a collaborative law settlement agreement if the agreement provides, in a prominently displayed statement, that the agreement is not subject to revocation and the agreement is signed by the parties and their attorneys.

Requires a court that is notified 30 days before trial that the parties are using collaborative law procedures to delay certain proceedings.

Requires the parties to notify the court if the collaborative law procedures result in a settlement.

Requires the parties, if the collaborative law procedures have not resulted in a settlement, to file status reports with the court. If there is no settlement on or before the second anniversary of the date that the suit was filed, the court may set the suit for trial or dismiss it without prejudice.

### **Child Protective Services - H.B. 1566**

*by Representative Morrison*

*Senate Sponsor: Senator Harris*

Recent federal legislation and policy interpretations have raised some concerns regarding the wording of provisions relating to "reasonable efforts" to prevent removal of a child from a home or to permit the return of the child to the home.

Ensures technical requirements of federal law are met by requiring a court to determine if reasonable efforts were made to prevent or eliminate the removal of the child from the home.

Modifies the circumstances under which a court may find a parent has subjected a child to aggravated circumstances to include a parent being convicted for:

- the murder or voluntary manslaughter of another child of the parent;
- complicity in the murder or voluntary manslaughter of another child of the parent; or
- seriously injuring a child or another child of the parent.

# HEALTH AND HUMAN SERVICES/Child Custody

## 77<sup>th</sup> Texas Legislature

### **Adoption Assistance Until Child Turns 21 Years of Age - H.B. 1921**

*by Representative Maxey  
Senate Sponsor: Senator Gallegos*

Current law authorizes the Department of Protective and Regulatory Services to pay foster care assistance for certain children after the children become 18 years of age. Adoptive assistance, however, ends once a child turns 18.

Sets forth provisions regarding the continuation of adoption assistance to the adoptive parents after a child's 18th birthday until the child's 21<sup>st</sup> birthday, under certain conditions.

### **Timely Action in Suits Terminating the Parent-Child Relationship - H.B. 2249**

*by Representatives Goodman and Capelo  
Senate Sponsor: Senator Harris*

Clarifies the circumstances under which a continuance or dismissal of a suit affecting the parent-child relationship may be granted.

Addresses post-judgment appellate delays by subjecting the appellate proceedings to the rules of the supreme court for accelerated appeals in civil cases.

### **Speeding Up Suits Terminating the Parent-Child Relationship - H.B. 2381**

*by Representative Thompson  
Senate Sponsor: Senator West*

Prohibits a court, in a suit brought by the state or its political subdivision, from suspending an order or judgment terminating the parent-child relationship while the order or judgement is on appeal.

Requires the appellate courts to accelerate an appeal in a suit concerning the termination of the parent-child relationship.

# HEALTH AND HUMAN SERVICES/Child Support

## 77<sup>th</sup> Texas Legislature

### Helping Poor Grandparents Take Care of Their Grandchildren - S.B. 297

*by Senator West, et al.*

*House Sponsors: Representative Noriega, et al.*

The 76th Legislature authorized the Texas Department of Human Services to provide supplemental financial assistance to grandparents in addition to the amount of financial assistance granted for the support of a dependent child. According to the United States Census Bureau, approximately four million children live in the home of a grandparent.

Redefines the criteria under which a grandparent may receive supplemental financial assistance through the state by lowering the age of eligibility and increasing the income eligibility level.

Decreases the minimum qualifying age from 50 years of age to 45 years of age for a grandparent to receive supplemental financial assistance.

Increases the maximum allowable income level from 100 percent to 200 percent of the federal poverty level.

### Retroactive Child Support - H.B. 899

*by Representative Thompson*

*Senate Sponsor: Senator West*

According to the federal report, "The Establishment of Child Support Orders for Low Income Noncustodial Parents," when a court does not include in the child support order a retroactive arrearage, 14 percent of obligors nationwide do not pay child support, but when a court orders a non-custodial parent to pay more than 12 months of retroactive child support, nonpayment rises to 34 percent nationwide.

Provides that it is presumed reasonable and in the best interest of the child that a court limit retroactive child support to the amount that would have been due for the four years preceding the date the petitioner seeking support was filed.

Authorizes this presumption to be overturned by evidence that the obligor knew or should have known that the obligor was the father of the child and sought to avoid the establishment of a child support order.

Authorizes a court, with the agreement of the attorney general, to delay the enforcement of past due child support if the obligor pays current child support on time and in full and is involved in the life of the child by exercising visitation rights.

Authorizes the court, if the delay of enforcement is allowed, to require the obligor to obtain counseling on parenting skills, work skills, job placement, financial planning, conflict resolution, substance abuse, or other matters causing the obligor to fail to obey the child support order.

Authorizes the court, if the obligor is not meeting conditions set out by the court, to terminate the delay in enforcement of child support.

Authorizes the court, with the agreement of the attorney general, to reduce the amount of arrearages assigned to the attorney general, if the obligor has complied with the conditions set out by the court.

# HEALTH AND HUMAN SERVICES/Child Support

## 77<sup>th</sup> Texas Legislature

### **Child Support and Medical Support - H.B. 1365**

*by Representatives Goodman and Homer*

*Senate Sponsor: Senator Harris*

Current law provides for the establishment and enforcement of child support obligations in suits affecting the parent-child relationship. Among the provisions are procedures for ordering medical support and enforcing support obligations through mechanisms such as income withholding and liens.

Provides technical corrections and textual emendations to various provisions to clarify intent and to enhance child support establishment and enforcement provisions.

Provides for:

- the continuation of the duty of support beyond the death of an obligee;
- retroactive support;
- medical support for a child for whom child support is ordered;
- child support lien and levy processes;
- private child support enforcement agencies; and
- administrative processes used by the Office of the Attorney General's child support division.

**Minors in Chemical Dependency Rehabilitation Facilities - S.B. 22**

*by Senator Shapiro, et al*

*House Sponsors: Representative Smith, et al.*

Current law allows minors over the age of 16 who are placed in alcohol and drug rehabilitation centers by a parent or guardian to check themselves out of treatment without parental notice or consent.

Establishes exceptions for a patient receiving chemical dependency rehabilitation and treatment to refuse a medication, therapy, or treatment.

Provides criteria for when a treatment facility may admit and release a minor for treatment and rehabilitation.

**Buckle Up Kids for Safety - S.B. 113**

*by Senators Moncrief and Duncan*

*House Sponsor: Representative Goolsby*

Makes it an offense for a person operating a passenger vehicle to transport a child who is younger than four years of age or less than 36 inches in height who is not secured in a child passenger safety seat system according to the instructions of the manufacturer of the system. Previously, it was an offense to transport a child who was younger than two years without securing the child in such a system or a child at least two years of age, but younger than four, who was not secured.

Exempts from safety belt requirements persons operating a commercial vehicle registered as a farm vehicle that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more.

Makes it a Class A misdemeanor for a person to knowingly install or purport to install an airbag in a vehicle that does not meet all applicable federal safety regulations for an airbag installed in a vehicle of that make, model, and year.

**Vaccines for Children Program - S.B. 282**

*by Senator Nelson*

*House Sponsor: Representative Janek*

The vaccines for children program (program) was developed to support increased childhood immunization levels for eligible children. Over 70 percent of the state's children are eligible for the program and a large number of health care providers are needed to administer the vaccines.

Requires the Texas Department of Health to develop and distribute educational materials designed to promote the vaccines for children program to eligible health care providers, including Medicaid providers, not currently enrolled in the program.

**Getting Children Out of Institutionalized Care - S.B. 368**

*by Senator Zaffirini, et al.*

*House Sponsors: Representatives Maxey and Naishtat*

Currently, there are more than 1,200 children under the age of 21 residing in various Texas institutions, including intermediate care facilities for people with mental retardation (ICF-MRs) and nursing homes. As an alternative to institutionalization, permanency planning is a process undertaken on behalf of children with developmental disabilities that attempts to ensure that all children live with a family. Unfortunately, the Children's Long-term Care Policy Council concluded that the absence of standardized rules, regulations, and policies among health and human service agencies present barriers to implementing sound permanency planning.

Requires the Health and Human Services Commission (HHSC) and other agencies to develop uniform permanency planning procedures for each child with a developmental disability younger than 22 years of age in a Texas institution.

Requires the Department of Protective and Regulatory Services (DPRS) to develop a permanency plan for each child for whom DPRS has been appointed permanent managing conservator.

Requires the Department of Human Services or the Department of Mental Health and Mental Retardation to designate a person to serve as a volunteer advocate for a child residing in an institution to assist in developing a permanency plan for the child.

Requires a state agency that receives notice of a child's placement in an institution to ensure that the child is also placed on a waiting list for Medicaid waiver program services.

Provides that the chief executive officer of each agency or the officer's designee (CEO) must approve the placement of a child in an institution. The child may continue to reside in the institution only if the CEO reviews the case and recommends continued placement every six months and the commissioner of health and human services approves of the extension.

Requires each agency or the agency's designee to determine the extent to which a nursing home, institution, or ICF-MR is complying with the permanency planning requirements as a part of each inspection, survey, or investigation of those institutions.

**Fatherhood Initiative - S.B. 875**

*by Senator West*

*House Sponsors: Representative Raymond, et al.*

The benefits derived from participation by a father in his child's life are well-documented.

Adds to the list of goals that must be included in the coordinated strategic plan for health and human services the goal of encouraging full participation of fathers in programs and services relating to children.

\_\_\_\_\_ **HEALTH AND HUMAN SERVICES/Children**  
**77<sup>th</sup> Texas Legislature**

Requires the Health and Human Services Commission and its member agencies, such as the Department of Health, the Department of Protective and Regulatory Services, and the Department of Human Services, to periodically review and update their policies and procedures to ensure they do encourage participation of fathers in functions of the agency related to children.

Requires the Office of the Attorney General, which, among other things, administers the state child support program, to periodically examine and update its policies and procedures to encourage participation of fathers in functions of the agency related to children.

**Salary Increases for Child and Adult Protective Services Providers - S.B. 961**

*by Senator Moncrief*

*House Sponsor: Representative Glenn Lewis*

Currently a state employee may not receive a salary supplement from any source unless a specific grant of authority is provided by the General Appropriations Act or other law. The Department of Protective and Regulatory Services (DPRS) is experiencing a large employee turnover rate, including a 26.5 percent caseworker turnover rate in its child protective services division in 2000.

Authorizes a county or municipality to supplement from its own funds the salary of a DPRS employee whose duties include the provision of child and adult protective services.

Provides that a DPRS employee who has worked in the same position for DPRS in a different region is not eligible for a salary supplement for at least six months after assuming the position in the new region.

Prohibits DPRS from requiring a salary supplement as a condition for creating or maintaining a position in the region.

**Buckle Up Kids for Safety, II - S.B. 1367**

*by Senator Van de Putte*

*House Sponsor: Representative Hamric*

Provides that it is an offense if a person transports in a passenger car or light truck a child who is younger than five years of age and less than 36 inches in height and does not keep the child secured in a child passenger safety seat system.

Makes similar provisions for children younger than 15 years of age.



**Kids in Foster Care Can Keep the Money They Earn - S.B. 1683**

*by Senator Jackson*

*House Sponsor: Representative John Davis*

A minor who receives services from the Texas Department of Protective and Regulatory Services (DPRS) and who earns money through means of employment and/or participation in competitions which provide financial rewards cannot be assured of protection of those earnings from confiscation by the minor's legal parent or guardian.

Provides that a child for whom DPRS has been appointed managing conservator, and who has been placed by DPRS in a foster home or child-care institution, is entitled to keep any money earned by the child during the time of the child's placement.

Provides that if a child earns money and is returned to the child's parent or guardian, the child's parent or guardian may not interfere with the child's authority to control the money.

**Increased Fines for Safety Seat Offenses to be Used for Trauma Centers - H.B. 1739**

*by Representative Martinez Fischer*

*Senate Sponsor: Senator Van de Putte*

Increases the penalty for not having a child under 15 years of age buckled or in a child safety seat from an amount between \$25 and \$50 to an amount between \$100 and \$200.

Authorizes a judge to require a defendant to attend a specialized driving safety course that includes four hours of instruction that encourages the use of child passenger safety seat systems and emphasizes the effectiveness of the systems and the requirements of the law to use them.

Requires 50 percent of the fines collected for these violations to be deposited to the credit of the tertiary care fund for use by trauma centers.

### **Eligibility Requirements for Food Stamp Recipients - S.B. 184**

*by Senator Zaffirini*

*House Sponsor: Representative Naishtat*

Current law requires an individual seeking assistance through the state's Food Stamp Program to make a personal appearance at the Texas Department of Human Services (DHS) offices. An interim report to the 77<sup>th</sup> Legislature found that one of the reasons individuals who are eligible for the Food Stamp Program do not access assistance is the lengthy face-to-face interviews at DHS offices which potentially cuts into normal work hours for eligible recipients. Eligible recipients may also face difficulties in finding adequate transportation or childcare while attending such interviews.

Allows an individual to comply with eligibility requirements for the Food Stamp Program by telephone instead of through a personal appearance at (DHS) offices.

### **Adult Fatality Review Teams - S.B. 515**

*by Senators Madla and Moncrief*

*House Sponsor: Representative Truitt*

Collecting data and performing specialized investigations to identify patterns, factors, triggers, and predictors of unexpected deaths may prevent future incidents of adult fatalities.

Authorizes a county to establish a multidisciplinary and multiagency unexpected adult fatality review team to identify the cause and decrease the incidence of preventable adult death.

### **Duties and Immunities of Persons Reporting Elderly Abuse and Neglect - H.B. 3335**

*by Representative Telford*

*Senate Sponsor: Senator Moncrief*

Currently, an individual who has cause to believe that an elderly or disabled adult is being abused, neglected, or exploited must report their concern to the appropriate authority. However, the law remains unclear about the possible liability of a business entity if an employee reports the abuse or exploitation of a customer.

Provides that an employer is immune from civil or criminal liability arising from an employee's good faith report, testimony, or participation in any judicial proceedings arising from a petition, report, or investigation.

Provides that this provision does not apply to an employer who is the subject of an investigation.

**Omnibus Women's Equal Health Care Act - S.B. 8**

*by Senator Cain, et al.*

*House Sponsor: Representative Farabee*

Enacts the Omnibus Women's Equal Health Care Act (Act) and sets out the penalties for violating the Act.

States that the purpose of this Act is to remedy the unequal health care rates and payments by requiring all third party payers to pay providers of women's health services equal pay for equal work.

Provides that the Act applies to health benefit plans providing benefits for medical or surgical expenses for a health condition, accident, or sickness.

Requires a health benefit plan, when reimbursing a physician or provider for reproductive health and oncology services provided to women, to pay an amount not less than the annual average compensation per hour or unit as would be paid in the service area to a physician or provider for the same medical, surgical, or other similar resources, as applicable, that would be used in providing health services exclusively to men or to the general population.

Permits a person to bring an action in the district court for a violation if the commissioner of insurance fails to make a determination within the time set by this Act. Authorizes a court to impose the same or similar penalties if the defendant knowingly violated the Act and award attorney's fees and court costs.

Requires a court, if it determines that the action was groundless and brought in bad faith or for the purpose of harassment, to award the defendant reasonable and necessary attorney's fees.

Provides that the Act does not require reimbursement for an abortion.

Requires the Texas Board of Health, Texas Board of Human Services, and Texas Department of Insurance, not later than 90 days after the effective date of this Act, to repeal any rules contrary to this Act and adopt rules necessary to implement this Act. The rules must require providers to justify any disparity in reimbursement rates and that any disparity accurately reflects the difference in time and resources expended to provide the health care services.

**Establishing the Rural Foundation - S.B. 115**

*by Senators Madla and Bernsen*

*House Sponsors: Representative Hawley, et al.*

Requires the Center for Rural Health Initiatives (center), not later than June 1, 2002, to establish the Rural Foundation (foundation) as a nonprofit corporation operating independently of any state agency or political subdivision. Sets forth provisions to administer the foundation.

Prohibits the use of funds administered by the foundation for providing an abortion or a referral for an abortion, unless there is a medically necessary reason to provide the referral.

Requires the center to obtain information from each county about indigent health care provided in the county and from each university, medical school, rural community, or rural health care provider that has studied rural health care during the biennium.

**Cancer Incidence Reporting - S.B. 285**

*by Senators Nelson and Moncrief  
House Sponsor: Representative Delisi*

Cancer is the second leading cause of death among Americans. Increased funding and a better reporting system could help prevent and control cancer. Texas could be eligible to receive federal funding from the Centers for Disease Control and Prevention under the National Program of Cancer Registries if the state had a systematic method of reporting cancer cases.

Authorizes the Texas Department of Health (TDH) to access the medical records of a health care facility, clinical laboratory, or health care practitioner (health entity) that would identify cases of cancer, establish characteristics of treatment of cancer, or determine the medical status of any identified patient.

Amends the Health and Safety Code to include health care practitioners in the reporting requirements of the Texas Cancer Incidence Reporting Act.

Removes precancerous and tumorous disease specified by the Texas Board of Health from the reporting requirements.

**Indigent Pharmaceutical Program - S.B. 332**

*by Senator Moncrief  
House Sponsor: Representative Gray*

Currently, the Medical Practice Act prohibits physicians from giving patients free medications under an indigent pharmaceutical program. Removing this prohibition would not infringe on pharmacists' dispensing authority.

Provides that the Medical Practice Act does not prohibit physicians from giving patients medication supplied by a pharmaceutical company for an indigent pharmaceutical program.

**Prevention and Treatment of Hepatitis C - S.B. 338**

*by Senator Madla, et al.  
House Sponsor: Representative Eiland*

Requires the Texas Department of Health (TDH) to develop a state plan for prevention and treatment of hepatitis C, including strategies for prevention and treatment of hepatitis C in specific demographic groups disproportionately affected by the disease.

Requires TDH to seek input in developing the plan from the public and other entities concerned with hepatitis C.

Authorizes TDH, in developing a prevention program heightening knowledge and understanding of hepatitis C, to forecast the economic, clinical, and quality of life impact of hepatitis C. The forecasts may be developed in conjunction with an academic medical center or a nonprofit institution experienced in disease management prospective modeling and simulation techniques.

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Requires registered nurses to participate in not less than two hours of continuing education relating to hepatitis C. The Board of Nurse Examiners must recognize, prepare, or administer a training component providing information relating to the prevention, assessment, and treatment of hepatitis C for use in such continuing education. This provision applies only to registered nurses renewing their licenses on or after June 1, 2002, and expires June 1, 2004.

### **Rural Physician Relief Program - S.B. 516**

*by Senator Madla*

*House Sponsor: Representative Hawley*

The Texas Center for Rural Health Initiatives concluded, in a study, that rural Texas physicians have demonstrated a need for a state-supported rural physician relief program to preserve the rural health care infrastructure and help improve access to care for rural Texans.

Requires the center to create a program providing affordable relief services to rural physicians practicing in the fields of general family medicine, general internal medicine, and general pediatrics to enable them to take time away from their practice. Requires the center to charge a fee for rural physicians participating in the program and pay relief physicians from fees collected by the center.

Requires the center to assign relief physicians to rural areas according to the following priorities:

- solo practitioners;
- counties that have fewer than seven residents per square mile;
- counties that have been designated under federal law as a health professional shortage area;
- counties that do not have a hospital; and
- counties that have a hospital but do not have a continuously staffed hospital emergency room.

### **Funding for Treatment of Breast or Cervical Cancer - S.B. 532**

*by Senator Nelson, et al.*

*House Sponsors: Representative Maxey, et al.*

The federal Breast and Cervical Cancer Prevention and Treatment Act of 2000 allows states to choose to receive federal Medicaid matching funds to provide medical care and treatment to low-income women under age 65 who need treatment for breast or cervical cancer.

Requires the Health and Human Services Commission (HHSC) to provide breast or cervical cancer treatment to eligible persons for a continuous period during which the person requires the treatment.

Requires HHSC to simplify the provider enrollment process for a provider of that medical assistance and to adopt rules to provide for certification of presumptive eligibility of a person for that assistance.

Prohibits HHSC to the extent allowed by federal law from requiring a personal interview to determine a person's eligibility for medical assistance for treatment of breast or cervical cancer.

**The Nursing Shortage Reduction Act of 2001 - S.B. 572**

*by Senator Moncrief, et al.*

*House Sponsor: Representative Gray*

Texas is facing a shortage of registered nurses. According to a 2000 Texas Department of Health report, there were 595 registered nurses per 100,000 people in Texas in 1999, which is considerably lower than the national ratio. Texas nursing education programs have had to turn away approximately 3,000 qualified applicants in the fall semesters of 1998 and 1999 because of the limited number of faculty positions.

Establishes the nursing shortage reduction program (program) to increase the number and preparation of professional nurses in public, private, or independent institutions of higher education (institution).

Authorizes an institution to permit a registered nurse to register in a postgraduate nursing degree program by paying the tuition and other fee charges required of Texas residents if the registered nurse:

- is authorized to practice professional nursing in Texas;
- is enrolled in master's degree or other higher degree in nursing program; and
- intends to teach in a program in Texas designed to prepare a student to be a registered nurse.

Authorizes the Texas Higher Education Coordinating Board (THECB) to establish multiple categories of persons to receive scholarships, matching funds, and loan repayments through financial aid programs for professional and vocational nursing students and to appropriate not more than ten percent of the legislative funds for administrative costs of operating these financial assistance programs.

Repeals the requirement that THECB include ethnic or racial minority status in the criteria for the financial assistance and authorizes THECB to include in the existing criteria a person's intention to seek employment in a nursing school faculty and the geographical area in which the person is likely to practice.

Authorizes THECB to structure the nursing financial aid programs to secure funds available under federal matching programs.

Amends the Occupations Code to require the Board of Nurse Examiners to adopt rules to establish and implement the nursing workforce data center (center) to address issues of supply and demand for nursing if the legislature appropriates money for the center.

Authorizes the center to establish a clearinghouse for nursing education programs and health care providers to identify sites available to nursing education programs to provide clinical experience.

**Regulation and Reimbursement of Telemedicine Medical Services - S.B. 789**

*by Senator Moncrief, et al.*

*House Sponsors: Representative Maxey, et al.*

Texas faces unique challenges with its health care system. The state has experienced a larger population increase than any other state in the nation in the past decade, especially in its Hispanic and aging baby-boomer populations. Rural Texas has difficulty recruiting doctors, and several counties in Texas do not have a resident physician. Telemedicine has the potential to bring health services to rural and underserved communities.

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Requires the Health and Human Services Commission (HHSC) and the Telecommunications Infrastructure Fund Board to establish and adopt minimum standards for an operating system used in the provision of telemedicine medical services.

Requires HHSC and designated state health and human service agencies to establish certain telemedicine and teledentistry pilot programs in designated areas of the state.

Requires HHSC, in consultation with the Texas State Board of Medical Examiners, to monitor and regulate the use of telemedicine.

### **Testing for Accidental Exposure to Hepatitis B or Hepatitis C - S.B. 1006**

*by Senator Van De Putte*

*House Sponsor: Representative Uresti*

Currently, licensed hospitals are required to test patients for hepatitis B or C following accidental exposure of a health care worker to a patient's blood or other body fluids. However, emergency medical service personnel and other persons who render assistance and are exposed to the patient's body fluids are not included under this testing requirement.

Requires the hospital, in a case of accidental exposure of certified emergency medical services personnel, a firefighter, a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport to the hospital, to take reasonable steps to test potentially exposed patients for hepatitis B or hepatitis C.

Provides that the person exposed, or the organization that employs the person or for which the person works as a volunteer in connection with rendering the assistance, is responsible for paying for the test.

### **Training and Regulation of Promotoras and Community Health Workers - S.B. 1051**

*by Senators Shapleigh and Madla*

*House Sponsors: Representatives Chavez and Capelo*

A promotora provides a liaison between health care providers and patients. Promotoras and community health workers can help individuals living in economically distressed areas with health and social services. Although state law currently provides for a promotora training and certification program, participation is voluntary. This Act makes training and certification mandatory for promotoras and community health workers who are compensated for their services.

Expands a program designed to train and educate persons who act as promotoras established by the Texas Department of Health (TDH) to include community health workers. In establishing the training program, TDH, to the extent possible, must consider any findings and implement applicable recommendations of the Promotora Program Development Committee (committee).

Provides that participation in a training and education program is voluntary for promotoras or community health workers who provide services without compensation, but makes it mandatory for those providing services for compensation. The Texas Board of Health (TBH) may adopt rules exempting from mandatory training a promotora or community health worker who has served for three or more years or has 1,000 or more hours of experience.

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Expands a program for certifying persons who act as promotoras established by TDH to include community health workers. In adopting minimum standards and guidelines, TBH must consider any findings and adopt any applicable recommendations of the committee. Receipt of a certificate under this program is not required for promotoras or community health workers who provide services without compensation, but is mandatory for those receiving compensation.

### **Patient Assistance Programs Offered by Pharmaceutical Companies - S.B. 1763**

*by Senators Moncrief and Shapleigh  
House Sponsor: Representative Gray*

Requires each pharmaceutical company doing business in Texas that offers a patient assistance program to inform the Health and Human Services Commission (commission) of the program's existence, the eligibility requirements, and the drugs covered and to provide information such as a telephone number used for applying for the program.

Requires the commission to establish and publicize a toll-free telephone number system that the public can call to obtain information about available patient assistance programs. The system must be staffed at least during normal business hours with persons who can:

- determine whether a drug is covered by a patient assistance program;
- determine whether the person is eligible to participate in a program; and
- assist persons who wish to apply for a program.

### **Task Force to Eliminate Health and Health Access Disparities in Texas - H.B. 757**

*by Representative Coleman  
Senate Sponsor: Senator Bernsen*

Establishes the health disparities task force, which is charged with consulting with the Texas Department of Health and OMH/CC in eliminating health and health access disparities in Texas among multicultural, disadvantaged, and regional populations.

### **State Prescription Drug Program for Certain Medicare Beneficiaries - H.B. 1094**

*by Representative Gray, et al.  
Senate Sponsor: Senator Moncrief*

Requires the Health and Human Services Commission (commission) to develop and implement a state prescription drug program (program) that operates in the same manner as the vendor drug program under the Texas Human Resources Code, which provides prescription drug benefits to recipients of medical assistance. The program must be developed and implemented not later than January 1, 2002.

Sets out who is eligible for prescription drug benefits under the program.

Provides that prescription drugs under the program may be funded only with state money, unless there are federal funds available to fund all or part of the program.



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Requires the commission to adopt rules necessary for implementation of the program and sets out what those rules may include. In adopting these rules, the commission must consult with an advisory panel composed of an equal number of physicians, pharmacists, and pharmacologists appointed by the commission.

Authorizes the commission, in adopting the rules, to require that, unless a prescription clearly indicates that the prescription must be dispensed as written, the pharmacist may select a generic equivalent of the prescribed drug.

Provides that if the money available for the program is insufficient to provide prescription drug benefits to all eligible persons, the commission must limit the number of enrollees based on available funding and sets out the order of priority in which prescription drug benefits will be provided to eligible persons.

### **Medical Services Compensation - H.B. 2287**

*by Representative Edwards*  
*Senate Sponsor: Senator Moncrief*

Hospitals receive compensation through a reimbursement fund for services rendered under the medical assistance program. Physicians who provide medical services at these hospitals are offered little to no compensation.

Authorizes hospitals to contract with physicians to provide medical services to indigent patients based on the hospital's indigent care eligibility criteria.

### **Prescription Contraceptives - H.B. 2382**

*by Representative Thompson, et al.*  
*Senate Sponsor: Senator Wentworth*

Seeks uniformity of coverage for consumers who may choose contraceptive devices not covered by an insurer's health benefit plan. Under the Texas Administrative Code, an insurer who covers all other prescriptions is prohibited from denying coverage of oral contraceptives or drugs or devices approved by the United States Food and Drug Administration or an outpatient contraceptive service.

### **Emergency Medical Services - H.B. 2446**

*by Representative Glaze, et al.*  
*Senate Sponsor: Senator Madla*

In its interim report to the 77th Texas Legislature, the House Committee on Public Health examined the requirements imposed on emergency medical service (EMS) providers in rural areas to determine whether individual requirements encourage or hinder the provision of services.

Requires the Texas Department of Health (TDH) to establish a pilot program to test the efficacy of using emergency medical dispatchers located in a regional emergency medical dispatch resource center.

Requires TDH to select one public safety answering point to serve as a regional emergency medical dispatch resource center. Sets forth requirements for the public safety answering point selected as the resource center for the pilot program. Requires TDH and the advisory council, in selecting an existing

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public safety answering point to act as the resource center, to consider a public safety answering point's ability to keep records and produce reports to measure the effectiveness of the pilot program.

Authorizes money in the 9-1-1 services fee fund to be appropriated to TDH to fund the pilot program. Provides that TDH is also authorized to seek grant funding for the pilot program. Provides that the requirement that TDH establish, conduct, and evaluate the pilot program are contingent on TDH receiving funding.

Authorizes an emergency medical services provider and a first responder organization to acquire and possess epinephrine auto-injector devices. Authorizes emergency medical services personnel certified as emergency medical technicians or at a higher level of training to carry and administer the devices.

### **Community Health Center Revolving Loan Fund Program - H.B. 2574**

*by Representatives Solis and Olivo*  
*Senate Sponsor: Senator Gallegos*

Community health centers, often funded by public and private grants, provide health care services to uninsured and underinsured residents. These centers may find it difficult to acquire commercial loans, because their revenue source is not stable and consistent. A precarious financial situation contributes to the centers' neglect of building repairs and other nonmedical services including meeting building code and Americans with Disabilities Act requirements.

Establishes the community health center revolving loan fund to be administered by a development corporation on behalf of the Health and Human Services Commission to increase community health centers' access to loan money.

### **Preventing Fraud in Hospital District Funded Indigent Care - H.B. 3043**

*by Representative Luna*  
*Senate Sponsor: Senator Truan*

Hospital districts are designed to provide indigent care. In order to qualify for indigent care, an eligible resident must provide certain documentation to prove that income and resource requirements have been met. Hospital districts have experienced an increase in demand for and related costs of providing health care, as well as numerous fraudulent misrepresentations when processing applications for enrollment in the indigent health care program. Unlike county-funded indigent care programs, state law does not give hospital districts the authority to establish procedures to prevent and detect fraud and disqualify individuals from participating in the indigent care program as a result of fraud.

Authorizes hospital districts to establish a method to minimize, identify, and eliminate fraud in indigent health care programs.

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## Temporary Licensing for New Nursing Home Facility Owners - S.B. 37

*by Senators Zaffirini and Moncrief*  
*House Sponsor: Representative Naishtat*

Currently, when a new owner applies for a license to operate a nursing facility already in operation in Texas, the new owner may be required to meet all the qualifications for a license before the Texas Department of Human Services (DHS) will grant a nursing facility license. If the facility has deficiencies, DHS has the authority to withhold Medicaid reimbursements until the deficiencies are corrected.

Allows new nursing home owners of existing nursing home facilities to apply for a temporary operating license issued by DHS. Operating with a temporary license will allow the new owner time to correct any deficiencies existing in the facility before receiving a standard license.

## Getting Nurses to Practice in Long-Term Care Facilities - S.B. 40

*by Senators Zaffirini and Lucio*  
*House Sponsor: Representative Naishtat*

Requires the Texas Higher Education Coordinating Board (board) to establish and administer a tuition assistance program for vocational nursing students attending any school or program in this state who agree, after becoming licensed vocational nurses, to practice in a long-term care facility in this state.

Requires a student, after completing all courses required for licensure, to begin fulfilling the long-term care facility work obligation not later than a time specified by board rule. The student also must complete the obligation within a period determined by board rule. The board may grant a student, on a showing of good cause, additional time to begin or complete the work obligation.

Requires a person receiving tuition assistance to sign a promissory note promising to repay the amount of the tuition assistance, plus applicable interest and reasonable collection costs if the person does not satisfy the conditions of the assistance. The board must determine the terms of the note.

## Best Practices Competitive Grant Program for Nursing Homes - S.B. 159

*by Senator Zaffirini*  
*House Sponsor: Representative Naishtat*

Currently, administrative penalties collected by the state from nursing facilities are deposited in the general treasury.

Requires the Texas Department of Human Services (DHS) to establish a best practices/quality of life competitive grant program. The purpose of the grant program is to pay part of the costs of a project proposed by an institution that is designed to improve the quality of life for residents of the institution and that could serve as a model of best practices for the industry.

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Requires DHS to monitor the expenditure of grant money to ensure that the money is being used for the intended purpose.

Requires DHS to post a summary on its Internet site of best practices under this program and to advise the industry of the location of this best practices Internet site.

## Electronic Monitoring Devices in Nursing Home Rooms - S.B. 177

*by Senators Madla and Moncrief  
House Sponsor: Representative Naishtat*

Historically, there has been no provision allowing for the audio or video monitoring of a resident's room in a convalescent home, nursing home, or related institution (institution) by a resident or the resident's guardian or legal representative (representative).

Gives a resident or the resident's representative the right to place an electronic monitoring device in the resident's room and sets forth guidelines for both the resident and the convalescent home, nursing home, or related institution to follow in relation to such monitoring.

Requires an institution to permit a resident or the resident's representative to monitor the room of the resident through the use of electronic monitoring devices.

Requires the institution to require a resident who conducts authorized electronic monitoring or the resident's representative to post and maintain a conspicuous notice at the entrance to the resident's room, stating that the room is being monitored by an electronic monitoring device.

Provides that authorized electronic monitoring is not compulsory and may be conducted only at the request of the resident or the resident's representative.

Prohibits an institution from refusing to admit an individual to residency in the institution and from removing a resident from the institution because of a request to conduct authorized electronic monitoring.

Prohibits an institution from removing a resident because covert electronic monitoring is being conducted by or on behalf of a resident.

Requires an institution to make reasonable physical accommodation to facilitate the authorized electronic monitoring.

Provides that the resident or the resident's representative must pay for all costs associated with conducting electronic monitoring, other than the costs of electricity.

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Authorizes an institution to require an electronic monitoring device to be installed in plain view and in a manner that is safe for residents, employees, or visitors who may be moving about the room.

## **Nursing Home Resident's Right to Informed Consent For Prescriptions - S.B. 355**

*by Senator Lindsay*

*House Sponsors: Representative Naishtat, et al.*

Current law contains provisions that govern informed consent to psychoactive drugs for individuals in inpatient psychiatric settings, but the provisions do not apply to residents of nursing homes.

Amends the Health and Safety Code to add the right of a resident of a nursing or convalescent home or related institution to receive information about prescribed psychoactive medication (medication) from the person prescribing the medication, the right to have any medications prescribed and administered in a responsible manner, and the right to refuse to consent to the prescription of medications. The bill also adds to the statement the right to have a person explain the side effects and risks reasonably associated with medications.

Prohibits a person from administering a medication to a resident who does not consent to the prescription unless the resident is having a medication-related emergency or the person authorized by law to consent on behalf of the resident has consented to the prescription. Requires a resident's refusal to consent to receive medication to be documented in the resident's clinical record.

## **Liability Insurance Options Expanded for For-Profit Nursing Homes - S.B. 415**

*by Senators Carona and Zaffirini*

*House Sponsors: Representative Naishtat, et al.*

Nursing home liability insurance costs are making it difficult for homes to obtain coverage. In addition, the number of underwriters for nursing home liability insurance has decreased over the past two years. While the commissioner of insurance took action this interim to allow nonprofit nursing homes to purchase insurance from the Texas Medical Liability Insurance Underwriting Association, commonly referred to as the Joint Underwriting Association (JUA), law prohibits for-profit nursing homes from joining JUA to purchase liability insurance.

Adds for-profit nursing homes to the definition of health care provider under the Texas Medical Liability Insurance Underwriting Association Act.

Requires the commissioner of insurance (commissioner) by rule and in consultation with the Texas Department of Human Services to adopt minimum underwriting standards for for-profit nursing homes before a for-profit nursing home is authorized to obtain coverage through JUA.

Subjects the rates for for-profit nursing homes to the same requirements as not-for-profit nursing homes.

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Prohibits the inclusion of coverage for punitive damages assessed against a physician or health care provider in a policy of medical liability insurance issued to or renewed for a physician or health care provider by JUA.

Provides that if the incurred losses and expenses from physicians or any single category of health care provider result in a net underwriting loss and exceed 25 percent of the stabilization reserve fund as valued for that year, then the commissioner is authorized to direct the initiation or continuation of the stabilization reserve fund until the fund recovers its losses.

## **Expediting Licensing for Nursing Facility Operators - S.B. 772**

*by Senators Harris and Zaffirini*

*House Sponsor: Representative Naishtat*

The Texas Department of Human Services (DHS) is responsible for reviewing and approving an application to operate a nursing home in Texas. Until the application is approved, the facility cannot receive Medicaid and Medicare funding. There is currently no mechanism in place for DHS to gather and use information on good nursing home operators to enable those operators to expeditiously gain approval for a license to operate another existing institution.

Requires DHS to keep a current list of license holders that have excellent operating records and provides for the expedited approval of a change of ownership license to current license holders that have compiled excellent operating records according to information available to DHS.

Requires DHS to establish a procedure under which a listed license holder may be granted expedited approval in obtaining a change of ownership license to operate another existing institution in this state.

Specifies that any requirement relating to inspections or an accreditation review applies only to institutions operated by the license holder at the time the application is made for the change of ownership license.

## **Program for All-Inclusive Care for the Elderly (PACE) - S.B. 908**

*by Senator Shapleigh, et al.*

*House Sponsors: Representatives Isett and Chavez*

The Program for All-Inclusive Care for the Elderly (PACE) is a nationwide alternative to nursing home care for the elderly. PACE programs cost the state less than traditional Medicaid payments for those who are eligible for nursing home placement. Currently, the only PACE program site in Texas is *Bienvivir* in El Paso.

Requires the Health and Human Services Commission (HHSC) to develop and implement PACE statewide.

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Requires HHSC, with the cooperation of the Texas Department on Aging and area agencies on aging, to promote PACE program sites. HHSC is required to adopt policies and procedures ensuring that caseworkers and other appropriate HHSC staff discuss the benefits of participating in the PACE program with long-term care clients.

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## **Amelioration of Nursing Home and Intermediate Care Facility Violations - S.B. 1376**

*by Senator Moncrief*

*House Sponsor: Representative Naishtat*

Amelioration is an enforcement mechanism available to the Department of Human Services (DHS) as an alternative to an administrative hearing to address a violation; however, DHS has only exercised this option once in four years.

Authorizes the commissioner of human services (commissioner) or DHS as applicable, in lieu of demanding payment of an administrative penalty, to allow the person to use any portion of the penalty to ameliorate the violation or to improve services in the affected nursing home or intermediate care facility for the mentally retarded (ICF-MR).

Requires DHS to offer amelioration to a person for a charged violation if DHS determines that the violation does not constitute immediate jeopardy to the health and safety of a resident and prohibits DHS from offering amelioration if DHS determines that the charged violation constitutes immediate jeopardy to a resident.

Prohibits DHS from offering amelioration for a nursing home violation if the person has been charged with a violation that is subject to the right to correction provisions.

Prohibits DHS from offering amelioration to a person more than one time in a two-year period for the same or a similar violation or more than three times in a two-year period.

## **Omnibus Nursing Home Bill - S.B. 1839**

*by Senators Moncrief and Duncan*

*House Sponsors: Representative Eiland, et al.*

Currently, the nursing home industry in Texas is facing a crisis. Liability insurance rates are rising quickly, access and affordability of insurance is dwindling, and lawsuit settlements are increasing.

Sets forth provisions regarding quality of care, makes available liability insurance for all nursing homes, and provides for an amelioration process.

Requires a court to report exemplary damages awarded against a nursing home or its employees, officers, or agents, by notifying the Texas Department of Human Services (DHS). The fact that an exemplary award was made against a nursing home will become part of the nursing home's permanent record at the DHS.

States that the Texas Rules of Evidence will determine the admissibility of the documents and surveyor testimony in civil trials.



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Requires insurance carriers who are not admitted carriers in Texas, but who sell surplus lines in Texas, to report requested data to the Texas Department of Insurance (TDI). The information will then be reported by TDI to the legislature. Under current law, only insurance companies that are admitted carriers in Texas are required to report claim and settlement data to TDI.

Opens the Joint Underwriting Association (JUA) to for-profit nursing homes. The JUA is currently only available to health care professionals and nonprofit nursing homes. By statute, the JUA is not responsible for paying exemplary damages.

Provides for the creation of a task force at TDI to develop “best practices” for risk management and loss control in nursing homes. The task force will consist of nursing homes, insurance carriers, TDI, consumers, JUA, and the Health and Human Services Commission (HHSC). These best practices do not establish “standards of care” in a civil action against a nursing home.

Adds language to ensure the financial soundness of the stabilization fund at the JUA. The bill provides for a bond package through the Texas Public Financing Authority to raise \$75 million to ensure that the stabilization fund can handle the volume. Additionally, a surcharge fee will be assessed against carriers to pay the service debt on the bonds.

Provides that if the JUA is the insurer for a nursing home, the JUA is not liable for exemplary damages awarded in a civil cause of action against the nursing home. The JUA would only be liable for compensatory damages. If the insurance company receives a “Stowers” demand and does not settle the claim at or under the policy limits, the JUA is still responsible for the cost of litigation, compensatory damages up to the policy limits, and compensatory damages above the policy limits. If the jury, however, awards the plaintiff exemplary damages, the nursing home is responsible for those damages, not the JUA. This provision only applies to coverage under a policy for an occurrence between January 1, 2002, and January 1, 2006. The provision is scheduled for sunset on January 1, 2007.

Provides that as a condition of licensure, nursing homes in Texas must carry mandatory liability insurance coverage of \$1,000,000 per occurrence and \$3,000,000 aggregate per year. The insurance may be purchased through the JUA, admitted carriers, or surplus lines. Insurance must be purchased by September 1, 2003. The section limits the amount of insurance required for a facility owned and operated by a governmental unit to the unit’s liability under the Civil Practice and Remedies Code, Section 101.023.

Requires certain basic education of surveyors to include 10 days of observation in a nursing home. In addition, requires biannual joint education of surveyor and provider on one of the ten most commonly cited deficiencies. Surveyors are also required to obtain a certain percentage of their continuing education requirements in gerontology or cognitive or physical disabilities. Creates quality assurance monitors and a rapid response team to improve the delivery of care. Finally, transfers the informal dispute resolution process, required by federal law, from DHS to HHSC.

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Requires DHS to offer amelioration to a facility when the violation is not immediate jeopardy. Amelioration allows the facility to take the penalty money otherwise paid to DHS and use it to improve the quality of care and services to the residents.

Calls for a quality assurance fee to be assessed on ICF/MR facilities, initially on a per bed per day basis on occupied beds. The money collected for this fee will be matched with federal dollars and returned to the ICF/MR facilities. This section sunsets in 2005.

Requires the HHSC to ensure that the rules governing rates improve the quality of care through incentives for direct care staffing, wages, and benefits.

## **Nonprofit Entities that Provide Long-Term Care or Health Benefit Plans - H.B. 393**

*by Representatives Maxey and Kitchen*

*Senate Sponsor: Senator Ellis*

Nonprofit health care providers have historically served the needs of their community, including the needs of uninsured individuals in the community. Access to high quality, affordable health care is a continuing need in a state with over four million uninsured individuals and millions more individuals who do not have adequate insurance. Changes in the health care market have caused a substantial number of nonprofit health care providers and nonprofit health benefit plan providers to establish new ventures, affecting hundreds of millions of charitable dollars.

Establishes certain duties and notification criteria for a nonprofit provider when restructuring, transferring, or closing its facility.

Establishes the criteria that a nonprofit is assessed its fair market value and gross revenue receipts.

Provides that a nonprofit provider is a health care system, and each licensed hospital in that system is a nonprofit provider.

## **Protection from Nursing Home or Intermediate Care Facility Retaliation - H.B. 482**

*by Representative Naishtat*

*Senate Sponsor: Senator Zaffirini*

The 76th Legislature passed legislation protecting contract employees and volunteers from retaliation for making complaints against a nursing home facility.

Extends the protection from retaliation to family members and guardians of residents in nursing home facilities and to volunteers in intermediate care facilities and family members and guardians of residents in intermediate care facilities.

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Includes contract employees in the definition of “employee” to extend to them protection from retaliation.

Extends protection for those individuals making a complaint or filing a grievance concerning a facility, initiating or cooperating in an investigation of a facility, or reporting a facility’s violation of law.

**Vetoed**

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## **Nursing Facility Reimbursement Methodology and Resource Needs - H.B. 1001**

*by Representative Naishtat, et al.*

*Senate Sponsor: Senator Zaffirini*

The House Human Services Committee reports that both industry representatives and nursing home resident advocacy groups point to the methodology for calculating Medicaid reimbursement rates as an underlying cause for much of the nursing home industry's problems. The current methodology may not accurately reflect all justifiably reimbursable costs of doing business. In addition, the current Texas Index for Level of Effort (TILE) reimbursement system does not always reflect the true resource needs of residents.

Requires the Health and Human Services Commission (HHSC) and the Department of Human Services (DHS) to review the base reimbursement methodology for nursing home care.

Requires HHSC, subject to the availability of funds and in conjunction with DHS, to evaluate the methodology used for determining Medicaid reimbursement rates for nursing facilities.

Requires HHSC to evaluate the TILE system used to quantify the intensity of the care needs of individuals in nursing facilities and to assign daily reimbursement rates for that care to determine whether the system accurately accounts for the care needs of patients with dementia, including patients with Alzheimer's disease.

Requires HHSC, in conducting the evaluation, to seek the input of relevant professionals and other individuals or organizations with expertise in caring for people with dementia, including Alzheimer's disease.

## **Criminal Background Checks on Certain Employees of Long-Term Care Institutions - H.B. 1418**

*by Representatives Jesse Jones and John Davis*

*Senate Sponsor: Senator Carona*

State law provides that long-term care facilities and home health agencies must obtain a state criminal history record for certain new employees who provide direct care to residents or consumers. Facilities are prohibited from employing persons who have been convicted of certain offenses, such as homicide, sexual assault, or injury to a child or elderly or disabled person.

Authorizes a regulatory or private agency that forwards criminal history record information to certain facilities that serve the elderly or disabled to use the Internet criminal history search services provided by the DPS to expedite requests for such information.

Establishes criteria for prohibiting a person convicted of felony theft from being employed in a facility.

Requires convalescent and nursing homes and related institutions to prepare a written statement describing the institution's policy for conducting criminal history record checks of employees and applicants for employment.

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Requires the Texas Board of Human Services to adopt a model drug testing policy.

# HEALTH AND HUMAN SERVICES/Medicaid and CHIP

77<sup>th</sup> Texas Legislature

## Relating to Dental Services to Medicaid Recipients - S.B. 34

*by Senator Zaffirini*

*House Sponsor: Representative Naishtat*

Currently, the only Medicaid dental services for nursing home residents are long-term care emergency dental services. The Senate Committee on Human Services reported that since little attempt is made to deal with dental problems until residents are in pain or unable to eat, the care eventually received is often more expensive than preventative care.

Requires the Health and Human Services Commission (HHSC) to provide dental services annually to a resident of a nursing facility who is a medical assistance recipient. The dental services must include a dental examination by a licensed dentist; a prophylaxis by a licensed dentist or licensed dental hygienist, if practical considering the health of the resident; and diagnostic dental x-rays, if possible.

Requires HHSC by rule to develop a fee schedule for dental services in cooperation with Texas Department of Health and the Texas Department of Human Services.

Requires HHSC to conduct a study regarding the need for and cost of expanding such dental services and requires the commissioner of health and human services to report the results of the study to specified entities no later than December 1, 2002.

## Simplifying the Medicaid Certification Process - S.B. 43

*by Senator Zaffirini, et al.*

*House Sponsors: Representative Gray, et al.*

Under current law, the application process for children who are eligible for Medicaid can be complex and confusing. The state child health plan, or Children's Health Insurance Program (CHIP) application process is much less complex. Simplifying the Medicaid enrollment process for children could increase the number of enrolled children, which could benefit the state by reducing the number of children absent from school and the number of parents missing work to care for a sick child.

Requires Department of Human Services (DHS) to adopt a single consolidated application for children under 19 applying for Medicaid and CHIP. Permits an application requesting medical assistance for a child under 19 to be conducted by mail instead of through a personal appearance at a DHS office.

Allows the Health and Human Services Commission (HHSC) to develop procedures for any office of a health and human services agency to accept an application requesting medical assistance for a child under 19 years of age.

Allows DHS to contract with hospital districts and other health care providers to accept applications requesting medical assistance for a child under 19 years of age.

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Allows DHS to recertify the eligibility and need for medical assistance of a child under 19 years of age by telephone or mail instead of through a personal appearance at a DHS office.

Requires DHS to adopt rules to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance. The rules shall provide that the child remains eligible for medical assistance, without additional review by the DHS and regardless of changes in the child's resources or income, until the earlier of:

- the first anniversary of the date on which the child's eligibility was determined; or
- the child's 19<sup>th</sup> birthday.

Provides for procedures to ensure that children who are denied Medicaid assistance but are eligible for enrollment in CHIP have their information promptly transmitted to the child health plan.

Provides for procedures to ensure that a parent or caretaker of a child who will be denied continued Medicaid assistance because of a failure to keep an appointment is promptly notified of the need to recertify and the availability of CHIP health care.

Requires DHS to require parents or the guardian of child eligible for Medicaid assistance to attend an in-person counseling session and accompany the child to a health care provider for a comprehensive orientation.

Allows HHSC to prohibit a recipient from disenrolling in a managed care plan and enrolling in another managed care plan during the 12-month period after the recipient initially enrolls in a plan.

## **Medicaid for Youth Transitioning from Foster Care to Independent Living - S.B. 51**

*by Senator Zaffirini*

*House Sponsors: Representative Maxey, et al.*

Currently, youths aged 18 to 21 often lose their Medicaid coverage when they age out of foster care and have a difficult time obtaining medication and medical services. The federal Foster Care Independence Act of 1999 gives states new flexibility, funding, and program opportunities to provide assistance to this age group who are making the transition from foster care to independent living.

Directs the Health and Human Services Commission (HHSC), or an agency operating part of the medical assistance program, to extend Medicaid to certain youths aged 18 to 21.

Requires HHSC, or any agency operating part of the medical assistance program, as appropriate, to provide medical assistance to certain independent foster care adolescents.

Requires the Department of Protective and Regulatory Services to certify the income, assets, or resources of each individual on the date the individual exits substitute care. Requires an individual qualifying for

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medical assistance to remain eligible for 12 calendar months after certification and after each recertification.

## Medicaid Pilot Program to Treat Children's Asthma - S.B. 616

*by Senator Van de Putte*

*House Sponsor: Representative Capelo*

Requires the Health and Human Services Commission (commission) to develop a Medicaid disease management pilot program for children's asthma for implementation in those counties selected by the Texas Department of Health (TDH) with a high incidence of, and high rate of hospital emergency room care for, children's asthma. In developing the program, the commission must consider similar programs in Virginia and Florida. The pilot program must provide:

- continuous care, case management, and asthma education to Medicaid recipients younger than 19 years of age who have been hospitalized or received emergency care services for asthma; and
- health care provider education to ensure the appropriate use of specialized asthma treatments for those recipients.

Requires the commission and TDH to implement the program not later than November 1, 2001. In implementing the program, the commission and TDH, to the extent possible, must use the services of local health care professionals.

Requires the commissioner of public health (commissioner) to establish an asthma and allergy research advisory committee (committee) and sets out the committee's composition and duties, including developing a plan to research asthma and allergy and associated medical conditions in Texas, analyzing the impact of asthma and allergy on the state's economy and public health, and making recommendations to the legislature and governor concerning asthma and allergy research.

Provides that the committee is abolished January 1, 2003.

Authorizes the commission, if it determines that a waiver or authorization from a federal agency is necessary for implementation of this Act, to request the waiver or authorization and delay implementation until it is granted.

## Promotoras Services for Medicaid Outreach and Education Programs - S.B. 751

*by Senators Shapleigh and Madla*

*House Sponsor: Representative Chavez*

A promotora is a bilingual liaison between health care providers and patients through activities that include assisting in case conferences, providing patient education, making referrals to health and social services, conducting needs assessments, distributing surveys to identify barriers to health care delivery, making



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home visits, and providing language services. Medicaid does not provide reimbursement for the services of a promotora, thus decreasing the frequency with which they are used and hindering the quality of care provided to underserved, non-English speaking clients.

Requires state health and human service agencies, when possible, to use certified promotoras in health outreach and education programs for recipients of Medicaid.

## **Medical Assistance Buy-In Pilot Project for Persons with Disabilities - S.B. 831**

*by Senator Moncrief*

*House Sponsor: Representative Coleman*

Designed to encourage individuals to seek employment while also providing an opportunity for the disabled to maintain their medical program. For most of the seriously disabled, it is cost-effective to remain unemployed and have their medical bills paid by Medicaid.

Allows the disabled to continue a buy-in program with Medicaid until they obtain private health insurance. Disabled persons will have a sliding scale (up to \$136 per month) premium rate for purchasing Medicaid.

## **State Medicaid Program - S.B. 1156**

*by Senator Zaffirini, et al.*

*House Sponsors: Representative Coleman, et al.*

Currently, the state of Texas and the nation are experiencing an increase in cost per Medicaid recipient due to the general rise in health care utilization, the recent rise in caseloads, the increasing utilization and prices of prescription drugs, and a comparative decrease in federal funding. Innovative approaches are needed to both cut costs and expand services.

Requires the Texas Department of Human Services (DHS) to ensure those higher income recipients of prescription drug benefits under the Medicaid program pay progressively higher percentages of the costs of prescription drugs.

Allows pharmacies to retain copayments on pharmaceuticals as a part of the Medicaid reimbursement provided to the pharmacy.

Establishes certain criteria for providing Medicaid to qualified aliens.

Requires the Health and Human Services Commission (HHSC) to ensure that there are adequate protections to avoid a conflict of interest with the entity with which DHS contracts for Medicaid delivery and managed care organization for either the Medicaid or Children's Health Insurance Program (CHIP). This is to ensure that there are adequate protections for recipients to freely choose a health plan without being inappropriately induced to join an entity's health plan.

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Requires DHS to establish a provider reimbursement methodology that recognizes and rewards high volume providers, with an emphasis on providers located in areas of the state where Medicaid payments are vital to the health care delivery system.

Requires DHS to determine whether a Medicaid eligible person is also eligible to enroll in a group health benefit plan.

Requires a group health plan to enroll a non-eligible Medicaid family member of a Medicaid eligible recipient if enrolling the family member allows the eligible Medicaid recipient to participate in the group plan.

Requires DHS to establish certain demonstration projects.

Requires DHS to develop and implement a Program of All-Inclusive Care for the Elderly (PACE). In developing a PACE program, DHS is required to use the Bienivivir Senior Health Services of El Paso as a model for the program.

Allows the Health and Human Services Commission (HHSC) to develop certain strategies for improving the Medicaid program. This can include transferring authority relating to the administration of Medicaid for improved Medicaid service delivery, increased administrative efficiency, increased accountability, and costs savings to the Medicaid program. HHSC is required to consult with various stakeholders interested in Medicaid when developing and implementing strategies for improving Medicaid.

Establishes a Medicaid legislative oversight committee with certain powers and responsibilities.

Sets forth HHSC's responsibilities related to Medicaid enrollment and provision of services.

Allows HHSC to develop a health care delivery system that restructures the delivery of health care services provided under the Medicaid program and sets out certain criteria for developing that system.

## **Task Force on Rate-Setting Methodologies for Medicaid and CHIP - S.B. 1299**

*by Senators Lucio and Shapleigh  
House Sponsors: Representatives Coleman and Capelo*

Creates the Task Force on Rate-Setting Methodologies for Medicaid Program and State Child Health Plan Program.

Requires the commissioner of health and human services to appoint a task force to examine and evaluate rate-setting methodologies for the Medicaid and child health plan programs.

Requires the task force to research and evaluate the rate-setting methodologies for the Medicaid and the child health plan programs and, not later than December 1, 2002, produce a report recommending ways to

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improve the rate-setting methodologies. The report must be delivered to the commissioner and legislature. Sets out what the task force must consider in preparing the report.

Requires the task force to continue to monitor the information evaluated in the report and submit another report with any additional recommendations to the commissioner and legislature not later than December 1, 2004.

## Operation of Statewide Rural Health Care System - S.B. 1394

*by Senators Fraser and Madla*  
*House Sponsor: Representative Hawley*

The statewide rural health care system (RHCS) is the state-designated rural health care system. The system has coordinated with private sector program partners to create a model for a viable rural health care system. Allowing RHCS to participate in a voluntary Medicaid demonstration could enable RHCS to implement the model, which emphasizes preventive care, disease management, care coordination, and quality improvement and which could extend health care services to uninsured individuals who live in rural communities.

Authorizes the commissioner of health and human services to use RHCS for a voluntary pilot or demonstration program that evaluates the use of an insured model for beneficiaries of a medical assistance program in a rural area that is not currently included in an existing Medicaid managed care pilot program area and that incorporates the principles of prevention and disease management and for a study of the use of promotoras.

Provides that if RHCS seeks to sponsor, arrange for, or provide such health care services under a private or commercial program, RHCS must comply with all requirements under the Insurance Code imposed on health plans, including health maintenance organizations.

## Preventing Fraud in Medicaid Dental Services - S.B. 1411

*by Senator Moncrief*  
*House Sponsors: Representative Maxey, et al.*

Prohibits providing a dental service or product under the medical assistance program (program) unless there is a dental necessity for the service or product.

Requires the Health and Human Services Commission (HHSC) or an agency operating part of the program, in providing dental services under the program, to:

- ensure that stainless steel crowns are not used as preventive measures;
- require a dentist participating in the program to document the dental necessity before applying such a crown;

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- replace the current system for determining the dental necessity for hospitalization and general anesthesia with a more objective and comprehensive system; and
- require a participating dentist to comply with a minimum standard of documentation and record keeping for each patient. The HHSC must develop this standard in cooperation with the State Board of Dental Examiners; and
- take all necessary actions to eliminate Medicaid fraud in the provision of dental services under the program.

Requires DHS, in setting reimbursement rates for dental services under the program, to:

- set the reimbursement rate for a stainless steel crown at an amount equal to the reimbursement rate for an amalgam or resin filling;
- reduce the amount of the hospitalization fee in effect on December 1, 2000, and eliminate the nutritional consultation fee. DHS must redistribute amounts made available through reduction or elimination of those fees to other commonly billed dental services for which adequate accountability measures exist; and
- provide for reimbursement of a behavior management fee only if certain criteria are met. DHS must redistribute amounts made available through limitation of the fee to other commonly billed dental services for which adequate accountability measures exist.

Provides that if a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of any provision of this Act, the agency must request the waiver or authorization and may delay implementing that provision until it is granted.

## **Minimum Personal Needs Allowance of Certain Medicaid Recipients - H.B. 154**

*by Representatives Thompson and Chavez  
Senate Sponsor: Senator Gallegos*

Under current law the Health and Human Services Commission (HHSC) provides a minimum personal needs allowance of \$30 a month to Medicaid residents in long-term care facilities. This allowance enables residents to purchase simple goods and services that can help maintain feelings of control over their lives.

Increases the minimum personal needs allowance to \$60 a month.

Requires HHSC to develop an early warning system to detect fraud in the handling of the personal handling of the personal needs allowance and other funds of residents of long-term care facilities.

## **Study of a Buy-In Option for CHIP - H.B. 835**

*by Representative Kitchen, et al.*

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*Senate Sponsor: Senator Moncrief*

Currently, low-income families are often unable to obtain affordable, quality health care. Many parents of children who benefit from the Children's Health Insurance Program (CHIP) and Medicaid are not eligible for the state-sponsored health insurance themselves. Between 1996 and 1998, an average of more than three million Texans between 18 and 64 years of age were uninsured. Low-income children are more likely to be enrolled in state health insurance programs when coverage is offered to the entire family, rather than to children alone.

Requires the Health and Human Services Commission (HHSC) to conduct a study to determine the feasibility of a buy-in option to allow families without access to health benefits coverage to purchase health benefits coverage for all family members under CHIP.

## **CHIP Pilot Program for Children of Migrant or Seasonal Workers - H.B. 1537**

*by Representative Coleman, et al.*

*Senate Sponsor: Senator Moncrief*

The Texas Association of Community Health Centers, Inc., examined methods for obtaining portability of Medicaid and Children's Health Insurance Program (CHIP) coverage for migrant children. Based on preliminary research, it is believed that a migrant care network model can be developed to improve health coverage access and continuity of care and to promote outreach and education for migrant children.

Requires the Health and Human Services Commission to conduct a study regarding the feasibility of contracting with existing networks of health care providers located in Texas and in other states to establish a migrant care network.

## **Reporting and Certification of Medicaid Managed Care Encounter Data - H.B. 1591**

*by Representative Kitchen*

*Senate Sponsor: Senator Madla*

Managed care organizations (organizations) are asked to submit information to the Texas Department of Health (TDH) about the encounters or services delivered under their contracts. Encounter data include information regarding the patient's medical history, diagnosis, and treatment and are used to measure utilization, immunization rates, health care quality, and outcomes and to assess contract performance, the value of services to patients, and the appropriate use of state funds. Furthermore, states use encounter data to assess managed care fraud and abuse. If health care providers do not report complete and accurate encounter data to the organization, the state cannot effectively evaluate Medicaid managed care.

Prohibits state agencies operating part of the state Medicaid managed care program from basing or deriving the premium rates paid to managed care organizations from encounter data, or incorporating in the determination an analysis of encounter data, unless certain encounter data are certified.

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Requires the Health and Human Services Commission to encourage managed care providers to report complete and accurate encounter data to managed care organizations in a timely manner.

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## Demonstration Project to Extend Medicaid to Low-Income Adults - H.B. 2807

*by Representative Kitchen, et al.*  
*Senate Sponsor: Senator Barrientos*

Texas has enacted many laws that address the provision of health coverage for its uninsured children. However, low-income adults are often unable to obtain affordable, quality health care. Currently, there are a number of local initiatives that address the health needs of low-income, uninsured adults who do not qualify for Medicaid. Through a demonstration project, these initiatives could receive federal matching funds to expand health coverage for low-income adults.

Requires the Health and Human Services Commission (HHSC) to establish a project to provide medical assistance for certain adult individuals who do not qualify for Medicaid.

Requires HHSC and local governmental entities to establish a family income eligibility limit for individuals participating in the project so that only an individual whose family income is at or below 200 percent of the federal poverty level is eligible for participation in the project.

Requires HHSC to select one or more municipalities or counties in which to implement the project, and at least one selected county must have a population of more than 725,000 or at least one selected municipality must have a population of more than 600,000. Authorizes the project to be implemented in a multi-county region and to include local funds made available through a county indigent health care program.

## Texas Medicaid Health Insurance Premium Payment Program - H.B. 3038

*by Representative Isett*  
*Senate Sponsor: Senator Nelson*

The Texas Medicaid Health Insurance Premium Payment Program (HIPP) is a program that pays the medical insurance premium, copayments, and deductibles for Medicaid eligible employees of companies that offer private health insurance and meet HIPP requirements. Under this program, employers also pay a share of the employees' coverage. If it is cost effective, HIPP will pay the premium for an entire family even if only one child in the family is Medicaid eligible. Because of the emphasis on cost-effectiveness, expanding HIPP to cover state child health plan (CHIP) recipients and more Medicaid recipients could save the state money while increasing the number of residents with health insurance coverage. However, many families are currently approved for HIPP outside of their employer's open enrollment periods because the eligibility process can be time consuming.

Permits enrollment in HIPP regardless of period restrictions and directs CHIP eligible children and individuals eligible for Medicaid into the HIPP program if it is cost effective.

### **Regulation of Telepharmacy Drug Dispensing - S.B. 65**

*by Senator Moncrief*

*House Sponsors: Representative Bob Turner, et al.*

The Texas Senate Health Committee reports that 87% of Texas counties, in whole or in part, are considered medically underserved. Since 1997, Texas has experienced a loss of more than 57 rural clinics and five rural hospitals. One issue of concern is the severe shortage of pharmacists in Texas. Among rural counties in Texas, 19 counties have no active pharmacy thereby forcing those patients and even some patients within larger counties to travel great distances to reach a pharmacy.

Authorizes a community or institutional pharmacy (pharmacy) located in this state to provide pharmacy services, including the dispensing of drugs through a telepharmacy system in a facility that is not at the same location as the operating pharmacy.

Provides that a telepharmacy system is required to be under the continuous supervision of a pharmacist as determined by board rule and requires a pharmacist to supervise a telepharmacy system electronically by audio and video communication.

### **Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) - S.B. 83**

*by Senator Madla*

*House Sponsors: Representatives Uresti and Naishtat*

Requires the Texas Board of Human Services (board), rather than the Texas Department of Human Services (DHS), to administer and implement laws regarding intermediate care facilities for the mentally retarded (ICF/MR). Before the board adopts a rule applicable to an ICF/MR, the board is required to present the proposed rule to the commissioner of MHMR for review.

Requires DHS to have specialized staff that conducts inspections, surveys, or investigations of ICF-MRs.

Requires DHS and MHMR to ensure the short-term and long-term well being of clients when closing an ICF/MR.

### **Automated Prescription Drug Dispensing Regulation - S.B. 98**

*by Senator Nelson*

*House Sponsors: Representatives Maxey and Wohlgemuth*

Technological advances have made it possible for the development of automated pharmacy systems, which use computer technology to package and dispense prescription drugs and maintain related transaction information to reduce drug waste, human error, and drug-related costs. Current law does not provide for the use of such automated systems in a facility that is not in the same location as a Class A or Class C pharmacy.

Authorizes a Class A or Class C pharmacy to provide services through an automated pharmacy system in a facility that is not at the same location as the Class A or Class C pharmacy. The bill provides that the pharmacist in charge of the Class A or Class C pharmacy is responsible for filling and loading the storage containers for medication stored in bulk at the facility.



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Authorizes an automated pharmacy system to be located only at a health care facility regulated by the state. The bill provides that a pharmacist maintain continuous supervisions of an automated pharmacy system as determined by rules adopted by the Texas State Board of Pharmacy.

Provides that to qualify as continuous supervision for an automated pharmacy system, a pharmacist is not required to be physically present at the site of the automated pharmacy system and authorizes the pharmacist to supervise the system electronically.

Requires the Texas Department of Health to study and report on the costs and savings associated with the use of automated pharmacy systems to specified state officials.

### **Qualifications for a Provisional License to Practice Chiropractic - S.B. 144**

*by Senator Carona*

*House Sponsor: Representative Gray*

Currently under Texas law, an applicant originally licensed to practice chiropractic in another state or country before August 1, 1979, who did not meet licensing requirements substantially equivalent to the requirements in Texas, is not eligible to be licensed in Texas.

Allows applicants that were licensed in another state or country before August 1, 1979, to become licensed to practice chiropractic in Texas.

### **Sanctions Imposed on TDH Facilities - S.B. 279**

*by Senator Nelson*

*House Sponsor: Representative Gray*

The Texas Department of Health's (TDH) regulatory review has identified enabling statutes for health facility regulatory programs that lack license probation and emergency suspension as sanction options. A specified probation time would give a health care facility the opportunity to correct violations before the facility's license is suspended or revoked.

Authorizes TDH to place certain health care facilities on probation and provides for the immediate suspension of an end stage renal disease facility's license without a hearing if the facility's lack of compliance poses a danger to public health.

Authorizes TDH to place certain health care facilities on probation rather than suspending or revoking the facility's license if TDH finds that the facility is in repeated noncompliance with applicable state law but that the noncompliance does not endanger public health and safety.

Provides that the facility must correct the items of noncompliance during the probation period and report the corrections to TDH for approval. TDH is authorized to suspend or revoke the license of a facility that does not correct the items that were in noncompliance or that does not comply with the applicable requirements during the probation period.

**Office for the Prevention of Developmental Disabilities (Sunset) - S.B. 301**

*by Senator Zaffirini*

*House Sponsors: Representatives Bosse and Carter*

Repeals the Sunset provision regarding the Office for the Prevention of Developmental Disabilities, which provided that the office is abolished September 1, 2001, unless continued in existence.

**Appropriate Care Setting for a Person with a Disability - S.B. 367**

*by Senators Zaffirini and Moncrief*

*House Sponsor: Representative Naishtat*

In *L.C. and E.W. v. Olmstead* (1999), the United States Supreme Court ruled that states must provide community-based services for a person with a disability when it is medically appropriate and desired by the person with a disability. In response to the ruling, the governor issued an executive order affirming that Texas is committed to providing community-based alternatives for persons with disabilities.

Sets forth a comprehensive response to the Olmstead ruling by clarifying the state's responsibilities to provide meaningful community alternatives for persons with disabilities.

Assigns responsibilities to relevant agencies, authorizing contracts with community-based organizations, establishing an interagency task force and a housing assistance program, a guardianship advisory committee, setting agency reporting and implementation requirements, and developing a pilot program to assess the delivery of long-term care.

Requires the Health and Human Services Commission (HHSC) and appropriate health and human services agencies to implement a comprehensive working plan (plan) that fosters independence, productivity, and meaningful opportunities for a person with a disability to live in the most appropriate care setting, considering specified factors.

Provides that the plan require appropriate health and human services agencies to inform a person living in an institution, the person's family member, and person's legally authorized representative, of the care and support options available to the person in the community. The plan will facilitate a timely and appropriate transfer to a community setting; and develop strategies to prevent the unnecessary placement in an institution of a person who is at risk of institutionalization because of a lack of community services.

Provides that a person with a mental illness who is admitted to a facility of the Texas Department of Mental Health and Mental Retardation (MHMR) for inpatient services three or more times during a 180 day period is presumed to be in imminent risk of requiring placement in an institution.

Prohibits a health and human services agency from denying an eligible person access to an institution or removing an eligible disabled person from an institution if the person prefers to be in the institution. However, an agency is authorized to deny a person access to an institution or remove the person from an institution to protect the person's health or safety.

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Requires MHMR, no later than March 1, 2002, to implement a community living options information process in each institution to inform residents with mental retardation and their legally authorized representatives of alternative community living options. If a resident with mental retardation indicates a desire to pursue an alternative community living option, MHMR is required to refer the resident or resident's representative to the local mental retardation authority who is required to place the resident in an alternative community living option, subject to the availability of funds, or on a waiting list.

Requires the Texas Department of Human Services (DHS) in cooperation with MHMR and DPRS to develop and implement a pilot program no later than December 1, 2002, in at least three sites (one site in a rural area, one in an urban area, and one in a mixed urban and rural area). DHS is required to consider the length of waiting lists for community-based services and support and give preference to areas with the longest waiting lists when choosing the sites.

Requires HHSC to coordinate with DHS, the Texas Department of Housing and Community Affairs (TDHCA), and MHMR to develop a housing assistance program (program) to assist persons with disabilities in transferring from an institution to an integrated housing setting. Subject to availability of funds, HHSC shall require DHS to implement and administer the program.

### **Taking Regulatory Action Against Assisted Living Facilities - S.B. 527**

*by Senator Moncrief*

*House Sponsor: Representative Naishtat*

Enforcement remedies in state law provide questionable protection of residents in assisted living facilities. Under current law, the state must choose between closing down a facility at the inconvenience of its residents or letting the facility continue to operate without any enforcement action. Also, the 76th Texas Legislature increased the nursing home trust fund from \$500,000 to \$10 million by increasing the fees nursing homes and assisted living facilities must pay into the nursing home trust fund.

Establishes procedures for assessing and determining violations and penalties for assisted living facilities, provides for an amelioration process, and establishes a separate assisted living facility trust fund.

Authorizes DHS to deny, revoke, or suspend a facility's license when that facility has failed to comply with federal and state laws, rules, and standards concerning assisted living facilities.

Authorizes, rather than requires, DHS to suspend the license or order immediate closing of all or part of the facility if DHS finds a violation that creates an immediate threat to the health and safety of a resident.

Authorizes DHS to assess an administrative penalty of no more than \$1000 per violation against a person who:

- violates the Assisted Living Facility Licensing Act or a related rule, standard, order, or term of a license;

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- makes a false statement, that the person knows or should know is false, of a material fact on an application for issuance or renewal of a license or in an attachment to the application or with respect to a matter under investigation by DHS;
- refuses to allow a DHS representative to inspect any portion of the facility premises or a book, record, or file required to be maintained by the facility;
- willfully interferes with the work of a DHS representative or the enforcement of the Assisted Living Facility Licensing Act;
- willfully interferes with a DHS representative preserving evidence of a violation; or
- fails to pay an administrative penalty within 30 days after the date the assessment of the penalty becomes final.

Prohibits DHS from collecting an administrative penalty from a facility if the facility corrects a violation within 45 days of receiving the notice of the violation unless the violation:

- results in serious harm to or death of a resident;
- involves making a false statement of material fact that the person knows or should know is false, refusing to allow a DHS representative to inspect certain documents or facility premises,
- willfully interfering with the work of a DHS representative or the enforcement of the Assisted Living Facility Licensing Act,
- willfully interfering with a DHS representative preserving evidence of a violation, or failing to pay an administrative penalty in a timely manner;
- is a second or subsequent violation of a right of the same resident or the same right of all residents; or
- involves the inappropriate placement of a resident at a facility.

Requires DHS to offer amelioration to a person for a charged violation if DHS determines that the violation does not constitute immediate jeopardy to the health and safety of a resident of the facility.

Prohibits DHS from offering amelioration to a person more than three times in a two-year period or more than once in a two-year period for the same or a similar violation.

Requires the Health and Human Services Commission (HHSC) to establish by rule an informal dispute resolution process that provides for adjudication by an appropriate disinterested person of disputes relating to a proposed enforcement action or related proceeding.

Requires HHSC to adopt rules to adjudicate claims in contested cases and prohibits HHSC from delegating responsibility to administer the informal dispute resolution process to another state agency.

Provides that if a DHS inspector determines that a resident is inappropriately placed at a facility, the facility is not required to move the resident if, no later than the 10th business day after the date the facility is informed of the specific basis of the inspector's determination, the facility:

- obtains a written assessment from a physician that the resident is appropriately placed;

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- obtains a written statement from the resident that the resident wishes to remain in the facility or from a family member of the resident stating that the family member wishes the resident to remain in the facility if the resident lacks capacity to give the statement;
- states in writing that the facility wishes for the resident to remain in the facility; and
- applies for and obtains a waiver from DHS of all applicable requirements for evacuation that the facility does not meet with respect to the resident, if the facility does not meet all of the requirements.

Establishes the assisted living facility trust fund with the comptroller of public accounts and requires it to be made available to DHS for expenditures without legislative appropriation to make emergency assistance funds available to a facility.

Authorizes a trustee of a facility to use emergency assistance funds only to alleviate an immediate threat to the health or safety of the residents and specifies authorized uses of such funds.

Requires any unencumbered amount in the fund in excess of \$500,000 at the end of each fiscal year to be transferred to the credit of the general revenue fund to be appropriated only to DHS for use in enforcing the Assisted Living Facility Licensing Act

Requires DHS to adopt an annual fee to be charged to a facility if the fund is less than \$500,000. DHS is authorized to charge and collect the fee more than once a year only if necessary to ensure that the amount in the fund is sufficient to make required disbursements.

### **Dental Enteral Administration of Anesthesia - S.B. 539**

*by Senator Carona*

*House Sponsor: Representative Gray*

Requires the Texas State Board of Dental Examiners (board) to establish standards for the enteral administration of anesthesia by a dentist.

Authorizes the board to conduct inspections to enforce the provisions of this bill, including inspections of an office site and documents of a dentist's practice that relate to the enteral administration of anesthesia.

Authorizes the board to contract with another state agency or qualified person to conduct the inspections.

### **Providing a Lien for Emergency Hospital Care Services by Physicians - S.B. 583**

*by Senator Duncan*

*House Sponsor: Representative Janek*

Expands the existing lien for the amount of a hospital's charges for services during the first 100 days of an injured individual's hospitalization to include the amount of a physician's reasonable and necessary charges for emergency hospital care services provided during the first seven days of the injured individual's

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hospitalization. At the physician's request, the hospital may act on the physician's behalf in securing and discharging the lien.

Provides that this lien does not cover charges by the physician related to emergency hospital care services:

- for which the physician has accepted insurance benefits or payment under a private medical indemnity plan or program, regardless of whether the benefits or payment equal the full amount of the charges for those services;
- if the injured individual has coverage under a private medical indemnity plan or program from which the physician is entitled to recover payment for services under an assignment of benefits or similar rights; or
- if the physician is a member of the legislature.

### **Texas Medication Algorithm Project and Inmates with Mental Illness - S.B. 636**

*by Senator Armbrister*

*House Sponsor: Representative Maxey*

Texas prisoners with a serious mental illness are not receiving adequate treatment, leading to longer prison time served, mental deterioration, and, at the end of their sentences, the release of candidates who are poorly suited for reintegration into society.

Requires the Texas Department of Criminal Justice to conduct a cost-benefit analysis of the potential use of the Texas Medication Algorithm project, as developed by the Texas Department of Mental Health and Mental Retardation, to treat persons with mental illness in the custody of the Texas Department of Criminal Justice.

Requires the Texas Youth Commission to review the benefits of the potential use of the Children's Medication Algorithm project, as developed by the Texas Department of Mental Health and Mental Retardation, to treat children with mental illness in the custody of the commission.

Requires the Texas Council on Offenders with Mental Impairments, in conjunction with the Criminal Justice Policy Council, to oversee the analysis.

### **Investigating Abuse, Neglect, or Exploitation of Persons in State Facilities - S.B. 664**

*by Senator Madla*

*House Sponsor: Representative Naishtat*

The 76th Legislature directed the Health and Human Services Commission (HHSC) to create a workgroup on issues related to abuse, neglect, and exploitation of children in state facilities. The working group made a series of recommendations concerning the exploitation of children in state facilities including, defining abuse, exploitation, and neglect, and the investigation of reports of such activities in state facilities.

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Requires the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf to adopt policies relating to the investigation and resolution of reports that a child has been abused, neglected, or exploited in one of their facilities.

Requires HHSC to adopt uniform procedures for collecting information relating to an investigation, including procedures for collecting information on deaths that occur in facilities where children reside, not including a facility under the jurisdiction of the Texas Department of Criminal Justice, Texas Youth Commission, or Texas Juvenile Probation Commission.

### **Creation of an Assisted Living Facility Trust Fund - S.B. 691**

*by Senator Moncrief*

*House Sponsor: Representative Naishtat*

Creates a trust fund of \$500,000 for assisted living facilities, separate from the nursing home trust fund. This bill provides that the fund would be built through a per bed assessment of fees to assisted living facilities by the Texas Department of Human Services (DHS).

### **Enforcement Sanctions for Certain Licensing Programs Regulated by TDH - S.B. 791**

*by Senator Nelson*

*House Sponsor: Representative Gray*

The 76th Legislature directed the Texas Department of Health (TDH) to perform a comprehensive evaluation of its regulatory programs and to identify problem areas and recommend solutions. One finding of the regulatory review indicates that enforcement sanctions are inadequate in some of the professional licensing programs.

Provides for the emergency suspension of licenses, certificates, or permits to practice midwifery, optometry, contact lens prescribing, speech-language pathology, and audiology. Provides for imposing administrative and criminal penalties on these licensed health care professionals.

Provides for the emergency suspension of, and hearing regarding the suspension of, the registration of a registered sex offender treatment provider. Establishes provisions regarding the imposition of an administrative penalty on a permit holder for a violation of law or rule governing the registration of sex offender treatment providers.

### **Pilot Project for Child Protective Services Caseworkers - S.B. 962**

*by Senators Moncrief and Shapiro*

*House Sponsor: Representative Glenn Lewis*

Currently, the turnover rate for child protective services (CPS) caseworkers in Dallas and Tarrant counties is 43 and 25 percent, respectively. Current caps on full-time employees prevents the training academy for the Department of Protective and Regulatory Services (DPRS) from enrolling enough trainees to fill vacant

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positions because trainees count toward the full-time employee cap, even though the trainees do not actively work on CPS cases.

Establishes a pilot project to aid a target region having the highest percentage of authorized caseworker positions unfilled and the highest caseworker turnover rate in meeting its needs for caseworkers.

Requires DPRS to remove the limit on the number of authorized caseworkers, increase the number of trainees and trainers, and provide funds to meet the target region's needs for caseworkers.

Authorizes DPRS to terminate the pilot project if DPRS determines that the number of caseworkers serving the public in the target region equals or exceeds the number of authorized caseworker positions as that number existed immediately before September 1, 2001.

### **Wholesale Food, Drug, and Cosmetic Distribution Licensing - S.B. 1046**

*by Senator Moncrief*

*House Sponsor: Representative Capelo*

Current law does not provide for the enforcement of a licensing requirement for wholesale food distributors. Specific authority to punish violators of this provision could provide an incentive to food wholesalers to comply with state licensing requirements.

Include operating as a food wholesaler in this state without a license from the TDH as an act that is unlawful and prohibited.

Provides that a person is not required to be licensed under the food manufacturers and food wholesalers provisions of the Texas Food, Drug, and Cosmetic Act if the person holds a license under the Texas Food, Drug, Device, and Cosmetic Salvage Act and only engages in conduct within the scope of that license.

### **EMR and Background Checks for Certain Health Care Employees - S.B. 1245**

*by Senator Moncrief*

*House Sponsors: Representatives Noriega and Naishtat*

Currently, the direct care staff of home and community support services agencies are not on the list of employees covered by the Texas Department of Human Services (DHS) employee misconduct registry (EMR). This exclusion may prevent home health agencies and other long-term care providers from discovering whether a potential employee who worked in the home health care field has a record of abuse or neglect against a client.

Adds direct care staff employed by home health agencies to the list of employees covered by the EMR.

Authorizes facilities that serve the elderly or disabled to obtain criminal history information directly from the Department of Public Safety.



**Regulating the Sale of Drugs over the Internet - H.B. 99**

*by Representative Maxey  
Senate Sponsor: Senator Van De Putte*

The United States Congress and state legislatures have enacted safeguards to protect citizens from harm resulting from the use of unsafe drugs, counterfeit drugs, and the improper practice of pharmacy. These safeguards, however, have not been extended in Texas to protect citizens from the improper sale of drugs by online practitioners and pharmacies.

Requires the Texas State Board of Pharmacy (board) to adopt rules regarding the sale and delivery of prescription drugs by use of electronic media including the Internet, and authorizing complaints to be made to the board through the Internet.

**Electronic Imaging Program of the Texas Department of Human Services - H.B. 102**

*by Representative Maxey, et al.  
Senate Sponsor: Senator Moncrief*

Under the current electronic imaging program, all adult recipients of food stamps and Temporary Assistance for Needy Families (TANF) have the prints of their index fingers scanned and the print stored to prevent duplication of services. This includes seniors and persons with disabilities. Seniors and persons with disabilities are the least likely to defraud the Food Stamp Program, and the most likely to have difficulties getting to a Food Stamp office to be certified for benefits.

Requires the electronic imaging program to be used for the food stamp program.

Requires the Texas Department of Human Services (DHS) to establish certain criteria for exempting elderly or disabled persons from the electronic finger imaging if compliance with those requirements would cause an undue burden to an elderly or disabled person.

**Unlicensed Personal Attendants for Persons with Disabilities - H.B. 456**

*by Representative Maxey  
Senate Sponsor: Senator Moncrief*

Currently, under the state's voucher payment program, a person with a disability may use the voucher payment option to pay for certain health care services. Many of the tasks, such as regularly scheduled oral and topical medication administration, feeding, and medication administration through permanently placed gastrostomy tubes are normally performed by the primary caregiver.

Allows an unlicensed personal attendant hired by a consumer participating in the voucher payment program to perform those responsibilities under the direction of the consumer or the consumer's parent or guardian without the supervision of a licensed nurse who delegates or intervenes in those responsibilities.

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Requires the Board of Nurse Examiners to appoint a task force to review and make recommendations regarding the provision of health maintenance tasks to persons with functional disabilities in independent living environments.

### **Creating the Interagency Council on Pharmaceuticals Bulk Purchasing - H.B. 915**

*by Representative Gray, et al.*  
*Senate Sponsor: Senator Moncrief*

Creates and sets out the composition of the Interagency Council on Pharmaceuticals Bulk Purchasing (council), term of presiding officer, and compensation of members.

Requires the council to develop procedures that member agencies must follow in purchasing pharmaceuticals. Authorizes a member agency to elect not to follow the council's procedures if the agency can purchase the pharmaceuticals for a lower price than through the council. Such an agency must report to the council the pharmaceuticals' purchase price and the name of the seller.

Requires the council to designate one member agency as the central purchasing agency for purchasing pharmaceuticals. Requires the council to use existing distribution networks to distribute pharmaceuticals.

Requires the council to monitor the progress of the demonstration project for certain medications and related services established by S.B. 1156, enacted by the 77th Legislature, and make only recommendations consistent with a prescribed medical regime for those medications.

Authorizes the council to enter into agreements with a local governmental entity to purchase pharmaceuticals for the local governmental entity.

Requires the council to develop procedures for disclosing information relating to the prices that manufacturers or wholesalers charge for pharmaceuticals by category of pharmaceutical. The council may not disclose information that identifies a specific manufacturer or wholesaler or the prices charged by a specific manufacturer or wholesaler for a specific pharmaceutical.

Requires drug manufacturers for drugs sold in Texas to file with the Texas Department of Health (TDH) the average manufacturer price for the drug and the price that each wholesaler in Texas pays the manufacturer to purchase the drug. This information must be filed annually or more frequently as determined by the department.

Provides that, on TDH's request, a person engaging in the wholesale distribution of drugs in this state must file with TDH information showing the actual price at which the distributor sells a particular drug to a retail pharmacy. TDH must adopt rules to implement this provision.

Authorizes TDH and the attorney general to investigate a manufacturer or distributor to determine the accuracy of such information and the attorney general may take action to enforce these provisions. TDH must report this information to the council.

**Certain Applicants Applying for a License to Practice Medicine in Texas - H.B. 1018**

*by Representative Hardcastle, et al.*  
*Senate Sponsor: Senator Haywood*

Requires the Texas State Board of Medical Examiners to aid rural and medically underserved areas recruit physicians from out of state by implementing an expedited licensing process for physicians who are already licensed in another state or country and intend to practice in a rural community in Texas.

**Regulation of Surgical Assistants - H.B. 1183**

*by Representative Capelo*  
*Senate Sponsor: Senator Carona*

Prohibits a person from practicing as a surgical assistant unless the person is licensed by the Texas State Board of Medical Examiners (TSBME) as a surgical assistant

Creates an informal advisory committee that is not subject to provisions regarding state agency advisory committees to advise TSBME and provides for the appointment, membership, administration, and operation of the advisory committee.

Requires TSBME to establish qualifications, examination requirements, education and training requirements, application forms, and continuing education requirements for surgical assistants

Provides that the practice of a surgical assistant is limited to surgical assisting performed under the direct supervision of a physician who delegated the acts. The bill authorizes the practice of a surgical assistant to be performed in any place authorized by a delegating licensed physician.

Prohibits certain entities from requiring a registered nurse or physician assistant to be licensed as a surgical assistant.

**Medication a Patient Receives on Release from a Mental Health Facility - H.B. 2004**

*by Representative Maxey*  
*Senate Sponsor: Senator Carona*

On release from an inpatient facility, Texas Department of Mental Health and Mental Retardation clients are provided with an initial outpatient appointment to a community mental health center and supplied with medication adequate to last until that appointment.

Provides that a patient's continuing care plan must address who is responsible for providing and paying for medication to ensure that a patient has the necessary medication until the patient can see a physician.

**Mental Illness or Retardation in Persons Transitioning to Community-Based Services  
- H.B. 2258**

*by Representative Maxey  
Senate Sponsor: Senator Moncrief*

In 1999, the United States Supreme Court ruled in *L.C. and E.W. v Olmstead* that, in most cases, states must provide community-based services for a disabled person if treatment professionals determine that community-based services are appropriate and the person does not object to such placement. The number of nursing home residents who would need mental health and mental retardation services from the Texas Department Mental Health and Mental Retardation (MHMR) as well as services from the Department of Human Services (DHS) related to their medical needs to successfully transition into a community based setting is unknown. It is essential that residents with mental illness or mental retardation be identified to facilitate the development of transition plans that incorporate services from both agencies.

Requires DHS to identify each nursing home resident who is considering making a transition to a community-based care setting to determine whether that resident is mentally ill or mentally retarded.

Prohibits the results of the identification process from being used to prevent a resident from remaining in the nursing home unless the nursing home is unable to provide adequate care for the resident.

Requires DHS to compile and provide to MHMR information regarding each resident identified as having a mental illness or mental retardation before the resident makes a transition from the nursing home to a community-based care setting.

Requires MHMR to determine the need for mental health and mental retardation services for a resident making a transition from a nursing home to a community-based care setting.

**Fee for Physician Profiling System - H.B. 2558**

*by Representatives Maxey and Janek  
Senate Sponsor: Senator Shapleigh*

Currently, Texas State Board of Medical Examiners is assembling certain information on the background of physicians that it will make available on the Internet. Early estimations of the cost of profile maintenance have proven to be too low, and the current fee is necessary to pay for maintaining the physician profiling system.

Retains the current fee of \$20.

**Domestic Violence Fatality-Review Teams - H.B. 2676**

*by Representative Truitt  
Senate Sponsor: Senator Madla*

Authorizes the establishment of domestic violence fatality-review teams in certain counties.

## Executory Contracts for Conveyance of Real Property - S.B. 198

*by Senator Moncrief, et al.*

*House Sponsors: Representative Carter, et al.*

Executory contracts involve future obligations on the part of a seller and purchaser and are often used when a purchaser is unable to obtain financing for real property. With an executory contract for a home, the purchaser makes payments to the seller and at the end of a specified period of time, if the purchaser is unable to obtain financing, those previous payments are considered rent. Otherwise, the payments are applied toward the purchase price. Under current executory contract law, additional protections are provided to purchasers in economically distressed areas.

Removes the current income and geography brackets so that executory contracts for conveyance apply statewide for a transaction involving real property used as the purchaser's residence or as the residence of a person related to the purchaser.

Provides that an executory contract is enforceable only when the contract is in writing and signed by the party to be bound or that party's representative, and clarifies that prior oral agreements between the parties are superseded by the contract. Requires a copy of the contract to be in the language of the negotiations when the deal takes place in a foreign language.

Sets forth provisions related to execution of the contract, forfeiture, and fraud.

## Texas Department of Housing and Community Affairs (Sunset) - S.B. 322

*by Senators Lucio and Zaffirini*

*House Sponsors: Representatives Gallego and Carter*

The Texas Department of Housing and Community Affairs (TDHCA) works to ensure affordable housing for low-income families, promote community development and assistance, and regulate the state's manufactured housing industry. TDHCA is subject to the Texas Sunset Act and was reviewed by the Sunset Advisory Commission (commission) during the interim. In its review of TDHCA, the commission found that while TDHCA is funding affordable housing and assisting many communities, problems exist in TDHCA's ability to allocate resources to meet the state's most pressing housing needs

Continues TDHCA for a two-year probationary period and enacts standard Sunset language related to the administration of the agency.

### *Governing Board*

Restructures the governing board as a seven-member, rather than nine-member, board composed of public members with demonstrated interest in housing and community services issues.

Prohibits a person from being appointed to the board if the person or the person's spouse has close monetary interests in the funds disbursed by TDHCA.

Prohibits a person from being a member of the board or high-ranking TDHCA employee who or whose spouse is an officer, employee, or paid consultant of a Texas trade association in the field of banking, real estate, housing development, or housing construction.

### *Strategic Funding and Approval Process*

Increases the first-time buyers bond volume cap by \$219.4 million (from \$250.5 million to \$469.9 million) and the residential rental bond volume cap by \$200 million (from \$165.4 million to \$365.1 million).

Enhances TDHCA's compliance process and requires the board to consider an applicant's compliance history before approving any new projects.

Requires TDHCA to:

- develop a strategic plan, customized by region, to provide affordable housing and to use the plan to allocate funds to meet regional priorities;
- ensure the most flexible funds are used to serve the lowest income residents when possible;
- conduct a thorough assessment of the need for and supply of housing and community support services in the state; and
- establish priorities to ensure that awards go to the applicants who are best able to meet the needs as established by TDHCA.

Requires TDHCA to create a uniform application and funding cycle for housing programs that support projects that meet established need. By creating a uniform application and fund allocation cycle, TDHCA is able to consider proposals together, and assess the proposal's ability to meet regional objectives.

Requires TDHCA to obtain certifications of compliance with anti-discrimination laws by applicants for all housing-related programs.

Requires the board to establish procedures to monitor and enforce compliance with fair housing laws and requires TDHCA to identify reasonable Section 8 admittance policies for all tax credit properties.

Establishes a regional allocation method for multi-family housing.

Restructures the low-income housing tax credit program and establishes guidelines and disclosure requirements to govern the administration of the housing tax credit program.

Provides for: a legislatively defined purpose for the program; an annual allocation plan and application manual; an on-line application system; specific qualifying guidelines for a nonprofit set-aside allocation; mandatory disclosure of the identity by the applicant of interested persons; a process for evaluation and underwriting of applications; a process and timeline for the allocation of housing tax credits; a set-aside to preserve existing affordable housing developments; a formal appeals process; standards for providing public information and conducting public hearings; requirements for allowing and considering the views of elected officials prior to awarding tax credits in their districts; provisions for the enforceability of applicant representations' a system allowing the debarment from program participation; requirements that 5% of the apartments be assessable to people with disabilities; prohibition of discrimination against persons receiving

federal housing assistance as required under federal law; and coordination in the award of tax credits in rural areas with the appropriate rural development agency.

### *Miscellaneous Provisions*

Creates a separate governing board to manage the manufactured housing regulatory program, which remains administratively attached to TDHCA.

Transfers the Community Development Block Grant program from TDHCA and establishes it as the new Office of Rural Community Affairs. Provides for the program to play a broader role in rural development with an independent governing board with expertise in rural issues.

Requires TDHCA to:

- develop a single-family mortgage loan product to make loans to home buyers who would otherwise be forced to borrow from subprime lenders; and
- issue single-family mortgage revenue bonds based on a market feasibility study that studies the home mortgage credit needs in underserved economic and geographic submarkets.

Establishes a program to preserve "at risk" affordable housing developments.

Clarifies that any development receiving state funds cannot discriminate against individuals with Section 8 housing vouchers or deny rent by using financial or minimum income standards.

Expands information available to the public about housing funding through TDHCA.

Enhances information required to be reported in the State Low Income Housing Plan. Requires TDHCA to publish on the Internet the availability of housing funded for persons with disabilities.

Establishes a regional planning process and regional development coordinators within TDHCA to encourage local housing providers to use innovative products and tools that best meet the housing needs in their region. The coordinators are able identify and work with regional partners to develop an analysis of the region's affordable housing needs based on data gathered with local and regional input.

## **Predatory Lending for Home Loans - S.B. 1581**

*by Senator West*

*House Sponsor: Representative Yvonne Davis*

Attempts to correct certain practices in connection with home loans, mainly the practice of adding credit life, disability, or unemployment insurance on a prepaid single premium basis in conjunction with a home loan unless notice is provided to each applicant by a certain time period. The practice has been called "predatory" by some and the purpose of the bill is to manage fees so consumers are made aware by lenders as to conditions in the purchase of homes, including manufactured homes.

Requires the lender, for a home loan with an interest rate of 12 percent or greater, and under certain conditions, to provide to the borrower certain information related to fees and insurance.

### **Home Buying and Surveys - S.B. 1707**

*by Senator Van de Putte*

*House Sponsor: Representative Thompson*

Currently, when an individual takes out a loan to buy a home, the lender may require the buyer to purchase title insurance to protect the lender's collateral. The title insurance company (insurer) bases the policy on a survey of the property.

Requires the commissioner of insurance to adopt rules allowing an insurer to accept an existing real property survey and prohibits insurers from discriminating in providing area and boundary coverage.

### **Liens on Manufactured Homes - H.B. 468**

*by Representatives Solomons and Heflin*

*Senate Sponsor: Senator Shapiro*

Tax assessors and collectors often find it difficult to collect delinquent property taxes on manufactured homes because they are so easily moved around. Sales of manufactured homes often take place between individuals, without going through a title company, and a purchaser may move the home with no knowledge of any additional tax burden incurred.

Requires the chief appraiser to determine that no unpaid ad valorem taxes on a manufactured home have been reported due before a permit for moving the manufactured home is issued.

Eliminates the procedure of filing and releasing liens.

Provides that violation of H.B. 468 is a Class C misdemeanor, except that it is a misdemeanor offense punishable by \$500 if the violation involves moving a manufactured house over a highway, road, or street without a permit issued by the Texas Department of Transportation.

Amends the Texas Manufactured Housing Standards Act to prohibit the Texas Department of Housing and Community Affairs from suspending, revoking, or refusing to issue a document of title unless a local tax lien was filed before September 1, 2001.

### **Rental Regulations and Manufactured Home Communities - H.B. 557**

*by Representative Dukes, et al.*

*Senate Sponsor: Senator Lucio*

Manufactured home communities have fewer laws and regulations governing the relationships between landlord and tenant than other rental properties.

Requires landlords to provide tenants with a lease agreement and current copy of community rules and similar laws that govern other properties, in order to maintain a healthy, safe, and functional community.



### **Housing Grants for Small Cities and Rural Areas - H.B. 1811**

*by Representative Kolkhorst, et al.  
Senate Sponsor: Senator Duncan*

The Cranston-Gonzales National Affordable Housing Act provides formula grants to states and localities to build, buy, and rehabilitate affordable housing for rent or home ownership or provide direct rental assistance to low-income people in non-participating areas, i.e. small cities and rural areas that do not qualify to receive funds under the Act directly from the United States Department of Housing and Urban Development.

Requires the Texas Department of Housing and Community Affairs to expend at least 95 percent of the formula grants to benefit non-participating areas.

Requires the other 5 percent of the formula grants to be used for the benefit of persons with disabilities who live in areas other than non-participating areas.

### **Manufactured Housing and Real Property - H.B. 1869**

*by Representative Wohlgemuth, et al.  
Senate Sponsor: Senator Harris*

Addresses the growing reality of manufactured housing as a proportion of homes purchased, and the necessity of counties and school districts to attempt to match this rapid growth with the needed services. These services include private roads, on-site sewage disposal, and obligations to pay for county and school taxes. When consumers purchase manufactured housing that is permanently attached to real property and titled in the name of the consumer under a deed or contract for sale, the home is considered real property, and will be taxed and classified as such.

Requires installation of a manufactured home considered to be real property to occur in a manner that satisfies the lending requirements of the Federal Housing Administration (FHA), regardless of whether any financing of the manufactured home is provided by that agency. Exempts certain manufactured homes permanently attached to real property or placed in a manufactured home rental community before September 1, 2001 from these FHA lending requirements.

### **Exemptions for Community Housing Development Organizations - H.B. 3383**

*by Representative Yvonne Davis  
Senate Sponsor: Senator Lucio*

Under current law, properties owned by a community housing development organization (organization) are exempt from ad valorem taxation.

Provides that a multifamily rental property consisting of 36 or more dwelling units may not be exempted, unless in the preceding tax year the organization spent for eligible persons at least 40 percent of the total

amount of taxes saved for social, educational, or economic development services, capital improvement projects, or rent reduction.

Requires the organization to submit annually to the Texas Department of Housing and Community Affairs (TDHCA) and to each participating taxing unit, evidence demonstrating that the organization spent at least 90 percent of the project's cash flow in the preceding fiscal year for eligible persons for the above-mentioned categories.

Requires the organization to have an audit prepared by an independent auditor each year, to be submitted to TDHCA and the appraisal district in which the property is located.

Provides that neither exemption applies to property owned by an organization if:

- the entity that provided the financing for the property requires it to make payments in lieu of taxes to the appropriate school district;
- the entity restricts the amount of rent the organization may charge; or
- the organization has entered into an agreement with each taxing unit giving it an exemption, requiring it to spend its tax savings on the above-mentioned items.

### **Turn-Key Bids for Public Housing Authorities - H.B. 3413**

*by Representative McClendon*  
*Senate Sponsor: Senator Madla*

Under current law, a public housing authority must hire an architect to design plans for public housing projects in order to request competitive bids. Once a design has been completed, the housing authority goes through a competitive bidding process for construction of the designed project. The housing authority must pay all up front costs of the design work, and risks losing that money if the project is not built. Current law does not allow housing authorities to accept bids that include architectural plans and construction costs in one proposal, also known as turn-key bids.

Authorizes the use of alternative bidding methods for a public housing authority to develop a mixed-finance housing project if the housing project otherwise complies with the procurement requirements imposed by federal law and regulations.

### **Commerce Welcome in Public Housing Projects - H.B. 3414**

*by Representative McClendon*  
*Senate Sponsor: Senator Madla*

Housing developments have begun to combine commercial space with residential space, providing residents with services such as laundry, day care, health care, and retail stores.

Authorizes public housing authorities to incorporate commercial and residential space in housing development projects.

### **Texas Interagency Council for the Homeless (Sunset) - H.B. 3450**

*by Representative Gallego, et al*

*Senate Sponsor: Senator Lucio*

The Texas Interagency Council for the Homeless (TICH) was created in 1989 to coordinate the state's resources and services for the homeless, and consists of representatives from state agencies that serve the homeless. TICH receives no state funding and does not have a full-time staff, but receives clerical and advisory support from the Texas Department of Housing and Community Affairs (TDHCA).

Provides that TICH serves as an advisory committee to TDHCA. Authorizes TICH to recommend policies to TDHCA. Requires TDHCA to provide written justification for not accepting TICH recommendations and to consider TICH recommendations in preparing its low income-housing plan.

Requires TICH to coordinate with certain entities to provide homeless individuals information on services available to assist them in obtaining employment and job training and to ensure that local or statewide nonprofit organizations perform the duties that the council is unable to perform.

Repeals the Sunset provision regarding TICH which provided that the office is abolished September 1, 2001, unless continued in existence.

### **State Affordable Housing Corporation and Teacher Home Loans (Sunset) - H.B. 3451**

*by Representative Gallego, et al*

*Senate Sponsor: Senator Lucio*

The Texas State Affordable Housing Corporation (TSAHC) is a nonprofit corporation which provides single and multifamily loans to low-income individuals without using state-appropriated general revenue.

Implements the Teacher Home Loan Program (program) to provide eligible teachers whose incomes do not exceed 115 percent of area median family income, adjusted for family size, with low-interest home mortgage loans. Requires \$25 million per year to be dedicated to the program.

Continues TSAHC for two years as recommended by the Sunset Commission and sets forth administrative provisions related to TSAHC and the program.

### **State Land for Affordable Housing - H.B. 3623**

*by Representative Flores*

*Senate Sponsor: Senator Shapleigh*

The Asset Management Division (AMD) of the General Land Office reviews real property owned by the state that is either underused or unused. The bill revises the process by which AMD notifies the Department of Housing and Community Affairs (TDHCA).

Requires AMD to provide a list of unused and underused properties and appraisals to TDHCA, which has 60 days to advise AMD on the suitability of these properties for affordable and accessible housing.

Requires AMD to make recommendations for the uses of these properties to the land commissioner, including a recommendation to transfer property to an appropriate political subdivision, if TDHCA identified the property as suitable for housing.

Requires the commissioner to incorporate, in a final report, recommendations to transfer state property to a political subdivision.

Authorizes AMD to develop a process to transfer property and, after legislative approval, to take title and transfer a property to the political subdivision.

## **The Gramm-Leach-Bliley Act and Licensing of Insurance Agents - S.B. 414**

*by Senator Madla*

*House Sponsors: Representatives Eiland and Seaman*

Passage of the federal Gramm-Leach-Bliley Act in 1999, also known as the Financial Modernization Act, made uniformity as to insurance agent licensing criteria among the states a necessity. Due in part to the significant changes to the delivery of financial services and the implementation of this Act in Texas, various portions of the Texas Insurance Code dealing with consolidating the types of licenses issued to insurance agents, among certain conditions, require amendments.

Authorizes the commissioner of insurance to adopt rules as necessary to implement provisions related to agents and agents' licenses and to meet the minimum requirements of federal law and regulations.

## **Tax Credits to Insurance Companies for Certified Capital Companies - S.B. 601**

*by Senator Carona*

*House Sponsor: Representative Solis*

Authorizes the creation of certified capital companies and provides a tax credit to insurance companies that invest funds. Heretofore, only certified capital companies that were state-regulated, privately-owned and operated, could invest funds in early stage companies that operate in Texas. By amending the Insurance Code, this bill allows a tax credit for insurance companies possessing the requisite amounts of capital necessary for venture capital, among certain conditions.

Limits the total amount of certified capital for which premium tax credits may be allowed to \$200 million.

Requires the Texas Department of Economic Development to promote this program in the Texas Business and Community Economic Development Clearinghouse.

Limits implementation of this program subject to a determination made by the comptroller on the basis of a revenue estimate that revenues are sufficient to allow certain tax credits.

## **60-Day Review Period for Approval of Insurance Company Mergers - S.B. 605**

*by Senator Sibley*

*House Sponsor: Representative Smith*

Amends the Insurance Code to provide for a 60-day review period within which the Texas Department of Insurance (TDI) may approve or deny applications for acquisitions and mergers of domestic insurers by persons who are in control or would directly or indirectly acquire control. Under current federal law, the Gramm-Leach-Bliley Act (GLBA) allows states to review acquisitions, mergers, and retention of control between banks, securities firms, insurance companies, and other financial companies during 60 days prior to the effective date or change of control. The Texas Insurance Code in some cases allowed TDI a longer time period to review such transactions.

Requires the filing of a statement of the change no later than the 60<sup>th</sup> day before the proposed effective date of the acquisition or change of control.

Requires TDI to approve or deny any acquisition or change of control no later than the 60<sup>th</sup> day after the statement is filed. However, the bill authorizes the waiver of the 60-day deadline.

Provides for a public hearing by the commissioner of TDI in the case of a denial, to be held no later than the 60<sup>th</sup> day after the denial.

### **Short-Term Liability Insurance for Non-Texas Motorists - S.B. 693**

*by Senator Lucio, et al.*

*House Sponsors: Representative Gutierrez, et al.*

Authorizes the Commissioner of the Texas Department of Insurance to establish a program to provide for the sale of short-term liability insurance to non-Texas resident motorists.

Requires the expansion of definition of "short-term liability insurance policy" to mean an insurance policy that is not insurance assigned to an authorized insurance company by the Texas Automobile Insurance Plan Association, among certain conditions.

### **Compliance with the Health Insurance Portability and Accountability Act - S.B. 990**

*by Senator Sibley*

*House Sponsor: Representative Smithee*

Some of the state statutes regarding small and large employer health benefit plans do not comply with the federal Health Insurance Portability and Accountability Act of 1996.

Amends the Insurance Code to provide that an individual who is a child of a covered employee who has lost coverage under the Social Security Act or the child health plan for certain low-income children is not a late enrollee for a small or large employer's health benefit plan if the request for enrollment is made not later than the 31st day after the date on which the child loses coverage

Provides that an individual's short term limited duration coverage is creditable under the Health Insurance Portability and Availability Act.

Specifies that an employee welfare benefit plan is subject to provisions regarding small employer health benefit plans if it provides health care benefits covering two or more eligible employees of a small employee. An employee welfare benefit plan is subject to provisions regarding large employer health benefit plans if the plan provides health care benefits to eligible employees of a large employer.

Provides that the requirements for minimum inpatient stay in a health care facility and post delivery care following the birth of a child apply to small employer health benefit plans.

### **Deceptive Discounted Insurance Agreements - S.B. 1637**

*by Senators Bernsen and Shapleigh  
House Sponsor: Representative Homer*

Strengthens the regulation of certain deceptive trade practices regarding the sale, advertisement, or distribution of a card or other purchasing device that is not evidence of insurance coverage and that purports to provide a discount on the purchase of health care goods or services.

Provides that the sale, advertisement, distribution, or representation of such a card or purchasing device is a false, misleading, or deceptive act prohibited by law.

### **Guidelines for Defense Counsel for the Insured - S.B. 1654**

*by Senator Bernsen  
House Sponsor: Representative Dunnam*

The State Bar of Texas Professional Ethics Committee's Ethics Opinion 533 emphasizes the attorney's obligation to the client, and that it is impermissible under the Texas Rules of Professional Conduct for a lawyer to agree with an insurance company to restrictions which interfere with the lawyer's exercise of independent professional judgment. This bill establishes certain guidelines for lawyers retained by insurance companies and their conduct in their defense of the insured.

### **Taxation of Insurance Companies and Certain Insurance Agents - S.B. 1690**

*by Senator Ellis  
House Sponsor: Representative Yvonne Davis*

Codifies the previously maintained policies of the Texas Department of Insurance and the current policy of the comptroller.

Clarifies that insurance companies that pay gross premium taxes are exempted from other taxes that are based on gross premium taxes, but not exempt from any other state or local tax imposed by other laws unless insurance organizations were specifically exempted by those laws.

Deletes text prohibiting certain domestic insurance companies from being required to pay any occupation or gross receipts tax.

Prohibits a taxable insurance organization from being required to pay any additional tax in proportion to its gross premium receipts levied by this state or any county or municipality, except as otherwise provided by this code or the Labor Code. Prohibits this exemption from being construed to:

- limit the applicability of other taxes, fees, and assessments that are imposed by the Tax Code.
- prohibit the levy and collection of certain state, county, and municipal taxes except under certain conditions.

### **Fire Loss and Insurance Fraud - H.B. 186**

*by Representative Burnam*  
*Senate Sponsor: Senator Shapleigh*

Under current law, fire marshals, fire chiefs, and police officers are authorized to request insurance companies to release certain information regarding a fire loss of \$1,000 or more as a means to investigate possible insurance fraud.

Expands the insurance fraud investigative powers of police officers, fire chiefs, and fire marshals to include the investigation of possible insurance fraud in cases of burglary, robbery, and death claims.

Requires the officials and department personnel receiving information that relates to the investigation of the claim loss to maintain the information as confidential until the release of information is required during a civil or criminal proceeding.

### **Small Employers and Affordable Health Insurance - H.B. 471**

*by Representative Averitt, et al.*  
*Senate Sponsor: Senator Harris*

Prohibits a small employer carrier from implementing agent commission schedules that vary the level of agent commissions based on the size of the group, or otherwise reduce access to small employer health benefit plans.

### **Hospitalists and Health Maintenance Organizations - H.B. 606**

*by Representative Smithee, et al.*  
*Senate Sponsor: Senator Nelson*

Hospitalists are physicians who practice primarily in the hospital setting and assume primary responsibility for the care of other physicians' patients during their hospitalization.

Provides that an insurer or health maintenance organization may not mandate a hospitalist program.

### **Insurance Carriers and Registered First Assistant Nurses - H.B. 803**

*by Representative Junell*  
*Senate Sponsor: Senator Duncan*

A registered first assistant nurse (RNFA) is a nursing professional who renders direct care to surgical patients before, during, and after surgery. RNFAs perform the same first assisting duties as surgeons, physicians, physician assistants, and some nurse practitioners, all of whom are authorized to receive Medicare reimbursement for their services.

Prohibits an insurance company from refusing to contract with an RNFA or to cover first assisting services because they were performed by an RNFA.



## Collecting Under Holocaust Victims' Insurance Policies Issued Before 1946 - H.B. 845

*by Representative Nixon, et al.*  
*Senate Sponsor: Senator Shapiro*

Prior to and during the Holocaust, insurance companies sold policies to those who subsequently were Holocaust victims. The survivors and their heirs and designees asked that Texas conform to policies other states have legislated by extending time lines in order for claimants to receive benefits due them as a result of recovery of certain papers. The National Association of Insurance Commissioners (NAIC) formed a task force, resulting in actions now undertaken so that not only may monetary claims be pursued, but restitution as a moral benefit as well.

Permits a Holocaust victim, or the victim's heir, assignee, beneficiary, or successor, residing in Texas to bring an action in a Texas court against an insurer regarding a claim arising out of an insurance policy purchased or in effect in Europe before 1946.

Prohibits such action from being dismissed for failure to comply with any applicable limitations period if the action is brought before December 31, 2012.

Authorizes the commissioner of insurance to initiate an examination and, if the commissioner believes that a violation by an insurer has occurred or is occurring, to impose sanctions, issue a cease and desist order, assess an administrative penalty, or refer the matter to the attorney general.

## Small Employer Carriers and Insurance - H.B. 949

*by Representative Averitt, et al.*  
*Senate Sponsor: Senator Fraser*

Small employer carriers currently vary the rates of small employer plans based on group size, per the Texas Administrative Code's rules. The highest rate factor is prohibited from exceeding the lowest rate factor by more than 20 percent; however, this rule is difficult to enforce. The Insurance Code contains no enabling statute for this rule and some small employer carriers use certain risk characteristics as the basis for varying small employer premiums by a substantial premium percent.

Requires the risk load for a particular small employer group to reflect the risk characteristics of the group.

## Insurance for Older Dependent Children - H.B. 1440

*by Representative Averitt*  
*Senate Sponsor: Senator Sibley*

Currently, health insurance plans terminate coverage for children of enrollees at age 19, or 23 if a dependent child is a student. The 18-24 age group represents a large portion of the uninsured in Texas, according to a report from the Health and Human Services Commission.

Raises the age limit to 24 for the coverage of dependents, and allows coverage for grandchildren of health plan enrollees as well.

### **Insurance Fraud and Health Care - H.B. 1562**

*by Representatives Thompson and Chavez  
Senate Sponsor: Senator Moncrief*

Health care fraud and abuse cost the national health care system billions annually.

Sets forth requirements for the investigation of insurance fraud, adoption of fraud plans by insurers and coordinated enforcement efforts with the attorney general, Medicaid, and the Texas Department of Insurance.

### **Mandated Benefits and Health Insurance - H.B. 1610**

*by Representatives Averitt and Miller  
Senate Sponsor: Senator Fraser*

The impact of mandated benefits on the health industry relating to general cost and premium increases has not been studied adequately as current law does not require a health benefit plan issuer to collect and report cost and utilization data. Without accurate data on the mandates, the state cannot study their impact.

Requires the commissioner of insurance to require health benefit plan issuers to collect and report certain data for specific information.

Requires each health benefit plan issuer to maintain at its principal place of business all data collected in order to satisfy certain provisions.

### **Brain Dysfunction – Disease or Injury? - H.B. 1676**

*by Representatives Burnam and Ehrhardt  
Senate Sponsor: Senator Van de Putte*

Each year thousands of Texans sustain brain injuries or are diagnosed with neurological diseases that require health care services. Survivors of these injuries or those diagnosed with neurological diseases can lead meaningful lives with proper health care, medical techniques, and rehabilitation services. However, not all health benefit plans cover these injuries, basing their denial of coverage on their belief these conditions are based on mental rather than physical illness.

Prohibits insurers from excluding coverage for survivors of brain injuries and individuals diagnosed with neurological diseases for therapy and neurological care.

Requires the Sunset Advisory Commission to conduct a study to make certain determinations and to report its findings to the legislature.

### **Prompt Pay for Physicians - H.B. 1862**

*by Representative Eiland, et al.*  
*Senate Sponsor: Senator Van de Putte*

Claims sent by physicians to health maintenance organizations or preferred provider organizations (health care plan provider) for payment may not be paid in a timely manner. The statutory limit of 45 days does not begin until the health care plan provider receives the claim, which may delay payment.

Requires physicians to submit a claim to an insurer in a timely manner.

Establishes procedures for a physician to submit a claim to an insurer.

Requires an insurer to make a determination concerning the validity of the claim within 45 days of the claims receipt.

Sets forth timeframes for requesting additional information concerning the validity of a physician's claim.

Sets forth procedures for preauthorization and responding to a physician's request for payment.

### **Guidelines for Health Plans - H.B. 1913**

*by Representative Capelo*  
*Senate Sponsor: Senator Shapleigh*

Health plans require designations of preferred provider organizations (PPO) or health maintenance organizations (HMO) to provide due process through the use of an advisory panel of physicians selected by either health plan. Decisions made by the panel are advisory only, and a provider who brings a case before the panel may still be deselected from the health plan without good cause. Providers may seek legal redress, but due to time constraints or cost considerations may be unable to prevail in their litigation.

Requires certain federal guidelines regarding good faith professional review activities to be met if a contributing cause of the termination of a contract was based on utilization review, quality review, or any action reported to the National Practitioner Data Bank. Authorizes aggrieved parties to bring an action for failure to follow procedures.

### **An Actuarial Evaluation of Life Insurance Policies - H.B. 2415**

*by Representative Giddings, et al.*  
*Senate Sponsor: Senator Ellis*

Requires the commissioner of the Texas Department of Insurance to conduct a marketplace study by evaluating the relevant actuarial and expense relationships between the cost of small face amount policies and the benefits received.

### **Health Maintenance Organizations and Consumer Choices - H.B. 2430**

*by Representative Naishtat, et al.*  
*Senate Sponsor: Senator Carona*

Creates a consumer assistance program to provide information to all health insurance consumers.

### **Long-Term Care Insurance - H.B. 2482**

*by Representatives Kitchen and Thompson*  
*Senate Sponsor: Senator Zaffirini*

Long-term care is the assistance needed for an extended period for those whose activities, including daily living, dressing, eating, and bathing, have been impaired by illness, including Alzheimer's disease.

Directs the commissioner of insurance to adopt rules to stabilize long-term care insurance rates, taking into consideration nationally recognized models of rate stabilization.

### **Valet Parking and Liability Insurance - H.B. 2495**

*by Representative Haggerty*  
*Senate Sponsor: Senator Armbrister*

Requires the owner or operator of a valet parking service to provide evidence of financial responsibility.

Requires certain limits of liability for both bodily and property damages for the comprehensive general liability insurance and the garage insurance.

### **Health Maintenance Organizations and Network Failures - H.B. 2828**

*by Representative Smithee*  
*Senate Sponsor: Senator Harris*

In spite of legislation passed by the 76<sup>th</sup> Legislature regarding health maintenance organizations (HMOs) and their responsibilities in terms of providing information to physician networks, it was determined during the interim that more needed to be done to modify the statute.

Modifies provisions relating to the complaint and reporting requirements of a written agreement between a delegated entity and an HMO and provides penalties for failure to comply with the agreement.

Requires HMOs to provide accurate descriptions of plans and conditions, including restrictions, among certain conditions, in order to make informed decisions regarding the selection of health care plans.

Requires the description to be in a format understandable, readable, and complete with certain conditions as prescribed by the commissioner of insurance.

### **Managed Care Entities to Provide Details of Reimbursement Amounts - H.B. 2831**

*by Representative Smithee*  
*Senate Sponsor: Senator Sibley*

Requires that, on the written request of an out-of-network health care provider, managed care entities including health maintenance organizations, preferred provider organizations, insurance companies and other such organizations to provide a written description of the factors considered in determining the amount of reimbursement that an out-of-network health care provider may receive for goods or services provided to a person enrolled in or insured under the entity's managed care plan.

**Insurance for Volunteer Firefighters - H.B. 3667**

*by Representative Cook*  
*Senate Sponsor: Senator Armbrister*

Establishes the Rural Volunteer Fire Department Insurance Program administered by the Texas Forest Service.

Establishes a two-cent fireworks tax on each retail sale, in addition to the existing sales tax, to support the fund. Requires the comptroller to enforce the fireworks tax the same as the sales tax and to deposit collections to the fund.

**State Commission on Judicial Conduct (Sunset) - S.B. 303**

*by Senator Lucio*

*House Sponsors: Representative Gallego, et al.*

Incorporates recommendations by the Sunset Advisory Commission into statutory provisions regarding the State Commission on Judicial Conduct (commission).

Expands the definition of willful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties to include failure to cooperate with the commission or violation of a voluntary agreement to resign from judicial office in lieu of disciplinary action by the commission.

Prohibits a person from acting as the commission's general counsel if the person is required to register as a lobbyist because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Provides that special masters will be compensated in the same manner as assigned judges or justices.

Requires the Texas Bar Journal to periodically publish public statements, sanctions, and orders of additional education issued by the commission.

Gives the commission the power to order a judge to submit a written response or appear informally.

Requires the commission to adopt procedures by January 1, 2002, for hearing from judges and complainants appearing before the commission. The procedures must ensure the confidentiality of a complainant's identity.

Authorizes the commission to order a judge to submit to a mental examination by one or more qualified psychologists.

Clarifies what records of proceedings are confidential or public information. On the request of a complainant, the commission may keep the complainant's identity confidential.

Clarifies what information the commission must provide the complainant on the disposition of a case.

Provides that a complainant may request reconsideration of a dismissed complaint and sets out the procedures for reconsideration.

Provides for the suspension pending appeal or the automatic removal of a judge who is convicted of or granted deferred adjudication for a felony or a misdemeanor involving official misconduct.

Entitles the commission to obtain criminal history records maintained by the Texas Department of Public Safety for a judge who is the subject of a complaint or investigation, and provides for the confidentiality of such information.

## **Recusal Requirements of Attorneys and Law Clerks - S.B. 1210**

*by Senator West*

*House Sponsors: Representatives Dunnam and Goodman*

Provides that this Act applies only to an attorney or law clerk employed by a court of this state for a specified and limited term.

Requires such attorney or law clerk who has entered into an agreement for employment with or accepted a benefit from a law firm or private entity to file a statement with the court's clerk or a public information officer. The statement must include the names of the attorney or law clerk and the law firm or other private entity, any benefit the attorney or law clerk has received or anticipates receiving from the law firm or entity in connection with the employment, and any other information required by court rule.

Provides this information is a public record.

Prohibits an attorney or law clerk who has entered into an agreement for employment with, or accepted a benefit from, a law firm or private entity from participating during his or her employment with the court in any matter before the court involving the law firm or entity.

Prohibits the attorney or law clerk, following termination of employment with the court, from:

- participating on behalf of the law firm or private entity in any matter that was pending before the court during the period the attorney or law clerk was employed by the court; and
- until the first anniversary of the date of the termination of employment, pleading or appearing on behalf of the law firm or private entity in any matter before the court.

Provides that a recusal from participation must be made by public order of the court.

Provides that an attorney who violates this Act is subject to sanctions by the State Bar of Texas.

## **Magistrate Must Determine if Arrested Person is Currently on Bail - S.B. 1807**

*by Senator Ogden*

*House Sponsor: Representative Keel*

Requires a magistrate to determine whether a person arrested is currently on bail for a separate criminal offense before admitting that person to bail.

### **Voter Information Guide for Judicial Elections - H.B. 59**

*by Representative Puente  
Senate Sponsor: Senator West*

Authorizes the secretary of state to implement a voter information service program, by preparing a voter information guide on judicial candidates and making the guide available on the Internet.

### **Judges Must Receive Racial, Cultural, and Ethnic Awareness Training - H.B. 546**

*by Representatives Noriega and Uresti  
Senate Sponsor: Senator Gallegos*

Requires the court of criminal appeals to adopt rules requiring training of judges in racial, cultural, and ethnic awareness. The instruction must include issues related to race fairness and ethnic and cultural awareness.

### **Abolishing the Office of Court Administration - H.B. 2111**

*by Representative Gallego  
Senate Sponsor: Senator Duncan*

Abolishes the Office of Court Administration of the Texas Judicial System (OCA) and transfers the powers, duties, functions, programs, activities, funds, obligations, contracts, property, and records of OCA to the Texas Judicial Council (TJC).

### **Providing for the Certification and Licensing of Court Interpreters - H.B. 2735**

*by Representative Thompson  
Senate Sponsor: Senator Bernsen*

Requires a court to appoint a certified or licensed court interpreter upon a motion for the appointment filed by a party or if requested by a witness in a civil or criminal proceeding.

Authorizes a court, on its own motion, to appoint a certified or licensed court interpreter.

Provides that in a county with a population of less than 50,000, a court may appoint a spoken language interpreter who is not a certified or licensed court interpreter but meets certain qualifications.

Requires the Texas Commission for the Deaf and Hard of Hearing (commission) to certify court interpreters to interpret court proceedings for hearing-impaired individuals. Requires the commission to maintain a list of certified court interpreters and other persons qualified to act as court interpreters. This list shall be sent to each state court.

Sets out the duties of the commission's executive director for enforcing this Act.



Establishes a licensed court interpreter advisory board as an advisory board to the Texas Department of Licensing and Regulation, and sets out the composition of the board and its duties.

Sets forth provisions relating to court interpreter licensing to be administered by the Texas Commissioner of Licensing and Regulation.

Prohibits a person from advertising, representing to be, or acting as a certified or licensed court interpreter unless the person holds an appropriate certificate or license under this Act. Makes it a Class A misdemeanor for a person to violate this Act or a rule adopted under this Act. Such a person is subject to an administrative penalty.

Provides that the licensed court interpreter advisory board is subject to the Texas Sunset Act and, unless continued, is abolished September 1, 2013.

**Indigent Defense System - S.B. 7**

*by Senator Ellis, et al.*

*House Sponsors: Representative Hinojosa, et al.*

Requires a court or the court's designee to appoint counsel to an indigent defendant who is entitled to and requests appointed counsel and against whom adversarial judicial proceedings have been initiated not later than the end of the third working day after the date on the defendant's request for appointment of counsel was received. In counties with a population of 250,000 or more, the appointment of counsel cannot be later than the end of the first working day after the date the request was received.

Provides that if adversarial judicial proceedings have not been initiated against an indigent defendant, counsel shall be appointed for the defendant immediately following the expiration of three working days after the date on the defendant's request for appointment of counsel was received. In counties with a population of 250,000 or more, counsel shall be appointed immediately following the expiration of one working day after the date on which the defendant's request was received.

Provides that if an indigent defendant is released from custody prior to the appointment of counsel, appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.

Authorizes a court to appoint new counsel to represent an indigent defendant for whom counsel is appointed if the defendant is subsequently charged in the case with a different offense from that with which the defendant was initially charged and good cause to appoint new counsel is stated on the record.

Requires that a person who is arrested be taken before a magistrate not later than 48 hours after the person is arrested.

Requires a magistrate to inform the person arrested of the person's right to request the appointment of counsel if the person cannot afford counsel and the procedures for requesting appointment. Provides for the use of interpreters if the person does not understand English or is deaf and requires the magistrate to ensure the person receives reasonable assistance in completing the necessary forms for requesting appointment of counsel.

If the magistrate is not authorized to appoint counsel, the magistrate must, not later than 24 hours after the person arrested requests appointment of counsel, transmit the forms requesting the appointment of counsel to the court or to the court's designee.

Requires a record to be kept of the magistrate informing the person of the right to request counsel, asking the person whether the person wanted counsel appointed, and whether the person requested counsel.

Provides that a person who is arrested without a warrant and detained in jail for a misdemeanor, and for whom a magistrate has not determined whether probable cause exists to believe that the person committed the offense, must be released on bond in an amount not to exceed \$5,000 not later than the 24th hour after the person's arrest. If the arrest is for a felony, the person must be released on bond in an amount not to exceed \$10,000 not later than the 48th hour after the person's arrest. If the person is unable provide such bond, the person must be released on personal bond.

Authorizes a magistrate, upon the filing of an application by the attorney representing the state, to postpone the release of a person for not more than 72 hours after the person's arrest.

Requires a court to appoint an attorney from a public appointment list using a system of rotation, except:

- in a county in which a public defender is appointed, the public defender may represent the defendant;
- if a countywide alternative program for appointing counsel for indigent defendants in criminal cases is established; or
- a court or the courts' designee may appoint an attorney from any county located the court's administrative judicial region to represent a defendant accused of a felony.

Provides that a court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

Requires the public appointment list to contain the names of attorneys who applied to be included on the list, meet the objective qualifications specified by the judges and the Task Force on Indigent Defense (TFID), and are approved by a majority of the judges establishing the appointment list.

Provides that in a county in which a court is required to appoint an attorney from a public appointment list that county court and statutory county court judges for misdemeanor cases punishable by confinement, and district court judges for felony cases, by formal action,

- shall establish a public appointment list of attorneys qualified to provide representation in such cases in the county;
- shall specify the objective qualifications necessary for an attorney to be included; and
- may establish more than one appointment list graduated according to the degree of seriousness of the offense and the attorneys' qualifications.

Provides that, if the court or the court's designee determines that the defendant does not understand English or is deaf, an effort shall be made to appoint an attorney who is capable of communicating with the defendant.

Requires county court, statutory county court, and district court judges trying criminal cases in each county to adopt and publish written countywide procedures consistent with this act for timely and fairly appointing counsel for indigent defendants arrested for or charged with a misdemeanor punishable by confinement or a felony. These procedures must:

- authorize only county court, statutory county court, and district court judges trying criminal cases in the county, or the judges' designees, to appoint counsel for indigent defendants in the county;

- ensure that each indigent defendant charged with a misdemeanor punishable by confinement or a felony and who appears in court without counsel has an opportunity to confer with appointed counsel before the commencement of judicial proceedings;
- require appointments for defendants in capital cases in which the death penalty is sought to comply with the certain requirements;
- ensure that each attorney appointed from a public appointment list perform the attorney's duty in accordance with the adopted procedures, the requirements of the Code of Criminal Procedures, and applicable rules of ethics;
- ensure that appointments are allocated among qualified attorneys in a fair, neutral, and nondiscriminatory manner; and
- include procedures and financial standards for determining whether a defendant is indigent, regardless of whether the defendant is in custody or has been released on bail.

Provides that an alternative program for appointing counsel in misdemeanor cases may be established by county court and statutory county court judges if two-thirds of the judges vote to establish the alternative program. There is a similar provision for establishing such a program for appointing counsel in felony cases by district court judges. Sets out what methods an alternative program may use for appointing counsel.

Provides that an alternative program must require that:

- attorneys appointed under the program meet specified objective qualifications and are approved by a majority of the judges establishing the program;
- appointments for defendants in capital cases comply with state law; and
- appointments are reasonably and impartially allocated among qualified attorneys.

Bars judges, in establishing an alternative program, from obligating the county by contract or the creation of new positions to increase the expenditure of county funds without the approval of the commissioners court.

Requires an attorney appointed under this act to make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and interview the defendant as soon as practicable after the attorney is appointed. A court may replace an attorney who violates this provision with other counsel and a majority of the judges of appropriate courts may remove an attorney who intentionally or repeatedly violates this provision from consideration for appointment

Prohibits a court or the court's designee from considering whether the defendant has posted or is capable of posting bail in determining whether the defendant is indigent, except to the extent that it reflects the defendant's financial circumstances. A defendant determined to be indigent is presumed to remain indigent throughout the proceedings, unless a material change occurs in the defendant's financial circumstances.

Prohibits a court from threatening to arrest or incarcerate a person solely because the person requests the assistance of counsel.

Authorizes the commissioners court of any county, on written approval of a judge of a county court, statutory county court, or district court trying criminal cases in the county, to appoint a governmental entity or nonprofit corporation to serve as a public defender. The commissioners courts of two or more counties may enter into a written agreement to jointly appoint and fund a regional public defender. In appointing a public defender the commissioners court or courts shall specify:

- the duties of the public defender;
- the types of cases to which the public defender may be appointed and the courts in which the public defender may appear; and
- whether the public defender is appointed to serve a term or at the pleasure of the commissioners court or courts. If the public defender is appointed to serve a term, the term of appointment and the procedures for removing the public defender must be specified.

Requires a commissioners court or courts, before appointing a public defender, to solicit proposals for the public defender and sets out what such proposal must include. After considering each proposal, the commissioners court or courts must select a proposal reasonably demonstrating that the proponent will provide adequate quality representation for indigent defendants. The total cost of the proposal may not be the sole consideration in selecting a proposal.

Provides that in order for a governmental entity or nonprofit corporation to be eligible to serve as a public defender, it must be directed by a chief public defender with enumerated qualifications.

Provides that a public defender is entitled to personnel costs and expenses fixed by the commissioners court or courts. A public defender may employ attorneys, licensed investigators, and other personnel necessary to perform the duties of the public defender.

Bars an attorney employed by a public defender from engaging in the private practice of criminal law or accepting anything of value not authorized by law for services rendered.

Permits a public defender to refuse an appointment under if:

- a conflict of interest exists;
- the public defender has insufficient resources to provide adequate representation for the defendant;
- the public defender is incapable of providing representation for the defendant in accordance with the rules of professional conduct; or has other good cause for refusing the appointment.

Revises the provisions regarding the services for which an appointed counsel, other than an attorney with a public defendant, may be compensated by providing that counsel shall be paid a reasonable attorney's fee for preparation and representation of oral argument on appeal and preparing a motion for rehearing. Counsel, other than a public defendant, in a noncapital case must be reimbursed for reasonable and necessary expenses, including for investigation and expert testimony, and sets out how such expenses shall be reimbursed.

Requires the courts trying criminal cases to adopt a schedule of fees with reasonable fixed rates or minimum and maximum hourly rates. A copy shall be sent to the commissioners court or courts.

Provides that no payment shall be made until an itemized form is submitted to and approved by the judge presiding over the proceedings. Sets out the procedure to be followed by a judge if disapproving a payment and the procedure for appealing such disapproval.

Sets out the eligibility criteria for attorney appointment to a death penalty case. Previously adopted standards must be amended to conform with these requirements not later than April 1, 2002. Requires an attorney, in order to remain on the list of attorneys qualified for appointment in death penalty cases, not later than the second anniversary of the date an attorney is placed on the list and each year thereafter, to present proof that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas, including training relating to the defense of death penalty cases.

Requires the presiding judge of the district court in which a capital felony case is filed to appoint two attorneys, at least one of whom meets the qualifications to be eligible to be appointed to a death penalty case, to represent an indigent defendant as soon as practicable after charges are filed, unless the state gives notice in writing that the state will not seek the death penalty.

Provides that 13.98 percent of certain costs paid by a person convicted of an offense shall be placed in a fair defense account in the general revenue fund.

Requires the juvenile board in each county to adopt an appointment of counsel plan that includes the qualifications necessary for an attorney to be included on an appointment list from which attorneys are appointed to represent children in juvenile proceedings and sets out specific requirements for such plans.

Requires all formal and informal rules and procedures regarding providing indigent defendants with counsel in a county be sent not later than January 1 of each year to the Office of Court Administration (OCA). The first report must be sent on or before January 1, 2002. On a basis as required by the OCA, each county shall send to the OCA information showing and analyzing the amounts expended on indigent defense. This information must first be sent on or before September 1, 2002.

### *Task Force on Indigent Defense*

Requires TFID to develop policies and standards for providing legal services to indigent defendants on trial. This may include standards regarding qualification and performance standards for counsel, ensuring appropriate caseloads, reasonable compensation, and governing the organization and operation of a public defender.

Requires TFID to develop statewide requirements for counties reporting indigent defense information and monitor the effectiveness of a county's indigent defense plan.

Requires TFID to annually submit a report to the governor, lieutenant governor, and speaker of the house, and TFID's standing council containing information forwarded to TFID from OCA regarding current indigent defense practices and efforts made to improve these practices.

Requires TFID to provide technical support to assist counties in complying with state law regarding indigent defense services and authorizes TFID to direct the comptroller to distribute funds to the counties.

Bars counties from reducing the amount of funds provided for indigent defense services in the county because of funds provided through TFID.

**Using Race or Ethnicity as Predictor of Future Criminal Behavior Barred - S.B. 133**

*by Senator West, et al.*

*House Sponsor: Representative Hinojosa*

Bars the state, in a sentencing proceeding in a criminal case, from offering evidence that the defendant's race or ethnicity makes it likely that the defendant will engage in future criminal conduct.

**Statute of Limitations for Various Crimes - S.B. 214**

*by Senators Bernsen and Zaffirini*

*House Sponsors: Representatives Williams and Keel*

Provides there is no statute of limitations for an offense involving leaving the scene of an accident if the accident resulted in the death of a person.

Extends to 10 years the statute of limitations for injury to a child, elderly individual, or disabled individual punishable as a felony of the first degree, or sexual assault.

Extends to five years the statute of limitations for kidnapping, injury to a child, elderly individual, or disabled individual that is not punishable as a felony of the first degree, abandoning or endangering a child, or indecency with a child.

Extends to 10 years from the 18th birthday of the victim the statute of limitations for involving exposing the offender's anus or any part of the genitals to a child.

**Minimum Age at Which a Parent is Liable for Property Damage by Child - S.B. 233**

*by Senator Harris*

*House Sponsor: Representative Menendez*

Amends existing law regarding parental liability for property damage resulting from the willful and malicious conduct of a child to lower the minimum age of the child from at least 12 years of age to 10 years.

**Statute of Limitations Related to Injuring a Child, the Elderly, or Disabled - S.B. 328**

*by Senator Jackson, et al.*

*House Sponsor: Representative Haggerty*

Increases the statute of limitations for the prosecution of injury to a child or an elderly or disabled individual punishable as a felony of the first degree from three years from the date of the commission of the offense to 10 years.

### **Compensation for Wrongful Imprisonment - S.B. 536**

*by Senator Ellis, et al.*

*House Sponsors: Representatives Dutton and Clark*

Under current Texas law, a person wrongfully convicted of a crime is entitled to a maximum total compensation of \$50,000: \$25,000 compensation for medical expenses and \$25,000 for physical and mental pain and suffering, regardless of the length of term served in prison. The current limitation of action to bring a suit for wrongful imprisonment is two years after the date of release.

Extends the timeframe in which a person may pursue wrongful imprisonment compensation from two years to three years from the date the person received the pardon or was found not guilty of the crime. The person may seek compensation either through an administrative proceeding or a civil action.

Under an administrative proceeding, a person may receive \$25,000 per year served in prison, if time served is less than 20 years or \$500,000 if the time served is 20 years or more.

In a civil action, the person may seek up to \$500,000, in:

- attorney and court expenses associated with all criminal proceedings and an application for compensation;
- wages, salary, or earned income lost due to wrongful imprisonment; and
- medical and counseling expenses incurred as a result of wrongful imprisonment.

Provides that compensation payments to a wrongfully imprisoned person are terminated if the person is convicted of a felony crime or dies.

### **Defendant's Competency to Stand Trial and Insanity Defense Task Force - S.B. 553**

*by Senator Duncan*

*House Sponsor: Representative Gray*

Currently, evaluations of a criminal defendant's competency to stand trial vary throughout the state, which can lead to an equal protection problem.

Establishes a task force to review methods and procedures used to evaluate a criminal defendant's competency to stand trial and the use of the insanity defense and to submit a report to the 78<sup>th</sup> Legislature, including recommendations.

Requires the Texas Council on Offenders with Mental Impairments to perform the administrative functions of the task force.



## Protection for Property Owners in Criminal Asset Forfeiture Proceedings - S.B. 563

*by Senator Armbrister*

*House Sponsor: Representative Hinojosa*

Bars an owner or interest holder's interest in property from being subject to forfeiture under the Texas Code of Criminal Procedure if the owner or holder proves at the forfeiture hearing by a preponderance of the evidence that the owner or holder was not a party to the offense giving rise to the forfeiture certain conditions are met.

Requires an attorney representing the state to notify the owner or holder if the attorney has a reasonable belief that the property subject to forfeiture meets the conditions.

Provides that an attorney representing the state is not liable for damages resulting from an act or omission regarding such notification. The exclusive remedy for such failure is the submission of that failure as a ground for new trial.

Authorizes a person in the possession of property at the time a peace officer seizes it under the criminal forfeiture law to assert the person's interest in or right to the property. The peace officer may not at, the time of seizure, request, require, or in any manner induce any person to execute a document purporting to waive the person's interest in or rights to the property.

Sets forth requirements for education and training on criminal asset forfeiture proceedings for members of law enforcement.

## Seizure of Certain Assets in Criminal Forfeiture Proceedings - S.B. 626

*by Senator Duncan*

*House Sponsor: Representative Averitt*

Amends the civil asset forfeiture, which authorizes law enforcement to seize a criminal's assets, addressing a controversy arising from the application of the forfeiture law when a third party has perfected a secured interest in the assets, such as a bank that has accepted the assets as collateral in making loans. Under current law, the lien holder must have acquired and perfected the security interest prior to or during the commission of the offense, and, at the time, it did not know or have reason to know of the offense. Some financial institutions alleged that forfeiture, by allowing law enforcement to seize assets in which the institutions had perfected a security interest, in effect punished the lien holders for another's criminal activity. They also expressed concern that such seizures could jeopardize a bank's liquidity.

Provides that an owner's or interest holder's interest in the property may not be suspended if the owner or holder acquired and perfected the interest after the act or omission giving rise to the forfeiture, but before seizure of the property, if the owner or holder:

- was, at the time the property was acquired, an owner or holder for value;
- had no reasonable cause to believe that the property was contraband and did not purposely avoid learning the property was contraband.

Provides that an owner or holder's rights regarding the property remain in effect during the pendency of forfeiture proceedings.

Sets out the actions a regulated financial institution may take to comply with a seizure of accounts and assets, including segregating the accounts at issue.

Authorizes the state to disclose information to state or federal financial institution regulators relating to a forfeiture action and requires the state to notify the state banking commissioner before taking any forfeiture action. Makes it a criminal offense punishable by a fine not to exceed \$500, a jail term not to exceed 30 days, or both if a regulator knowingly discloses confidential information provided by the state.

### **Arrest and Adjudication of Misdemeanor Traffic Offenses - S.B. 730**

*by Senator Harris*

*House Sponsors: Representatives Thompson and Talton*

Sets forth provisions related to circumstances under which a peace officer is required or allowed to issue a ticket for traffic offenses under the Transportation Code and the code of Criminal Procedure.

Clarifies provisions related to suspension of sentences and deferral of final proceedings in misdemeanor cases.

Clarifies provision related to driving safety course and motorcycle operator course dismissal.

### **Proving Computer Crime - S.B. 917**

*by Senator Shapiro*

*House Sponsor: Representative Hochberg*

Under current law, there are no provisions in regard to computer crime that permit aggregation of benefits obtained by the perpetrator when a victim is defrauded or harmed or a computer, program, or network is altered, damaged, or deleted. As a consequence, a person may have committed multiple violations as part of one scheme or one continuing course of conduct but may only be charged and found guilty of one separate offense for each discrete violation.

Permits the aggregation of damages or losses incurred in a breach of computer security when those multiple violations are part of one scheme or one continuing course of conduct.

Provides that in trials involving an allegation of a continuing scheme of fraud or theft alleged to have been committed against a large class of victims in an aggregate amount or value, it need not be proven by direct evidence that each alleged victim did not consent or effectively consent to the transaction. Provides that either direct or circumstantial evidence is sufficient to prove the lack of consent or effective consent.

## Limitations on Payments for Certain Settlements or Judgments – S.B. 1091

*by Senator Ellis*

*House Sponsor: Representative Junell*

The Civil Practice and Remedies Code limits the amount to \$5,000 or five percent by which the comptroller of public accounts (comptroller) may reduce the total appropriations made by the legislature to a state agency in order for the comptroller to pay a settlement of judgment resulting from a lawsuit. However, the General Appropriations Act (Act) provides that the payment of settlements and judgments may not exceed \$250,000 or 10 percent of a state agency's appropriations.

Amends the Civil Practice and Remedies Code to authorize a state agency to pay a claim only from money appropriated to that agency by the General Appropriations Act (Act).

Prohibits the amount paid by a state agency for a single claim from exceeding a limitation imposed by the Act, rather than exceeding \$5,000 on the amount that may be paid by the agency on a particular claim.

Prohibits the total of all amounts for a single claim paid by a state agency from money appropriated to the agency for any fiscal year from exceeding a limitation imposed by the Act, rather than five percent of the appropriation made to that agency for that fiscal year.

Provides that appropriations for payments of claims against state agencies applies to appropriations and payments made in relation to a tort claim for which the state government is liable that results from the conduct of a state agency and to the indemnification of an employee, member of a governing body, or other officer of a state agency.

Specifies that the payment of a claim under these provisions does not apply to the payment of a claim if the legislature has specifically identified the claim and appropriated money to pay the claim.

## Interception of Wire, Oral, or Electronic Communications - S.B. 1345

*by Senator Armbrister*

*House Sponsor: Representative Bob Turner*

During the 75<sup>th</sup> Legislature, the provisions of the Code of Criminal Procedure pertaining to the interception and use of wire, oral, and electronic communications were amended to correct problems with proper venue caused by significant changes in technology and by deregulation of the telecommunications industry. Currently, provisions relating to pen registers and trap and trace devices, access to stored communications, and mobile tracking devices do not address those venue problems. In addition, certain articles within the Code of Criminal Procedure are inconsistent with federal law. Also, articles within the Penal Code and the Code of Criminal Procedure governing the possession and use of intercepting devices and their respective use under emergency circumstances are in conflict with one another.

Modifies related provisions within the Code of Criminal Procedure to make these laws consistent and specifies circumstances under which an emergency interception can be conducted and the procedural rules for implementing such an interception.

**Arts, Entertainment, Advertisement, and Sports Contracts with Minors - H.B. 539**

*by Representative Thompson*

*Senate Sponsor: Senator West*

Provides that these provisions do not authorize the making of a contract that binds a minor beyond the seventh anniversary of the date of the contract.

Authorizes a court, on petition of the guardian of a minor's estate, to approve an arts and entertainment contract, advertisement contract, or sports contract that is entered into by the minor. The guardian must provide notice of the petition to the other party to the contract and that party may request a hearing. Each parent of the minor is a necessary party to such a proceeding. Provides that an otherwise valid contract so approved may not be voidable solely on the ground that it was entered into by a minor.

Authorizes a court to require in an order approving a contract that a reasonable portion of the net earnings of the minor under the contract be set aside and preserved for the benefit of the minor in a trust.

Authorizes a court to appoint a guardian ad litem for a minor who has entered into an arts and entertainment contract, advertisement contract, or sports contract, if the court finds that the appointment would be in the minor's best interest.

**Income Withholding for Spousal Maintenance - H.B. 691**

*by Representative Thompson*

*Senate Sponsor: Senator Harris*

Exempts contractual alimony or spousal maintenance, from the income withholding provisions, unless the contract specifically permits income withholding or the alimony or maintenance payments are not timely made under the terms of the contract.

Authorizes an order or writ of withholding for spousal maintenance to be combined with an order or writ of withholding for child support if the obligee is the managing conservator of that child and is the conservator with whom the child primarily resides.

Sets out what must be contained in an order or writ of withholding combining withholding for spousal maintenance and child support, including a provision that withheld income be applied in the following order of priority:

- current child support;
- current spousal maintenance;
- child support arrearages; and
- spousal maintenance arrearages.

Provides that garnishment for the purposes of spousal maintenance does not apply to unemployment insurance benefit payments.

Authorizes a court, if no current spousal maintenance is owed, to order income withholding to be applied toward arrearages in an amount sufficient to discharge those arrearages in not more than two years.

Sets the maximum that can be withheld from the obligor's disposable earnings as the lesser of the amount specified in the order or writ or an amount that, when added to the amount of income being withheld by the employer for child support, is equal to 50 percent of the obligor's disposable earnings.

Provides that an order or writ of withholding delivered to an employer doing business in this state is binding on the employer regardless of whether the obligor resides or works outside this state.

Sets out the procedures for an obligor to voluntarily request the issuance and delivery to the obligor's employer of a writ of withholding.

Sets out the procedures for a court order or writ for withholding spousal maintenance and arrearages, including what must be contained in the order.

Authorizes a court, on request by an obligee, to keep the obligee's address and social security number confidential if the obligee or a member of the obligee's family or household is a victim of family violence and is the subject of a protective order to which the obligor is also subject.

Provides that an employer required to withhold income from earnings is not entitled to notice of the proceedings before the order of withholding is rendered or writ of withholding is issued. An order or writ is binding on an employer regardless of whether the employer is specifically named in the order or writ.

Sets out how an employer must comply with a writ or order, including when and how long the employer must withhold income and remitting payment.

Permits an employer to deduct an administrative fee of not more than \$5 each month from the obligor's disposable earnings. Authorizes the employer to seek a hearing on the applicability of the order or writ to the employer and sets out the procedures.

Sets out the liability of an employer who fails to comply with an order or writ of withholding. Provides that in addition to any other remedy provided by law, an employer who knowingly fails to withhold income for spousal maintenance or to remit withheld income in accordance with an order or writ of withholding is subject to a fine not to exceed \$200 for each violation.

Sets forth provisions related to an employer who receives more than one order or writ of withholding from the same obligor.

Prohibits an employer from discrimination in hiring or employment because of an order or writ of withholding and sets out the employer's liability for violating this provision.

Sets out the notice requirements if an obligor terminates employment with an employer who has been withholding income.

Provides that an obligor or obligee may file a notice of application for a writ of withholding if income withholding was not ordered at the time spousal maintenance was ordered and sets out the procedure, including the contents of such application, notice, issuance of the writ, and seeking to a stay of the writ.

Permits an obligor and obligee to agree to reduce or terminate income withholding. An agreement by the parties does not modify the terms of an order for spousal maintenance.

Provides that an obligor subject to a mandatory writ for withholding may file a motion to terminate withholding. On a showing by the obligor that the obligor has complied fully with the terms of the maintenance or child support order, the court must render an order for the issuance and delivery to the obligor of a notice of termination of withholding.

### **Authorizing a Child to Continue Certain Wrongful Death Suits - H.B. 947**

*by Representative Sylvester Turner  
Senate Sponsor: Senator Duncan*

Provides that if the plaintiff in a wrongful death suit for the death of the plaintiff's spouse dies while the action is pending, the child of the spouse who is the subject of the action may be made the plaintiff and the action may be prosecuted as though the surviving spouse had not died.

### **Guardianships and Other Matters Related to Incapacitated Persons - H.B. 1132**

*by Representatives Thompson and Naishtat  
Senate Sponsor: Senator Bernsen*

Addresses many different matters related to guardianships and estates of incapacitated persons.

Allows the appointment of a temporary or permanent guardian of an estate without the automatic termination of an agent for a ward.

Allows the court to appoint a guardian for a minor or incapacitated adult, other than one designated by the deceased or incapacitated parents, if the court finds the designated guardian is disqualified, is dead, refuses to serve, or would not serve the best interests of the minor or incapacitated adult.

Sets forth provisions relating to:

- a written declaration of appointment of guardian for a child in the event of a person's incapacity;
- the change or resignation of a resident agent; and
- removing a guardian, including in cases of a divorce between joint guardians.

Allows the guardian of a ward's estate to seek from the court an order to inspect a true copy of a will, codicil, trust, or other estate planning instruments for the purposes of establishing an estate plan.

Allows the spouse of an incapacitated adult to be the presumed community administrator. Allows the court to remove a spouse as community administrator if the court finds the spouse is not suitable. Requires the court to appoint an attorney ad litem for the incapacitated spouse if the community administrator is removed. Sets forth provisions regulating the activities of a community administrator.

## Economic Contributions by One Marital Estate to the Benefit of Another - H.B. 1245

*by Representative Goodman  
Senate Sponsor: Senator Harris*

The 76<sup>th</sup> Legislature enacted law providing that when, during a marriage, the value of one spouse's separate property is enhanced because of a financial contribution made with community property, or if community property is used to discharge a debt on the separate property, this creates an equitable interest on behalf of the community estate in the separate property, and provided formulas for determining the amount of such interest. This bill seeks to clarify these provisions and the differences regarding reimbursements and economic contributions by substantially amending the existing provisions.

Provides that a marital estate which makes an economic contribution to property owned by another marital estate has a claim for economic contribution against the benefited estate in an amount equal to the product of the equity in the benefited property on the date of dissolution of the marriage, the death of a spouse, or disposition of the property, multiplied by a fraction of which the numerator is the economic contribution to the property by the contributing estate and the denominator is an amount equal to the sum of:

- the economic contribution to the property by the contributing estate;
- the equity in the property as of the date of the marriage or, if later, the date of the first economic contribution by the contributing estate; and
- the economic contribution to the property by the benefited estate during the marriage.

Provides that the amount of a claim may be less than the total of the economic contributions made by the contributing estate, but may not cause the contributing estate to owe funds to the benefited estate. Also, a claim may not exceed the equity in the property on the date of dissolution of the marriage, the death of a spouse, or disposition of the property.

Provides that the use and enjoyment of property during a marriage does not offset a claim for economic contribution to the property.

Clarifies that these provisions do not affect the rule of inception of title (the character of property is determined at the time the right to the property arises).

Provides that these provisions do not affect the right to manage, control, or dispose of marital property.

Provides that a claim for economic contribution does not create an ownership interest in the property, but does create a claim against that property which matures on the dissolution of the marriage or the death of either spouse.

Requires a court, upon an application for a claim of economic contribution following the death of a spouse, to impose an equitable lien on the benefiting marital property to secure a claim for economic contribution by a contributing marital estate. Subject to homestead restrictions, this lien may be imposed on the entirety of a spouse's property, not just that property that benefited from an economic contribution.

Requires a court to offset competing claims for economic contribution by marital estates against each other.

Defines a claim for reimbursement and provides that in a conflict between a claim for economic contribution and a claim for reimbursement, the claim for economic contribution prevails. The court must resolve a claim for reimbursement by using equitable principles. Benefits for the use and enjoyment of property may be offset against a claim for reimbursement.

Sets out what claims for reimbursement may not be recognized by a court. These include the payment of child support, alimony, or spousal maintenance.

Provides that a premarital or marital property agreement to convert separate property to community property that complies with statutory requirements is effective to waive, release, assign, or partition a claim for economic contribution to the same extent such agreement would have been effective under the law as it existed immediately before September 1, 1999.

Requires a court, in a decree of divorce or annulment, to determine the rights of both spouses in a claim for economic contribution in a manner that the court considers just and right with due regard for the rights of each party and any children of the marriage.

### **Parent May Join in a Personal Injury Suit Brought by a Dependent - H.B. 1515**

*by Representative Janek*

*Senate Sponsor: Senator Bernsen*

Authorizes an individual to join a personal injury suit brought by a claimant if:

- at the time the cause of action accrued, the individual was the claimant's parent, managing conservator, or guardian and the claimant was younger than 18 years of age;
- the claimant brought the suit within the limitations period after the disability was removed; and
- the individual incurred medical expenses on behalf of the claimant and has not recovered damages for those expenses in a previous suit.

Provides that an individual who is entitled to join a suit under the Act may recover the damages regardless of whether the limitations period has expired in relation to the individual's own cause of action.



### **Assessment of Impact Fees to Finance Capital Improvements – S.B. 243**

*by Senator Harris*

*House Sponsor: Representatives Brimer*

Under current law, a political subdivision can charge an “impact fee” against a new development in order to generate revenue to fund or recover the cost of capital improvements related to and used for the new development. In addition, the political subdivision must use professionals to prepare a capital improvements plan and calculate such fees.

Requires a capital improvements plan to include a plan for awarding one of the following credits to the new development:

- a portion of the ad valorem tax and utility service revenues that will be generated by the new development; or
- 50 percent of the total projected cost of the capital improvements.

### **Solid Waste Disposal Fees - S.B. 352**

*by Senator Truan*

*House Sponsors: Representatives Gray and Oliveira*

Texas law provides counties the authority to offer and require solid waste services, and permits them to collect fees for the service. However, it does not provide an effective enforcement mechanism to compel payment.

Permits a county to contract with a private or public entity, including a public utility, to collect solid waste fees.

Authorizes a county, or the public or private entity that has contracted with the county, to suspend service when a person is delinquent in payment of solid waste disposal service fees, until the delinquent claim is fully paid.

Authorizes a public or private utility that bills and collects solid waste disposal service fees to suspend service of that utility, in addition to the suspension of the disposal service, when a person is delinquent in payment of fees, until the delinquent claim is fully paid.

### **Adoption of International Residential Code - S.B. 365**

*by Senator Armbrister*

*House Sponsor: Representative Ritter*

Adopts the International Residential Code (IRC) for municipal residential buildings in Texas, and adopts the National Electrical Code (NEC) for electrical construction in residential buildings, as of January 1, 2002. The IRC applies to all construction, alteration, and repair of residential buildings, while the NEC applies to all residential electrical construction applications.

Creates procedures for a municipality to adopt local amendments and to enforce these codes.

**Texas Asbestos Health Protection Act - S.B. 509**

*by Senators Moncrief and Madla  
House Sponsors: Representative Coleman, et al.*

The Texas Asbestos Health Protection Act regulates persons engaged in the business of removing or encapsulating asbestos in public buildings. Currently, many building owners and contractors are not aware that an asbestos survey must be conducted prior to renovating or demolishing a public building.

Prohibits a municipality from issuing a permit for renovation or demolition of a public or commercial building unless the building owners and contractors provide evidence that an asbestos survey has been completed.

**Alternative Procurement Methods Available to Political Subdivisions - S.B. 510**

*by Senators Armbrister and Truan  
House Sponsor: Representative Walker*

Under current law, no authority exists for municipalities, counties, or river authorities to use design-build procedures to provide flexibility in constructing needed facilities and possibly save time in design and construction.

Authorizes a municipality to award certain contracts let under the competitive seal bidding process to the bidder who provides goods and services at the best value for the municipality, rather than only to the lowest responsible bidder. Sets forth the criteria a municipality may consider in determining best value.

Requires a municipal contract for construction of highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction, or buildings or structures that are incidental to projects that are primarily civil engineering construction projects to be awarded to the lowest responsible bidder.

Sets forth procedures available to political subdivisions for alternative project delivery method of procurement, for facility construction contracts. Provides that facility means a building the design and construction of which are governed by accepted building codes, but does not include highways, roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water and wastewater distribution or conveyance facilities, wharves, docks, airport runways and taxiways, drainage projects, or related types of projects associated with civil engineering construction. or buildings or structures that are incidental to projects that are primarily civil engineering construction projects. Alternative methods include manager-agent, manager-at-risk, design-build, and job order methods.

Sets forth right-to-work provisions applicable to school districts engaged in procuring goods or services, awarding contracts, or overseeing procurement or construction for public works or public improvements.

## **Improvements to Municipal Retirement Systems - S.B. 522**

*by Senator Armbrister*

*House Sponsor: Representative Kuempel*

The Texas Municipal Retirement System is a voluntary statewide retirement system that administers retirement, disability, and death benefits to employees of Texas cities.

Changes vesting requirements for members from 10 to five years. Creates new benefit options for retirees, members, and beneficiaries. Grants additional authority for investments, and making administrative changes.

## **Texas County and District Retirement System - S.B. 523**

*by Senator Armbrister*

*House Sponsor: Representative Kuempel*

Texas County and District Retirement System (TCDRS) is a voluntary, statewide retirement system for officers and employees of counties and other political subdivisions, excepting cities and school districts.

Allows TCERS members who have worked for more than one participating employer to choose to retire or receive refunds from any individual account or combination of accounts.

Allows for the suspension rather than forfeiture of retirement benefits to a retired member who is re-employed in the same subdivision. Enables retirees who have returned to work for the same employer to collect a lump-sum distribution of their suspended payments after they terminate TCERS-covered employment.

Gives future retirees a pension option allowing a retiree who chooses an annuity with payments over the life of a beneficiary to begin receiving higher standard benefits after the death of that beneficiary.

Increases the supplemental death benefit from \$2,500 to \$5,000.

## **Excess Airport Revenue - S.B. 569**

*by Senators Cain and Moncrief*

*House Sponsor: Representative Glenn Lewis*

Although a large airport may spread across the boundaries of several municipalities, ownership of the facility may be held by just one or two cities. The significant revenues generated by such an airport may or may not be shared by all municipalities involved, as is the case of the Dallas Fort Worth International Airport, owned by the cities of Dallas and Fort Worth, but occupying territory in several neighboring municipalities.

Institutes a financial sharing system by which airport revenues are shared among the cities involved according to certain stated ratios.

**Attorney Participation in Open or Closed Meetings - S.B. 695**

*by Senator Wentworth*

*House Sponsor: Representative Clark*

State law allows for a governmental body to consult with its attorney in a closed meeting, but requires the attorney to be present when litigation is being discussed. For small rural communities the cost of retaining an attorney to be present at such meetings may be prohibitive, which in turn, may force them to make important decisions without the benefit of legal advice.

Allows the attorney of a governmental body to be present in open or closed meetings either in person, by telephone conference call, video conference call, or via Internet communications.

**County Funds Received After the Adoption of the Budget - S.B. 732**

*by Senator Barrientos*

*House Sponsor: Representative Farabee*

Current law prohibits the county auditor from certifying funds for the current fiscal year that are received after the fiscal year goes into effect unless the funds are public or private grant or aid money or the funds are received from an intergovernmental contract. This prevents the county from using funds from other sources throughout the year and requires the county to hold the money until it can be budgeted into the next fiscal year.

Requires a county auditor to certify to the commissioners court the receipt of revenue from a new source not anticipated before the adoption of the budget for that fiscal year.

Authorizes the commissioners court to adopt a special budget for the limited purpose of spending the revenue.

Requires the county tax assessor-collector to prepare a budget for the expenditure of the funds during that fiscal year and file a copy of that budget with the county budget officer. Provides that the budget filed with the county budget officer is not subject to approval by the commissioners court of the county, but any member of the public is entitled to speak for or against the budget during the county's budget process.

Provides that funds in the accounts may be spent only in compliance with the budget filed with the county budget officer. Prohibits funds in the accounts from being used to supplement the salary or cover the personal expenses of the county tax assessor-collector.

**Tax-Exempt Benefits for County Employees - S.B. 802**

*by Senator Gallegos*

*House Sponsor: Representative Bailey*

Conforms state statutes to new federal legislation that allows county employees to take advantage of a tax savings for qualified benefit plans.

### **Municipal Payroll Deductions - S.B. 846**

*by Senator Cain*

*House Sponsor: Representative Naishtat*

Currently, municipalities with populations of 10,000 or greater may deduct employee association dues from paychecks of municipal employees.

Requires the governing body of a municipality with a population greater than 50,000 to deduct from a municipal employee's monthly wages an amount requested in writing from the employee in payment of membership dues to a bona fide employees' association, not claiming the right to strike.

### **County Authority in the Development of Infrastructure of Subdivisions - S.B. 873**

*by Senator Lindsay*

*House Sponsor: Representative Betty Brown*

Grants certain counties the authority to:

- adopt subdivision regulations, including lot size and set-back limitations;
- enforce a major thoroughfare plan and establish rights-of-way;
- require possession of a plat compliance certificate before utility hookups; and
- enact other regulations relevant to responsible development.

### **State Audits of Certain Commissions - S.B. 1016**

*by Senator Madla*

*House Sponsor: Representative Junell*

Currently, no single entity is designated to review a regional planning commission's or council of governments' financial reports and audits in their entirety.

Requires the state auditor to review each audit and, if the auditor finds significant issues involving the administration or operation of a commission or its programs, to report its findings and related recommendations to the legislative audit committee, the governor, and the commission.

Authorizes the governor and the legislative audit committee to direct the commission to state corrective action or the state auditor to do an additional audit or investigative work.

### **Parking on a Sidewalk - H.B. 674**

*by Representatives Elkins and Solis*

*Senate Sponsor: Senator Lindsay*

Under current law, vehicles are prohibited from parking on a sidewalk. Some houses are situated such that there is not enough room to park in the driveway without blocking the sidewalk. H.B. 674 authorizes the governing body of a municipality or county to adopt an ordinance or order authorizing a driver to stop, stand, or park a vehicle on the portion of sidewalk that extends across a driveway, if the driveway is not long enough to permit an alternative solution.

### **Legislative Leave Time Account - H.B. 1113**

*by Representative Goolsby  
Senate Sponsor: Senator West*

Current law requires a municipality of 1.5 million or more that has adopted provisions regarding municipal civil service to establish and maintain a legislative leave time account for each of its firefighter and police officer employee organizations. A legislative leave time account decreases the amount of money an employee organization is required to reimburse a municipality when its members take time off from work to conduct legislative business. H.B. 1113 amends the Government Code to require a municipality of one million or more that has not adopted provisions for municipal civil service to establish and maintain a legislative leave time account for each police officer employee organization.

Requires qualifying municipalities to establish and maintain a legislative leave time account for each employee organization.

### **Interlocal Agreements Relating to ETJs - H.B. 1445**

*by Representative Bob Turner  
Senate Sponsor: Senator Wentworth*

Under current law, a subdivision in the extraterritorial jurisdiction (ETJ) of a municipality is subject to both municipal and county development regulations. This may lead to unnecessary expenses and delays for property owners because municipalities and counties have different standards, requirements, and levels of authority over subdivisions.

Provides for an agreement between the county and the municipality to regulate a subdivision in the ETJ of a municipality.

### **Tax Abatement Agreements Regarding Certain Leasehold Interests - H.B. 1448**

*by Representative Oliveira  
Senate Sponsor: Senator Van de Putte*

Authorizes the governing body of an eligible municipality to agree in writing with the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone, but is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific improvements or repairs to the real property.

### **Campaign Material Guidelines for Economic Development Projects - H.B. 1772**

*by Representative Brimer  
Senate Sponsor: Senator Harris*

Under current law, venue projects include arenas, coliseums, stadiums, convention centers, civic center hotels, museums, and any other economic development projects. However, since economic development is not explicitly defined and is potentially subject to broad interpretation, the financing options for such

projects may not be clearly defined. In addition, campaigns for elections for venue projects are not subject to the same requirements as political campaigns, especially for campaign materials.

Includes in the definition of "venue" certain economic development projects in municipalities regarding venue projects, establishes campaign material guidelines for elections related to such projects, and provides penalties for a violation of campaign material guidelines.

Authorizes a municipality to use revenue to acquire, construct, improve, and equip a venue that is a convention center facility or related infrastructure. Authorizes the municipality to pledge the revenue to the payment of bonds or other obligations the municipality issues to finance the convention center facility infrastructure. Provides that these authorizations apply only to a municipality that:

- is located in three counties;
- has a population of less than 120,000; and
- acquires by purchase or lease with a term of not less than 20 years an interest in real property that is required to be maintained as a park.

Requires each bill or other receipt for a hotel charge subject to the tax to contain a statement in a conspicuous location stating: "\_\_\_\_\_ (insert name of taxing municipality or county) requires that an additional tax of \_\_\_\_\_ percent (insert rate of tax) be imposed on each hotel charge for the purpose of financing a venue project. In addition to the tax imposed to finance a venue project, the State of Texas requires that a tax of six percent be imposed on each hotel charge."

Provides that the authority of a municipality to call an election to levy a sales and use tax for any authorized purpose after the sales and use tax is no longer collected is not affected.

### **Maximum Work Week for Police Officers in Big Cities - H.B. 2273**

*by Representative Yvonne Davis  
Senate Sponsor: Senator Cain*

Establishes that a police officer may not be required to work more than 40 hours in a calendar week in a city that is over one million in population and has not adopted the Fire and Police Employee Relations Act, Chapter 174, Local Government Code.

Provides criteria to determine whether a police officer is considered to have been required to work overtime.

### **Enforcement of Deed Restrictions by a Municipality - H.B. 2580**

*by Representative Bosse  
Senate Sponsor: Senator Whitmire*

Many Texas cities rely on zoning to plan and control land use, while others, such as the city of Houston, rely on recorded covenants or deed restrictions. Zoning is listed in the Texas Tort Claims Act as a governmental function, while deed restriction enforcement is not mentioned. A recent appellate court case, *Oldfield v. City of Houston*, held that the enforcement of deed restrictions is a proprietary rather than a

governmental function, hindering the ability of a city to enforce such restrictions. The decision has resulted in a number of difficulties for the city of Houston regarding deed restriction violations and their enforcement.

Adds the enforcement of deed restrictions, and actions filed by a municipality to enforce them, to the list of the governmental functions of a municipality.

### **Local Control of Municipal Employment - H.B. 2677**

*by Representatives Bailey and Edwards  
Senate Sponsor: Senator Whitmire*

Firefighters and police officers of the City of Houston are currently covered by meet and confer legislation, but there are no provisions covering the employment matters of Houston's other municipal employees.

Grants municipal public employee associations for a city of 1.9 million or more the right to meet and confer with a public employer over issues such as wages, hours, working conditions, and all other terms and conditions of employment. It also prohibits strikes and work stoppages by employees who participate in these organizations.

### **Legislative Leave Time Bank for Peace Officers and Firefighters - H.B. 2706**

*by Representative Arthur Reyna  
Senate Sponsor: Senator Madla*

Allows a county with a population greater than one million and less than 1.5 million to establish and maintain a legislative leave time bank for each of its peace officer or firefighter employee organizations. This bill allows employees to use leave time from the bank to communicate with their legislators instead of the employee organization or employee reimbursing the employer for expenses incurred as a result of legislative leave.

### **Emergency Services and Rural Fire Protection Districts - H.B. 2744**

*by Representative Carter, et al.  
Senate Sponsor: Senator Madla*

During the most recent interim, the House Committee on Urban Affairs researched whether emergency services districts (ESD) and rural fire prevention districts (RFPD) are able to provide the highest quality services under current statutory requirements. Testimony indicated that ESDs and RFPDs need greater flexibility in structuring districts to provide fire protection and emergency services.

Enables an RFPD to increase its maximum tax rate through an election process. Authorizes a district to make mutually agreeable boundary changes with other districts and provides for a prorata adjustment of outstanding bonds or other district obligations.



### **Updating Statutes to Reflect Current Population Data - H.B. 2810**

*by Representative Wolens  
Senate Sponsor: Senator Cain*

The purpose of H.B. 2810 is to take into account the new census data contained in the 2000 federal census and to update population brackets as necessary so that the statutes using those brackets continue to apply to the political subdivisions for which the brackets were intended. This bill would change the population limits used in various statutes to reflect 2000 census figures, thus leaving in place those provisions in the statute for which any activity is limited based on population brackets.

### **Texas County Financial Data Advisory Committee - H.B. 2869**

*by Representatives Ramsay and Capelo  
Senate Sponsor: Senator Madla*

Creates the Texas County Financial Data Advisory Committee (committee) for the purpose of studying financial reporting systems of the various counties and making recommendations on ways in which the collection and use of county financial data can be improved. Specific issues to be studied by the committee include uniformity, duplicative reporting requirements, recent reporting standards promulgated by the Government Accounting Standards Board, electronic filing, and costs associated with meeting the reporting requirements.

Authorizes the committee to develop and recommend a consolidated uniform financial reporting procedure that does not impose a greater reporting or cost burden on counties than do current practices.

Authorizes the committee to develop a voluntary uniform chart of accounts for counties, which may be implemented by the comptroller of public accounts for reporting county financial data and other information to the state. However, counties are not mandated to use the uniform chart.

### **Public Improvement Districts for Counties - H.B. 3172**

*by Representatives Thompson and Menendez  
Senate Sponsor: Senator Van de Putte*

Currently, municipalities have the statutory authority to create public improvement districts that make assessments for roads, drainage, and improvements. Many counties are experiencing high growth in unincorporated areas where residents could benefit from public improvement districts.

Gives counties the authority to create these districts in the same manner as do municipalities. Within 30 days of a county's action to approve a public improvement district, a home rule municipality may object to its establishment within its corporate limits or extraterritorial jurisdiction.

**Fort Bend County Levee Improvement District Number 16 - H.B. 3194**

*by Representative Howard*  
*Senate Sponsor: Senator Brown*

Creates the Fort Bend County Levee Improvement District Number 16, which is composed of approximately 2321 acres of property owned by the Texas Department of Transportation.

**Lubbock County Water Control and Improvement District Number 1 - H.B. 3670**

*by Representative Delwin Jones*  
*Senate Sponsor: Senator Duncan*

Currently, the five directors of the Lubbock County Water Control and Improvement District No. 1 are elected at large from within the county for four-year staggered terms.

Requires one director to be elected from each commissioners precinct in Lubbock County and one director to be elected from the county at large. Requires a director from a commissioners precinct to be a resident of that precinct. Requires a director at large to be a resident of Lubbock County.

**Office of Constable - H.J.R. 2**

*by Representative Chisum, et al.*  
*Senate Sponsor: Senator Madla*

Under current law, a commissioners court of a county is not required to fill a vacancy in the office of constable. However, according to Attorney General Opinion JC-0140, it may be possible for a county to be held liable for not filling the office.

Requires the submission to the voters of a constitutional amendment authorizing the commissioners court of a county to declare the office of constable in a precinct to be dormant if unfilled for seven years.

Provides a procedure by which the commissioners court may reinstate the office of constable, if petitioned to do so.

**Agricultural Policy for the State of Texas - S.B. 331**

*by Senator Haywood, et al.*

*House Sponsor: Representative Swinford*

Sets out a comprehensive agriculture policy, focusing on 16 key areas essential to securing the industry's future. This bill requires Texas agricultural policy to address:

- water availability;
- transportation;
- state regulatory issues;
- state tax policy;
- availability of capital for agricultural producers in Texas;
- promotion of Texas agricultural products through marketing;
- eradication of injurious pests and diseases and noxious plants;
- research and education efforts;
- efficient utilization of soil and water resources;
- rural economic and infrastructure development;
- protection of property rights and the right to farm;
- preservation of farmland, rangeland, timberland, and other land devoted to agricultural purposes;
- food safety;
- participation in the formulation of federal programs and policies;
- promotion of rural fire service; and
- promotion of value-added agricultural enterprises.

**"Go Texan" Agriculture Partner Program - S.B. 571**

*by Senators Lucio and Bensen*

*House Sponsor: Representative Flores*

Expands the "Go Texan" Partner Program (GOTEPP), of the Texas Department of Agriculture (department). GOTEPP is designed to promote and market Texas agricultural goods, including processed and value-added products. Two items are added to the definition of Texas agricultural products: apiculture (bee keeping) and silviculture (forestry).

Authorizes the department to sell or contract for the sale of "Go Texan" promotional items and to use its Internet website to advertise and sell those items.

Authorizes the department to revoke or cancel a certificate of registration or license issued under a program if a participant fails to comply with department rules.

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Requires the department to deposit money received from the sale of promotional items to the credit of the GOTEPP account in the general revenue fund.

Requires the Department of Transportation to issue specially designed license plates for farm vehicles, passenger vehicles, and commercial motor vehicles promoting Texas agricultural products.

**Agricultural and Economic Development Programs for Rural Texas - S.B. 716**

*by Senators Duncan and Bernsen*  
*House Sponsor: Representative Counts*

Enhances the ability of the Texas Agricultural Finance Authority (TAFE) to provide financial assistance for the development and marketing of Texas agricultural products. It is intended to reach non-agricultural businesses that provide economic benefit to rural areas as well.

Makes \$5 million available at a below-market interest rate and allows TAFE to use the farm credit system headquartered in Texas.

Allows the transfer of state depository interest earnings from the young farmer loan guarantee account to the Texas agriculture fund project account and allows TAFE to set up an interest rate reduction program.

Authorizes TAFE's use of revenue bond proceeds for rural economic development and provides loan guarantees to lenders for purchase of farm and ranch real estate.

**Agricultural Economic Development - S.B. 746**

*by Senator Staples*  
*House Sponsors: Representative Hawley, et al.*

Requires the Texas Department of Agriculture to maintain an economic development program for rural areas in Texas. Some of the program's objectives for rural Texas are to:

- promote economic growth;
- identify and develop potential business opportunities;
- encourage communication between organizations, industries, and regions to improve economic and community development services;
- coordinate meetings between public and private entities to distribute information; and
- work cooperatively through a memorandum of agreement with the Texas Department of Economic Development, the Texas Agricultural Extension Service, and other entities that may be able to further the program.

**New Agricultural Lien Under Texas Law - S.B. 779**

*by Senator Duncan*

----- **NATURAL RESOURCES/Agriculture**  
**77<sup>th</sup> Texas Legislature**

*House Sponsor: Representative Walker*

Currently, Texas law does not provide contracted growers with a secured interest in the matter of bankruptcy cases.

Creates an agricultural lien on the proceeds of grown crops produced on contract with a buyer.

**Department of Agriculture - S.B. 938**

*by Senator Armbrister*

*House Sponsor: Representative Cook*

Currently, there are some provisions of law relating to the Department of Agriculture (department) that are outdated and inconsistent with current practice. Among these are provisions regarding the department's organic, seed, and weights and measures regulatory programs, general authority, and the octane testing program.

Simplifies the department's responsibilities to collect and publish statistics related to developing the agricultural resources of Texas.

Expands the department's discretion in ability to sanction licensees.

Gives the commissioner of agriculture, rather than the Comptroller of Public Accounts, rulemaking authority in certain matters relating to the regulation of the sale of motor fuels containing ethanol and methanol.

**Moving Rural Affairs - H.B. 819**

*by Representative Counts, et al.*

*Senate Sponsor: Senator Duncan*

Transfers the Office of Rural Affairs from the Texas Department of Economic Development to the Department of Agriculture to make it more effective in helping rural communities pursue economic development.

**Distribution of Surplus Agricultural Products - H.B. 1086**

*by Representative Solis, et al.*

*Senate Sponsor: Senator Duncan*

Allows the Texas Department of Agriculture to create a program awarding grants to nonprofit organizations to collect and distribute agricultural surplus to food banks and other charitable organizations. Eligible nonprofit organizations must have at least five years experience coordinating a statewide network of food banks and present the department with a detailed proposal of projected costs, goals, and plan for evaluating the proposal.

**Agricultural Development Act - H.B. 1880**

*by Representatives Swinford and Homer*

----- **NATURAL RESOURCES/Agriculture**  
**77<sup>th</sup> Texas Legislature**

*Senate Sponsor: Senator Duncan*

Currently, there is no statute allowing for creation of a district for the purpose of processing an agricultural commodity. Such districts would allow producers to compete with corporations by giving them a mechanism to acquire capital for processing agricultural products locally and by exempting these districts from property taxes. H.B. 1880, titled the Agricultural Development Act, authorizes agricultural producers to petition a county commissioners court to create a Texas Agricultural Development District (district) for the purpose of providing incentives for the development of agricultural operations and facilities.

Provides for the creation of a district as a conservation and reclamation district under Section 59, Article XVI, Texas Constitution, to conserve and develop the natural resources of this state, including agricultural resources.

Sets out provisions regarding the powers and duties of a district and authorizes a district to exercise the power of eminent domain within its boundaries for the purpose of acquiring an agricultural facility.

Authorizes a district to use tax increment financing and to impose assessments.

**Regulating the Purchase and Sale of Timber - H.B. 2246**

*by Representatives Ellis and McReynolds*

*Senate Sponsor: Senator Staples*

Theft of timber is a difficult crime to prosecute and H.B. 2246 facilitates prosecution by establishing a paper trail requiring landowners and sellers to provide a bill of sale each time timber changes ownership.

Requires a seller to provide and a purchaser to accept a bill of sale for the sale of trees, timber, logs, pulpwood, or in-woods chips.

Requires a bill of sale to include information identifying the owner, seller, purchaser, and land involved.

Requires the purchaser to retain the bill of sale for at least two years.

Requires all designated delivery stations, such as a wood yard, transfer yard, mill site, or storage yard, to post written notice related to timber theft and fraud.

Clarifies that this bill does not apply to finished wood products; logs or pulpwood from a wood yard, transfer yard, mill site, or storage yard; trees from a nursery; or trees logs or pulpwood with a commercial value of less than \$250.

**Foot and Mouth Disease in Livestock - H.B. 3673**

*by Representatives Swinford and Miller*

*Senate Sponsor: Senator Bivins*

Foot and mouth disease is a highly contagious disease and a threat to livestock production. This year, sixty countries have endured outbreaks and widespread destruction of herds.

Prohibits feeding swine restricted garbage, that is, any refuse that contains any part of an animal carcass or wastes from any activity involving animal carcasses, although swine owned by the Texas Department of Criminal Justice may be fed restricted garbage that is treated in accordance with federal requirements.

Authorizes an individual, after registering and securing a permit from the Texas Animal Health Commission, to feed swine unrestricted garbage, which contains only vegetable, fruit, dairy, or baked goods refuse matter and waste.

Authorizes the commission to adopt rules for revoking a permit and proper handling and treatment of unrestricted garbage.

Empowers the commission or the director to issue an emergency administrative order to suspend, for up to two months, a registration or quarantine and close a garbage feeding facility.

Authorizes the commission or commissioner to prohibit feeding swine unrestricted garbage in part or all of the state if it presents a danger to livestock or public health.

Requires the commission to attempt to inform individuals feeding garbage to swine and garbage feeding facilities of the requirement of the law and to assist them to identify sources of unrestricted garbage.

## Texas Air Emissions Reduction Plan - S.B. 5

*by Senators Brown and Jackson  
House Sponsor: Representative Wolens*

Under the federal Clean Air Act, the United States Environmental Protection Agency (EPA) is authorized to establish maximum allowable concentrations of certain pollutants that pose a threat to human health and the environment. EPA may designate areas as nonattainment where pollutants exceed these standards and all non-complying states face severe sanctions if they do not meet these standards by 2007. Texas has four nonattainment and three near-nonattainment areas, comprising 37 counties. The Texas Natural Resource Conservation Commission (TNRCC) has submitted a state implementation plan (SIP) to EPA to regulate emissions in nonattainment areas.

Establishes the Texas emissions reduction plan (plan), an incentive plan targeting areas of potential emissions reductions that TNRCC cannot regulate.

Requires TNRCC, the Public Utility Commission of Texas (PUC), the comptroller of public accounts (comptroller), and the new Texas Council on Environmental Technology (council) to establish and administer the plan.

Creates the Texas Emissions Reduction Plan Advisory Board (consisting of 15 appointed members) to review the programs under the plan and make recommendations to TNRCC regarding revenue sources or financial incentives, or any legislative, regulatory, or budgetary changes needed.

Establishes the Texas emissions reduction plan fund, an account in the state treasury administered by the comptroller, with provisions relating to the fees, surcharges, and payments that comprise the fund.

States that equipment purchased before September 1, 2001, is not eligible for a grant or other funding under the plan.

States that provisions relating to the plan expire August 31, 2008.

### ***Diesel emissions reduction incentive program:***

Requires TNRCC to:

- create and run a program providing grants for eligible projects to offset the incremental cost of emissions-reducing projects for high-emitting diesel sources in nonattainment or affected counties; and
- develop a purchase or lease incentive program for new on-road diesels, and adopt rules necessary to both implement the program and reimburse eligible persons purchasing or leasing a heavy-duty motor vehicle on a prorated basis, over an eight-year lease term.



***Motor vehicle purchase or lease incentive program:***

Requires TNRCC and the comptroller to develop and implement a purchase or lease incentive program for new light-duty motor vehicles.

***New Technology Research and Development Program:***

Establishes the Texas Council on Environmental Technology (mentioned above) to identify, evaluate, and deploy new emissions-reducing technologies that show commercial promise to assist TNRCC and EPA in the process of ensuring credit for new and innovative technological advancements.

***Energy efficiency grant program:***

Requires the PUC to:

- develop a program and provide grants or other funding to retire materials and appliances contributing to peak energy demand in Texas; and
- seek to ensure the reduction of energy demand, peak loads, and associated emissions of air contaminants.

Requires electric utilities, electric cooperatives, and municipal utilities to administer monies allocated by the PUC, and any emissions reductions achieved under this program may not be used to satisfy similar obligations under other state or federal laws or programs.

Requires the PUC to submit a report annually to TNRCC quantifying the reductions, by county, of energy demand, peak loads, and air emissions achieved under this program.

Adopts the energy efficiency chapter of the International Residential Code for new single-family residential construction in Texas and adopts the International Energy Conservation Code to achieve energy conservation in all other new residential, commercial, and industrial construction.

Authorizes municipalities to adopt local amendments to these codes and to administer and enforce them.

Requires affected political subdivisions and counties to implement energy efficiency measures with regard to the financing of existing buildings to reduce electricity consumption of existing buildings.

Requires the Department of Public Safety (DPS) to issue a specially designed "low-emissions vehicle" insignia at the time of registration or re-registration of vehicles eligible for an incentive under the plan and allow vehicles with an insignia to travel in preferential car pool or high occupancy vehicle lanes, regardless of the number of occupants in the motor vehicle.

Requires TNRCC to take appropriate action, using information reported under this bill, for EPA to credit emissions reductions achieved by the plan to the appropriate emissions reduction objectives in the SIP.

Requires TNRCC to send EPA a revision of the SIP, deleting the requirements of the construction shift and the early purchase of Tier 2 and Tier 3 equipment and adding the provisions of this bill.

Funding for the Texas emissions reduction plan comes from various fees and surcharges that expire in 2008, including the following:

- one-percent surcharge imposed by each county on the retail sale, lease, or rental price of new or used construction equipment;
- two and one-half-percent surcharge on the sale or lease price of every on-road diesel motor vehicle over 14,000 pounds that is of a model year 1996 or earlier;
- 10-percent surcharge on the total fees due for the registration of a truck-tractor or commercial motor vehicle;
- \$225 fee for inspection of vehicles brought into the state for registration in Texas (inspection station may retain \$5 administrative costs); and
- \$10 additional inspection fee for every motor vehicle required to be inspected under the motor vehicle purchase or lease incentive program.

### **Performance Measures for some of TNRCC's Regulatory Programs - S.B. 356**

*by Senator Lucio*

*House Sponsor: Representative Hamric*

Requires the TNRCC to work with the Legislative Budget Board in creating performance measures to assess the improvements in environmental quality achieved by innovative regulatory programs implemented by TNRCC.

### **Permits Required for Concrete Batch Plants - S.B. 1390**

*by Senator Brown*

*House Sponsor: Representative Kuempel*

Currently there are several concrete batch plants operating in Texas without the necessary operating permits.

Directs the Texas Natural Resource Conservation Commission (TNRCC) to impose penalties and immediately shut down operations at a facility lacking the required permits.

## More Flex and Muscle to Vehicle Emissions Testing - H.B. 2134

*by Representative Chisum*  
*Senate Sponsor: Senator Brown*

Federal law requires certain air quality standards and imposes strict deadlines and penalties for noncompliance. This bill provides the Texas Natural Resource Conservation Commission (TNRCC) and the Texas Department of Public Safety (DPS) with expanded authority and flexibility relating to vehicle emissions testing.

Amends the Health and Safety Code and the Transportation Code through creation of the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.

Authorizes TNRCC, in consultation with DPS, to contract with private entities to provide testing equipment, training, and related services to vehicle inspection stations.

Requires the program to offer monetary assistance for the following:

- repairs directly related to bringing certain vehicles that have failed a required emissions test into compliance;
- replacement vehicle or replacement assistance for a vehicle that has failed a required emissions test and for which the cost of repairs needed for compliance is uneconomical; and
- installation of retrofit equipment on vehicles having failed a required emissions test.

Sets out provisions for vehicle eligibility and TNRCC guidelines for participating counties implementing the low-income vehicle assistance program.

Sets out provisions for TNRCC to process emissions reduction credits achieved under this bill.

Sets out provisions for retirement of vehicles and the limited circumstances in which they may be brought into compliance and resold.

Provides that a county voluntarily implementing a motor vehicle emissions inspection and maintenance program may be designated as a "Clean Air County" and given preference in any federal or state clean air grant program.

## Notice and Hearing Requirement Exemptions Under the Texas Clean Air Act - H.B. 2518

*by Representative Kuempel*  
*Senate Sponsor: Senator Haywood*

Provides that certain public notice and hearing requirements under the Texas Clean Air Act do not apply to an applicant for a permit amendment for construction or modification of a facility that may emit air contaminants if the total emissions increase from all facilities authorized under the amended permit will

meet the de minimis criteria defined TNRCC rule and will not change in character. Also exempts facilities that handle certain agricultural products if the total emissions increase from all facilities authorized under the permit amendment is not significant and will not change in character.

Requires TNRCC, when considering a permit amendment, to consider any adjudicated decision or compliance proceeding within the five years before the date on which the application was filed addressing the applicant's past performance and compliance with state and federal laws governing air contaminants or with the terms of any TNRCC permit or order.

Requires TNRCC, upon receiving an application for an amendment to a construction permit for a facility, to send notice of the application to the state senator and representative representing the area where the facility is or will be located.

Requires the person planning the construction or modification of a facility to obtain a permit amendment from TNRCC before work is begun. TNRCC must grant a permit amendment within a reasonable time if TNRCC makes certain findings. TNRCC may not grant the amendment if the facility emissions will not meet certain standards, but must grant such amendment if the person alters the plans and specifications to meet TNRCC objections.

Provides that, except as otherwise provided by this Act, certain public notice and requirements apply to an applicant for a permit amendment.

**Texas Parks and Wildlife Department (Sunset) - S.B. 305**

*by Senators Harris and Zaffirini*

*House Sponsors: Representative Bosse, et al.*

Implements the Sunset Advisory recommendations related to the board, outreach and education, and gifts for the Texas Parks and Wildlife TPWD (TPWD) and continues the agency until September 1, 2013.

Exempts TPWD and its employees from state laws requiring reporting of information relating to persons detained during traffic and pedestrian stops.

Provides that TPWD may not contract regarding a book, magazine, photograph, poster, or bulletin unless the contract contains certain provisions. TPWC must adopt rules regarding the types of advertising appropriate for viewing by individuals younger than 17 years of age. Provides that for a contract which does not contain these provisions, TPWD, not later than March 1, 2002, must negotiate a modification to the contract to contain such provisions.

Prohibits advertisements promoting the sale of tobacco in a TPWD publication.

Requires TPWD to calculate the costs of each construction project as it is completed and sets out what the TPWD must consider in calculating these costs. On request, the State Council on Competitive Government must provide technical assistance to the TPWD. Using the costs, TPWD must evaluate the costs and benefits of contracting with private entities or individuals to manage construction-related tasks or projects.

Modifies provisions regarding the use of the game, fish, and water safety account to provide the money may be used to the extent allowed by federal law and money from hunting and fishing licenses may be used only to manage fish and wildlife resources in Texas.

Requires TPWD, in administering the state aquatic vegetation management plan, to assist local governments regarding aquatic vegetation management and control.

Creates the land and water resources conservation plan (plan), which must include criteria for determining how to meet the state's conservation and recreation needs.

Requires TPWD, in setting priorities for the provision of money to a landowner for technical guidance, to consider the inventory and priorities developed under the plan.

Provides that information collected during technical guidance to private landowners may not be disclosed to any person, including a state or federal agency.

Requires TPWC to specify standards for licenses issued through the use of automated equipment and a point-of-sale system.

Prohibits TPWC from classifying a historical site as a historical park.

Clarifies provisions requiring TPWD to formulate plans for the preservation and development of historical sites. Requires TPWD, before formulating a plan for a specific site, to conduct an archeological survey. In formulating plans, TPWD must consider the results from the archeological survey and the resources necessary to manage a site. It must also meet with and consider comments by the Texas Historical Commission (THC).

Requires TPWD and THC to form a joint panel to establish criteria for determining whether a site is of statewide significance and to promote the continuity and development of a historic sites program.

Requires TPWD, if practicable, to apportion at least 15 percent of funds it receives from the proceeds of the sale bonds issued under Section 50-f, Article III, of the Texas Constitution to specific park maintenance or improvement projects for which matching private or local money has been made available to TPWD. This takes effect only if the constitutional amendment proposed by H.J.R. No. 97, enacted by the 77<sup>th</sup> Legislature, is approved by the voters.

Authorizes TPWC to create of a program for the continuing identification and classification of participants in the vessel and outboard motor industries doing business in this state and to set fees to administer this provision. Requires TPWD to use information from the program to appoint authorized agents to act as the TPWD's agent for issuing certain certificates and collecting certain fees and taxes related to boats.

Expands existing notice provisions requiring that when a person desires to kill protected wildlife causing serious damage to property or threatening public safety to provide that the person give written notice to the mayor of the municipality in which the damage or threat occurs.

Changes provisions regarding certificates of location for oyster beds. Raises the maximum amount of acres of land covered by water under such certificates from 100 to 300 and provides that a person who does not own, lease, or control more than 300 acres of land may act as an agent for persons who, in the aggregate, own, lease, or control more than 300 acres. Sets forth fee provisions Sets a term of 15 years for a rental lease for a location and sets out renewal procedures. Requires TPWC to determine procedures for reissuance of a lease when the lease is sold or otherwise transferred and sets out what these procedures must include. Strikes provisions allowing holder of oyster permit to mark boundaries with stakes or fences.

Requires TPWD to comprehensively study shrimp resources and the shrimp industry. The status of the study must be reported to TPWC, the presiding officer of each house of the legislature, and the committees of each house having primary oversight jurisdiction over TPWD. Requires TPWC to base shrimping policies and rules on the results of the most recent study. TPWD must complete this study not later than September 1, 2002.

Authorizes TPWD, in cooperation with the Texas Department of Transportation and local governments, to use obsolete bridges, tunnels, and causeways to create artificial reefs.

### **Regulation of Texas Oyster Industry - S.B. 858**

*by Senator Bernsen*

*House Sponsor: Representative Zbranek*

Requires the comptroller to compare payment made by a certified shellfish dealer for harvesting, handling, purchasing, or processing oysters to payment collected by the Texas Parks and Wildlife Department for oyster barrel purchases. A discrepancy reflecting underreporting of harvested oysters results in a prima facie violation of the law.

Provides for distributing information to food handlers and restaurant personnel about safe handling of oysters to promote the oyster industry.

**Information Link for Environmental and Natural Resource Agencies - S.B. 1146**

*by Senator Shapleigh*

*House Sponsor: Representative Chisum*

The 76<sup>th</sup> Legislature authorized the Electronic Government Task Force to create the TexasOnline Internet portal to provide a single point of access to electronic government services in Texas for citizens and businesses. Currently, the portal has information links to business, education, and health sites, but no single, coordinated information link to issues related to environmental protection or quality or to the development, conservation, or preservation of natural resources.

Requires the creation of an information link for state agencies with jurisdiction over environmental and natural resource matters.

**Bat Protection - S.B. 1194**

*by Senator Wentworth*

*House Sponsors: Representative Kuempel, et al.*

Prohibits hunting, offering or selling, purchasing, or possessing a bat or a part of a bat, dead or alive.

Allows bats that are inside or on a building occupied by people to be removed or hunted.

Allows animal control officers, peace officers, health officials, and persons licensed in pest control to capture injured or diseased bats, and transport bats for laboratory testing for rabies.

**Railroad Commission Monitors NORM Waste - S.B. 1338**

*by Senator Ogden*

*House Sponsor: Representative West*

The Railroad Commission of Texas (commission) studied the effectiveness of state rules to control oil and gas and equipment contaminating or contaminated by naturally occurring radioactive materials (NORM).

Authorizes the commission to require owners or operators of equipment to determine whether it contains or is contaminated with NORM waste, and to identify any such equipment.

**Clean Up That Brownfield - H.B. 1027**

*by Representatives Cook and Farrar*

*Senate Sponsor: Senator Brown*

Liability for environmental cleanup of contaminated property, called brownfields, has limited the development of these sites. This bill removes some barriers and provides incentives.

Adds cleanup to costs of a development corporation project.

Authorizes the Texas Department of Economic Development and the Texas Natural Resource Conservation Commission to encourage cleanup by a development corporation by allowing sales taxes to fund a project.

Requires state agencies to give preference to goods meeting state specifications that were produced on a former brownfield that has received a health and safety certification.

Deducts employment occurring on a former brownfield from the calculation of the unemployment rate for the purpose of designating an area an enterprise zone created after September 1, 2001.

Deletes the requirement that the property value must be reduced because of the contamination to get a tax abatement on a brownfield, for applications made after September 1, 2001.

### **State Soil and Water Conservation Board (Sunset) - H.B. 2310**

*by Representative Chisum, et al.*  
*Senate Sponsor: Senator Zaffirini*

The State Soil and Water Conservation Board (state board) works with agricultural landowners to protect the state's soil and water resources through voluntary and nonregulatory programs. It defines the state's management plan for abating nonpoint source pollution. It also provides technical assistance and financial incentives to farmers who establish water quality management plans, for example. The board is subject to the Texas Sunset Act and will be abolished on September 1, 2001, unless continued by the legislature. The Sunset Advisory Commission recommended continuation of the agency until September 1, 2013, along with several statutory modifications regarding nonpoint source pollution abatement, outreach to the agricultural community, and local soil and water conservation district elections.

Incorporates standard Sunset Advisory Commission language regarding conflict of interest, training, board requirements, and complaints.

#### ***Nonpoint Source Pollution***

Requires the state board, as the lead agency for abating agricultural and silvicultural nonpoint source pollution, to do the following:

- set priorities among voluntary efforts to reduce nonpoint source pollution;
- assist landowners to prevent regulatory enforcement actions related to nonpoint source pollution; and
- provide the agricultural community with information on the state board's and the Texas Natural Resource Conservation Commission's (TNRCC) jurisdiction with regard to nonpoint source pollution.

Clarifies that a permit is not required as a prerequisite for the land application of animal waste for beneficial use at agronomic rates unless the landowner possesses a facility permitted by TNRCC, and that this provision does not affect TNRCC's authority in this area.



Authorizes the state board to create and certify a water quality management plan for land on which animal waste is applied for agricultural purposes if the landowner so requests.

Clarifies that nothing in the bill impedes the authority of the Texas Department of Agriculture from representing the state before any federal agency on matters concerning the state's participation in the Federal Insecticide, Fungicide and Rodenticide Act.

Requires the state board to notify TNRCC within 10 days of the board's decertification of a water quality management plan for an animal feeding operation.

Requires the state board to update its identification of priority areas for the control of nonpoint source pollution at least every four years.

Requires the state board to consider the following with regard to these identified priority areas:

- bodies of water the TNRCC has identified as impaired;
- threatened areas where action is necessary to prevent nonpoint source pollution; and
- other areas of concern such as groundwater.

#### ***Records; Elections***

Requires the state board to maintain records for referrals of agricultural or silvicultural operations to TNRCC for enforcement.

Revises procedures for local soil and water conservation district elections.

Requires the board to publish and (rather than or) post notice within the appropriate area.

#### ***Financial Incentives***

Requires the state board to give greater weight among the landowners in areas identified as priority areas in allocation of cost-share assistance funds to for the control of nonpoint source pollution.

Requires the state board to keep records of financial incentive disbursements to owners of land in these priority areas.

### **Study of East Texas Oil Field - H.B. 2436**

*by Representative Merritt*  
*Senate Sponsor: Senator Brown*

The East Texas Oil Field (field) is not only the largest oil field in Texas, it is also the most productive in the lower 48 states. The field covers several counties and has produced more than 5.3 billion barrels of oil since its discovery in 1930. Production is declining rapidly, and if new approaches to capturing oil from the field are not implemented, effective production of oil could end by 2006. H.B. 2436 requires the Bureau of Economic Geology (bureau) of the University of Texas at Austin to conduct a study of the East Texas Oil Field for the purpose of making recommendations regarding strategies to maximize the ultimate recovery of oil and gas from the field.

**Continued Cleanup of Under- and Aboveground Storage Tanks - H.B. 2687**

*by Representatives Junell and Flores*

*Senate Sponsor: Senator Duncan*

Under current law, a petroleum product delivery fee is assessed on bulk loads of motor fuel and revenue from this fee is used to fund the petroleum storage tank remediation account (account) and is administered by the Texas Natural Resource Conservation Commission (TNRCC). The account serves as a state-sponsored insurance fund to reimburse tank owners in the effort to clean up contaminated and leaking tanks. In 1995, the fee was doubled to pay obligations from the general revenue fund issued when the account was insolvent. In 1999, the 76th Legislature passed legislation limiting the administrative expenses of the account, decreased the petroleum product delivery fee on bulk loads of motor fuel, and provided for the termination of the account by September 1, 2003. There are concerns that the account will no longer accept new claims for cleanup projects, and further concerns that the remediation projects eligible for reimbursement for corrective action expenses may not be finished by the 2003 deadline.

Increases incrementally the amount of gross receipts of the petroleum storage tank remediation account incrementally through 2007 that TNRCC is authorized to spend on expenses associated with the administration of the account and the groundwater protection cleanup program.

Requires a person performing corrective action, if the release was reported to TNRCC on or before December 22, 1998, to meet certain deadlines; sets out provisions regarding the failure to comply with such deadlines; and prohibits the use of account funds to reimburse an owner or operator who misses a deadline.

Decreases and sets out incremental reductions of fees imposed on the withdrawal of a petroleum product from a bulk facility.

Modifies the definition of "owner" to include a person who owns an aboveground storage tank.

**Texas Natural Resource Conservation Commission (Sunset) - H.B. 2912**

*by Representative Bosse, et al.*

*Senate Sponsor: Senator Harris*

The Texas Natural Resource Conservation Commission (TNRCC) implements state and federal environmental regulatory laws for air pollution, water and wastewater operations, and the treatment and disposal of hazardous and low-level radioactive waste. TNRCC is subject to the Texas Sunset Act and will be abolished September 1, 2001, unless continued by the legislature. H.B. 2912 continues TNRCC for 12 years, until September 1, 2013. In addition, the bill renames the agency as the Texas Commission on Environmental Quality, effective January 1, 2004. In its review of TNRCC, the Sunset Advisory Commission found that the traditional, prescriptive regulatory approach does not adequately resolve persistent environmental problems. The review also indicated TNRCC lacks tools needed to better support its environmental protection mission, and that changes are needed to ensure greater public access to the agency's decision making process. The commission's recommendations would give regulated entities and all affected groups a greater role in protecting the environment.

***Administration and Policy***

Sets forth standard Sunset Commission language related to the board and complaint procedure.

Authorizes TNRCC public interest counsel to recommend needed legislative and regulatory changes.

Authorizes counsel to obtain outside technical support when necessary to carry out its functions.

Requires TNRCC to develop and implement policies to protect the public from cumulative risks in areas of concentrated operations. Requires TNRCC to give priority to monitoring and enforcement in areas where regulated facilities are concentrated.

Requires TNRCC to adopt a comprehensive program providing regulatory incentives for the use of environmental management systems by regulated entities, state agencies, and local governments. Defines “environmental management system” as a documented management system addressing applicable environmental regulatory requirements, and details an incentive approach.

Clarifies that TNRCC policy with regard to water quality is to maintain the public health and enjoyment, the propagation and protection of wildlife, and the operation of existing industries, taking into consideration the economic development of the state.

Clarifies that TNRCC may initiate an enforcement action based on information received from a private individual if that information is of sufficient value and credibility. Allows the executive director to evaluate such information using criteria adopted by TNRCC for this purpose.

***Fees and Payment***

Allows for transfer of fee revenues between programs, consolidates the agency’s water resource management account, and clearly specifies that TNRCC may apply these monies to the cost of protecting water resources in the state.

Restructures the annual wastewater inspection fee as a water quality fee for wastewater discharge permit holders and water right holders, and allows TNRCC to consider equity among persons required to pay fees as a factor in determining fee amount. Emphasizes that TNRCC may use fees to cover costs associated with protecting the water resources of the state.

Authorizes TNRCC to issue an order for adjustment to a consumer’s bill if TNRCC executive director finds that the public utility in question has failed to make proper adjustments at the conclusion of the complaint process.

***Performance-based Regulation***

Establishes a performance-based regulatory structure programs within TNRCC’s jurisdiction relating to the Solid Waste Disposal Act, the Clean Air Act, water quality control, water injection wells, and radioactive materials.

Provides that “innovative programs” developed by TNRCC within these areas provide incentives in return for benefits to the environment that would exceed benefits resulting from compliance with applicable legal requirements. Requires designation of a single point of contact within TNRCC for coordination of all innovative programs.

Requires TNRCC to develop a uniform standard for evaluating compliance history of regulated entities. Includes classification standards for evaluation of compliance history and methods of assessing compliance history when such information is not complete. Requires consideration of compliance history in granting permits or permit amendments for activities under agency jurisdiction.

#### ***Regulation of Air Pollution***

Requires TNRCC to establish a program for evaluation and regulation of “emissions events,” or unauthorized emissions of air contaminants from an emissions point.

Requires central tracking, electronic reporting and development of a centralized database for emissions events, accessible to the public. Requires establishment of criteria for determining when emissions events are excessive and development and implementation of a corrective action plan.

Requires any unpermitted (“grandfathered”) facilities that emit air emissions to apply for permits by September 2003, for facilities in the eastern part of Texas, and by September 2004, for those in the western portion of the state. Requires such facilities to obtain permits by 2006 for east Texas and by 2007 for west Texas. Defines east Texas as all counties east of Interstate Highway 35 plus Bexar, Bosque, Coryell, Hood, Parker, Somervell, and Wise counties, and west Texas as all other counties.

Specifies a 50-percent reduction in emissions from pipeline facilities in east Texas and a 20-percent reduction from these facilities in west Texas. Details permit requirements for existing facilities, small business stationary sources, electric generating facilities, and pipeline facilities.

#### ***New and Transferred Programs; Accreditation and Certification***

Requires that environmental data and analysis be accepted only from laboratories accredited by TNRCC according to the National Environmental Laboratory Accreditation Program, the federal government, or in-house facilities periodically inspected by the agency. Authorizes TNRCC discretion in this matter in emergencies.

Requires TNRCC to adopt rules for the administration of the voluntary environmental testing laboratory accreditation program consistent with national standards.

Establishes the Texas Environmental Health Institute (institute) to examine ways to identify, treat, manage, prevent, and reduce health problems associated with environmental contamination. Requires TNRCC to enter into an agreement with the Texas Department of Health (TDH) to establish the institute. Requires the institute to conduct a pilot project at the RSR West Dallas site and Cadillac Heights site.

Requires TNRCC to establish a program to certify water treatment specialists.

Transfers the safe drinking water laboratory certification program and environmental testing laboratory testing certification program from TDH to TNRCC.

Provides for an interim study on the office of natural resource public interest counsel to be conducted jointly by representatives of both legislative houses.

#### ***Safeguards and Remediation***

----- **NATURAL RESOURCES/General**  
**77<sup>th</sup> Texas Legislature**

Extends the petroleum storage tank program (Chapter 26, Texas Water Code), until September 1, 2006, allowing continued remediation and reimbursement for removal of leaking tanks. Requires secondary containment systems for underground storage tanks over the Edwards and Trinity aquifers in Bexar and Comal counties.

Requires adherence to TNRCC notice and hearing requirements for applications to reopen a closed or inactive solid waste landfill.

Authorizes TNRCC to allow construction or operation of a new concentrated animal feeding operation, or an increase in the number of animals at an existing operation, only by a new or amended individual permit.

Requires waste disposal from such an operation to be regulated and specifies TNRCC approval in certain instances.

Requires a permit for the land application of Class B sludge, defined as sewage sludge meeting certain legal pathogen reduction requirements. Defines "land application units" as areas where wastes are applied to soil surfaces for agricultural purposes, or for treatment and disposal. Provides that notice and hearing requirements apply to applications for Class B sludge processing permits and that permits may not exceed a six-year term.

Authorizes TNRCC to take immediate remedial or removal action to protect human health and the environment, if it determines there is a release, or threat of release of a hazardous substance at a scrap tire site.

Requires TNRCC to ensure that a solid waste processing facility is regulated as a solid waste facility under the Solid Waste Disposal Act and not allowed to operate unregulated, as a recycling facility.

Requires an applicant for a permit for a new municipal solid waste facility hold a public meeting in the county where the proposed facility will be located and publish notice according to TNRCC requirements.

Extends prohibition of storing hazardous waste in solution-mined salt dome cavern to include sulfur mines.

Authorizes a veterinarian to dispose of animal remains by burial or burning if the activity occurs on the veterinarian's property, he or she does not charge for the burning or burial, and occurs in a county with a population less than 10,000.

**TNRCC Encourages Environmental Management Systems - H.B. 2997**

*by Representatives Callegari and Chisum*  
*Senate Sponsor: Senator Lucio*

Texas has not developed a comprehensive program for the use of environmental management systems (system) that assist regulated businesses in reaching, maintaining, and even exceeding compliance with environmental regulations.

Requires TNRCC to adopt a comprehensive program providing regulatory incentives to encourage the use of environmental management systems by regulated entities, state agencies, and local governments, such as on-site technical assistance and accelerated access to information.

Requires TNRCC to integrate the use of environmental management systems into its regulatory programs, develop model systems for small businesses and local governments, and establish environmental performance indicators to measure a program's performance.

Requires TNRCC to consider an entity's implementation of a system as evidence of its compliance history with regard to certain permitting procedures.

### **Standardize Those Licenses - H.B. 3111**

*by Representative Zbranek*  
*Senate Sponsor: Senator Bernsen*

The TNRCC operates 12 licensing and registration programs transferred to it from predecessor agencies.

Requires TNRCC to standardize administrative requirements of occupational licenses and registration for persons and entities owning, installing, or operating waste water treatment plants, petroleum storage tanks, underground storage tanks, landscape irrigation or installation, water supply systems, solid waste disposal systems, and on-site sewage disposal systems.

### **Creating the Clean Coal Technology Council - H.B. 3483**

*by Representative Ramsay*  
*Senate Sponsor: Senator Sibley*

Creates the Clean Coal Technology Council (council) to coordinate actions of state agencies for the study and development of clean coal technology and pilot projects in Texas.

## State Water Resources – Management and Conservation - S.B. 2

*by Senator Brown*

*House Sponsor: Representative Ron Lewis*

In 1997, the 75<sup>th</sup> Legislature passed S.B. 1, a statewide management plan for the development and conservation of water resources in Texas. S.B. 2 addresses the implementation and financing of the water strategies and recommendations identified in the last four years by the state's 16 regional water planning groups. This bill is made up of several articles outlined below.

### *Texas Water Advisory Council*

Creates the 13-member Texas Water Advisory Council (council) to heighten the level of dialogue on significant water policy issues and, in an advisory role only, provide focus and recommendations regarding state water initiatives, such as:

- promoting incentives for water desalination, brush control, regionalization of water projects, weather modification, and public-private partnerships relating to water projects;
- promoting adequate financing for surface water and groundwater projects;
- development of water conservation and drought management projects;
- implementation of approved regional and state water plans;
- encouraging commonality of technical data, such as joint agency studies;
- coordinating a unified state position on federal and international water issues;
- encouraging the use of supplemental environmental projects for water infrastructure needs; and
- offering advice for development of prioritization criteria for the Texas Water Development Board (TWDB) for funding of projects recommended in the state water plan.

Prohibits the council from the following:

- adopting rules;
- regulating water use, water quality, or any other aspect of water resource management;
- planning or constructing water resource projects;
- granting or lending money for the construction of water resource projects; and
- establishing water management standards or otherwise infringing upon the duties, responsibilities, or powers of local, regional, or state water management entities.

Requires the council to provide a forum for state-level review of water authorities, including groundwater districts, river authorities and compacts, regional water planning groups, or member agencies of the council.

*Surface Water and Groundwater Management*

Defines “conjunctive use” to mean the combined use of groundwater and surface water sources that optimize the beneficial characteristics of each source of water.

Maintains existing law relating to junior water rights status of interbasin transfers.

Defines “river basin” as a river or coastal basin designated by the TWDB, and not including water from bays or arms of the Gulf of Mexico, which clarifies that movement of desalinated seawater would not be considered an interbasin transfer.

Includes “agricultural uses” and strikes “irrigation” from the list of purposes for which water may be appropriated and equivocates “agricultural uses” with “industrial uses” for appropriation preferences of water in times of drought.

Clarifies that a permit exemption for domestic and livestock reservoir applies to the impoundment of 200 acre-feet in any 12-month period, and extends this exemption to include impoundment for private fish and wildlife purposes.

Expands exemptions from cancellation of water rights for nonuse to include water rights to meet long-term public water supply, electric generation needs, long-term water planning, or if the water right was obtained due to construction of a reservoir funded, in whole or in part, by the holder of the right.

Requires local water planning efforts to consider the implementation of a desalination program.

With regard to groundwater conservation districts, S.B. 2 does the following:

- streamlines the process for creating groundwater districts in priority groundwater management areas;
- streamlines the process for creating a groundwater conservation district by landowner petition to the TNRCC;
- clarifies that groundwater districts may regulate spacing and production of wells based on tract size and distance from property lines to minimize the drawdown of the water table, control subsidence, prevent interference between wells, prevent degradation of water quality, or to prevent waste (in response to a recent well-publicized west Texas court case, South Plains LaMesa Railroad, Ltd. v. High Plains Underground Water Conservation District No. 1);
- provides penalties for violation of groundwater conservation district rules sufficient to ensure adherence to district rules;
- adds the issues of drought conditions and water conservation to goals that groundwater district management plans must include;
- provides a process for appeal of a groundwater district management plan if it is in conflict with the state water plan, and provides a process for resolution of such conflicts; and
- increases the joint planning responsibilities of groundwater districts sharing a management area.



With regard to groundwater district ability to grant exemptions to the requirement of obtaining well permits, S.B. 2 does the following:

- maintains the exemption of wells on a district-by-district basis and allows an export fee on any water withdrawn from exempted wells, if that water is transported for use outside the district;
- provides the exemption for a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres, producing less than 25,000 gallons of groundwater a day; and
- provides oil and gas production water well exemptions to on-site water supply wells for a rig actively drilling and exploring or for oil or gas wells and for certain mining operations.

With regard to transfer of groundwater out of a district, S.B. 2 does the following:

- authorizes a district to require a permit amendment for transfer of groundwater out of a district;
- prohibits more restrictive permit requirements on transporters than for existing in-district users;
- clarifies authority of groundwater districts relating to the transfer of groundwater out of a district in several ways:
  - prohibits districts from regulating exporters more restrictively than in-district users;
  - allows districts to assess a reasonable export surcharge using one of three prescribed methods;
  - prohibits denial of a well permit based on the intention to export;
  - provides the term for authorization to transfer water from a groundwater conservation district must be at least 30 years, unless otherwise negotiated;
  - bars use of export fee to prohibit exports, but may allow use for expenses relating to enforcement of the district's rules; and
  - prohibits a district from adopting rules expressly prohibiting the export of groundwater.

Authorizes groundwater districts to assess production fees and sets forth limitations and exceptions.

Authorizes a district to assess production fees instead of or in conjunction with other taxes levied by the district, but they may not exceed one dollar per acre-foot for agricultural use or \$10 per acre-foot for water used for other purposes, payable annually in either case.

Prohibits use of district fees for purchase of groundwater rights unless the purchased rights are acquired for conservation purposes and are permanently held in trust not to be produced.

Requires TWDB in coordination with regional planning groups and groundwater districts to:

- obtain or develop groundwater availability models for all aquifers and make this information available to groundwater conservation districts and regional water planning groups;
- institute a central registry of information on the location of existing water pipelines and other water conveyance facilities;

- add water conservation, drought management measures, and the long-term protection of state water, agricultural, and natural resources to considerations in approving a regional water plan;
- assume responsibility from the TNRCC for the designation of groundwater management areas.

### *Creation and Ratification of Districts*

Ratifies the following groundwater conservation districts created in 1999 by the 76<sup>th</sup> Legislature:

- Cow Creek Groundwater Conservation District
- Crossroads Groundwater Conservation District
- Hays Trinity Groundwater Conservation District
- Lone Wolf Groundwater Conservation District
- Lost Pines Groundwater Conservation District
- McMullen Groundwater Conservation District
- Kimble County Groundwater Conservation District
- Red Sands Groundwater Conservation District
- Refugio Groundwater Conservation District
- Southeast Trinity Groundwater Conservation District
- Texana Groundwater Conservation District
- Tri-County Groundwater Conservation District
- Brazos Valley Groundwater Conservation District
- Post Oak Savannah Groundwater Conservation District
- Mid-East Texas Groundwater Conservation District
- Northeast Travis County Utility District Groundwater Conservation District

### *Water Infrastructure Financing*

Creates the water infrastructure fund as a special account in the general revenue fund, administered by TWDB, to provide funding for the implementation of water projects recommended through the state and regional water planning process.

Provides that the fund is comprised of appropriations from the legislature, repayment of loans made from the fund, interest earned by the fund, and proceeds from the sale of any political subdivisions bonds or other obligations held in the fund and not otherwise pledged.

Creates the rural water assistance fund as a special account in the general revenue fund, administered by TWDB, to provide low-interest loans to rural communities for water or water-related projects, including the purchase of well fields, purchase or lease of rights to produce groundwater, and interim financing of construction projects.

Provides that the fund may be used to finance an outreach and technical assistance program to help rural political subdivisions obtain assistance through the fund.

Allows a rural community to contract with a state or federal agency to submit a joint application for financial assistance.

#### ***Joint Committee on Water Resources***

Creates a joint committee consisting of members of both houses of the Texas Legislature to conduct an interim study and make recommendations regarding:

- increasing the efficient use of existing water resources;
- developing sufficient long-term water financing strategies;
- improving existing water conveyance systems;
- water marketing;
- determining the appropriate role of environmental and wildlife concerns in water permitting and water development; and
- protection of the natural condition of beds and banks of the state-owned watercourses.

Requires the joint committee to meet with TNRCC and the TWDB at least annually, to consider the development of water marketing, the use of state funds for financing development and conservation of water resources, and mechanisms such as measures for encouraging donation of water rights and protecting instream uses.

#### ***Edwards Aquifer Authority***

Provides rulemaking procedures for the Edwards Aquifer Authority (authority).

Specifies that rules in 31 Texas Administrative Code Part 20 (containing general provisions and rulemaking procedures for the authority) have no effect and requires the secretary of state delete these rules.

Repeals provisions subjecting the authority to the Administrative Procedure and Texas Register Act, and clearly states that the authority is subject to the open meetings and public information laws in the Government Code.

Requires the authority to conduct a contested case hearing on a permit application if a person with a personal justiciable interest related to the application requests a hearing on the application and requires it to adopt rules establishing procedures for contested case hearings consistent with current law.

#### ***Limited Liability for Aquatic Herbicide Application***

Defines “commercially licensed aquatic herbicide applicator.”

Provides that a commercially licensed aquatic herbicide applicator under contract with a river authority is not liable in excess of \$2 million for personal injury, property damage, or death resulting directly or indirectly from the application of aquatic herbicide in compliance with such contract, applicable law, and the license terms or permit.

#### ***Concentrated Animal Feeding Operations***

Requires TNRCC to process an application for a concentrated animal feeding operation (CAFO) as a specific permit if any part of a pen, or other type of retention structure is located (or will be located) within the protection zone of a sole-source surface drinking water supply.

Provides definitions of “sole-source surface drinking water supply” and “protection zone” and states that a land application area is not considered a retention facility.

***Revocation of Certificate of Public Utility***

Authorizes a municipality to request TNRCC to revoke the certificate of public convenience and necessity (CNN) of a public utility if it finds that the utility has never provided, is no longer providing, or has failed to provide continuous and adequate service in the municipality requesting the revocation.

Authorizes revocation if the public utility has been grossly or continuously mismanaged or has grossly or continuously not complied with state laws or TNRCC rules.

Requires the municipality requesting the revocation to operate the decertified public utility for an interim period and request TNRCC approval to acquire the utility's facilities at fair market value and transfer the CNN to the municipality.

***Miscellaneous***

Amends Section 26.177 of the Water Code to provide that property subject to a permit or plat in the extraterritorial jurisdiction (ETJ) of one municipality may not be subjected to new or additional water pollution regulations if it is transferred to another municipality's extraterritorial jurisdiction.

Amends Section 13.137 of the Water Code by making changes concerning billing procedures and rate making for water utility systems.

Amends Section 13.145 of the Water Code to authorize a utility to consolidate more than one system under a single tariff only if the systems under the tariff are substantially similar in terms of facilities, quality of service, and cost of service and the tariff provides for rates that promote water conservation for single-family residences and landscape irrigation.

Amends Section 26.359 of the Water Code to except the Edwards Aquifer Authority from the prohibition on local governments for imposing standards for underground petroleum storage tanks, in light of the fact there is a unified statewide program for underground and surface water protection.

Amends Section 27.051 of the Water Code to prohibit TNRCC from authorizing injection wells into or through the Edwards Aquifer.

Modifies the North Harris County Regional Water Authority enabling statute.

**Texas Water Development Board (Sunset) - S.B. 312**

*by Senator Zaffirini*

*House Sponsor: Representative Chisum*

Implements the Sunset Advisory Commission's recommendations for the Texas Water Development Board (board).

Sets out legislative findings regarding colonias (economically distressed subdivisions found throughout those counties located within 50 miles of the Texas international border) and finds that creating a program to provide public funds to nonprofit organizations for self-help projects will help reduce public health problems and encourage the development and diversification of the economy.

Changes the dates on which the board is subject to review under the Texas Sunset Act to provide that the board shall be reviewed during the period in which state agencies abolished in 2013 and every 12th year after 2013 are reviewed.

Requires the board to meet annually with the Texas Department of Housing and Community Affairs board or its successor to assess the agencies' progress in meeting the needs of colonia residents and receive an update and recommendations from the Colonia Initiatives Advisory Committee.

Permits the use of the agricultural soil and water conservation fund for grants made to political subdivisions for certain equipment purchases.

Permits the use of the state water pollution control revolving fund to provide financial assistance to persons for certain nonpoint source pollution control and abatement projects. Also authorizes the board to establish a separate account in the fund to be used solely for providing financial assistance to persons for nonpoint source pollution control and abatement and sets out the sources of money for the fund. The board must adopt regarding eligibility and the terms of assistance for persons receiving financial assistance from the account.

Modifies provisions regarding hydrographic surveys by the board to permit the board to perform such survey for an agency of this or a neighboring state or a federal agency. Clarifies that the survey may be in or outside of Texas if the information collected will benefit Texas. Also permits a survey to collect information relating to water-bearing formations

Establishes Pilot Program for Water and Wastewater Loans for Rural Communities.

Establishes the Colonia Self-Help Program.

Authorizes the executive administrator, on behalf of the Texas Natural Resources Information System (TNRIS), to enter into partnerships with private entities to provide additional funding for improved access to TNRIS information. The board must adopt necessary administrative rules regarding such partnerships that comply with all applicable laws regarding ethics, purchasing, and contracts.

Requires state agencies that are members of the Texas Geographic Information Council (TGIC) to provide information to the TGIC about their investments in geographic information and plans for its use. Member entities that are not state agencies may provide this information. Requires TGIC, not later than September 1 of each even-numbered year, to provide to the board, the Department of Information Resources, the governor, and the legislature a plan that inventories known state agency geographic information systems projects and recommends initiatives to improve the state's geographic information systems programs.

Requires the board and the State Soil and Water Conservation Board to jointly conduct a study of the ways to improve or expand water conservation efforts and report to the legislature. Sets out what the report must include. This report is part of the state water plan.

Modifies current law to provide that the board may acquire all or part (instead of up to 50 percent) of any authorized facility related to water development to the extent that the board finds that the political subdivision wanting the facility is willing and reasonably able to finance that portion of the cost of the facility that the board does not acquire.

Authorizes the board to use money in the agricultural water conservation fund to make loans to certain political subdivisions for agricultural water conservation projects, grants to political subdivisions for agricultural water conservation projects as provided by legislative appropriation, or grants to a state agency for the funding of any agricultural water conservation program of that agency. Authorizes the board by rule to establish for procedures for applying for such loans or grants.

Creates the Colonia Initiatives Advisory Committee and sets out its composition and duties.

Authorizes the governing body of a taxing unit to exempt from taxation part or all of the assessed value of property on which approved desalination projects or brush control initiatives have been implemented. Approved desalination and brush control initiatives must be designated pursuant to an ordinance or law.

Exempts from the Limited Sales, Excise, and Use Tax Act certain equipment, services, or supplies used to reduce or eliminate water use, for desalination of surface water or groundwater, for brush control designed to enhance the availability of water, for precipitation enhancement, to construct or operate a regional water or wastewater system, and to construct or operate a water supply or wastewater system by a private entity as a certified public-private partnership.

Provides that if S.B. 322, relating to the continuation and functions of the Texas Department of Housing and Community Affairs, becomes law and that bill provides for a committee similar to the Colonia Resident Advisory Committee, it is the legislature's intent that this Act will govern.

### **Poultry Growers Must Have Water Quality Plan - S.B. 1339**

*by Senator Ogden*

*House Sponsor: Representative McReynolds*

Currently, the Texas State Soil and Water Conservation Board (board) operates a voluntary water quality management program to aid producers in developing and implementing site-specific management plans to

improve or conserve water resources. Most growers are considered animal feeding operations, rather than confined animal feeding operations, which means they are not required to have a permit from TNRCC.

Requires each owner or operator of a poultry facility to implement and maintain a water quality management plan (plan), certified by the board.

Authorizes TNRCC to bring a cause of action to remedy or prevent a violation of this bill's provisions.

### **Water Service Conditioned Upon Easement for Access - H.B. 924**

*by Representative Walker*  
*Senate Sponsor: Senator Brown*

Allows a water supplier to require a service applicant to provide an easement granting it reasonable right of access as a condition of service. A water supplier may not require an applicant to provide an easement for the sole benefit of another applicant.

Allows a water supplier to make service to a new subdivision conditional upon the developer's granting the supplier easements necessary to serve the subdivisions anticipated need when it is fully occupied.

### **Lower Colorado River Authority Sells Water Outside District - H.B. 1629**

*by Representative Cook, et al.*  
*Senate Sponsor: Senator Armbrister*

The Lower Colorado River Authority (LCRA) currently may not sell water outside its service area without specific authorization from the state legislature.

Enables LCRA to contract, with certain imitations, with the City of San Antonio for the sale of water from the Colorado River. This arrangement benefits San Antonio, while supplying agricultural needs in the Colorado River Basin and conserving water in the Highland Lakes.

### **Submetering to Better Measure Water Consumption - H.B. 2404**

*by Representative Ron Lewis*  
*Senate Sponsor: Senator Brown*

Under current law, apartments can include water charges in the rent, and may allocate water bills by dividing the charges among tenants by the number of occupants and/or square footage.

Requires a manager of a condominium or the owner of an apartment house, manufactured home rental community, or multiple use facility built after January 1, 2003, to provide for the measurement of water consumed by the occupants of each unit through the installation of submeters or individual meters.

Requires an owner of an apartment house built after January 1, 2003, that provides government assisted or subsidized rental housing to low- or very low-income residents to install a plumbing system in the apartment house that is compatible with submetering for the measurement of water.

Requires a retail public utility, on request by the property owner or manager, to install individual meters owned by the utility in the above-mentioned types of housing for which construction begins after January 1, 2003, unless the utility determines that installation of meters is not feasible.

Clarifies that the bill does not apply to owners of manufactured home rental communities who do not own the manufactured homes located on their property.

### **Compliance History Considered in Times of Drought - H.B. 2588**

*by Representative Counts*

*Senate Sponsor: Senator Bernsen*

Current law directs that in times of drought water must be distributed on a pro rata basis. Many feel that if rationing water from a water supply becomes necessary, water suppliers should be allowed to take into account the degree to which customers have complied with applicable water conservation and drought contingency plans.

Provides for water to be divided and distributed among all customers pro rata, so that preference is given to no one, when a shortage occurs in a water supply not covered by a water conservation plan prepared in compliance with Texas Natural Resource Conservation Commission (TNRCC) or Texas Water Development Board (TWDB) rules.

Requires the persons or corporation owning or controlling the water, in the event of a shortage in a water supply that is covered by a TNRCC or TWDB water conservation plan, to divide and distribute the water among all customers pro rata, according to:

- the amount of water to which each customer may be entitled; or
- the amount of water to which each customer may be entitled, less the amount of water the customer would have saved if the customer had operated its water system in compliance with the water conservation plan.

### **Enforcement Authority of Groundwater Conservation Districts - H.B. 2690**

*by Representative Walker*

*Senate Sponsor: Senator Staples*

Clarifies that when a groundwater conservation district prevails in certain actions, it may seek reasonable attorney's fees, costs for expert witnesses, and other costs incurred by the district



Authorizes the board of directors of a district to set by rule reasonable civil penalties for breach of any district rule not to exceed \$10,000 per day per violation, and provides that each day of a continuing violation constitutes a separate violation.

### **Water Quality Management Plans By Request - H.B. 3355**

*by Representative McReynolds*  
*Senate Sponsor: Senator Staples*

Many agricultural producers currently operate with a water quality management plan (plan) created by the State Soil and Water Conservation Board (board). Under current law, a person without a plan who intends to bury agricultural waste must follow the Texas Natural Resource Conservation Commission (TNRCC) guidelines.

Authorizes the board, at the request of the landowner, to develop and certify a plan for any agricultural or silvicultural land in the state.

Requires a plan developed for land on which animal carcasses will be buried to include disposal management practices for the carcasses, and burial site requirements that identify suitable locations based on factors such as land use, soil conditions, and proximity to water resources.

Prohibits TNRCC from requiring a landowner who requests and complies with a water quality management plan to record the burial of animal carcasses in the county deed records.

### **Changes in Well Exemptions - H.B. 3587**

*by Representative Walker*  
*Senate Sponsor: Senator Barrientos*

Under current law, water wells that produce less than 25,000 gallons of water per day are exempt from the groundwater conservation district (district) permitting process.

Reduces the scope of this exemption to apply to only certain water wells capable of producing less than 25,000 gallons of water per day.

Authorizes a district to require a permit for an exempted well that is no longer being used for a drilling rig or mining purposes.

Provides that groundwater withdrawn from a well exempted under these provisions and transported out of the district is subject to production and export fees.

Provides that a district's authority to impose certain fees is not affected by this bill.

Clarifies that this bill does not apply to certain production or injection.

## Reverse Auctions Authorized for Certain Governmental Entities - S.B. 221

*by Senator Staples*

*House Sponsors: Representative McClendon, et al.*

Currently, the General Services Commission (GSC) and other governmental entities are not specifically permitted to purchase goods and services using an online "reverse auction." A reverse auction is one in which the suppliers, rather than the buyers, bid for contracts to provide goods while prices start high and go lower as the bidding continues. S.B. 221 gives GSC, county commissioners courts, local governments, and school districts the authority to conduct reverse auctions and sets forth guidelines regarding the use of reverse auction procedures.

## Railroad Commission (Sunset) - S.B. 310

*by Senator Harris*

*House Sponsors: Representative Chisum, et al.*

The Railroad Commission of Texas (RRC) protects the state's natural resources, the environment, and public safety through regulation of the oil and natural gas industry, pipeline transporters, natural gas utilities, rail safety initiatives, and surface mining operations. The RRC is subject to the Texas Sunset Act and will be abolished on September 1, 2001, unless continued by the legislature. The Sunset Advisory Commission determined that current state law does not effectively ensure the financial assurance of oil and gas operators, which potentially leaves the state liable for pollution and abandoned wells. The Sunset Advisory Commission's recommendations included increasing the cap for the oil-field cleanup fund, authorizing the RRC to set higher fees for well plugging and remediation efforts, and creating a voluntary cleanup program. S.B. 310 provides for the continuation of the RRC until September 1, 2013, in addition to the recommended modifications. The bill's major provisions are outlined below.

### ***Administration and Policy***

Includes standard Sunset Advisory Commission recommendations regarding the development of an equal employment policy, conflicts of interest, the maintaining of written complaints, policy implementation, public testimony, and the state employee incentive program.

### ***Fees; Lien***

Authorizes RRC to accept payment of regulatory fees, fines, and penalties by an electronic payment method or credit card account, and collect a reasonable service charge to cover costs of this service.

Gives RRC a statutory lien on an abandoned well it has contracted to plug, and provides foreclosure by operation of law on this lien if the operator fails to request a hearing within 15 days of receiving agency notice.

Allows RRC to dispose of well-site equipment and any amount of hydrocarbons from the well in a commercially reasonable manner upon foreclosure.

Makes changes regarding bonding and financial security of operators. Adds letters of credit or cash deposits to individual bonds and blanket bonds, as means of showing financial security required for well operators under the Natural Resources Code.

### *Oil-field Cleanup Fund*

Raises the cap on the oil-field cleanup fund from \$10 million to \$20 million and increases the floor from \$6 million to \$10 million.

Requires RRC to notify the comptroller when the fund reaches \$20 million, and suspends the collection of oil-field cleanup fees until the fund falls below \$10 million.

Raises application fee for an exception to RRC rules from \$50 to \$150 and provides that two-thirds of this fee be deposited to the oil-field cleanup fund.

Increases drilling permit fees, requires an applicant to submit an additional fee when spacing or density exception review is required, increases the fee for an extension of time to plug a well and provides these fees be deposited into the oil-field cleanup fund.

Increases the oil-field cleanup regulatory fee on crude oil and gas to five-eighths and one-fifteenth of one cent, respectively. Creates a fee for filing an organization report.

Establishes, through the legislative appropriations request process, specific performance goals for the oil-field cleanup fund for the next biennium, including:

- goals for the number of site investigations and environmental assessments to be conducted, abandoned wells to be plugged; and
- surface locations to be remediated.

Creates the Oil-field Cleanup Fund Advisory Committee (committee) to monitor the effectiveness of the oil-field cleanup fund; and charges the committee to:

- report on the status of the fund, analyze problems with administration of the oil-field cleanup fund; and
- make recommendations to the legislature addressing problems or in furtherance of the purposes of the fund.

### *Voluntary Cleanup Program*

Establishes the voluntary cleanup program to provide incentive for remediation of property by removing the liability of lenders, developers, owners, and operators who did not cause or contribute to contamination released at a contaminated site.

Requires the RRC to issue a certificate of completion when a participant in the voluntary cleanup program has successfully completed an approved voluntary cleanup.

Requires certificate to acknowledge participant's protection from liability to the state.

### *Safety and Regulation of Liquefied Petroleum Gas (LPG)*

Authorizes RRC to establish risk assessment as the guide for conducting site investigations and environmental assessments, and controlling and cleaning up oil and gas wastes and other substances.

Requires RRC, before March 1, 2002, to study the desirability of requiring an owner, operator, or manager of a pipeline system to obtain liability insurance coverage, a bond, or other evidence of financial responsibility to protect the public against costs resulting from a discharge from the pipeline system. In addition, this provision:

- requires RRC to report its findings to the legislature and make the report available to the public; and
- authorizes RRC by rule to require an owner, operator, or manager of a pipeline system to obtain evidence of financial responsibility.

Requires RRC to administer and enforce state laws and agency rules relating to liquefied petroleum gas (LPG). Requires RRC by rule to establish fees for the licensing of each category of LPG activity, such as container manufacturers and fabricators, transport outfitters, carriers, general installers and repairmen, retail and wholesale dealers, cylinder filling, cylinder dealers, and others. Includes provisions relating to the application, renewal procedures, examination, and seminar requirements for the licensing of LPG and compressed natural gas activities. Requires testing of LPG systems in private schools and state or regional schools for the blind and deaf. Requires school districts to perform pressure tests for leakage at least biennially, and before the beginning of the school year.

Requires operators of hazardous liquid or carbon dioxide pipeline facilities to communicate and conduct liaison activities with public emergency response officials.

Requires the owner or operator of each interstate or intrastate hazardous liquid or carbon dioxide pipeline facility any part of which is located within 1,000 feet of a public school to develop an emergency response plan.

Authorizes RRC to require an operator to file an approval plan with the agency for assessment or testing of a pipeline if:

- there is reason to believe that the pipeline may present a hazard to public health or safety;
- RRC lacks adequate information to assess the risk to public health or safety presented by the pipeline; or
- a plan is necessary for the commission to initiate or complete a pipeline safety investigation.

Requires a pipeline operator to publish notice of a proposed route for a new pipeline system or extension of an existing pipeline system in a general circulation newspaper in counties of greater than 10,000. Requires the notice to:

- include the location of the beginning and end points of the proposed route; and
- a list of each state or federal highway the route will cross, at least 30 days but no more than one year before the start of construction.

### *Rates and Hearings*

Expands RRC original jurisdiction over the rates and services of a gas utility to include the area inside a municipality as well as outside a municipality.

Authorizes a municipality to elect to have RRC exercise exclusive original jurisdiction over gas utility rates, operations, and services in the municipality.

Provides that a municipality that surrenders its jurisdiction to RRC may reinstate its jurisdiction. Provides that these provisions governing the surrender of jurisdiction apply to the reinstatement of jurisdiction.

Requires the utility division of the State Office of Administrative Hearings (SOAH) to conduct contested case hearings and to authorize the utility division to make final decisions and issue findings of fact, conclusions of law, and other necessary orders in other proceedings on behalf of the commission.

Requires such hearings to be conducted in accordance with RRC rules and procedures.

Provides that for purposes of judicial review, an administrative law judge's final decision has the same effect as a final decision of the railroad commission, unless a member of the agency's commission requests formal review of the decision.

**Electronic Licensing - S.B. 645**

*by Senator Shapiro*

*House Sponsor: Representative McCall*

Occupational licensing is intended to prevent unqualified people from practicing licensed occupations and to protect the public by ensuring compliance with government regulations.

Implements an electronic system for occupational licensing transactions operated by the Department of Information Resources (DIR).

Lists the licensing authorities required to participate in an electronic licensing system.

Requires the DIR to administer a common electronic system using the Internet through which a licensing authority can electronically send occupational licenses and other documents, receive application for licenses and other documents, and receive required payments.

Allows DIR to contract with a private vendor to implement these requirements, and requires it to charge fees in amounts sufficient to cover the cost of implementing them.

**Licensed Professional Engineers - S.B. 697**

*by Senator Wentworth*

*House Sponsor: Representative Haggerty*

Licensed professional engineers are among the few professional or occupational groups without mandatory continuing education requirements. The Board of Professional Engineers (board) is authorized to administer a continuing education program, but participation in the program is voluntary.

Authorizes the board to adopt rules requiring continuing education and to establish standards for these rules, including activities for which a licensee is authorized to receive credit.

**Increased Enforcement of Hazardous Substances Law - S.B. 1045**

*by Senator Moncrief*

*House Sponsor: Representative Capelo*

Amends the Health and Safety Code to make comprehensive changes to the provisions related to the use and handling of hazardous materials.

Requires the Texas Board of Health (board) to establish flammability standards which conform to the federal Flammable Fabrics Act (FFA), Federal Hazardous Substances Act (FHSA), and the federal Consumer Product Safety Act (CPSA). Also changes the definition of terms such as flammable and combustible to conform to definitions provided under FHSA.

Requires labeling of toys and games for children and parts of those toys and games to be in accordance with the board's rules, which in turn must be consistent with federal guidelines and regulations adopted under FHSA. Also requires specific labeling of latex balloons, small balls, marbles, and any toys or games which contain such items. Further, it requires a review of art materials by a toxicologist and labeling consistent with FHSA.

Provides for several penalties for certain violations including the authority of the commissioner to order recalls of articles containing hazardous substances and to recover costs of the recall in an action brought in a district court of Travis County.

### **Regulation of Bail Bond Sureties - S.B. 1119**

*by Senator Armbrister*

*House Sponsor: Representative Hinojosa*

Under current law, a person seeking a bail bond license (license) is not required to have had any experience in the bail bond business or to have completed continuing legal education in bail bond or criminal law.

Authorizes a county bail bond board to regulate bail bond solicitations or advertisements to protect the public from harassment, fraud, or misrepresentation.

Requires a license holder to maintain an office in the county in which the bail bondsman holds a license.

Prohibits a person from accepting or receiving from a bail bondsman money, property, or any other thing of value as payment for employment with a bonding business if, within the preceding 10 years, the person has been convicted of a misdemeanor involving moral turpitude or of a felony.

Sets forth updated provisions related to the bail bondsman application and eligibility requirements.

### **Grace Periods and Beverage Permits - S.B. 1236**

*by Senator Cain*

*House Sponsor: Representative Wilson*

The Alcoholic Beverage Code authorizes a licensee to renew a permit up to 10 days after the expiration date of the license if the licensee pays an additional fee per permit and files appropriate applications.

Authorizes the holder of a license or permit issued under this code to renew the license or permit rather than reapply for an original license or permit if, not later than the 30<sup>th</sup>, rather than the 10<sup>th</sup>, day after the date of expiration of the license or permit, the holder files a renewal application, and pays a late, rather than renewal, fee.

**Higher Penalties for Bootlegging - H.B. 269**

*by Representative Berman  
Senate Sponsor: Senator Staples*

Makes bootlegging a Class B misdemeanor, and increases it to a state jail felony for multiple convictions.

**Telemarketers and Fraud - H.B. 472**

*by Representative Solomons, et al.  
Senate Sponsor: Senator Shapleigh*

An estimated \$40 billion is lost each year through telemarketing fraud and, additionally, consumers complain their privacy is invaded, and their peace of mind lost due to numerous or aggressive solicitations. Some calls violate the state mandated self-imposed, no-call list maintained by solicitors and the state time restrictions on solicitations.

Creates the Texas Telemarketing Disclosure and Privacy Act to protect consumers from unwanted telemarketing calls and sets forth penalties for those telemarketers who violate these provisions.

**Wineries in Dry Counties May Sell on Premises - H.B. 627**

*by Representative Hilderbran  
Senate Sponsor: Senator Fraser*

Many wineries in Texas are located in dry counties that prohibit selling wine on the premises for consumption off premises. Marketing their products therefore is left to wholesalers and distributors. Small wineries may be at a disadvantage in this scenario as wholesalers and distributors focus on higher profitability margins afforded by the larger wineries.

Allows a winery located in a dry county to sell wine on premises for consumption off premises under specified conditions.

**Alcohol Sales, Consumption, and Private and Parochial Schools - H.B. 688**

*by Representative Woolley, et al.  
Senate Sponsor: Senator Whitmire*

Private and parochial schools have inadvertently been left out of certain regulations in the Alcoholic Beverage Code regarding sales near "school, church, or hospital." By not addressing specifically the possession or consumption of alcohol near these schools, these entities and their students are not provided the same protection as other students.

Authorizes the commissioner's court of a county to enact regulations applicable in certain areas in the county at the request of the governing body of the private school.

Requires certain measurements to be made regarding the location of private schools and businesses where alcoholic beverages are sold.



**The Long and Short of Cellular Towers - H.B. 1148**

*by Representative Cook*  
*Senate Sponsor: Senator Armbrister*

The demand for wireless services continues to grow, with providers constructing new cellular towers at increasing rates. In urban areas, small cellular towers may be positioned on top of a building or other structures, but in rural areas, towers must be taller and spaced farther apart

Requires a person who intends to construct a wireless communication facility to inform landowners of the impending construction.

Sets forth filing requirements for the construction of a facility and any transfer of ownership or removal of the facility.

**Elected Officials and Exemptions for Securing Licenses - H.B. 1506**

*by Representative Yarbrough*  
*Senate Sponsor: Senator Whitmire*

Amends the Alcoholic Beverage Code to exempt elected officers of the state or federal government from being required to file a security bond when the officer contests the facts stated in an application for a license to distribute, manufacture, or sell beer at retail, or the applicant's right to secure a license.

**Commercial Enterprises in Residential Areas - H.B. 1514**

*by Representatives Junell and Seaman*  
*Senate Sponsor: Senator Harris*

Provides that a commercial enterprise is not required to change its current mode of operation if the area within certain distances of the enterprise was not primarily used for residential purposes at the time the enterprise was first established.

**Restaurants and Alcoholic Beverages - H.B. 1614**

*by Representative Wise*  
*Senate Sponsor: Senator Cain*

Prior to the 77<sup>th</sup> Legislature, the Texas Alcoholic Beverage Commission could cancel certain permits if the permittee or licensee was not operating primarily as a food establishment determined by alcohol sales in excess of 75 percent of gross receipts. Lowering the threshold from 75 percent to 50 percent may help regulatory official better delineate bars from restaurants.

Decreases from 75 percent to 50 percent the percentage used to determine the issuance of a food and beverage certificate.

**Salvage Vehicle Licensing and Titling - H.B. 1678**

*by Representative Bosse*  
*Senate Sponsor: Senator Cain*

Prohibits an out-of-state buyer from purchasing a salvage motor vehicle or a nonrepairable motor vehicle in Texas unless the person holds a license issued by the Texas Department of Transportation that authorizes the purchase of the vehicle. Sets forth licensing provisions.

Requires a nonrepairable motor vehicle certificate of title to state on its face that the vehicle may not be issued a regular certificate of title or registered in Texas, may be used only for parts or scrap metal, and may not be rebuilt.

**Authorization of Progressive Bingo - H.B. 2119**

*by Representative Haggerty*  
*Senate Sponsor: Senator Madla*

Progressive bingo is a specific type of bingo game in which a player must achieve a specific pattern by the time a certain number of bingo balls have been selected. If the player does not achieve the specific pattern within the specified number of balls, the game continues until someone achieves a winning pattern. A consolation prize is awarded and the remainder of the prize amount is carried over and added to the next progressive bingo game.

Authorizes a licensed authorized organization to conduct a progressive bingo game.

**Disposal of Nuisance Motor Vehicles by Vehicle Storage Facilities - H.B. 2313**

*by Representative Bosse*  
*Senate Sponsor: Senator Gallegos*

The Vehicle Storage Facility Act provides for the regulation of proper motor vehicle storage. However, some feel that the Transportation Code does not adequately address the disposal of abandoned nuisance motor vehicles and does not provide communities and vehicle storage facilities with the authority to dispose of such vehicles in an expeditious fashion.

Establishes provisions for the disposal of nuisance motor vehicles by vehicle storage facilities.

**Dial-Tone Services for those Hard-To-Reach - H.B. 2388**

*by Representative Chisum, et al.*  
*Senate Sponsor: Senator Bivins*

Telecommunications providers, in some rural areas outside certificated areas, do not provide basic dial-tone service to residents. The Universal Service Fund (fund) was created to help provide basic service at

affordable rates in high-cost, rural parts of the state, but under current law, funds are only distributed to certificated areas.

Allows persons residing in permanent residential premises or owners of businesses in uncertificated areas to petition the Public Utility Commission of Texas for this basic dial-tone service and sets forth procedures to extend telecommunications services.

### **Purses, Breeds, and Horse Racing in Texas - H.B. 2484**

*by Representative Wilson*  
*Senate Sponsor: Senator Armbrister*

The Texas Racing Commission (commission) is responsible for ensuring that fair wagering and safe racing, among several conditions, continue to keep the racing industry growing as an asset to the state's economy.

Authorizes a horse breed registry to restrict the eligibility of its horses for accredited Texas-bred awards or purse supplements when the horse runs in mixed racing.

### **Private Clubs and Restaurants and Alcohol - H.B. 2878**

*by Representative Goolsby*  
*Senate Sponsor: Senator Carona*

Private clubs located in public restaurants are common throughout Texas due to the existence of "dry" counties, but they must exist as an independent entity to legally operate.

Authorizes a restaurant club to function as an independent corporation and to contract with the management of a restaurant to conduct its operations.

### **Using Electronic Information on Drivers Licenses for TABC Purposes - H.B. 3016**

*by Representative Haggerty*  
*Senate Sponsor: Senator Shapiro*

Permits the use of information accessed by using the magnetic strip on a identification card, commercial driver's license, or driver's license by persons other than law enforcement officials when used to:

- prevent the purchase of alcoholic beverages by minors; and
- comply with Texas Alcoholic Beverage Commission (TABC) record-keeping rules regarding private club memberships.

Prohibits a person from retaining the information accessed unless authorized to do so by TABC.

Makes violation of this bill a Class A misdemeanor.

**Texas Energy Resource Council - H.B. 3348**

*by Representative Counts*  
*Senate Sponsor: Senator Haywood*

Currently, the oil and gas industry has a shortage of employees, due to market price volatility and the difficulty of providing job training for field personnel.

Creates the Texas Energy Resource Council (council) and the energy resource account to support ongoing training programs for employees in oil industries.

**State Official License Plate Regulations - H.B. 3441**

*by Representative Gallego*  
*Senate Sponsor: Senator Madla*

Requires the registration of specially designed license plates for certain government officials to be for a period of 12 months or until January 31, whichever is shorter.

Removes state supreme court judges and appeals court judges from the list of state officials eligible to receive "state official" license plates.

### **TexasOnline Authority and Project - S.B. 187**

*by Senator Shapleigh*

*House Sponsor: Representative Solomons*

The Electronic Government Task Force, authorized by the 76th Legislature, has successfully launched the TexasOnline Internet portal to provide a single point for citizens and businesses to access electronic government (e-government) services in Texas.

Establishes a 15-member authority to provide vision, leadership, and operational oversight for the TexasOnline portal project and requires the authority to report to the legislature on the feasibility of allowing the sale and placement of advertising on TexasOnline.

Creates the TexasOnline Authority (authority) and sets out its membership, terms of office, and general powers and duties.

Requires the authority to implement a project designated "TexasOnline" that establishes a common electronic infrastructure through which state agencies and local governments may provide certain services.

Requires the authority to charge fees to licensing entities in amounts sufficient to cover the cost of implementation. Requires each licensing entity to increase occupational license renewal fees by an amount sufficient to cover the cost of the subscription fee imposed on the licensing entity, with certain restrictions.

Requires certain licensing entities to establish a profile system containing certain information.

Sets forth provisions as to how the TexasOnline Project may be used.

### **Changes to the Employee Retirement System - S.B. 292**

*by Senator Armbrister*

*House Sponsor: Representative Telford*

S.B. 292 is an ERS Omnibus Bill that enhances the application and consistency of benefits for ERS members, provides cost of living adjustments for ERS annuitants, contains general housekeeping provisions regarding ERS, and makes clarifications in some of the statutes affecting ERS.

Prohibits a member from accruing or establishing service credit in the employee class of membership when the total amount of service credit, multiplied by the percentage in effect for computing annuities, exceeds 100. Provides that when the maximum amount of service credit is accrued or established by a member in the employee or elected class, member and state contributions cease, although the member retains membership.

Authorizes a person to reestablish service credit previously canceled in the retirement system if:

- the person is a member of the employee class and at least six months have elapsed since the end of the month in which the cancellation became effective; or
- the person is a former member of the employee class and is a participant in the optional retirement program.

Allows a death benefits designee of a member to receive service credit for the member's sick leave and annual leave that has accumulated and is unused on the member's date of death.

Sets up a credit purchase option that allows an eligible member to establish up to 60 months of equivalent membership service credit. Provides that a member is eligible to establish the credit if the member has at least 120 months of actual service. Authorizes a member to establish service credit by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit, based on rates and tables recommended by the retirement system's actuary.

Increases the multiplier used in calculating the member's average monthly compensation upon retirement to 2.3, from 2.25, percent.

Provides that designation of a former spouse as a beneficiary is invalid unless the designation is made after the date of the divorce.

Requires the board of trustees to adopt an investment policy that includes a code of ethics that must contain standards of ethical conduct and disclosure requirements applicable to the members of the board of trustees and employees of the retirement system.

Makes additional changes to ERS statutes, including changes regarding privacy, disclosure, misconduct, fraud, appeals, and records.

### **The State Pension Review Board (Sunset) - S.B. 302**

*by Senator Zaffirini*

*House Sponsor: Representative McCall*

The State Pension Review Board (board) was created in 1979 to monitor state and local public retirement systems for actuarial soundness and compliance with state law.

Continues the board until September 1, 2013 and sets forth standard sunset language regarding board members, training, equal employment opportunities, standards of conduct, and complaint procedures.

### **State Aircraft Pooling Board (Sunset) - S.B. 304**

*by Senator Lucio*

*House Sponsor: Representative Bosse*

The State Aircraft Pooling Board (board) was created to operate a pool for aircraft owned or leased by the state. Its mission is to provide air transportation services to state officials and employees traveling on official state business and to provide certain ground services for those aircraft.

Continues the board for 12 years and adds standard Sunset Commission language regarding complaints and the state employee incentive program.

Requires the board, as part of its strategic plan, to develop a long-range plan for its pool of aircraft and requires portions of the plan to be included in the board's legislative appropriations request. Requires the

plan to include estimates of future aircraft replacement needs and other fleet management needs, including any projected need to increase or decrease the number of aircraft in the pool. Lays out factors the board must consider in developing the plan.

Requires the board to post information related to travel and other services provided by the board on an Internet site. Requires the site to be generally accessible to state agencies, persons who use the board's services, and, to the extent appropriate, the general public.

### **Sunset Review of Certain Agencies - S.B. 309**

*by Senator Harris*

*House Sponsor: Representative Bosse*

Periodically, state agencies undergo a review by the Sunset Advisory Commission (commission). As a result of the review, the commission will recommend changes to the agency or the abolishment of the agency. S.B. 309 sets the review schedule for certain state agencies.

Entities given the Sunset date of 2003 are the Department of Economic Development and Board of Dental Examiners.

Entities given the Sunset date of 2005 include the Texas Veterans' Commission, Veterans' Land Board, On-Site Wastewater Treatment Research Council, Texas Cosmetology Commission, and State Board of Barber Examiners.

Entities given the Sunset date of 2007 include the Incentive and Productivity Commission, Risk Management Board, Texas Real Estate Commission, and Structural Pest Control Board.

Given the Sunset date of 2009 is the Polygraph Examiners Board.

Given the Sunset date of 2011 is the Texas Department of Human Services (DHS).

Requires the commission, in preparing for a report to the 78th Legislature, to perform a special purpose review of DHS. Provides that in the review, the commission is limited to reviewing the appropriateness of the recommendations made by the commission to the 76th Legislature regarding DHS. Authorizes the commission to include any of those prior recommendations the commission considers appropriate. Requires DHS to cooperate with the commission in the review and provide to the commission any information the commission considers necessary for the review.

Requires the commission, in preparing for a report to the 78th Legislature, to perform a special purpose review of the Texas Department of Health (TDH). Authorizes the commission, in the commission's report to the 78th Legislature, to include any recommendation the commission considers appropriate. Requires TDH to cooperate with the commission in the review and provide to the commission any information the commission considers necessary for the review.

Provides that the following entities are removed from Sunset review: the governing board of the Texas School for the Blind and Visually Impaired, the governing board of the Texas School for the Deaf, Real Estate Research Center, Texas National Research Laboratory Commission, Governor's Advisory Committee on Immigration and Refugees, Capital Metropolitan Transportation Authority, Corpus Christi

Regional Transit Authority, Harris County Metropolitan Rapid Transit Authority, and Dallas Area Rapid Transit Authority.

### General Services Commission (Sunset) - S.B. 311

*by Senator Zaffirini*

*House Sponsor: Representative Gallego*

The primary function of the General Services Commission (GSC) is to provide central services for state agencies and, in some cases, local governments. GSC's activities can be organized into three major categories: procuring goods and services for customers; providing facilities management and construction services for state agencies; and providing administrative support to agency staff. GSC is subject to the Texas Sunset Act and will be abolished on September 1, 2001, unless continued in existence by the legislature. S.B. 311 abolishes GSC and provides for the transfer of its functions to other agencies, including the newly created Texas Building and Procurement Commission.

Transfers the powers and duties of the General Services Commission under Chapter 2170 (Telecommunications Services) or other law relating to providing telecommunications services to the Department of Information Resources (DIR), as of October 1, 2001. Transfers the appropriate GSC employees, rate cases, contracts, and funds to DIR.

Creates the Texas Building and Procurement Commission (commission), an agency subject to the Sunset Act and abolition on September 1, 2013.

Provides that the commission is composed of three members appointed by the governor, two additional members appointed by the governor from a list submitted by the speaker of the house of representatives, and two members appointed by the lieutenant governor. Provides that the governor may reject one or more of the nominees of the speaker and request a new list of nominees.

Sets out standard Sunset Commission language regarding complaints.

Requires GSC, DIR, and the new commission to establish a transition plan for the transfers described in the Act.

Requires the commission to develop a schedule of multiple award contracts that have been previously awarded by certain entities and sets out the requirements for the schedule, including historically underutilized businesses, reporting requirements, and notices.

Requires the commission to develop initial schedules of multiple award contracts not later than March 1, 2002 and requires the commission to adopt rules not later than January 1, 2002.

Requires the DIR to create a division to oversee the implementation of major information resources projects.

Creates the Telecommunications Planning and Oversight Council, sets out its membership, and requires it to perform strategic planning for all state telecommunications services.

Requires the attorney general, in consultation with the Texas Building and Procurement Commission, DIR, the comptroller, and the state auditor, to develop and periodically update a contract management guide for



use by state agencies. Sets out what the guide must contain and requires the state auditor to monitor compliance with the guide by state agencies.

Creates the Contract Advisory Team and sets its membership and duties.

### ***Commercially Available Activities***

Requires the commission to develop a systematic review process to identify commercially available services being performed by the commission and study the services to determine if they may be better provided by other state agency providers or private commercial sources.

Requires the commission to consider all of its direct and indirect costs in determining the cost of providing a service.

Authorizes the commission, if it determines that a service can be performed with a comparable or better level of quality at a savings to the state of at least 10 percent by using other state agency providers or a private commercial source, to contract with one of these entities for services.

### ***Electronic Commerce; Travel***

Provides that the commission, in purchasing goods and services, may use but is not limited to the following methods:

- contract purchase procedure;
- multiple award contract procedure, including under any schedules developed under Subchapter I;
- open market purchase procedure; or
- reverse auction procedure.

Requires the commission to electronically maintain a bidders list that is integrated into the electronic procurement marketplace established by DIR. Authorizes the commission to also maintain the list on paper.

Requires the commission to maintain at least one contract with a provider of travel services that offers reservation and ticketing services in person or by telephone.

Requires DIR, in consultation with the commission, to establish and manage the electronic infrastructure of an online travel reservation and ticketing capability for use by state agencies participating the commission's contracts for travel services. Requires the commission to manage and administer the content of the online travel services. Makes other stipulations regarding the online travel services.

### ***Electronic Commerce: General Provisions***

Requires the commission and DIR to ensure that small and historically underutilized businesses have maximum access to electronic commerce opportunities.

Requires DIR, with the assistance of the commission, to assess whether all or parts of the electronic procurement system should interface with the project known as Texas Online that is a continuation of the demonstration project authorized by the 76<sup>th</sup> Legislature.

Authorizes DIR and the commission to interface all or parts of the electronic procurement system with Texas Online or use features of Texas Online to enhance the electronic procurement system, based on the assessment.

Provides that the electronic commerce network does not apply to procurements for major construction projects, as defined by the commission in consultation with DIR, such as procurements made under Chapter 223, Transportation Code. Requires the commission, in defining a major construction project, to base its decision on whether the nature of the project is of a type that would make electronic procurement inappropriate.

Transfers all functions and activities performed by the Texas Department of Economic Development relating to the business daily to the commission.

### *State Cemetery*

Requires the State Cemetery Committee to oversee all operations of the State Cemetery (cemetery), develop a budget for the operations of the commission relating to the cemetery and determine the salary of employees of the commission whose duties are primarily related to the operation of the cemetery.

Requires the legislature to separately appropriate money to the committee within the appropriations to the commission for all matters relating to the operation of the cemetery.

Adds standard Sunset Commission language regarding the requirements for members of the committee.

### *Contracting Methods for Construction of State Facilities*

Requires the commission to adopt rules for use of each method of contracting allowed for design and construction services. Requires the commission, in developing the rules, to solicit advice and comment from design and construction professionals.

Requires the commission, before advertising, to establish which method of contracting provides the best value.

Requires the commission to publish in the request for bids, proposals, or qualifications all of the criteria that will be used to evaluate the offers and to base its selection on those criteria.

Requires the commission to document the basis of its selection and to make the evaluations public not later than the seventh day after the date the contract is awarded.

Authorizes the commission to use the lowest and best bid method for a project. Sets the procedures for using the lowest and best bid method and authorizes the commission to reject all bids.

Authorizes the commission to use the design-build method for a project. Requires the commission, in using that method and in entering into a contract for the services of a design-build firm, to follow certain procedures. These procedures require:

- the commission to designate an engineer or architect to act as its representative. If the commission's engineer or architect is not a full-time employee of the commission, any engineer or architect designated shall be selected on the basis of demonstrated competence and qualifications in accordance with Subchapter A, Chapter 2254.
- the commission to prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The commission shall also prepare a design criteria package that includes more detailed information on the project.
- the commission or its representative to publish the request for qualifications in a manner prescribed by the commission.
- the commission or its representative to evaluate statements of qualifications and select a design-build firm in two phases which are set out in the bill.
- the selected firm's engineers or architects to complete the design and submit all design elements for review and determination of scope compliance with the commission's engineer or architect before or concurrently with the beginning of construction.
- an engineer to have responsibility for compliance with the engineering design requirements and all other applicable requirements of the Texas Engineering Practice Act, and an architect to have responsibility for compliance with the requirements of Article 249a, V.T.C.S. (Regulation of Architects).
- the commission to provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the commission.
- the design-build firm to supply a signed and sealed set of construction documents for the project to the commission at the conclusion of the construction.

Provides that a payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build project that includes design services only. Requires the penal sums of the performance and payment bonds delivered to the commission to each be in an amount equal to the project budget, if a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded. Requires the design-build firm to deliver the bonds not later than the 10<sup>th</sup> day after the date the firm executes the contract unless the firm furnishes a bid bond or other financial security acceptable to the commission.

#### ***Construction Manager-At-Risk Method***

Authorizes the commission to use the construction manager-at-risk method for a project. Requires the commission, in using that method and in entering into a contract for the services of a construction manager-at-risk, to follow certain procedures.

Sets out the procedures for selection, contracting, and bonding of a manager-at-risk.

#### ***Competitive Sealed Proposal Method***

Authorizes the commission to select a contractor for a project using the competitive sealed proposal method. Sets out the procedures for selection and contracting using the competitive sealed bid method.

Authorizes a proposal guarantee to be in the form of a cashier's check or money order, a bid bond issued by an authorized surety, or any other approved method, if an agency by rule requires a proposal guaranty as a condition for bidding on a contract.

### *Leasing of State Office Space*

Requires the commission to lease space for the use of a state agency on the basis of obtaining the best value for the state. Requires the commission to use certain criteria to adopt rules establishing guidelines for determining best value in a lease contract.

Authorizes the commission to contract with one or more private brokerage or real estate firms to assist in obtaining lease space for state agencies.

Requires the commission to evaluate the operation of the first four state-leased warehouses in Austin for which the leases expire after October 1, 2001. Requires the commission to work with the state agency that operates the warehouse to reduce inefficient warehouse space use. Sets out other requirements regarding warehouse leased space.

Sets out new requirements regarding surplus property, including a requirement to advertise such property on the comptroller's website.

Sets out new requirements relating to disposition of surplus property by competitive bidding or direct sale, including using an Internet auction site.

Sets out new requirements relating to disposition of surplus or salvage property by the commission and state agency transfer of property to the commission.

Sets out requirements for advertising on the comptroller's website, direct transfer, notice of transfer to the comptroller, disposition by competitive bidding, auction, or direct sale, direct sale to the public, advertisement of sale, and property accounting and proceeds of sale.

Requires the commission to establish a mandatory recycling program for a state agency that occupies a building under its control and to develop rules regarding recycling.

### *Historically Underutilized Businesses*

Authorizes the commission to enter into agreements with local governments that conduct certification programs and with nonprofit organizations. Authorizes the commission to terminate an agreement if a local government or nonprofit organization fails to meet the standards established by the commission. Makes other provisions regarding historically underutilized businesses.

### *Miscellaneous Provisions*

Makes the executive director subject to the same conflict of interest provisions as a board member and prohibits an employee from engaging in certain activities.

Requires the commission and all state agencies procuring goods or services to give preference to goods or services produced in an economically depressed or blighted area if certain conditions are met.

Requires the public body, for a contract for a public work awarded by a political subdivision of the state, to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract.

Requires the public body, if the contract is for a public work located in a county bordering the Mexico or in a county adjacent to a county bordering Mexico, to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed. Requires the determination to be made by conducting a survey of the wages received by the classes of workers employed on projects of a character similar to the contract work both statewide and in the political subdivision of the state in which the public work is to be performed. Requires the public body to also consider the prevailing wage rate as determined by the U.S. Department of Labor, but only if the survey used was conducted within a three-year period preceding the date for bids. Requires the public body to determine the general prevailing rate of per diem wages in the locality based on the higher of three methods of calculation.

Sets out provisions relating to liability and legislative permission to sue and indemnity in construction.

### **Electronic Filing with State Agencies - S.B. 481**

*by Senator Duncan*

*House Sponsor: Representative Kitchen*

Requires the Department of Information Resources to:

- advise and consult with state agencies to assess opportunities to electronically file any information the agency requires;
- identify the cost of and barriers to implementing electronic reporting; and
- make recommendations to the legislature not later than September 1, 2002.

### **Defibrillator Installation in State Buildings - S.B. 531**

*by Senator Nelson*

*House Sponsor: Representative Janek*

Requires the Texas Department of Health (TDH), in consultation with the General Services Commission, to study the purchase and placement of automated external defibrillators in state buildings. The TDH will estimate the extent to which placing these automated external defibrillators would improve the survival rate of individuals who experience sudden cardiac arrest in state buildings.

In addition, this study will evaluate which state buildings should receive a defibrillator, giving special consideration to buildings open to the public. Also, it will examine the cost of this placement, how to integrate the placement of defibrillators with existing medical services, how much state personnel would need to be trained to use these machines, the cost of such training, and any other considerations or costs.

**Continuation and Functions of the Texas Department of Aging - S.B. 535**

*by Senator Carona, et al.*

*House Sponsors: Representative Jesse Jones, et al.*

Under current law, the Texas Department of Human Services (DHS) is scheduled to become the Texas Department of Aging and Disability Services (TDADS) in 2003. The Texas Department on Aging will be abolished and all of its powers, duties, functions, and activities transferred to TDADS.

Continues the Texas Department on Aging as a single state agency for two additional years.

Requires the commissioner of health and human services no later than January 1, 2003, to identify the functions of the Texas Department on Aging, recommend functions that could be transferred to DHS, evaluate the degree of coordination between the Texas Department on Aging and DHS, and report the findings to the legislature

**The Texas Commission on Private Security - S.B. 1224**

*by Senator Harris*

*House Sponsor: Representative Bob Turner*

The Texas Commission on Private Security (commission) is responsible for regulating occupations such as investigators and security officers.

Authorizes the commission, as part of its general powers and duties, to commission investigators employed full-time by the commission as peace officers.

Removes the statutory limitations on license fees that the commission may charge, although the commission continues to be required to establish reasonable and necessary fees that produce sufficient revenue to fulfill its duties.

Requires the commission to develop a continuing education course required for renewal of a security officer commission.

Provides that a person commits a state jail felony if the person contracts with a bail bond surety to secure the appearance of a person who has forfeited a bail bond, unless the person is a peace officer, an individual licensed as a private investigator or the manager of a licensed investigations company, a commissioned security officer employed by a licensed guard company, a licensed bail bondsman, the agent designated in the license application of a corporate bail bond surety, or a full-time employee of a bail bond surety who holds a license as an individual or a full-time employee of the agent designated in the license application of a corporate bail bond surety.

Expands the list of persons who may obtain an arrest warrant to include certain bail bondsmen.

**Texas Food for Health Advisory Council - S.B. 1454**

*by Senator Lucio*

*House Sponsor: Representative Flores*

Creates the Texas Food for Health Advisory Council designed to increase consumption of Texas fruits and vegetables by promoting the benefits of a healthy diet and generating revenue for agricultural development

in Texas. The council will coordinate food-for-health research programs and encourage agricultural producers to use food-for-health research programs.

### **Management of Electronic Government - S.B. 1458**

*by Senators Duncan and Shapleigh  
House Sponsor: Representative McCall*

Currently, Texas is moving forward with electronic government (e-government) with no one organization responsible for ensuring that e-government advances effectively and efficiently in an increasingly high-tech world. S.B. 1458 establishes an electronic government program management office in the Department of Information Resources to guide, promote, and facilitate the implementation of select e-government projects and to manage the ongoing development of the TexasOnline portal.

Requires the Department of Information Resources (DIR) to create an Electronic Government Program Management Office (office) to direct and facilitate the implementation of electronic government projects. Lays out the general powers and duties of the office.

Requires the office, in coordination with the Legislative Budget Board (LBB) and the comptroller's office, to identify necessary resources and approve spending. Requires the office to create state agency coordination teams to reduce information technology expenditures and eliminate unnecessary duplication.

Requires state agencies to cooperate with the DIR and the office regarding electronic projects.

Exempts institutions of higher education from participation, but provides that an institution of higher education may elect to participate in the same manner as a state agency with approval of the office. Lists other requirements for participation by an institution of higher education.

Requires the office, in coordination with the comptroller, Governor's Office of Budget and Planning, state auditor, and LBB, to develop a model for funding the office, including staff, from a portion of the money appropriated for e-government projects.

Requires the office to use the West Texas Disaster Recovery and Operations Center for the consolidation of data operations and recovery if it provides the best value to the state.

Requires the office, in coordination with the governor, state auditor, and LBB, to develop selection criteria for projects that require direct oversight by the office. Lists the criteria for selection.

Provides other requirements for the office, including appeal of selection, use of TexasOnline, enterprise resource planning, and online services for new businesses.

Creates the Legislative Oversight Committee for Electronic Government Projects and lists its membership. Requires the governing board of DIR to create an Electronic Government Program Management Office Advisory Committee to provide ongoing direction for the operation of the office. Sets out the membership of the board.

Requires the office to review state agency plans and make periodic reports.

Prohibits a state agency from duplicating a component of TexasOnline unless the office approves.

Creates the TexasOnline grant program to enable counties, municipalities, and school districts to provide electronic government services through TexasOnline. Requires the office to manage the program and to give preference to entities located in a strategic investment area. Lists other requirements and conditions related to TexasOnline grants. The program expires September 1, 2003.

Requires DIR, when contracting with a vendor on an e-government project, to consider vendor incentives.

Excepts government information related to security of computers from Section 552.021, Government Code (Availability of Public Information).

Continues the TexasOnline Division of DIR until 2005.

Requires the comptroller to develop an advanced electronic audit database system for use by the comptroller's audit division, lists what the system must contain, and makes other provisions regarding the system.

Amends provisions relating to the advance database system for tax collections by the comptroller, including use of outside personnel, advanced technology equipment, and transfer of data processing equipment to students.

Amends provisions regarding contract claims against the state, including the total amount of money recoverable and retention of legislative authority.

Authorizes the Texas Department of Transportation, in contracting with a private business for the removal of personal property from the right-of-way or roadway of the state highway system, to use certain methods.

### **Children's Trust Fund of Texas Council Abolished and Duties Transferred - S.B. 1475**

*by Senator Duncan*

*House Sponsor: Representative Goodman*

Abolishes the Children's Trust Fund of Texas Council (council) and provides that any reference in law to the council means the Department of Protective and Regulatory Services (DPRS) and to the children's trust fund means the child abuse and neglect prevention trust fund account.

Provides that the transfer of the council's powers, duties, functions, programs, activities, obligations, rights, contracts, records, property, funds, and employees to DPRS does not affect or impair any act done, any obligation, right, criterion, standard, or requirement existing, or any investigation begun under former law.

Requires DPRS to operate the child abuse and neglect primary prevention program and sets out the purposes and funding of the program.

### **Driver's License Applicant's Proof of Identity and Citizenship - H.B. 396**

*by Representative Wise, et al.*

*Senate Sponsor: Senator Gallegos*

Under current law, all applications for a Texas driver's license must present satisfactory proof of identity. The Department of Public Safety (DPS) requests, in some cases, that social security cards be presented,



because DPS uses social security numbers to track applicants who owe child support. However, some applicants may not be eligible for social security cards.

Provides a list of acceptable alternatives or documents that DPS may use in lieu of social security numbers to help applicants obtain a valid driver's license.

Prohibits DPS from providing a voter registration application to driver's license or identification card applicants unless they present proof of United States citizenship.

### **Internal Audits of State Agencies - H.B. 609**

*by Representative Hochberg*  
*Senate Sponsor: Senator Shapiro*

Current law requires a state agency that has an annual operating budget that exceeds \$10 million, that has a staff of more than 300 employees, or that receives and processes cash items in excess of \$10 million annually to appoint an internal auditor. This excludes smaller agencies that may be able to improve performance by identifying problems through an internal audit.

Extends the internal audit requirement to all state agencies that receive an appropriation.

### **Continuation of Coastal Coordination Council (Sunset) - H.B. 906**

*by Representative Bosse, et al.*  
*Senate Sponsor: Senator Lucio*

Continues Coastal Coordination Council for twelve more years and sets forth standard Sunset Commission language relating to open meetings and council membership.

### **Administration of State Agency Insurance - H.B. 1203**

*by Representative Brimer*  
*Senate Sponsor: Senator Fraser*

Current law authorizes a state agency or an institution of higher education (agency) to purchase its own insurance policies. As a result, a state agency may purchase an unnecessary or questionable policy which may pose an additional cost to the state.

Requires the State Office of Risk Management (SORM) to administer insurance services obtained by state agencies, including the government employees workers' compensation insurance program and the state risk management programs.

Requires SORM to operate as a full-service risk manager and insurance manager for state agencies, maintain and review records of property, casualty, or liability insurance coverages purchased by or for a state agency; and administer the program for the purchase of surety bonds for state officers and employees.

Requires SORM to perform risk management and purchase insurance coverage for certain state agencies under any line of insurance other than health or life insurance, including certain liability insurance.

Requires the risk management board to develop an implementation schedule for the purchase of insurance for state agencies by the office. Requires the board to phase in, by line of insurance, the requirement that a state agency purchase coverage only through the office.

Prohibits certain state agencies from purchasing property, casualty, or liability insurance coverage without the approval of the board.

### **Expanded Definition of Job Coordinator under the Private Security Act - H.B. 1680**

*by Representatives Bosse and Phil King  
Senate Sponsor: Senator Whitmire*

Currently, the Private Investigators and Private Security Agencies Act (Private Security Act) enables full-time active peace officers, who are employed by a municipality or the state to work off-duty employment.

Modifies the definition of "extra job coordinator" in the Private Security Act to make it applicable to full-time employees of a political subdivision of the state.

### **Office of Texas Fire Fighters' Pension Commissioner (Sunset) - H.B. 1747**

*by Representative McCall, et al.  
Senate Sponsor: Senator Zaffirini*

Provides for the continuation of the Office of the Fire Fighters' Pension Commissioner (office) until September 1, 2011.

Tightens the restrictions as to who is eligible for appointment as the fire fighters' pension commissioner. Adds standard Sunset Commission language regarding commissioner conflict of interest, equal employment policy, and complaints.

### **Billing State Agencies for the Cost of Support Services - H.B. 2071**

*by Representative Junell  
Senate Sponsor: Senator Haywood*

Currently, the statewide cost allocation program (program) is managed by the governor's office and identifies the costs of general government services provided by state agencies to other state agencies. Under the program, agencies are billed for these costs and required to recover them from either fees or federal programs. The state has no formal methodology for tracking the recovery of allocated statewide costs. H.B. 2071 sets forth a methodology by which statewide costs are allocated.

Requires state agencies to reimburse the General Revenue Fund from all fund sources, not just federal funds, for the cost of statewide support services.

Amends the Government Code to provide that the statewide cost allocation plan for support services must allocate to each state agency an appropriate portion of the total costs of statewide support services,

including the costs of providing statewide support services to each state agency, and develop and prescribe a billing procedure that ensures each state agency is billed for all costs allocated to the agency for which the agency is not obligated to pay another state agency under other law.

### **Texas Public Finance Authority - H.B. 2153**

*by Representative Averitt*  
*Senate Sponsor: Senator Sibley*

The Texas Public Finance Authority (TPFA) was created in 1984 to provide cost-effective financing for capital projects to certain state agencies and institutions of higher education, as specified by the legislature.

Increases from six to seven members the size of the board of directors of TPFA.

Expands TPFA's authority to issue and sell bonds in the name of TPFA to include financing for the acquisition or construction of buildings throughout Texas, rather than buildings in Travis County alone.

### **Strategic Lawsuits Against Public Participation - H.B. 2723**

*by Representative Raymond*  
*Senate Sponsor: Senator Shapleigh*

There has been a trend for persons participating as witnesses or complainants in governmental proceedings to be subjected to groundless lawsuits for libel and slander brought for the purpose of harassing or intimidating the person or forcing the person to withdraw a complaint. These lawsuits are sometimes known as SLAPP suits, which stands for "Strategic Lawsuits Against Public Participation."

Sets out the type of claims that are included in the law and the venue for such claims.

Provides that complainants (persons who makes complaints or who communicate information relevant to a complaints to a governmental agency or quasi-governmental entity) who make a complaint in good faith are not liable for monetary damages arising from the complaint or subject to injunctive or declaratory relief with respect to the complaint. There is a rebuttable presumption that a complaint is made in good faith.

Makes a person liable for damages to a complainant and subject to injunctive or declaratory relief if the complainant demonstrates by a preponderance of the evidence that:

- the complainant made or intended to make a complaint in good faith;
- the person committed or caused to be committed harassing conduct against the complainant; and
- the harassing conduct was committed to obtain the withdrawal of the complaint, prevent or limit the complainant's participation, prevent the filing of the complaint, or retaliate for the complaint.

Sets damages that may be awarded to the complainant as:

- actual damages;
- attorney's fees and costs; and

- exemplary damages in an amount equal to five times the amount of attorney's fees and costs awarded.

Provides that an attorney bringing a claim in bad faith is subject to professional discipline for professional misconduct and to suspension or disbarment for dishonorable conduct. The court must promptly report a judgment against the attorney to an appropriate grievance committee.

Bars a state court from issuing a temporary restraining order or injunction, permanent injunction, or other order prohibiting a complainant from communicating with a governmental agency or quasi-governmental entity concerning the subject matter of a complaint or a claim covered by this act.

### **State Office of Risk Management Allocates Workers' Compensation Costs - H.B. 2976**

*by Representative Dukes*  
*Senate Sponsor: Senator Fraser*

Interagency contracts with the State Office of Risk Management (SORM) are requirements of state agencies to administer the risk management program and partially fund the office. Workers' compensation payments incurred by certain state agencies have raised some concerns that more responsibility needs to be made for accident prevention and loss control programs.

Requires SORM to establish a formula for allocating the state's workers' compensation costs to state agencies in order for state agencies to implement risk management programs.

### **Texas Funeral Service Commission (Sunset) - H.B. 3067**

*by Representative Chisum, et al.*  
*Senate Sponsor: Senator Zaffirini*

Currently, the Texas Funeral Service Commission (commission) licenses both funeral directors and embalmers, and enforces violations of the commission's statute.

Continues the commission until September 1, 2003.

Provides that the Health Professions Council (council) consists of 15 (rather than 14) members, with one member appointed by the Texas Funeral Service Commission.

Provides that the commission consists of seven (rather than six) members appointed by the governor, with the advice and consent of the senate, with one member who is a registered cemetery owner or operator.

Adds standard Sunset Commission language regarding training, requirements for membership on the commission, equal employment opportunity policy, and complaints.

Requires a licensed funeral establishment, except as otherwise provided, to be inspected at least once every two years (rather than annually) by an agent of the commission or by an agent of the state or a

political subdivision authorized by the commission to make inspections on its behalf. Requires the commission, if it finds a violation, to inspect the establishment annually until the commission determines that the establishment is free of violations.

Authorizes the commission to inspect a cemetery or crematory only under certain conditions. Requires a report of an inspection to be filed with the commission. Requires the commission by rule to establish procedures for the inspection of a cemetery or crematory.

Sets forth provisions related to licensing and registration of funeral directors and embalmers.

Sets forth requirements for a purchase agreement. Requires the registrant for the cemetery or crematory to sign the purchase agreement. Provides that, if the customer selects a package arrangement based on unit pricing, the itemization requirement is satisfied by providing a purchase agreement that itemizes the discount provided by the package arrangement.

Provides that the fact that a funeral director contracts for cemetery or crematory services, including as part of a package arrangement, does not limit the director's liability to the customer for those services.

Provides that it is a violation of law to use a statement that misleads or deceives the public regarding funeral merchandise or funeral, cemetery, or crematory services. Cemetery or crematory services that occur after burial or inurnment are excepted from this law.

Sets forth guidelines regarding cemetery or crematory registration requirements, and requires the commission by rule to establish the registration fee.

Requires the Texas Department of Banking, on request by the commission, to provide the commission a list of perpetual care cemeteries, including the address and other contact information for each cemetery. Requires the commission to annually register each perpetual care cemetery on that list. Provides that a perpetual care cemetery is not required to pay a registration fee.

Requires the funeral commission to contract with the Department of Information Resources to improve the compilation of statistics and other information using information resources. Requires the contract to expire before the fiscal year that begins September 1, 2003. Sets forth requirements for the contract.

Requires the commission to contract with the attorney general to ensure adequate access to certain legal services from the attorney general.

Requires the commission, not later than December 1, 2001, to develop a plan that details the manner in which it will implement the requirements of this article. Sets forth requirements for the plan.

Provides that a task force is created to perform certain functions. Sets forth guidelines regarding the composition of the task force. Requires the task force to meet at least once a month. Provides that the task force is abolished on January 15, 2003.

Authorizes the sunset commission, in performing its duties, to limit the scope of its review of the funeral commission. Authorizes the sunset commission, as part of the review, to determine how much progress the funeral commission has made in addressing and implementing certain solutions required by this Act.

Requires the funeral commission, not later than September 1, 2002, to report to the sunset commission on the status of its progress under this Act.

Requires the sunset commission, if it determines that the funeral commission has not made substantial progress, to consider whether to recommend that the legislature abolish the funeral commission and transfer its functions to the Texas Department of Licensing and Regulation.

**Uniform Election Dates - S.B. 79**

*by Senator Shapiro, et al.*

*House Sponsor: Representative Madden*

Decreases the number of election dates in Texas in an effort to raise voter participation. There are four uniform election days in the state, but there were 10 exceptions for certain elections. S.B. 79 eliminates several of the exceptions but retains special exceptions to resolve a vacancy in the legislature, tie votes, and other emergencies. By reducing the number of elections held, a savings of \$2.7 million is anticipated.

**Polling Places for Elections - H.B. 563**

*by Representatives Madden and Hochberg*

*Senate Sponsor: Senator Shapiro*

To ensure access to polling places, this bill, which applies only to a general or special election that is ordered by the governor or the county judge:

Requires the county clerk, if the location of a polling place changes after notice of an election is given, to give notice of the change not later than the earlier of 24 hours after the location is changed or 24 hours before the polls open on election day.

Requires an election officer, who has computerized polling place information available, to help voters find their correct polling place.

Requires the presiding judge of a polling place, if the polling place is left unattended, to provide for the security of the polling place.

**Canceling Special Elections - H.B. 831**

*by Representative Madden, et al.*

*Senate Sponsor: Senator Shapiro*

Legislation enacted during the 74th Legislature authorized certain political subdivisions to cancel an election and declare an unopposed candidate elected if no contested races and no propositions appear on the ballot. It seems reasonable to apply the same criteria for local election cancellation to state office races.

Allows the secretary of state to declare elected an unopposed candidate for the legislature, under certain circumstances.

Sets forth procedures for a write-in candidate in a special election to fill a vacancy in the legislature.

**Candidates for the Texas Supreme Court or Court of Criminal Appeals - H.B. 1117**

*by Representative Goodman  
Senate Sponsor: Senator Harris*

Current law does not require a candidate for the Texas Supreme Court or Texas Court of Criminal Appeals to file signatures with the filing fee for a place on the general primary election ballot for either court. H.B. 1117 requires that candidates submit 100 signatures of registered voters from a minimum number of senatorial districts with the filing fee. If candidates for these offices submit 100 signatures each from five state senatorial districts, it would indicate a measure of statewide and regional support for their candidacy.

**Review of Current Election Process - H.B. 1419**

*by Representative Jesse Jones, et al.  
Senate Sponsor: Senator Whitmire*

The close outcomes of several recent elections suggest that a review of the current election process to determine the accuracy of voting systems may be appropriate in the near future.

Requires the secretary of state to:

- Reexamine the voting system of each county in Texas.
- Study the effectiveness of adopting a uniform voting system statewide.
- Study innovative voting technologies and approaches to voting.
- Report the conclusions of those studies to the governor and the legislature.

**Automatic Recount in a Tied Election - H.B. 1599**

*by Representatives Danburg and Madden  
Senate Sponsor: Senator Shapiro*

Requires the election authority to request an automatic recount if there is a tied election, the cost of which is to be paid by each political subdivision or county executive committee, as applicable.

Requires the election manager to have the ballots examined to detect any irregularly marked ballots, and to determine whether the ballots are ready for counting and can be properly counted. Requires the manager to have each irregularly marked ballot duplicated to indicate the intent of the voter, if the voter's intent is clearly discernable.



### **Updating Election Ballots - H.B. 1856**

*by Representatives Danburg and Madden*

*Senate Sponsor: Senator Shapiro*

During the recent presidential election, butterfly design punch-card ballots were problematic. Currently, punch-card ballot systems are used in 14 Texas counties.

Prohibits a voting system that uses a punch-card ballot or similar form of tabulating card from being adopted on or after September 1, 2001, for use in elections, except for early voting by mail.

Requires the order of the candidates' and propositions' punch-hole spaces and corresponding numbers on the ballot label to be the same as the order in which the names and propositions are to appear on the official ballot.

Requires election officers, before the polls open, to check each voting device and remove any punch-card ballot chads that have accumulated.

Requires sealed ballot boxes to be used to deliver electronic system ballots to the central counting station.

Requires the election manager to have the ballots examined to detect any irregularly marked ballots, and to determine whether the ballots are ready for counting and can be properly counted. Requires the manager to have each irregularly marked ballot duplicated to indicate the intent of the voter, if the voter's intent is clearly discernable.

Requires the undervotes and overvotes on punch-card or centrally counted optical scan ballots to be tallied, tabulated, and reported by race and by election precinct as prescribed the secretary of state.

Requires an electronic voting system to require voters to deposit the ballots directly into a unit of automatic tabulating equipment which must be programmed to return an irregularly marked ballot to the voter.

Sets forth provisions related to direct recording electronic voting machines.

### **Voter Rights Abuse Hotline - H.B. 2922**

*by Representative Jesse Jones, et al.*

*Senate Sponsor: Senator Whitmire*

Requires the secretary of state to establish a toll-free telephone number to allow a person to report an existing or potential abuse of voting rights.

Requires a notice informing voters of the telephone number and the purpose for the number to be continuously posted in a prominent location at each polling place during the early voting period and on election day for each election held on a uniform election date.

**Equitable Distribution of Voting Equipment - H.B. 2923**

*by Representative Jesse Jones, et al.*

*Senate Sponsor: Senator Whitmire*

Current law provides that, if more than one kind of voting system is adopted for use at the polling places in the same election, the adopting authority determines the polling place or places at which each system is to be used.

Requires any new voting technology that is introduced for a primary election, an election ordered by the governor, or an election ordered by a county authority to be distributed and used proportionately and equitably among the election precincts in which it is used.

**Making Allowances for Early Voting Periods - H.B. 3305**

*by Representative Martínez Fischer*

*Senate Sponsor: Senator Van de Putte*

Under current law, the last day to call an election is 45 days before the day set as election day. This provision creates a conflict for counties that need to request pre-clearance for an election from the United States Department of Justice (USDOJ) in accordance with the federal Voting Rights Act.

Modifies time periods pertaining to elections to use the earliest allowable date for the beginning of early voting by personal appearance, rather than election day, as a frame of reference.

**Appointment of Presidential Electors - H.J.R. 45**

*by Representatives Tillery and Madden*

*Senate Sponsor: Senator Shapiro*

During the last presidential election cycle, the contest of the election results in Florida raised the possibility that the state might lose its electoral votes if its election results were not certified by the deadline. This resolution proposes a constitutional amendment to:

Require the governor to convene a special legislative session to appoint presidential electors if the governor determines a reasonable likelihood exists that a final determination of the appointment of electors will not occur before the deadline.

**Canceling an Election for Unopposed Legislative Candidate - H.J.R. 47**

*by Representatives Madden and Crownover*

*Senate Sponsor: Senator Shapiro*

Proposes a constitutional amendment to authorize the legislature to enact a statute regarding the filling of a vacancy in the legislature without an election if, in an election to fill the vacancy, only one person qualifies and declares a candidacy.

**Creating the Texas Residential Property Owners Protection Act - S.B. 507**

*by Senators Carona and Ellis  
House Sponsor: Representative Dutton*

Creates the Texas Residential Property Owners Protection Act and limits the applicability of the Act to a certain residential and property owners' associations.

Requires an association to record in each county in which any portion of the residential subdivision is located a management certificate and sets out what information this certificate must include.

Requires an association to make its books and records reasonably available to an owner.

Requires an association, before it may take certain enumerated actions against an owner, to give written notice to the owner by certified mail, return receipt requested and sets out what this notice must contain.

Sets out in what circumstances an owner is entitled to request a hearing before the board of the association or a committee appointed by the board, and sets out the procedures for such hearing.

Provides that the notice and hearing requirements do not apply to certain legal actions, such as foreclosure or a counterclaim filed by the association in a suit brought against the owner.

Provides that if a suit is filed relating to a matter to which the notice and hearing provisions do apply, a party to the suit may file a motion to compel mediation. Also authorizes an association to use alternative dispute resolution services.

Entitles an association to collect reasonable attorney's fees and other reasonable costs incurred by the association for enforcing restrictions, bylaws, or rules if the owner is provided a written notice that attorney's fees and costs will be charged to the owner if the delinquency or violation continues after a certain date.

Requires the association, upon written request from the owner, to provide copies of invoices for attorney's fees and other costs relating only to the matter for which the association seeks reimbursement of fees and costs.

Limits the amount of attorney's fees that the association may include in a nonjudicial foreclosure sale for an indebtedness covered by the association's assessment lien.

Prohibits an association from foreclosing an assessment lien if the debt securing the lien consists solely of fines assessed by the association or attorney's fees solely associated with fines assessed by the association.

Requires an association that conducts a foreclosure sale of an owner's lot to send to the lot owner not later than the 30th day after the date of the foreclosure sale a written notice stating the date and time of the sale and informing the owner of the owner's right to redeem the property. These notice requirements also apply to the sale of an owner's lot by a sheriff or constable conducted as provided by a judgment obtained by the association.

Provides that the owner of property may redeem the property from any purchaser at a sale foreclosing an association's assessment lien not later than the 180th day after the date the association mails written notice of the sale to the owner. Sets out what an owner must do to redeem the property, what the owner must pay, and other procedures and notices regarding the right of redemption. These redemption rights of a owner also apply if the sale of the property is conducted by a constable or sheriff as provided by a judgment obtained by the property owners' association.

### **Benefits for Certain Disabled Peace Officers - S.B. 850**

*by Senators Barrientos and Bernsen  
House Sponsor: Representative Tillery*

Entitles a peace officer, employed by the state or a local government entity in this state, who sustains a permanently incapacitating injury as a result of criminally injurious conduct on or after September 1, 1989, in the performance of the officer's duties, to receive an annual payment, paid from the compensation to crime victims fund and not to exceed a total of \$200,000.

### **Increased Compensation to Crime Victims for Certain Pecuniary Losses - S.B. 1202**

*by Senators Zaffirini and Barrientos  
House Sponsor: Representative Gallego*

Increases from \$50,000 to \$75,000 the amount an attorney general may award to certain victims of crime for extraordinary pecuniary losses, for lost wages, and reasonable and necessary costs for services related to a total and permanent disability.

Adds durable medical equipment, rehabilitation technology, and long-term medical expenses incurred as a result of medically indicated treatment for the personal injury to the list of things for which a person may be awarded compensation.

### **Missing Persons DNA Database - S.B. 1304**

*by Senator Harris  
House Sponsor: Representative Geren*

DNA analysis technology is a valuable tool to help law enforcement agencies in criminal cases involving missing persons and children. Currently, no facility in Texas provides both DNA analysis and an established DNA database for the sole purpose of assisting law enforcement agencies and other individuals in criminal cases involving an unidentified deceased person or a high-risk missing person.

Establishes a DNA database at the University of North Texas Health Science Center at Fort Worth for all cases involving the report of an unidentified deceased person or a high-risk missing person.

Provides for criminal and civil penalties for violations of destruction of samples or confidentiality requirements.

Designates the missing persons DNA database fund.

Creates an advisory committee made up of medical examiners, law enforcement officials, and other interested persons to prioritize identification of the backlog of high-risk missing persons cases and unidentified remains.

### **Certain Out-of-State Officers May Carry Weapons in Texas - S.B. 1713**

*by Senator Van de Putte*

*House Sponsor: Representative Garcia*

Allows commissioned peace officers of another state and special investigators to carry weapons in the same manner as peace officers in this state, including in an establishment serving the public, regardless of whether the officer or investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon.

### **Office of Rural Community Affairs - H.B. 7**

*by Representative Chisum, et al.*

*Senate Sponsor: Senator Sibley*

Promoting economic development and ensuring the general welfare of rural communities in Texas is a continuing challenge for Texas state government. Social and economic forces in rural Texas have led to post offices and hospitals being closed or consolidated; home-owned cafes, department stores, and banks being replaced by national chains; ever smaller graduating classes; downtowns being bypassed by highway loops; and empty storefronts on Main Street. It is clear that rural Texas is in a state of transition. The future of rural communities lies in how well rural Texas communities adjust to the changes.

During the interim, the House Select Committee on Rural Development found that there is no focus point at the state or federal level for rural policy formulation or implementation, which results in fragmented policies spread among a myriad of governmental agencies. All levels of government have a hand in developing and implementing rural policy and cooperation and coordination are essential to maximizing the effectiveness of policy programs.

Creates the Office of Rural Community Affairs (office), makes it subject to the Texas Sunset Act, and sets its review by the Sunset Commission in 2007.

Sets forth duties related to the office and the executive committee.

Establishes the Outstanding Rural Scholar Recognition and Loan Program for rural health care. Sets forth guidelines regarding selection, eligibility, award and amount of loans, and loan forgiveness. Requires institutions of higher education to report on the progress of outstanding rural scholars.

Establishes the Health Careers Promotion and Education Program (program). Requires the office to administer or contract for the administration of the program. Authorizes the office to solicit and accept gifts, grants, donations, and contributions to support the program. Authorizes the office to establish a program to work with students, communities, and community-based organizations to encourage high school students to pursue health care professional careers. Sets forth guidelines for loans, student eligibility, community eligibility, loan forgiveness, and contracts. Sets forth requirements regarding monitoring of the program and reports on the program. Makes other provisions regarding the program.

Creates the Medically Underserved Community-State Matching Incentive Program (incentive program) to increase the number of physicians providing primary care in medically underserved communities.

Creates the Texas Health Service Corps Program to assist communities in recruiting and retaining physicians to practice in medically underserved areas and sets forth the requirements of the program.

Transfers the community development block grant nonentitlement program from the Office of Housing and Community Affairs to the Office of Rural Community Affairs.

Authorizes the office to enter into an interagency agreement with the Department of Agriculture (rather than the Texas Department of Commerce) to reimburse the Department of Agriculture for providing on behalf of the office marketing, underwriting, and any other services on the portion of the federal community development block grant funds allocated by the office for economic development activities.

Requires the office, at a hospital's request, to designate the hospital as a rural hospital if the hospital meets certain requirements.

Abolishes the Center for Rural Health Initiatives and transfers its functions to the Office of Rural Community Affairs.

Requires the Office of Rural Community Affairs, not later than September 1, 2002, to evaluate the cost-effectiveness and other benefits of moving at least one-half of its operations to a location outside Travis County, Texas. Requires the office, if the evaluation indicates that the move would be beneficial and the Legislative Budget Office concurs, to undertake the move.

### **Equal Privileges and Services for Bikers - H.B. 259**

*by Representatives Glenn Lewis and Chavez*

*Senate Sponsor: Senator Armbrister*

Prohibits an establishment normally accessed by the general public for certain accommodations from denying access or admission to group members because they operate motorcycles or wear clothing associating them in some way with any organization that operates motorcycles, among certain conditions.

**Campaign Finance Reporting for Statewide Candidates - H.B. 407**

*by Representative Denny  
Senate Sponsor: Senator Shapiro*

Currently, state senators and state representatives must file supplemental campaign contribution reports upon receipt of contributions exceeding \$1,000 and \$200, respectively, within nine days of the election. However, statewide candidates are not required to file these supplemental reports.

Includes statewide offices in the supplemental filing requirements for campaign contributions exceeding \$1,000 within the second to ninth day before the election.

**Survivor Benefits for Families of Officers Killer in the Line of Duty - H.B. 877**

*by Representatives Flores and Chavez  
Senate Sponsor: Senator Barrientos*

Provides survivor benefits for the families of certain peace officers and employees killed in the line of duty.

Adds a surviving minor child, if there is no surviving spouse, to the list of survivors eligible to receive survivor benefits upon the death in the course of duty of certain peace officers.

Increases the survivor benefit payment to \$250,000 from \$50,000, which goes first to a surviving spouse, then to surviving children if there is no eligible spouse, and last to the parents, if there are no surviving spouse or children.

Exempts a surviving spouse or child from tuition and fees at state-supported colleges if the survivor enrolls as a full-time student. Provides that the state will pay room and board in college housing and for textbooks until the student receives a bachelor's degree or 200 hours of credit.

Provides for additional benefits for survivors of a peace officer or an employee of the institutional division or state jail division of the Texas Department of Criminal Justice who was killed in the line of duty and had not qualified for an annuity. Provides for an annuity and sets out how much the annuity will be. Sets out other requirements regarding the annuity.

**Lobbyists' Conflicts of Interest - H.B. 1168**

*by Representative Wilson  
Senate Sponsor: Senator Harris*

Prohibits a lobbyist from representing opposing parties in lobbying communications and representing a person if a conflict of interest arises which would materially affect the lobbyist's clients.

Requires the lobbyist to promptly withdraw from one or more representations to remove any conflict of interest situations.

Authorizes the Texas Ethics Commission to pursue complaints and impose civil and criminal penalties in cases of lobbyists' conflicts of interest.

### **Regulation of Dangerous Wild Animals - H.B. 1362**

*by Representative Goodman, et al.*

*Senate Sponsor: Senator Harris*

Sets up a new system of regulating dangerous wild animals by giving regulatory authority to municipal and county authorities. Provides a list of animals that are considered to be dangerous and wild, and provides that certain types of wild animal possession are excepted from the act.

Requires a possessor of a dangerous wild animal to register and receive a certificate of registration with an animal registration agency. Provides a list of the information to be included in an application for registration and other requirements regarding the registration certificate.

Requires an owner of a dangerous wild animal to maintain liability insurance coverage in an amount not less than \$100,000.

Requires an owner to notify the animal registration agency within a certain time period of any attack on a human and provides that the owner of an animal that escapes is liable for all costs incurred in apprehending and confining the animal.

Provides other requirements and standards regarding liability, registration, powers of a board, caging requirements, care, treatment, and transportation of an animal

Makes a violation of this act a Class C misdemeanor. Provides that it is an offense if a person knowingly sells or otherwise transfers ownership of a dangerous wild animal to a person who does not have a certificate of registration as required in the bill. Provides a civil penalty ranging from \$200 to \$2,000 for failure to obtain a registration certificate.

### **Driver's License Related Transactions - H.B. 1762**

*by Representative Green*

*Senate Sponsor: Senator Armbrister*

The Department of Public Safety (DPS) is currently authorized to adopt rules to allow driver's license or personal identification card applicants to pay certain fees by mail, telephone, Internet, or electric transaction (other means) in an effort to minimize the wait in driver's license offices and reduce the inconvenience to the public. However, the current statute may be too specific to allow other transactions.

Authorizes the expansion of DPS's e-commerce business process to allow persons to apply for duplicate driver's licenses and submit requests for information by other means.

### **Homestead Property and Constitutionally Correct Credit Extensions - H.B. 1995**

*by Representative Marchant*

*Senate Sponsor: Senator Carona*

The Texas Constitution has historically provided protection for property declared to be a primary residence, or a homestead property, and allowed for certain encumbrances on this property, as well certain extensions of credit such as a reverse mortgage.



Provides that an encumbrance may be properly fixed on homestead property for an extension of credit that meets the requirements of the Texas Constitution, and a reverse mortgage that meets the same requirements.

### **Indoor Air Quality in State-Owned Buildings - H.B. 2008**

*by Representative Naishtat, et al.*  
*Senate Sponsor: Senator Moncrief*

While current law prohibits smoking in public buildings, a number of other air pollutants present a danger as well. In 1995 the legislature directed the Texas Board of Health (board) to develop voluntary indoor air quality guidelines for public schools.

Requires the board to develop voluntary guidelines to other government buildings. The board may set different guidelines for buildings that are regularly occupied or visited by children.

### **State Agency Energy Performance Contracting - H.B. 2277**

*by Representative Carter*  
*Senate Sponsor: Senator Fraser*

Energy performance contracting is a financing method that allows a facility to complete energy-saving improvements within an existing budget by financing them with money saved through reduced utility expenditures. Over the past five legislative sessions, the legislature has passed and improved upon measures to allow state agencies, state universities, and local political subdivisions to enter into multiyear energy performance contracts. However, no state agency has taken advantage of this mechanism to finance energy efficiency retrofits.

Clarifies the authority of state agencies to use the master equipment lease purchase program administered by the Texas Public Finance Authority to finance energy efficiency programs, and makes other changes to encourage state agencies to utilize performance contracting.

### **Legislative Ability to Waive Sovereign Immunity - H.B. 2312**

*by Representative Bosse*  
*Senate Sponsor: Senator Cain*

During the 76th legislative session, the legislature established an administrative procedure for disputes arising on contract claims against the state. In February 2001, the Texas Supreme Court ruled in *General Services Commission v. Little-Tex Insulation Company Inc.* that the administrative procedure established by the legislature for certain breach of contract claims against the state was intended to be the exclusive method available for resolving those cases. This decision narrowed the ability of the legislature to waive sovereign immunity. H.B. 2312 clarifies the ability of the legislature to waive sovereign immunity.

Provides that the law governing resolution of contract claims against the state found in Chapter 2260, Government Code, does not apply to:

- a claim for personal injury or wrongful death arising from the breach of a contract;
- a contract executed or awarded on or before August 30, 1999; or
- a contract that does not include dispute resolution provisions.

Prohibits the total amount of money recoverable on a claim for breach of contract from exceeding, after deducting a certain amount, an amount equal to the sum of:

- the balance due and owing on the contract price; and
- the amount or fair market value of orders or requests for additional work made by a unit of state government to the extent that the orders or requests for additional work were actually performed.

Provides that the legislature retains the authority to deny or grant a waiver of immunity to suit against a unit of state government by statute, resolution, or any other means the legislature may determine appropriate.

Provides that the law governing resolution of contract claims against the state found in Chapter 2260, Government Code does not and may not be interpreted to:

- divest the legislature of the authority to grant permission to sue a unit of state government on the terms, conditions, and procedures that the legislature may specify in the measure granting the permission;
- require that the legislature, in granting or denying permission to sue a unit of state government, comply with that the law governing resolution of contract claims against the state found in Chapter 2260, Government Code; or
- limit in any way the effect of a legislative grant of permission to sue a unit of state government unless the grant itself provides that the law governing resolution of contract claims against the state found in Chapter 2260, Government Code may have that effect.

### Statutory Revision and Statutory Construction - H.B. 2809

*by Representative Wolens*  
*Senate Sponsor: Senator Cain*

In *Fleming Foods of Texas, Inc. v. Rylander*, the Texas Supreme Court held that an omission from the 1981 Tax Code, a nonsubstantive revision, effected a substantive change in the law relating to a person eligible to apply for a sales tax refund. The court made its holding despite repeated and clear statements in the law and on the face of the bill that no substantive change was intended. The court rejected the arguments made on rehearing in an amicus brief joined in by the Texas Legislative Council and numerous individual legislators and found that a change in a codified statute that was direct, unambiguous, and irreconcilable with prior law would be given effect as an intended, substantive change in the statute. This bill establishes a rule of construction to assist future courts in avoiding the result reached in *Fleming* and establishes a related rule of construction that any absence of legislative action in regard to the statutes at issue in *Fleming* does not constitute legislative acceptance of that holding.

Furthermore, with most Texas statutes now codified into a topical code, a large component of statutory revision is editorial housekeeping. At each session of the legislature, the Legislative Council prepares for enactment a bill several hundred pages in length that accomplishes that housekeeping by renumbering or re-lettering sections of law, correcting cross-references, and the like. Because the housekeeping bill is considered by the same legislature that seeks to amend many of the statutes in need of update, each session many bills are longer and more complicated than necessary to accomplish the author's purpose because the bill must also accomplish or consider other bills accomplishing the housekeeping. H.B. 2809 gives similar powers to the Legislative Council, eliminating the need for a large part of the housekeeping bill and simplifying bills that amend existing statutes.

Provides that the codification of a statute under the continuing statutory revision program in an act stating that no substantive change in law is intended does not affect the meaning or effect of the statute. Requires a court or other entity interpreting and applying the codified statute to give the codified statute the same effect and meaning that was or would have been given the statute before its codification, notwithstanding the repeal of the prior statute and regardless of an omission or change that the court or other entity would otherwise find to be direct, unambiguous, and irreconcilable with prior law. Requires an omission or change for which the court finds no direct evidence of legislative intent to change the sense, meaning, or effect of the statute to be considered unintended and to be treated as if the omission or change were a typographical or similar error.

Provides that a statute shall not be construed as a waiver of sovereign immunity unless the waiver is effected by clear and unambiguous language. In a statute, the use of "person," as defined to include governmental entities, does not indicate legislative intent to waive sovereign immunity unless the context of the statute indicates no other reasonable construction.

Provides that the legislature finds the decision of the Texas Supreme Court in *Fleming Foods of Texas, Inc. v. Rylander*, 6 S.W. 3d 278 (Tex. 1999), to be inconsistent with the clear and repeatedly expressed intent of the legislature in the enactment of the Tax Code and other nonsubstantive codes enacted under the state's continuing statutory revision program. The absence of any legislative action subsequent to the holding in *Fleming Foods of Texas, Inc. v. Rylander* shall not be construed as legislative acceptance of the holding in that case.

### **Applications for Exemption from Ad Valorem Taxation - H.B. 3184**

*by Representative Danburg*  
*Senate Sponsor: Senator Lindsay*

The Texas Constitution provides for an exemption from ad valorem taxation for the owner of a residence homestead. The 75th Legislature passed provisions relating to the exemption from ad valorem taxation for an owner of a residence homestead and included a provision requiring an applicant to make a sworn statement under oath that the residence homestead is true and correct. However, prior to the 77th Legislature, an applicant's form for a residence homestead tax exemption was not required to be notarized and some counties allowed for the application to be filled out on-line.

Amends the Tax Code by requiring all exemption applications to be sworn to before a notary public or other official authorized to administer oaths.

**Non-Substantive Changes to the State Constitution - H.J.R. 75**

*by Representatives Mowery and Driver*

*Senate Sponsor: Senator Shapiro*

The Texas Constitution contains provisions which are obsolete, archaic, redundant, and unnecessary. Numerous duplicate, executed, and archaic clauses could be repealed or amended without changing the substance of the document. Reformatting the constitution to consolidate duplicate provisions and to delete language that has become outdated will make the document less complex and easier to understand. H.J.R. 75 requires the submission to the voters of a constitutional amendment providing for the reformatting of the constitution to address these issues.

**Tejano Monument on Capitol Grounds - H.C.R. 38**

*by Representative Flores, et al.*

*Senate Sponsor: Senator Gallegos*

Provides that the 77th Texas Legislature hereby approves the construction of a statue or monument on the Capitol grounds that pays tribute to the contributions of Tejanos to the State of Texas, subject to the rules of the State Preservation Board.

Requires the statue or monument to be wholly funded by private donations and prohibits donors' names from being inscribed on the statue or monument.

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## Medical Privacy Act - S.B. 11

*by Senator Nelson, et al.*

*House Sponsors: Representative Gray, et al.*

Confidential health and medical data are now collected, analyzed, distributed, and accessed in large quantities. The Senate Health Committee was charged with reviewing the type, amount, availability, and use of patient-specific medical information, including prescription data, and current statutory and regulatory provisions governing its availability.

Specifies that other Texas statutes with greater confidentiality provisions for the information made confidential in this bill remain valid.

Specifies certain exceptions to the disclosure of protected health information for covered entities engaging in financial activities financial institution.

Exempts the following activities and entities from being regulated by the provisions in the bill:

- a nonprofit agency that is primarily engaged in something other than a health-related business activity from certain provisions when the nonprofit agency pays for health care services or prescription drugs for an indigent person;
- workers' compensation insurance;
- an employee benefit plan;
- any other covered entity or other person, insofar as the entity or person is acting in connection with an employee benefit plan;
- the American Red Cross;
- state agencies disclosing, receiving, transferring, or exchanging medical and health information and records relating individuals in the custody of an agency or in community supervision; and
- education records covered by the Family Educational Rights and Privacy Act of 1974.

Requires covered entities to comply with the Health Insurance Portability and Accountability Act (HIPAA) on issues relating to:

- an individual's access to the individual's protected health information;
- uses and disclosures of protected health information, including requirement relating to consent; and
- notice of privacy practices for protected health information.

Allows the disclosure of protected health information to a person performing health research, regardless of the source of funding of the research, for the purpose of conducting health research, only if individual consent, whether express or through waiver of consent, is acquired by the research entity.

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Requires a privacy board to review the consent acquired by the research entity to ensure that the individual has consented to the specific information requested in the research. Allows the privacy board to grant a waiver for individual consent when the research entity provides evidence that meets certain conditions.

Allows a person who is the subject of protected health information collected or created in the course of a clinical research trial to have access to the information at the conclusion of the research trial.

Allows a covered entity to share protected health information with health researchers and public health authorities on certain conditions.

Prohibits reidentifying a person's protected health information without obtaining the individual's consent or authorization.

Prohibits a covered entity from the disclosure of protected health information for marketing purposes without the consent or authorization of the individual who is the subject of the protected health information.

Requires that written marketing communication be sent in an envelope showing only the addresses of sender and recipient, along with:

- the name and toll-free number of the health care entity sending the marketing communication; and
- a written correspondence explaining the recipient's right to have the recipient's name removed from the sender's mailing list.

Allows the suspension, probation, and revocation of an individual's or facility's state license for violating the health information protections established in this bill.

Requires an entity to obtain an authorization to disclose any nonpublic personal health information before disclosing that information. Provides a procedure for obtaining the authorization to disclose nonpublic personal health information. Provides certain exceptions to an entity disclosing nonpublic personal health information without following the authorization procedures.

Allows the attorney general the ability to institute an action for:

- injunctive relief to restrain violations of the bill; and
- a civil penalty not to exceed \$3000 for each violation. If a court finds the violations have occurred with frequency as to constitute a pattern or practice, then the court may assess a civil penalty not to exceed \$250,000.

Establishes that records and proceedings of a medical committee are confidential and not subject to court subpoena. Sets out certain proceedings that may be held in closed meeting.

Establishes that information received or maintained by a compliance officer retain the protection from disclosure as long as that information is part of the proper function of a compliance officer.

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## Prohibiting the Use of Certain Genetic Information - S.B. 12

*by Senators Nelson and Lucio*  
*House Sponsor: Representative McCall*

Information about a person's genetic predisposition to certain diseases or medical conditions is increasingly available. There is concern that employers, occupational licensing authorities, and insurance companies may discriminate on the basis of certain genetic information or genetic tests. If the definitions of genetic information and genetic tests are modified, such discrimination might be prevented.

Amends provisions of the law to add the definitions of "family health history" and "genetic characteristic," and modifies the definitions of "genetic information" and "genetic test."

Prohibits an occupational licensing authority from taking any action against a license applicant or license holder based on the refusal of the license applicant or license holder to submit a family health history.

## Access to Criminal History Record Information by DPRS - S.B. 53

*by Senator Zaffirini*  
*House Sponsors: Representatives Bob Turner and Naishtat*

Current law requires the Department of Protective and Regulatory Services (DPRS) to obtain criminal history record information relating to certain people working, living, or having contact with a child in state care or a ward of the state.

Requires DPRS to obtain criminal history record information (information) maintained by the Department of Public Safety (DPS) that relates to a person who is an owner, operator, or employee of, an applicant for employment by, or an applicant for a license to operate a licensed, registered, certified, or listed child-care facility, child-placing agency, family home, or maternity home.

Requires DPRS to obtain information that relates to a person 14 years of age or older other than a child in the care of the child-care facility, family home, or maternity home. DPRS is required to obtain information on an applicant selected, rather than all applicants, for a position with DPRS the duties of which include direct delivery of protective services to children, elderly persons, or person with a disability.

Requires DPRS to obtain information on a registered DPRS volunteer, a person applying to provide in-home care for children in the care of DPRS, and other persons who have been the subject of a DPRS report that they abused, neglected, or exploited a child, an elderly person, or a person with a disability,

Entitles DPRS to obtain information from DPS on a child who is related to a caretaker and who resides in a child-care facility, family home, or maternity home, any other person who has unsupervised access to a child in the care of such a facility, or a person providing or applying to provide in-home, adoptive, or foster

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care for children to the extent necessary to comply with the Interstate Compact on the Placement of Children.

Entitles DPRS to obtain information on an employee of DPRS, an applicant for a position with DPRS, or a volunteer or applicant volunteer with DPRS regardless of the duties to be performed. DPRS is entitled to obtain information on a relative of a child in the care of DPRS, and to obtain information on a person living in the residence of a child who has allegedly been abused, neglected, or exploited. DPRS is also entitled to obtain information on a contractor or the contractor's employee who delivers services to a ward of DPRS under contract with the estate of the ward, a person seeking unsupervised visits with a ward of DPRS, including a relative of the ward.

Provides that DPRS is entitled to obtain through the Federal Bureau of Investigation or any criminal justice agency in the state information pertaining to a person DPRS is required or entitled to obtain information about from DPS. DPRS is not prohibited from releasing criminal history record information to certain persons responsible for the care or delegation of protective services for a child, elderly person, person with a disability, or the person who is the subject of the information.

Provides that the failure or refusal of a DPRS employee, volunteer, or potential employee to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, if the position involves interacting with children.

## **Meetings Related to Lottery Contract Negotiations Closed - S.B. 390**

*by Senator Wentworth*

*House Sponsor: Representative Hilbert*

Currently, the Texas Lottery Commission (commission) is prohibited from discussing the negotiation of the lottery operator contract except during a properly posted meeting. This eliminates the opportunity to plan and discuss strategy aside from that which occurs in the presence of the person with whom negotiations are being conducted.

Exempts commission meetings to negotiate an operator's contract from the Open Meetings Act, if the commission determines that an open meeting would have a detrimental effect on the commission's position during negotiations.

## **The Internet and Confidentiality of Certain Numbers - S.B. 694**

*by Senator Wentworth*

*House Sponsor: Representative McCall*

The use of the Internet for business and government transactions is growing, with state and local agencies acquiring credit and debit card numbers from both citizens and organizations, creating a climate for



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potential fraud. While individuals are protected under the Public Information Act, state law is unclear as to whether the credit card numbers of organizations can be withheld as well.

Provides that a credit card, debit card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Provides that certain email addresses are confidential and not subject to disclosure.

Authorizes certain confidential information to be disclosed under certain circumstances.

## **Gramm-Leach-Bliley (GLBA) and Related Privacy Issues - S.B. 712**

*by Senator Sibley*

*House Sponsors: Representatives Averitt and Eiland*

With the passage of the Gramm-Leach-Bliley Act (GLBA) in 1999, certain federal provisions relating to both the disclosure of personal information and a privacy policy applicable to the insurance industry similarly to that of a financial institution. The National Association of Insurance Commissioners (NAIC) developed a privacy model in an effort to aid states in adopting consistent privacy requirements for insurers.

Authorizes the Texas Department of Insurance (TDI) to comply with requirements of GLBA and requires the commissioner of TDI (commissioner) to implement rules based on the NAIC model.

Requires the commissioner to adopt the necessary rules to carry out federal provisions relating to the disclosure of nonpublic personal information to make the state eligible to override federal regulations not later than 30 days after the effective date of this bill.

Requires TDI to implement standards for insurers in accordance with federal institutions relating to disclosure of nonpublic personal information.

Authorizes the attorney general to act on behalf of insurers as relates to the disclosure of nonpublic personal information.

## **Expunction of Identifying Information from Criminal Records - S.B. 1047**

*by Senators Shapiro and Lucio*

*House Sponsor: Representative McCall*

Entitles a person to have any identifying information, including the person's name, address, date of birth, driver's license number, and social security number, expunged from the records and files relating to the arrest of another if:

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- the identifying information the person seeking to have expunged was falsely given by the arrestee as the arrestee's identifying information without the consent of the person seeking expunction; and
- the only reason for the identifying information being contained in the arrest records and files is that the information was falsely given by the arrestee as the arrestee's identifying information.

Sets out what must be contained in a petition to expunge the identifying information.

Sets out the duties of an official, agency, or other entity upon receiving an order granting expunction.

## **Disclosure of Information Regarding Officers' Resignation or Termination - S.B. 1583**

*by Senator Van de Putte*

*House Sponsor: Representative Hinojosa*

Reports or statements submitted to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) regarding an officer's employment record are confidential and not subject to public disclosure. The behavior of officers is something to which many citizens action and police oversight groups pay close attention. In addition, the truthfulness of officers when testifying may not be properly gauged if the public is not aware of the officer's on-duty conduct.

Excepts from confidentiality requirements those reports or statements submitted to TCLEOSE, if the officer resigned or was terminated due to substantiated incidents of excessive force or violations of law other than traffic offenses.

## **Disclosure of Medical Billing Records Regarding a Patient - H.B. 398**

*by Representative Smith*

*Senate Sponsor: Senator Nelson*

In some instances, there has been confusion over the ability or right of an individual to procure personal billing records regarding medical services provided to the individual. While physicians are required to provide medical records within a set time period after receiving a written request, current law does not specify a time limit for billing records, and individuals may have to wait a lengthy period of time to receive their records.

Provides that an exception to the privilege of confidentiality in a court or administrative proceeding exists in a disciplinary investigation or proceeding conducted under this subtitle, if the Texas State Board of Medical Examiners (board) protects the identity of any patient whose billing records are examined other than certain patients.

Requires physicians who have denied a request to release certain medical records, in whole or in part, to place a copy of the statement denying the request in the patient's billing records, if the request was for billing records, or in the medical records, if the request was for medical records.

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Requires the board by rule to establish conditions under which the board may temporarily or permanently appoint a person as a custodian of a physician's billing or medical records. Requires the board, in adopting rules, to consider the death of a physician, the mental or physical incapacitation of a physician, and the abandonment of billing or medical records by a physician.

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## Release of Medical Records to the Family of a Deceased Patient - H.B. 964

*by Representative Dunnam*  
*Senate Sponsor: Van de Putte*

Amends the Occupations Code to clarify that confidential medical information of a deceased patient may be released with the written consent of, among others, a representative appointed by a court to represent the estate of the patient, a surviving spouse, parent, sibling, or adult child, or a person acting on behalf of a surviving minor child including a managing conservator or an attorney representing the child.

## Motor Vehicle Records Disclosure Act - H.B. 1544

*by Representative Uher, et al.*  
*Senate Sponsor: Senator Moncrief*

A provision of the federal Driver's Privacy Protection Act allows personal information, if an individual consents, to be made available for release to bulk distributors, marketing systems, researchers for statistical information, or employers or insurers of employers to obtain or verify information relating to a holder of a commercial driver's license.

Makes it a Class B misdemeanor if a person uses certain information from motor vehicle accident records, emergency communication records, dispatch logs, or towing records to directly solicit business or employment for pecuniary gain.

Prohibits a person who has illegally disclosed personal information under the Motor Vehicle Records Disclosure Act from receiving personal information governed by this Act.

Sets forth additional provisions relating to fees for and enforcement of resale or redisclosure of personal information.

## Texas State Bar to Provide Online Access to Attorney Profiles - H.B. 1712

*by Representatives Maxey and Wilson*  
*Senate Sponsor: Senator West*

Requires the Texas State Bar to create an online profile of each attorney licensed by the state bar.

Sets out what the profile must include, such as the name of each law school attended and the date the attorney graduated, the date the attorney became licensed to practice law in Texas, any specialty certification, and any public disciplinary sanctions issued by the bar against the attorney during at least the 10-year period preceding the date of the profile.

Requires the bar to annually update the information contained in an attorney's profile.

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Authorizes the bar to collect from each member an annual fee of not more than \$10 for administering this Act.

## State Government Privacy Policy - H.B. 1922

*by Representative McCall, et al.*  
*Senate Sponsor: Senator Duncan*

Requires each state governmental body that collects information about an individual, either through a paper or electronic format, to prominently state that the individual is entitled to receive and review the information collected. It also mandates each state governmental body to establish a reasonable procedure for correcting personal information without imposing a charge on the individual, unless the provision conflicts with the open record requirements. Finally, it creates a state privacy task force to research privacy issues and recommend legislation to protect personal information collected by the state.

## Chemical Dependency Diagnoses Expunged in Certain Medical Records - H.B. 2178

*by Representative Salinas*  
*Senate Sponsor: Senator Moncrief*

Data indicate that 1170 children in Texas younger than 10 years of age were diagnosed as chemically dependent or chemically abusive, and 3779 children who are 10 through 13 years of age have received chemical dependency treatment. After chemical dependency services are rendered and a Medicaid claim is filed with the National Health Insurance Corporation (NHIC), the child's treatment history is entered into the NHIC database that can then be accessed by private insurance companies when researching potential policyholders for preexisting conditions. Consequently, children can be stigmatized and penalized throughout their lives for what could have been an incorrect or fraudulent diagnosis of chemical dependency or abuse.

Requires a diagnosis of chemical dependency to be expunged from a child's records following the final conviction of a chemical dependency treatment provider for submitting a fraudulent claim for Medicaid reimbursement.

## Legislative Council Studies and Access to Student Records - H.B. 2853

*by Representative Bosse*  
*Senate Sponsor: Senator Cain*

The 76th Legislature passed legislation providing for the collection and analysis by the Texas Legislative Council of statistical and demographic information and requiring state agencies to cooperate in the gathering of information and the production of reports dealing with recent appellate decisions. The legislation authorized council staff to obtain access for this purpose to information that is confidential under other law, including student identifiable information subject to federal law governing student records. However, the attorney general issued an opinion stating that federal law does not permit access for this purpose.

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Requires the council to conduct a continuing study of judicial decisions during each interim and mandates that, for the purposes of accessing records and evaluating government-supported education programs, employees of the council are considered state school officials.

## **Ad Valorem Tax Exemption of Motor Vehicles Leased for Personal Use - S.B. 248**

*by Senator Carona*

*House Sponsor: Representative Brimer*

Under the Texas Tax Code, all leased vehicles are subject to ad valorem property taxes, while the statute was originally intended to apply to businesses leasing fleets of vehicles, many such leases today are for individuals interested in driving a new vehicle for a lower price.

Exempts from ad valorem taxes vehicles leased primarily for personal use. Provides that the exemption would not apply in a municipality if the governing body adopted an ordinance before January 1, 2002, providing for the continued taxation of leased motor vehicles. Makes application of this Act retroactive to January 1, 2001.

## **Electronic Filing of Certain Tax Reports and Payments - S.B. 640**

*by Senator Duncan*

*House Sponsor: Representative McCall*

Currently, the computer system of the comptroller of public accounts (comptroller) may receive electronic data for the collection of 39 of the 63 taxes the comptroller collects. Electronic filing of tax data potentially reduces the state's processing costs and turnaround time for refund payments.

Requires taxpayers with a tax liability of \$100,000 or more during the preceding fiscal year to submit tax payments electronically and requires certain tax reports to be filed electronically to the comptroller, if the comptroller reasonably anticipates that the person would pay at least that amount in the current fiscal year.

Requires the comptroller to adopt, by rule, a requirement that oil production, international fuels tax agreement, natural gas, and sales and use taxpayers that currently have to file tax payments electronically also file their tax reports electronically. The comptroller could impose a penalty equivalent to five percent of the tax due for failure to adhere to the requirements of the bill.

## **Suspense Account of the Comptroller of Public Accounts - S.B. 848**

*by Senators Ellis and Zaffirini*

*House Sponsor: Representative Junell*

Under current law, when a tax assessment is protested by a taxpayer, the taxpayer must pay the disputed amount. That amount is then deposited in Fund 0001. Interest on the payment is held in suspense and unavailable for state spending. If the taxpayer is ultimately successful in protesting the payment, the payment is returned with interest. If the state is successful in upholding the assessment, the payment plus interest is credited to the fund to which the payment was due.

Requires the comptroller to transfer all remaining amounts of the accumulated interest to be deposited to the credit of the appropriate funds or accounts into which accrued interest on the various taxes, fees, or penalties that were protested are allocated by other law, rather than the suspense fund. Authorizes the transfer of all remaining amounts of the accumulated interest accrued on the protested payments, on a pro rata basis, in a comptroller suspense account to the General Revenue Fund 0001. Applies only to the accumulated interest that remains credited to the suspense account of the comptroller of public accounts.

## **Exemption from Ad Valorem Taxation for Freeport Goods - S.B. 862**

*by Senator Staples*

*House Sponsor: Representative Tracy King*

Under current law, a property owner, or a person designated in writing by the importer of record, must file an application to receive certain property tax exemptions, such as a freeport exemption, a homestead exemption, and a religious organization exemption. Applications for such exemptions are due before May 1. If an application for a homestead exemption, a religious organization exemption, or another exemption is filed late, the chief appraiser may still grant the exemption for that year, but a freeport exemption may not be granted under the same conditions.

Requires the chief appraiser to accept and approve or deny a late application for a freeport exemption.

Extends the deadline for an application for freeport exemption and imposes a penalty for filing an application late.

Requires the chief appraiser to make an entry on the appraisal records of the property owner's liability and deliver a written notice of imposition of the penalty to the property owner.

Requires the tax assessor to add the penalty to the property owner's tax bill and collect the penalty at the time and in the manner that taxes are collected.

Provides that the penalty constitutes a lien against the inventory or property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

## **Tax Refunds to Property Owners Following Ad Valorem Tax Appeals - S.B. 863**

*by Senator Staples*

*House Sponsor: Representative Keffer*

Provides that if a taxing unit does not make a property tax refund to a property owner following the final determination in an ad valorem tax appeal before the 60<sup>th</sup> day after the date the chief appraiser certifies a correction to the appraisal roll, the unit must pay, along with the refund, interest on the refund at an annual rate of 12 percent, calculated from the delinquency date for the taxes until the date the refund is made.

Grants court costs and reasonable attorney's fees to a property owner who prevails in a suit to compel a refund filed on or after the 180<sup>th</sup> day after the date the chief appraiser certifies a correction to the appraisal roll.

## **Tax Abatement Agreements Extended to Leasehold Estates - S.B. 985**

*by Senators Duncan and West*

*House Sponsor: Representative Yvonne Davis*

Under current law, municipalities eligible to enter into tax abatement agreements may offer such tax incentives on real property located in reinvestment zones. However, they are unable to offer the same tax abatement incentives to owners of leasehold interests in these areas.



Authorizes the governing body of an eligible municipality to agree in writing with the owner of a leasehold interest in real property located in a reinvestment zone to exempt a portion of the value of the leasehold interest, if taxable, for a period not to exceed 10 years.

Includes improvements or tangible personal property located on the real property subject to the leasehold interest, for a period not to exceed 10 years, on certain conditions.

Authorizes the exemption in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed.

### **Recouping Lost Revenues from Tax Abatement Agreements - S.B. 986**

*by Senator Duncan*

*House Sponsor: Representative Yvonne Davis*

Currently, Texas cities provide financial incentives through tax abatement agreements for the purpose of job creation in their communities. However, a city has no recourse when the requisite job creation is not fulfilled.

Gives cities the statutory authority to recapture lost property tax revenue, including penalties and interest, if:

- the owner of the commercial enterprise fails to create the number of new jobs required by the agreement;
- the property value does not increase as expected under the agreement; or
- the owner fails to meet any other performance criteria provided by the agreement.

### **Franchise Taxation Exemption for Certain Insurance Companies - S.B. 1689**

*by Senator Ellis*

*House Sponsor: Representative Yvonne Davis*

Under current law, a corporation that is an insurance company, surety, guaranty, or fidelity company required to pay or who pays an annual tax measured by gross receipts is exempted from the franchise tax. However, there is no provision that exempts from the franchise tax an insurance organization performing management or accounting activities in this state on behalf of a nonadmitted captive insurance company. In addition, current law is not clear as to which corporation may claim a business loss in a merger of two corporations.

Exempts from the franchise tax an insurance organization, title insurance company, or title insurance agent authorized to engage in insurance business in this state, rather than a corporation that is an insurance company, surety, guaranty, or fidelity company, now required to pay an annual tax measured by its gross premium receipts. Includes farm mutuals, local mutual aid associations, and burial associations as exempt from the franchise tax.

Provides that an insurance organization performing management or accounting activities in this state on behalf of a nonadmitted captive insurance company that is required to pay a gross premium receipts tax during a tax year is exempted from the franchise tax for that same year.

Authorizes a surviving corporation of a merger, for reports originally due on or after January 1, 2004, to claim the business loss of the nonsurviving corporation. Such business losses may be carried forward not more than five years following the merger or until the losses are exhausted.

### **Tax Exemption for Goods in Transit - S.J.R. 6**

*by Senator Duncan, et al.*

*House Sponsor: Representative Gallego*

Currently, the state provides for a "freeport exemption." This exemption, which can be granted at the option of each city, county, school district, or junior college district, exempts goods, wares, ores, raw materials, and other types of inventory that are brought into or acquired in the state and transported out of the state within 175 days of acquisition. The proposed amendment would provide a similar exemption for property acquired or imported into Texas, stored at a location in the state not owned or under the control of the property owner, and transported to another location either inside or outside of the state within 270 days. The proposed amendment would provide a local option procedure to continue taxing the property. Texas law does not provide an ad valorem taxation exemption to certain tangible personal property held temporarily for commercial purposes. S.J.R. 6 proposes a constitutional amendment that exempts certain personal property from ad valorem taxation.

Proposes a constitutional amendment to provide for a new exemption for goods-in-transit.

Authorizes the legislature by general law to exempt from ad valorem taxation goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, to promote economic development in this state if the property is:

- acquired in or imported into this state to be forwarded to another location in this state or outside this state, whether the intention to forward the property to another location in this state or outside this state is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this state;
- detained at a location in this state that is not owned or under the control of the property owner for certain purposes by the person who acquired or imported the property; and
- transported to another location in this state or outside of this state not later than 270 days after the date the person acquired the property in or imported the property into this state.

Authorizes a property owner who is eligible to receive the freeport exemption to apply for the goods-in-transit exemption. Prohibits a property owner who receives the goods-in-transit exemption from receiving the freeport exemption for the same property.

Authorizes the governing body of a political subdivision that imposes ad valorem taxes to provide for the taxation of property not exempt from ad valorem taxation by any other law.

Authorizes the governing body of the political subdivision, before acting to tax the exempt property, to conduct a public hearing at which members of the public are permitted to speak for or against the taxation of the property.

### **Collection of Taxes on Printed Materials Distributed by Mail - H.B. 1098**

*by Representative Bonnen  
Senate Sponsor: Senator Duncan*

Current law requires a seller to add the amount of the sales tax to the sales price of tangible personal property or taxable services but is ambiguous concerning tax liability on printed materials distributed by mail. The purchaser, rather than the printer, has access to the information necessary to determine where the printed materials were mailed and is then able to use the information for their tax purposes.

Provides that for the purposes of the printer's tax collection duty, the presumption is that printed materials that are distributed by the United States Postal Service singly or in sets addressed to individual recipients, other than the purchaser, are either produced at a printer's facility in this state or purchased in this state are for use in Texas and that the printer is required to collect the tax.

Provides that in order to overcome this presumption, a purchaser of printed materials is required to issue an exemption certificate to the printer if the printed materials are for distribution to both in-state and out-of-state recipients.

Provides that a printer is relieved of the obligation of collecting the taxes on printed materials, but is required to file a special use tax report for the comptroller.

Provides for the required issuance of an exemption certificate under specific circumstances, thereby providing an effective audit mechanism for tax administration.

### **Red Dyed Tax Exempt Diesel Fuel - H.B. 1241**

*by Representative Counts  
Senate Sponsor: Senator Duncan*

Current law prohibits a tax-free purchase or sale of any diesel fuel of more than 3,000 gallons in a single transaction or in a calendar month, with certain conditions. The regulations associated with these transactions have become increasingly burdensome to both purchasers and suppliers while doing little to control the illegal use of diesel fuel by the consumer.

Changes the minimum bonding requirement for the purchase of red dyed tax exempt diesel fuel for certain agricultural, oil, and gas users.

### **Guaranty Fund Assessments - H.B. 1495**

*by Representative Farabee  
Senate Sponsor: Senator Jackson*

Currently, in the event of a merger, acquisition, or total assumption of reinsurance among or between insurers, insurance premium tax credits for guaranty fund assessments may not be transferred or assigned among or between insurers.

Allows members of the Life, Accident, Health and Hospital Service Industry Guaranty Association to take a premium tax credit for assessments paid to the association.

### **Ad Valorem Tax Exemption for Certain Charitable Organizations - H.B. 1689**

*by Representative Chisum, et al.  
Senate Sponsor: Senator Barrientos*

Grants a qualified charitable organization, as determined by the comptroller, an exemption from taxation of certain real and tangible personal property owned by the organization and used exclusively by the organization and other eligible organizations.

Provides that such exemption may not be granted unless the exemption is adopted by either the governing body of the taxing unit or the majority of the qualified voters of the taxing unit.

Provides that the use of exempt property by persons who are not eligible charitable organizations does not result in the loss of the exemption if the use is incidental to use by those charitable organizations and limited to activities that benefit the charitable organization that owns or uses the property.

Limits the exemption for certain real property that consists of an incomplete improvement to not more than three years.

Provides that an exemption expires at the end of the fifth tax year after the year in which the exemption is granted. To continue to receive an exemption, the organization must obtain a new determination letter and reapply for the exemption.

### **Texas Unclaimed Property Program - H.B. 1840**

*by Representative Junell  
Senate Sponsor: Senator Ellis*

The comptroller of public accounts is responsible for administering the Texas Unclaimed Property Program, which requires financial institutions, businesses, and other entities to deliver to the comptroller property they hold that they consider abandoned. Some entities do not disclose the existence of abandoned property because state law requires them to pay interest and penalties on the property.

Authorizes the comptroller to waive penalty and interest imposed on a delinquent property if the holder delivering the property was required to deliver the property: on or before November 1, 1997, if the property is personal property, property held by financial institutions, or mineral proceeds that are presumed abandoned; or on a specified date after November 1, 1997, but before June 1, 1998, if the property is the contents of a safe deposit box.

### **Multi-State Agreement for a Simplified Sales/Use Tax System - H.B. 1845**

*by Representative Oliveira*  
*Senate Sponsor: Senator Van de Putte*

Makes a legislative finding that a simplified sales and use tax system will reduce and eventually eliminate the burden and costs of collection for all vendors. It also finds that the State of Texas should participate in multi-state discussions to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and for all types of commerce.

Authorizes the comptroller to enter into multi-state discussions and directs the comptroller to participate in the development of the Streamlined Sales and Use Tax Agreement (agreement) with other states to simplify and modernize sales and use tax administration.

Requires, among other things, that the agreement establish uniform standards for the sourcing of transactions to the different jurisdictions, the administration of exempt sales, and for sales and use tax returns and remittances. Also requires that the agreement provide for a central, electronic, registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

### **No Property Tax on Travel Trailers - H.B. 2076**

*by Representative Flores*  
*Senate Sponsor: Senator Lucio*

Travel trailers are subject to a sales tax, but were not subject to real property taxes until two recent opinions by the Attorney General of Texas regarding ad valorem taxation on travel trailers.

Provides that travel trailers that are less than 400 square feet in area and are designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use and not as a permanent dwelling are exempt from ad valorem taxation.

### **Cigarette Tax and Penalties for Contraband Exported Cigarettes - H.B. 2378**

*by Representative Kuempel*  
*Senate Sponsor: Senator Armbrister*

Prohibits cigarettes not in compliance with federal laws and regulations relating to ingredients, importation, and previous exportation from receiving a state cigarette tax stamp. Violation regarding the affixing of tax

stamps is currently an offense; under H.B. 2378, the person would have to "knowingly" affix a stamp for an offense to have occurred.

Directs the comptroller to distribute cigarette tax stamps that would, by the use of numbers or marks, allow the identification of the person applying those tax stamps.

Requires persons importing cigarettes for sale in Texas to maintain copies of customs certificates for those cigarettes and submit to the comptroller, with their monthly report, copies of those customs certificates.

Allows cigarette sellers, distributors, and manufacturers sustaining direct economic or commercial injury from the illegal stamping of cigarettes in Texas to bring an action for appropriate injunctive relief, in addition to other remedies provided by law.

Provides a penalty of a Class A Misdemeanor offense for a person knowingly importing, acquiring, holding, owning, possessing, or transporting, for sale or distribution in Texas, cigarettes not in compliance with federal laws and regulations and that could not be legally stamped in Texas. Allows an exception for cigarettes imported by an individual for personal use and for cigarettes lawfully sold in duty-free stores.

### **Refunds for Overpayment of Taxes or Taxes Paid Erroneously - H.B. 2832**

*by Representative Smithee  
Senate Sponsor: Senator Bivins*

Requires the collector for a taxing unit to notify a taxpayer of an overpayment of more than \$5 and sets forth provisions regarding the refund of duplicate payments.

Requires the taxing unit to refund taxes if it determines a person erred in making a payment of taxes because the identical taxes were paid by another person.

Requires the taxing unit to pay the refund for a duplicate tax payment within 60 days of discovering its error, or pay interest at a rate of one percent for each month or part of a month from the date of discovery that the refund remains unpaid.

### **Donation of Securities to Certain Charitable Organizations - H.B. 3015**

*by Representative Crownover  
Senate Sponsor: Senator Fraser*

Amends the Securities Act to exempt from taxation the donation of securities to charitable organizations provided that the recipient organization does not provide anything of value in exchange; the transfer of the securities is not made for the purpose of raising capital for the issuer; no payment is made to a third party; and the transfer is not part of a scheme to evade the Securities Act. In the case of a transfer of options, the payment of the exercise price is permitted though not exceeding the fair market value of the underlying security on the grant date.

### **Certified Estimates for School Budgeting - H.B. 3526**

*by Representative Hochberg  
Senate Sponsor: Senator Cain*

The board of trustees of a school district may choose to begin its fiscal year on either July 1 or September 1 beginning with the 2001-2002 school year. The county appraisal district's schedule does not mesh with the earlier date.

Authorizes a school board to use the certified estimate of the taxable value of the district property for the purposes of publishing notice, holding a hearing, and adopting a budget.

Prohibits a school board from adopting a tax rate until after it receives the certified appraisal roll.

Requires the chief appraiser to certify an estimate of the district's taxable property value by June 7, rather than June 15.

### **Travel Trailers to be Exempt from Ad Valorem Taxation - H.J.R. 44**

*by Representative Flores  
Senate Sponsor: Senator Lucio*

Proposes that a constitutional amendment be submitted to the voters at an election to be held in November, 2001, to authorize the legislature to allow taxing units other than school districts to exempt from ad valorem taxation those travel trailers that are not held or used for the production of income.

### **Texas Mobility Fund - S.B. 4**

*by Senator Shapiro*

*House Sponsors: Representative Brimer, et al.*

During the last seven years, vehicle miles traveled on Texas roads have increased 4.1 percent annually, indicating a substantial increase in traffic and the need for additional roads and road improvements.

Establishes the Texas Mobility Fund to fund, by the issuance of short-term and long-term obligation bonds, all or part of the costs of constructing, reconstructing, acquiring, and expanding state highways, publicly owned toll roads, and other transportation projects.

### **Ports-of-Entry at the Texas-Mexico Border Included in Transportation Plan - S.B. 192**

*by Senator Lucio, et al.*

*House Sponsor: Representative Pickett*

Various ports-of-entry along the Texas-Mexico border are not part of Metropolitan Planning Organizations, which direct future transportation projects and systems in urbanized areas of the state.

Requires the Texas Department of Transportation (TxDOT) to include ports-of-entry projects for certain areas along the border in its transportation improvement plan. Provides that this requirement applies only to a port-of-entry on the border with the United Mexican States and not to airports.

Requires TxDOT to fund projects from money other than North American Free Trade Agreement discretionary funds in allocating money to projects.

### **Regulation of Weight Limitations on Commercial Vehicles - S.B. 220**

*by Senators Shapiro and Ogden*

*House Sponsor: Representative Alexander*

Modifies law regarding the regulation and enforcement of weight limitations and safety standards for certain commercial motor vehicles.

Prohibits a vehicle from operating on a public highway or at a port-of-entry between Texas and Mexico, if the vehicle has a single axle weight of more than 20,000 pounds or tires that carry a weight greater than the weight specified on the sidewall of the tire, unless the vehicle is operating with a special permit.

Prohibits the overall gross weight of a vehicle from being heavier than 80,000 pounds, regardless of tire ratings, axle spacing (bridge), and number of axles.

Authorizes the commissioners court of a county to establish load limits for any county road or bridge only with the concurrence of the TxDOT. Sets out the conditions under which TxDOT establishes concurrence.

Requires a person who weighs cargo before or after unloading to keep a written record containing certain information. Requires the record to be kept for 180 days and to be available for inspection. Exempts vehicles that transport timber, another agricultural product in its natural state, or solid waste from the requirement to keep a written record. Provides that a failure to keep a weight record is a Class C misdemeanor.



Provides that a permit issued for excess axle or gross weight does not authorize the operation of a vehicle on an interstate highway if the weight exceeds the weight authorized by federal law or a bridge for which a maximum weight and load limit has been established at a weight lower than the weight of the vehicle. Makes an exception if the bridge provides the only vehicular access to a destination for a vehicle operating with an overweight permit.

Requires TxDOT to develop and maintain a database on roadside vehicle inspection reports for defects on any intermodal equipment.

Adds sheriffs and deputy sheriffs of a county bordering Mexico or a county with a population of 2.2 million or more to the list of officers who may be trained to enforce weight limits. Prohibits an officer who has not received certain training from enforcing traffic safety and highway laws.

Authorizes a county, in each fiscal year, to retain fines from overweight vehicle enforcement in an amount not to exceed 110 percent of the county's expenses for enforcement in the preceding fiscal year. Requires the comptroller to deposit any remaining funds to the credit of TxDOT.

Authorizes a sheriff or deputy sheriff who is certified to enforce weight limitations to detain on a highway or port-of-entry a commercial motor vehicle.

### **Expanding Toll Facilities - S.B. 342**

*by Senators Shapiro and Shapleigh  
House Sponsor: Representative Alexander*

Under current law, the Texas Department of Transportation (TxDOT) is authorized to expend money from any source available for the cost of turnpikes, toll roads, or toll bridges of the Texas Turnpike Authority provided that money expended out of the state highway fund is repaid from tolls or other turnpike revenue. TxDOT and the Texas Transportation Commission (commission) are also authorized to participate in the cost, construction, maintenance, and operation of toll facilities of various entities provided that funds expended are repaid. TxDOT is precluded from advancing funds for turnpike project development without an obligation of repayment. Entities that construct toll facilities seek federal and state highway funds to leverage their own funds and complete financing for high-cost facilities, but repayment obligations may make construction infeasible.

Removes the requirement for repayment from public entities and authorizes TxDOT to expend funds for the cost of toll projects of public and private entities.

Authorizes TxDOT to participate, by spending money from any available source, in the cost of a public or private toll facility.

Authorizes the commission to require the repayment of any money spent by TxDOT for the cost of a public toll facility and requires the commission to require the repayment of any money spent by TxDOT for the cost of private toll facility. Provides that money granted by TxDOT each year for such toll projects may not exceed 30 percent of the obligation authority under the federal-aid highway program that the state receives each year. Requires any project that uses money from constitutionally dedicated funds to be let by a competitive bidding procedure.

Authorizes the Texas Turnpike Authority to enter into four toll projects before March 1, 2004.

Authorizes the commission to create a regional mobility authority (authority) for the purposes of constructing, maintaining, and operating a turnpike project. Sets out membership and requirements of the governing body.

Requires the authority, if it has surplus revenue from turnpike projects, to reduce tolls, spend the surplus on certain transportation projects in the region, or deposit the surplus in the Texas Mobility Fund.

### **Barring Children from Riding in the Open Bed of a Vehicle or Trailer - S.B. 399**

*by Senator Duncan*

*House Sponsor: Representative Yvonne Davis*

Amends current law making it an offense to operate an open-bed truck or pull an open flatbed trailer at a speed of more than 35 miles per hour with a child younger than 12 years of age occupying the bed by:

- raising the age to under 18 years of age; and
- eliminating the 35 miles per hour provision.

Makes it a defense to prosecution that the person was operating the vehicle:

- to transport farm workers from one field to another field on certain rural roads;
- on a beach;
- that is the only vehicle owned or operated by the members of a household, as defined under the Family Code; or
- in a hayride permitted by the governing body or a law enforcement agency of each county or municipality in which the hayride will occur.

Provides that compliance or noncompliance is not admissible evidence in a civil trial.

### **Ride the Rails - S.B. 406**

*by Senator Cain, et al.*

*House Sponsor: Representative Hawley*

There is no law providing the state with a mechanism for preserving abandoned railroads and rail rights-of-way. This loss of an integral part of the distribution and overall transportation network in many small towns and rural areas affects certain industries adversely, leaving them to find alternate means to transport products.

Authorizes the TxDOT to preserve transportation infrastructure and services by preserving rail facilities, acquiring rail lines and other rail facilities, and leasing or selling those facilities to an appropriate entity.

Requires TxDOT to coordinate with the governing body of any municipality, county, or rural railroad transportation district on receipt of notice of intent to abandon or discontinue rail service to determine whether to acquire the rail facilities or take other action to provide for continued rail service.

### **Automating Enforcement of Toll Fees - S.B. 454**

*by Senator Armbrister*

*House Sponsor: Representative Alexander*

Automatic vehicle identification photography and video surveillance at toll facilities can provide the date, location, and other relevant information for identifying a violator's vehicle.

Makes failure or refusal to pay a toll a misdemeanor offense punishable by a fine not to exceed \$250. Provides exceptions for emergency vehicles, leased cars, and recently sold cars.

Authorizes the Texas Transportation Commission and the Texas Turnpike Authority to implement an automated enforcement system at toll facilities.

### **Electronic Submission of Bid Guaranty to TxDOT - S.B. 487**

*by Senator Ogden*

*House Sponsor: Representative Hamric*

Electronic bidding is intended to reduce errors in bids, thereby reducing the number of disqualified bids and increasing the bids that TxDOT is able to consider.

Provides TxDOT with various alternative methods by which to accept and use a bid guaranty for a state highway improvement contract.

Requires the Texas Transportation Commission (commission) to provide a method by which a bidder may submit a bid guaranty and authorizes the use of an electronic funds transfer, a check, a money order, an escrow account, a trust account, a credit card, or another suitable method as determined by the commission.

### **Graduated Drivers License - S.B. 577**

*by Senator Bivins, et al.*

*House Sponsors: Representative Driver, et al.*

According to the National Highway Traffic Safety Administration (NHTSA), 16-year-old drivers have crash rates three times that of 17-year-old drivers. To reduce crash rates, NHTSA encourages easing young drivers into progressively more difficult driving situations through the implementation of a graduated driver licensing system.

Prohibits persons under 18 years of age, during the first six months after receiving drivers licenses, from operating a motor vehicle between midnight and 5 a.m., except for work, school-related activities, or medical emergencies, or with more than one passenger in the vehicle under 21 years of age who is not a family member.

Prohibits persons under 17 years of age, who hold a motorcycle or moped provisional permit, during the first six months after receiving the permit, from operating the motorcycle or moped between midnight and 5 a.m. unless in sight of the persons' parents or guardians, or the driving is necessary for work, school-related activities, or medical emergencies.

Provides that these prohibitions do not apply to holders of a hardship license or persons driving while accompanied by an 18-year-old with at least one year of driving experience.

Prohibits a peace officer from stopping a vehicle or detaining the driver for the sole purpose of determining whether the operator of the vehicle is driving under prohibited circumstances.

### **Creation of the Center for Transportation Safety - S.B. 586**

*by Senator Ogden*

*House Sponsor: Representative Alexander*

Establishes The Center for Transportation Safety as part of the Texas Transportation Institute in the Texas A&M University System.

This Center will aid the state in improving the safety of the roadways by conducting programs of research, education, and technology transfer. In addition, it will develop and test roadway safety technologies, study how roadway safety affects complex policy issues, foster productivity and competitiveness in the roadway safety industry through research, increase public awareness of the importance that roadway safety has to the state economy, and study environmental issues associated with roadway transportation.

It will also be able to enter into interagency agreements and contract with local, state, county, federal, and private entities to accomplish work under the center's programs. The Center can also create programs and partnerships with public or private entities to develop and implement new policies, technology, strategies, and relationships.

### **Updates Related to Commercial Trucks - S.B. 886**

*by Senator Ogden*

*House Sponsor: Representative Gallego*

Currently, laws regarding size and weight restrictions related to the operation of a commercial vehicle in the Transportation Code are outdated, with some provisions dating back to the 1930s. This bill updates various provisions for the Transportation Code to reflect current practices, including provisions related to:

- licensing and driver's license offenses;
- employer responsibilities related to requiring drivers to drive certain trucks;
- axle weights;
- length of loads; and
- driving on interstate and defense highways.

### **Noncommissioned Vehicle Weight Officers at Ports-of-Entry - S.B. 888**

*by Senator Ogden*

*House Sponsor: Representative Alexander*

Currently in Texas, noncommissioned personnel at ports-of-entry and at fixed weight inspection stations are not directly authorized to weigh a vehicle, require a vehicle to be weighed, or to direct a vehicle to the nearest scale.

Authorizes certified noncommissioned employees of the Department of Public Safety (DPS) who are certified for fixed weight inspections and who are supervised by a DPS officer to enforce truck weight laws at ports-of-entry and fixed inspection stations.

Provides that if noncommissioned personnel determine that enforcement action is warranted, only a supervising DPS officer may take the enforcement action.

### **Funds and Taxes for County Roads - S.B. 896**

*by Senator Shapiro*

*House Sponsors: Representatives Hamric and Ramsay*

The state contributes \$7.3 million from the state highway fund to the County and Road District Highway Fund. This amount was established in 1954 and has not changed since its inception.

Creates a new allocation formula for distribution of state funds.

Amends the Transportation Code to prohibit the comptroller from depositing tax receipts or other money to the credit of the county and road district highway fund except as provided by the Tax Code.

Amends the Local Government Code by creating a funding mechanism for the special county road assistance program, which requires the comptroller to distribute funds to counties for the program on or before October 15th of each year through a newly-created formula as follows:

- two-fifths according to total population, determined by the ratio of the total population of the county to the total population of the state;
- one fifth according to population, determined by the ration of the population in unincorporated areas of the county to the population in all unincorporated areas of the state;
- one-fifth according to lineal county road miles, determined by the ratio of lineal mileage of county roads in the county to the lineal mileage of county roads in the state, according to the most recent county road inventory compiled by the Texas Department of Transportation (TxDOT); and
- one-fifth according to paved and concrete county road miles, determined by the ratio of miles of lanes of paved and concrete county roads in the county to the miles of lanes of paved and concrete county roads in the state, according to the most recent county road inventory compiled by TxDOT.

Requires the comptroller, on or before October 15 of each year, to distribute to counties money appropriated for the special county road assistance program.

Authorizes money appropriated to the program to be used only for the support of the county road system, including uses specified by law for revenues from the county and road district highway fund.

Amends the Transportation Code to prohibit the comptroller from depositing tax receipts or other money to the credit of the county and road district highway fund, except as provided by law for the allocation of gasoline tax receipts.

### **Under 21 Driver's Licenses Have New Appearance - S.B. 1213**

*by Senator Zaffirini*

*House Sponsor: Representative Gutierrez*

The Department of Public Safety (DPS) believes that a vertical driver's license would be more effective in preventing underage drinking than current driver's licenses that show the person in profile.

Changes the requirement that provisional licenses issued to minors under 18 years of age show the photo of the person in profile to a photo of the entire face. Requires DPS to orient information on licenses issued to persons under the age of 21 so that the license can be clearly distinguished.

### **Texas Mobility Fund for Transportation Infrastructure - S.J.R. 16**

*by Senator Shapiro*

*House Sponsors: Representative Brimer, et al.*

Currently, the state uses a "pay as you go" model to fund infrastructure projects. Under this system, Texas is only able to fund approximately 36 percent of identified and needed projects. During the last seven years, vehicle miles traveled on Texas roads have increased 4.1 percent annually, indicating a substantial increase in traffic and the need for additional roads and road improvements. The lack of adequate funding for transportation infrastructure suggests the need to establish other funding mechanisms. S.J.R. 16 requires the submission to the voters of a constitutional amendment creating the Texas Mobility Fund as a revolving fund and authorizing the use of money in the fund for transportation projects.

Amends the Texas Constitution to create the Texas Mobility Fund (fund) in the state treasury to be administered by the Texas Transportation Commission (commission) as a revolving fund to provide a method of financing the construction, reconstruction, acquisition, and expansion of state highways.

Authorizes the use of money in the fund to provide participation by the state in the payment of a portion of the costs of constructing and providing publicly owned toll roads and other public transportation projects and authorizes the commission to issue and sell state obligations payable from and secured by a pledge of and lien on money in the fund.

Authorizes the legislature to dedicate state revenue to the fund, but prohibits the legislature from dedicating money to the fund from the collection of motor vehicle registration fees and taxes on motor fuels and lubricants.

Provides that the legislature may authorize the commission to guarantee the payment of any obligations and credit agreements issued and executed by the commission by pledging the full credit of the state to that payment.

Requires that all obligations and related credit agreements to be issued and executed be submitted to the attorney general for approval as to their legality.

Prohibits the inclusion of obligations or credit agreements under these provisions in the computation of the limit on state debt payable from the general revenue fund.

Authorizes the legislature to authorize the Texas Department of Transportation to expend, grant, or loan money for the acquisition, construction, maintenance, or operation of turnpikes, toll roads, and toll bridges.

Removes provisions that require any money expended out of the state highway fund for toll projects to be repaid to the fund from tolls or other turnpike revenue and that authorize such expenditures only for projects of the Texas Turnpike Authority.

### **Raising the Speed Limit on Some Texas Highways - H.B. 299**

*by Representative Gallego  
Senate Sponsor: Senator Shapleigh*

Current law provides a maximum lawful speed of 70 miles per hour in daytime for a vehicle on highways outside urban areas. Ten western states with landscapes and population densities similar to the western part of Texas, including New Mexico, Oklahoma, and Arizona, allow for a maximum speed limit of 75 miles per hour.

Authorizes the Texas Transportation Commission to set a 75 miles per hour speed limit on parts of the highway system located in a Texas county with a population density of less than 10 persons per square mile.

### **Vehicle Registration Certificate as Proof of Ownership - H.B. 642**

*by Representatives Flores and Yvonne Davis  
Senate Sponsor: Senator Shapiro*

Currently, when a vehicle is purchased through a loan, TxDOT issues the original title to the lender or lien holder and a duplicate, non-negotiable title to the vehicle owner.

Removes the requirement that TxDOT issue non-negotiable titles and clarifies that a vehicle registration certificate may be used to prove ownership.

### **Bid Bonds for Highway Contracts - H.B. 1138**

*by Representative Longoria  
Senate Sponsor: Senator Truan*

Small contractors and historically underutilized businesses often do not have access to large capital resources. As a result, they often are at a disadvantage in bidding for state highway improvement contracts which require small contractors and historically underutilized businesses to outlay a large percentage of their working capital for a proposal guaranty in the form of a cashiers check or money order for separate highway improvement bids.

Allows a required proposal guaranty to be in the form of a bid bond.

### **Representation for the Transportation Disadvantaged - H.B. 1621**

*by Representative Coleman  
Senate Sponsor: Senator Gallegos*

Many Texans, including individuals who are elderly, disabled, or have low incomes, make use of public transportation regularly.

Requires metropolitan, regional, and county transit authorities to appoint board members who represent the transportation disadvantaged.

### **Modifications to the Motor Vehicle Code - H.B. 1665**

*by Representative Alexander  
Senate Sponsor: Senator Brown*

Currently, the Motor Vehicle Board (board) of TxDOT is the state's licensor of manufacturers, distributors, dealers, lessors, and lease facilitators. The board's powers and authority are established through the Texas Motor Vehicle Commission Code. Changes in the motor vehicle industry have resulted in the need for certain parts of the code to be updated.

Makes language changes relating to the redesignation of the Texas Motor Vehicle Commission as the board; modifications to the duties and authority of the board; and modifications to the regulation of the sale of motor vehicles.

### **Supporting the Use of Alternative Modes of Transportation - H.B. 2204**

*by Representative Gutierrez, et al.  
Senate Sponsor: Senator Moncrief*

The population growth of Texas continues to aggravate the congestion and dangers inherent in traffic flow within our communities. Currently, use of alternative modes of transportation, such as cycling or walking, is limited. Additionally, proper safeguards necessary to protect the cyclist or pedestrian are lacking.



Establishes the Safe Routes to School Program to distribute money received under the federal Hazard Elimination Program to political subdivision for projects to improve safety in and around school areas.

Requires the DPS to publish statistical information derived from accident reports regarding the number of accidents involving injury to, death of, or property damage to a bicyclist or pedestrian.

Exempts owners of electric bicycles from registering the bicycle as a motor vehicle. Prohibits DPS and a local authority from prohibiting the use of an electric bicycle on a highway used primarily by motor vehicles. Allows the authorities to prohibit the use of electric bicycles on a highway used primarily by pedestrians.

Allows bicycles to travel in a lane of traffic, even if the bicycle is moving at a slower pace than the traffic, under certain conditions including that the person operating the bicycle is in an outside lane that is less than 14 feet wide and does not have a designated bicycle lane adjacent to that lane or too narrow for a bicycle and a motor vehicle to safely travel side by side.

### **Motorcycle Safety - H.B. 2585**

*by Representative Chavez, et al.*  
*Senate Sponsor: Senator Shapleigh*

Prohibits a peace officer from arresting or issuing a citation to a person for not wearing standard protective headgear while riding a motorcycle, if the person is at least 21 and presents sufficient evidence that the person has successfully completed a motorcycle operator training and safety course or is insured for \$10,000 in medical benefits for injuries incurred as a result of an accident while operating or riding on a motorcycle.

Sets forth provisions relating to reports about the Motorcycle Education Fund Account and motorcycle operator training and safety programs.

### **All College Students Subject to Car Registration & Inspection Laws - H.B. 2787**

*by Representative Geren*  
*Senate Sponsor: Senator Brown*

Bars a public institution of higher education on a campus that is located in whole or part in an area in which motor vehicles registered in the area are required to undergo a vehicle emissions inspection from issuing a permit to a student to park or drive a motor vehicle that is not registered in this state on institutional property unless the institution has provided written notice to the student concerning state requirements for vehicle emissions inspections.

Bars other public institutions of higher education from issuing a permit to a student for driving or parking a motor vehicle on institutional property unless the institution provides written notice to the student that failure to register the vehicle in this state or to display a current and appropriate inspection certificate may violate state law if the owner of the vehicle resides in this state.

## Approval for Expansion by Telecommunications Utilities - S.B. 1185

*by Senator Whitmire*

*House Sponsor: Representative Dukes*

Adds Chapter 246 to the Local Government Code to facilitate the expansion of telecommunications facilities in existing buildings where expansion is necessitated by federal or state law to promote competition but is hindered by local regulations pertaining to impervious ground cover and other rules.

Requires regulating authorities to approve expansions of existing facilities and waive the impervious ground cover regulations and sedimentation, retention and soil erosion regulations where additional, suitable vacant land is not available other than by condemnation or by purchase at a price exceeding the average fair market value of surrounding land.

## Mobile Telecommunications Sourcing Act - S.B. 1497

*by Senator Ellis*

*House Sponsor: Representative Oliveira*

As a result of some mobile telecommunications customers (customer) using service in various localities, several different state and local tax laws may apply. The legislature finds that the United States Congress has enacted the Mobile Telecommunications Sourcing Act for the purpose of establishing uniform nationwide sourcing rules for state and local taxation of mobile telecommunications services. Federal law provides that a customer's place of primary use is the single source for determining tax revenue, regardless of where the call originates, passes through, or terminates. Conforming state law to federal law ensures that Texas limits the determination of tax revenue to a single source for a customer.

Implements the Mobile Telecommunications Sourcing Act and conforms Texas law to federal law.

Under current state law, long-distance telephone calls made from wireline and wireless telephones are subject to sales tax if they originate from and are billed to a telephone number or billing or service address within Texas. Under the federal act, mobile telecommunications services are to be taxed by the jurisdiction where the customer primarily uses the services, irrespective of where the mobile telecommunications services originate, terminate, or pass through. As federal law is preeminent, the state will follow federal sourcing provisions for mobile telecommunications services beginning on August 1, 2002, even in instances where state law differs from federal law.

Telecommunications services, including local and long-distance wireline and wireless (mobile) telecommunications services, are taxable under the state sales and use tax and may be taxed by certain units of local government. Telecommunications services are also subject to the state Telecommunications Infrastructure Fund (TIF) assessment under Section 57.043 of the Utilities Code.

Amends Chapter 151 of the Tax Code, concerning the sourcing of state and local sales taxation of mobile telecommunications services.

Stipulates that the federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sections 116-126) governs the sourcing of charges for mobile telecommunications services.

Applies to state and local sales and use taxes administered and computed under Title 2 or Title 3 of the Tax Code, and to which these titles apply.

Applies to the 9-1-1 emergency service fee imposed on wireless telecommunications under Chapter 771 of the Health and Safety Code.

Provides procedures and remedies for customers to correct any erroneous collection of taxes and fees under the federal act.

Allows the state or a designated database provider to maintain and provide to home service providers, as defined in the bill, an electronic database of street address assignments to taxing jurisdictions.

### **Electric Cooperative Corporations and Mineral Agreements - H.B. 1047**

*by Representative Cook*  
*Senate Sponsor: Senator Armbrister*

The San Miguel Electric Cooperative operates a lignite-burning electricity plant in Jourdanton, Texas. The cooperative has a contract with a large mining contractor to provide lignite from a surface mine for use in the generating plant. In accordance with current law, the two entities have an agreement whereby the mining company indemnifies the cooperative for accidents and injuries at the surface mine.

Exempts an electric cooperative corporation from the provisions regarding indemnity in certain mineral agreements.

### **Public Utility Commission and Southwestern Public Service Company - H.B. 1692**

*by Representative Chisum, et al.*  
*Senate Sponsor: Senator Bivins*

The Texas Panhandle region, served by Southwestern Public Service Company (SPS) is transmission-constrained, which means that power consumed in this region must be generated in the region. SPS is scheduled to sell 80 percent of its generation assets to unregulated companies and to unbundle its generation company, acts which could weaken the ability of the Public Utility Commission (PUC) to regulate generation rates paid by customers.

Provides that the legislature finds that circumstances exist that require that areas served by certain electric utilities be treated as competitive development areas in which it is not in the public interest to transition to full retail customer choice at this time.

Requires that, until the later of January 1, 2007, or the date on which a non-ERCOT utility is authorized by PUC to implement customer choice, the rates be regulated under certain conditions.

## **Merging Telecommunications and Electric Discount Databases of Low-Income Consumers - H.B. 2156**

*by Representative Danburg*  
*Senate Sponsor: Senator Van de Putte*

Automatic enrollment databases are required for telecommunication and electric discounts for low-income customers. Merging these databases would make their administration more efficient.

Requires the Public Utility Commission (PUC) to provide for an integrated eligibility process for customer service discounts.

Requires PUC to adopt and enforce rules requiring local exchange companies to establish a universal service fund to finance the process.

Requires the system benefit fund to provide funding solely for certain regulatory purposes.

Abolishes the tel-assistance service program.

Requires the telecommunications provider to provide the highest benefit from the universal service fund if a person has received certain benefits before the tel-assistance program is discontinued that were higher.

## **State Energy Conservation Office - H.B. 2278**

*by Representative Carter*  
*Senate Sponsor: Senator Fraser*

The 76th Legislature placed the state energy conservation office (energy office) under the authority of the comptroller of public accounts (comptroller), who then created an advisory committee to make the energy office's programs more responsive and relevant. The committee found that although state agencies are authorized to enter into energy efficiency performance contracts, not one agency has done so.

Consolidates the energy management center and the energy office, and transfers all functions and activities performed by the General Services Commission that relate to energy conservation to the office of the comptroller.

## **No Disconnection of Gas Service in Bad Weather - H.B. 2806**

*by Representative Kitchen, et al.*  
*Senate Sponsor: Senator Barrientos*

The price of natural gas has increased in recent months, with gas utility customers in Texas receiving winter heating bills as much as four times higher than for the same period in the previous year. Consumer organizations petitioned the Railroad Commission of Texas to adopt an emergency rule to prevent disconnection for nonpayment during cold weather.

Prohibits a provider from disconnecting natural gas service to a residential customer:

- on a weekend day unless personnel of the provider are available on that day to take payments and reconnect service; or
- during an extreme weather emergency.

Requires the provider to defer collection of the full payment of bills that are due during an extreme weather emergency until after the emergency is over and to work with customers to establish a payment schedule for deferred bills.

### **Texas Energy Assistance Loan Program - H.B. 2839**

*by Representative Dukes*  
*Senate Sponsor: Senator Carona*

Establishes the Texas Energy Assistance Loan Program to provide financing incentives to make energy efficiency improvements to an existing structure or piece of agricultural equipment, or to purchase an energy-efficient home. Authorizes the State Energy Conservation Office of the Comptroller of Public Accounts to implement the program.

### **Bonds and Other Securities Issuance and River Authorities - H.B. 3357**

*by Representative Kuempel*  
*Senate Sponsor: Senator Armbrister*

Currently, the board of directors of a river authority engaged in the distribution and sale of electric energy is authorized to create a nonprofit corporation to act on its behalf. This nonprofit corporation may issue bonds and public securities; however the time necessary to develop suitable credit ratings for the issuance of bonds and other securities limits their ability to lower interest rates and marketability in a timely manner.

Authorizes a river authority to guarantee with its own assets public securities and other obligations of a nonprofit corporation.

**Statewide Study on Infrastructure Related to Troop Deployment - S.B. 907**

*by Senator Shapleigh, et al.*

*House Sponsor: Representative Hawley*

Currently, whenever one of the state's military bases deploys troops, the military uses the state's highways, roads, and infrastructure to move troops and equipment. Last legislative session, the Texas Department of Transportation (TXDOT) conducted a study of the deployment routes only for Fort Hood.

Requires TXDOT to conduct a statewide study due January 1, 2003, to identify and recommend the improvement of the deployment routes most often used by the military in Texas.

**Study About Attracting and Retaining Military Missions - S.B. 939**

*by Senator Shapleigh, et al.*

*House Sponsor: Representative Najera*

Military installations account for a significant portion of the economy of the cities in which they are located.

Requires the Texas Strategic Military Planning Commission to conduct a study to determine how Texas can attract new military missions and retain existing military installations. The study and any recommendations are to be submitted to state leaders by December 1, 2002.

**Strategic Plan for Defense-Dependent Communities - S.B. 1164**

*by Senator Truan, et al.*

*House Sponsor: Representative Luna*

It would be beneficial for Texas to remain competitive during upcoming federal decisions about base closures throughout the United States.

Requires the Office of Defense Affairs (ODA) of the Texas Department of Economic Development, working in cooperation with the Texas Strategic Military Planning Commission, to identify each defense-dependent community in Texas and request that each community coordinate with the ODA to develop a five-year strategic infrastructure plan by July 1, 2002.

**Loan Program for Communities Impacted by Military Base Closures - S.B. 1815**

*by Senators Truan and Shapleigh*

*House Sponsor: Representative Luna*

Authorizes the Office of Defense Affairs to administer a revolving loan program to help eligible communities develop infrastructure to minimize the possibility of or the negative effects of a base closure on that community.

**Establishing Cemeteries for Veterans - H.B. 310**

*by Representative Flores, et al.*

*Senate Sponsor: Senator Truan*

The United States Department of Veterans Affairs administers a construction grant program under which the department will provide 100 percent of expenses related to construction of a veterans cemetery. The state is required to provide 100 percent of the operating and maintenance expenses related to a veterans cemetery.

Authorizes the Veterans Land Board (board) to establish, operate, and provide the financial assistance for veterans cemeteries.

Limits the amount the board may spend for veterans cemeteries to not more than \$7 million each fiscal year.

Prohibits the board from using the funds to acquire land for the cemetery.

**Revenue Bonds for the Veteran's Land Board - H.B. 2453**

*by Representative Berman*

*Senate Sponsor: Senator Shapleigh*

Increases the aggregate amount of revenue bonds able to be issued by the Veterans' Land Board from \$250 million to \$1 billion.

**Texas Strategic Military Planning Commission - H.B. 2908**

*by Representative Hawley, et al.*

*Senate Sponsor: Senator Truan*

The 75th Legislature established the Texas Strategic Military Planning Commission (commission) to assist in the prevention of future base closures and realignments and to assist defense-dependent communities in preparing for changes. To enhance the commission's profile and signal that Texas is serious about supporting its military and defense communities.

Moves the commission from the Texas Department of Economic Development to the office of the governor.

**General Obligation Bonds for Veterans' Home Loans and Cemeteries - H.J.R. 82**

*by Representative Counts, et al.*

*Senate Sponsor: Senator Truan*

Current articles of the Texas Constitution that govern the use of the Veterans' Land Fund, the Veterans' Housing Assistance Fund and the Veterans' Housing Assistance Fund II do not provide for the use of those funds for the veterans home or proposed veterans cemeteries programs of the Veterans' Land Board

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(board). Currently, the board is authorized to issue additional general obligation bonds for the veterans' housing assistance program, but it is estimated that those funds will be exhausted by the end of 2001.

Requires the submission to the voters of a constitutional amendment providing for the issuance of additional general obligation bonds to provide home mortgage loans to veterans.

Authorizes the Veterans' Land Board (board), if the board determines that assets from the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II are not required for the purposes of the fund, to use the assets to plan and design, operate, maintain, enlarge, or improve veterans cemeteries.



**Providing for Hardship Exemptions from Federal Welfare Regulations - S.B. 45**

*by Senator Zaffirini*

*House Sponsor: Representative Naishtat*

Requires the Texas Department of Human Services, Texas Workforce Commission, and Health and Human Services Commission to jointly adopt rules prescribing circumstances that constitute a hardship for purposes of exempting a recipient of financial assistance from the application of time limits imposed by federal law on the receipt of benefits.

Requires the rules to include a broad range of circumstances that reasonably prevent recipients of financial assistance from becoming self-supporting before expiration of the period specified by federal law.

Provides that if a state agency determines that a waiver or authorization from a federal agency is necessary to implement of this Act, the agency must request the waiver or authorization and may delay implementing until it is granted.

**Transitional Support Services to Former Recipients of TANF Benefits - S.B. 161**

*by Senators Zaffirini and Lucio*

*House Sponsor: Representative Naishtat*

Authorizes DHS and the Texas Workforce Commission (TWC), subject to the availability of funds, to provide transitional support services to a person who was receiving Temporary Assistance to Needy Families (TANF) benefits but is no longer eligible to receive the assistance because the person's household income has increased or the person has exhausted time-limited benefits. Such support services include transportation assistance, emergency assistance, job coaches, education, housing-related assistance, assistance in accessing child-care services, and other appropriate services.

**Texas Workforce and Economic Competitiveness Funding - S.B. 429**

*by Senator Lucio*

*House Sponsor: Representative Solis*

Although state law requires that the five Texas Workforce and Economic Competitiveness (TCWEC) council agencies fund their activities proportionately, only three are complying.

Authorizes the establishment of a proportional funding formula.

Establishes two performance measures as part of the state's performance-based budgeting and accountability system for agencies with work force programs.

Authorizes the council to develop a new measure only if a gap in accountability or determination from at least one state agency administering a workforce program cannot comply with certain measures before September 1, 2001.

**Texas Career Opportunity Grant Program - S.B. 554**

*by Senator Carona, et al.*

*House Sponsors: Representative Solis, et al.*

Currently, Texas does not provide any state financial assistance to students who attend private career colleges and schools. Allowing more people to afford and thus attend an institution of higher education and training (IHE) may increase the level of skills found in the workforce.

Establishes the Texas Career Opportunity Grant Program (program) to provide tuition assistance to Texas students enrolled in a qualified education program at eligible private IHEs. Requires the Texas Workforce Commission to administer the program.

Limits individual grant amounts to the lower of the following:

- the maximum grant amount specified by the legislature in the appropriation act; or
- the amount by which the tuition and required fees at the eligible institution attended exceeds the average amount of tuition and required fees that would be charged at a public technical institution.

Limits the total amount of grants paid per fiscal year to 50 percent of the average state appropriation in the biennium preceding the biennium in which the grant is made.

Sets forth provisions relating to approved eligible private colleges, qualified education programs, nondiscrimination, grant application and eligibility, and payment of grants.

**Better Jobs Act - S.B. 607**

*by Senator Van de Putte, et al.*

*House Sponsor: Representative McClendon*

Establishes the Better Jobs Act, authorizing a city to create a municipal development corporation (MDC) to provide educational and job training opportunities.

Authorizes a sales and use tax (subject to voter approval) to fund the MDC, enabling cities to invest in programs such as job training, early childhood education, after-school programs, higher education scholarships, and literacy programs.

Authorizes the governing body of a municipality to create the MDC and requires the governing body to conduct a performance review every five years.

### **Exit Interviews for State Employees - S.B. 799**

*by Senator Duncan*

*House Sponsor: Representative Craddick*

Variations in the way state agencies capture and report data on the reasons employees terminate employment with the state raise questions about their validity. Employee turnover costs the state between \$127 and \$254 million in 1999. Efforts to reduce state employee turnover face obstacles if the causes of such turnover cannot be determined.

Requires each state agency to conduct exit interviews for employees who cease their employment at the agency. The auditor will develop the questionnaire. The state may not alter the description of an employee's reason for leaving.

Requires the state auditor to submit a report to each state agency which contains the responses each former employee gave to the questionnaire during each preceding quarter within 15 days after it ends. State agencies may not share these responses with other state agencies.

### **Veteran Representative on Local Workforce Development Boards - H.B. 218**

*by Representative Wise, et al.*

*Senate Sponsor: Senator Van de Putte*

Local workforce development boards (board) are composed of various representatives of the overall workforce of the state, including the private sector, organized labor, and community-based organizations, education agencies, vocational rehabilitation agencies, and public assistance agencies, among others. However, there are no representatives of the Armed Forces of the United States included on a board.

Provides that at least one of the members of a board must be a veteran.

### **Increase in State Minimum Wage - H.B. 533**

*by Representatives Thompson and Maxey*

*Senate Sponsor: Senator Sibley*

The Texas Minimum Wage Act provides that the current state minimum wage is \$3.35 per hour for nonexempt employees and \$1.68 per hour for "tipped employees." Under the Fair Labor Standards Act, the current federal minimum wage for nonexempt employees is \$5.15 per hour and \$2.13 for employees who rely on tips to subsist on this wage.

Correlates the state minimum wages to the federal rates for the same wages.

**Work or Employment Activities Required Under TANF - H.B. 1004**

*by Representative Naishtat  
Senate Sponsor: Senator Zaffirini*

In 1995, the 74th Legislature initiated welfare reform in Texas. When the federal Personal Responsibility and Work Opportunity Reconciliation Act passed in 1996, the state was allowed to take advantage of a waiver option authorizing a delay in implementing some of the new federal provisions. The waiver expires in March of 2002, and federal regulations do not allow Temporary Assistance for Needy Families (TANF) clients who pursue post-secondary education for more than 12 months to be counted in the data collected by a state in determining its work participation rates. However, the state is not prohibited from continuing to serve clients engaged in continuing education past this 12-month limit as long as the state continues to meet federal work participation rates without counting these students.

Codifies the work activities that currently count as participation under Texas Workforce Commission (TWC) rules with three additions and requires TWC to permit TANF clients under 20 years of age to attend full-time educational activities for an unlimited period of time.

Requires the TWC by rule to determine the work or employment activities in which a person must participate to comply with certain state laws regarding mandatory participation in employment activities.

Requires TWC to permit a person younger than 20 years of age to participate solely in full-time educational activities for an unlimited amount of time.

Requires TWC, the Texas Department of Human Services, and the local workforce development boards to perform agency and board duties related to requiring compliance with the work or employment activities requirements imposed, in the least intrusive manner possible.

**Creation of a State Program to Provide TANF Services - H.B. 1005**

*by Representatives Naishtat and Bob Turner  
Senate Sponsor: Senator Zaffirini*

Under current federal welfare law, states are required to achieve certain work participation rates for recipients of Temporary Assistance for Needy Families program (TANF). Beginning in 2002, the required rate for single-parent families will increase to 50 percent, and the required rate for two-parent families will increase to 90 percent. Because this population includes families living in areas where unemployment is high and is often composed of immigrant workers who are only able to work six months out of the year, local workforce development boards may have difficulty achieving the 90 percent work participation rate for two-parent families. Given that two-parent families only constitute a small percentage of TANF families, boards are providing more intensive and costly services to the smallest portion of their caseload.

Provides for a state funding system that is separate from TANF to provide financial assistance and workforce services to two-parent families and individuals in areas defined by the Texas Workforce Commission as minimum service counties.

**Exemptions from Work Activity Requirements Under TANF - H.B. 1006**

*by Representative Naishtat  
Senate Sponsor: Senator Zaffirini*

In 1995, the 74th Texas Legislature enacted welfare reform measures. When Congress passed federal welfare reform regulations the next year, Texas was allowed to take advantage of a waiver option authorizing a delay in implementing some federal provisions. This waiver expires in March 2002, and there are some conforming changes to state law to be made in anticipation of that expiration.

Requires the Texas Department of Human Services (DHS), the Texas Workforce Commission (TWC), and the local workforce development boards to develop plans for providing outreach services to assist persons exempt from work requirements to become self-supporting.

Requires the plans to include procedures under which DHS provides relevant information regarding the exempted persons, including contract information, to the commission and the local workforce development boards.

Requires TWC and local workforce development boards to work diligently with a person excepted for good cause from work or employment activities to remedy the circumstances that constitute good cause so that the person can become self-supporting.

**Unemployment Insurance Paid Annually for Domestic Service Workers - H.B. 1109**

*by Representatives Goolsby and Woolley  
Senate Sponsor: Senator Carona*

Currently, employers of domestic service workers, including nannies and live-in help, pay unemployment insurance taxes quarterly for those employees making more than \$1,000 in a quarter. Paying taxes quarterly for employers who either have few of these employees or owe low amounts is cumbersome.

Authorizes an employer of domestic service workers to pay unemployment tax contributions annually.

**Parents as Scholars Pilot Program for Certain Recipients of TANF - H.B. 1187**

*by Representative Olivo, et al.  
Senate Sponsor: Senator Zaffirini*

The current Parents as Scholars pilot program requires participants to have completed the recommended or advanced high school curriculum and graduated from high school no earlier than the 1998 - 1999 school year to qualify for a Toward Excellence, Access, & Success (TEXAS) grant.

Requires the Texas Workforce Commission to establish a new Parents as Scholars pilot program with amended eligibility criteria that allows program participants to fulfill the work or employment activities required for financial assistance by engaging in educational activities designed to result in receipt of a postsecondary degree.

### **Employment History Tracking of Former Recipients of Assistance - H.B. 1243**

*by Representatives Villarreal and Naishtat*

*Senate Sponsor: Senator Van de Putte*

The Texas Workforce Commission currently tracks the short-term employment history of former recipients of assistance under its employment programs for a up of 12 months after they have left the program.

Requires the employment history tracking of former program recipients to continue for a minimum of three years, and provides measures for assessing recipients' abilities to achieve certain achievements and goals.

### **Establishment of a Child-Care Resource and Referral Network - H.B. 1307**

*by Representative Villarreal*

*Senate Sponsor: Senator Moncrief*

The 76th Legislature funded the creation of a statewide network of child care resource and referral agencies. Since the 76th legislative session, the Texas Workforce Commission (TWC) has awarded funds to the Texas Association of Child Care Resource and Referral Agencies to provide child care data to policy makers, education about early child care and education options to parents, and assistance to employers who want to provide child care benefits to their employees.

Establishes a statutory requirement that TWC contract with a child-care resource and referral network to provide child-care resource and referral services in this state.

### **Texas Workforce Commission and Liens Against Employers - H.B. 2028**

*by Representative Yarbrough*

*Senate Sponsor: Senator Van de Putte*

If a business files bankruptcy or goes out of business owing wages to its employees, the priority for lost wages is generally low. The Texas Workforce Commission (TWC) assists, at some cost, employees with claims to recover lost wages, frequently having to file in district courts to obtain these wages.

Provides that a lien established by TWC against an employer indebted to the state for penalties or wages is superior to any other lien on the same property, including a lien for ad valorem taxes.

### **Indian Tribes and Unemployment Benefits - H.B. 2029**

*by Representatives Chavez and Yarbrough*

*Senate Sponsor: Senator Shapleigh*

Federal and state unemployment insurance laws relating to Indian tribes prior to January 1, 1995, treated them as political subdivisions for purposes of electing their reimbursement status for unemployment benefits. In 1995, the United States Department of Labor (DOL) notified the Texas Workforce Commission (TWC) that this classification of Indian tribal councils was not in compliance with DOL regulations, and TWC changed the tribes' status accordingly. The Consolidated Appropriations Act 2001 (Act), made amendments affecting current federal and state unemployment insurance laws retroactive to December 21, 2000. The Act returned the tribes to the status held prior to 1995.

Modifies provisions relating to unemployment insurance to bring Texas into compliance with federal regulations under the Act.

Requires an Indian tribe to pay contributions under the same terms and conditions as any other subject employer unless certain conditions are met.

### **Grandparents May Receive TANF Benefits on Behalf of Grandchildren - H.B. 2103**

*by Representatives Dutton and Glenn Lewis*

*Senate Sponsor: Senator Shapleigh*

Prior to the 77th Legislature, state law did not allow a grandparent caring for a grandchild to receive the grandchild's Temporary Assistance for Needy Families (TANF) cash assistance benefits when the parent of the child who ordinarily receives such benefits cannot be found. The unavailability of TANF benefits can pose a severe financial hardship for grandparents and the children.

Requires the Texas Department of Human Services to implement a process through which a grandparent of a child receiving financial assistance may act as a protective payee for the child.

### **Overhaul of Worker's Compensation System - H.B. 2600**

*by Representative Brimer, et al.*

*Senate Sponsor: Senator Duncan*

Increases the maximum benefit employee benefit to approximately \$800 per week from \$533.

Provides for lifetime income benefits for serious burn victims.

Prohibits employers who do not participate in the worker's compensation system from requiring workers to sign waivers of their rights to recover benefits. Allows post-injury waivers and establishes arbitration procedures when negligence may have occurred.

Sets up a series of regional health care networks to provide medical services to injured workers. Requires the Texas Workers' Compensation Commission (commission) to appoint a medical advisory committee consisting of a medical advisor, labor interests, and business interests to oversee the quality of care injured workers receive. Provides workers the right to change doctors and opt in or out of the network.

Authorizes the commission to authorize all major nonemergency medical surgery in workers' compensation cases and adopt treatment guidelines according to medical industry standards.

Reduces the waiting period before an injured worker can receive benefits for the first seven days away from work from 30 to 14 days.

Aggregates all wages earned in part-time jobs, rather than just the job at which the worker was injured, in the computation of worker's compensation benefits.

Shifts the cost of attorneys fees from the worker to the insurance company in certain disputed claims.

Moves the Sunset review date of the commission from September 1, 2007, to September 1, 2005.

### **Child Care and Development Block Grant Funds - H.B. 2673**

*by Representatives Villarreal and Luna*

*Senate Sponsor: Senator Shapleigh*

Federal law requires certain grant funds be set aside to be not less than four percent of the funds for activities that are designed to provide comprehensive consumer education to parents and the general public, activities that increase parental choice, among certain provisions.

Requires the Texas Workforce Commission to collect and assess state and local information relating to the effectiveness of the use of federal grant funds (four percent quality dollars) by local workforce development boards.

### **Texas Workforce Commission and "About Face" for Teenagers - H.B. 2786**

*by Representative Noriega*

*Senate Sponsor: Senator Van de Putte*

The National Guard of Texas has shown interest in contracting with the Texas Workforce commission (TWC) to sponsor a drug demand reduction program called "About Face," a life skills curriculum for financially disadvantaged teenagers between the ages of 13 and 17 whose parents receive public assistance.

Requires the division of workforce development of the TWC to develop contracts between the TWC, local workforce boards, and the Texas National Guard to establish the "About Face" program.

### **No Job Termination for Reporting Child Abuse - H.B. 3473**

*by Representative Naishtat*

*Senate Sponsor: Senator Shapleigh*

Current law requires that a person who has cause to believe that a child is being abused or neglected to immediately report the abuse or neglect. The law does not, however, protect a person who reports this abuse or neglect, or participates in an investigation regarding child abuse or neglect, from retaliation by an employer.

Prohibits the termination or suspension of employment or other discrimination against a professional who has direct contact with children in the course of employment and who in good faith reports child abuse or neglect or cooperates with an investigation in this regard.





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