Highlights of the 78th Texas Legislature
A Summary of the Most Significant Legislation
Acknowledgements

The Senate Research Center publishes the *Highlights of the Texas Legislature: A Summary of the Most Significant Legislation* after each regular session of the Texas Legislature in order to centralize information relating to enrolled legislation.

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<td>Polling Place on a Military Base - H.B. 1173</td>
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<td>Revenue Bonds Issued by the Veterans’ Land Board - H.B. 1749</td>
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<td>Supplemental Pay for Members of the Texas National Guard - H.B. 2251</td>
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<td>Continuation of Salary for Certain Persons Called to Active Military Duty - H.B. 2385</td>
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<td>Military Leave for Certain Firefighters and Police Officers - H.B. 2400</td>
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<td>Expansion of Veterans’ Land Board Benefits- H.B. 3211</td>
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<td>Constitutional Amendments Relating to Veterans’ Homes Revenue Bond Payments and the Income and Appreciation of the PSF - H.J.R. 68</td>
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<td>Military Activation Creates Public Office Vacancy - H.J.R. 84</td>
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<td>Limit for Claiming a Lottery Prize for Certain Military Personnel - S.B. 6</td>
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<td>Deferred Payment of Property Taxes for Military Personnel - S.B. 173</td>
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<tr>
<td>Military Preparedness Act - S.B. 652</td>
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<td>Texas Online for Veterans Website - S.B. 655</td>
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<td>Texas Academic Skills Program Exemption for Certain Military Personnel - S.B. 814</td>
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<td>Financial Assistance to Defense Communities - S.B. 1295</td>
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<td>Federal Matching Funds for Projects at Military Facilities - S.B. 1439</td>
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<td>Defense Adjustment Management Authority - S.B. 1565</td>
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<td>Supplemental Volunteer Military Forces - S.B. 1594</td>
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<td><strong>Workforce Development</strong></td>
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<td>Compliance with Texas Workers’ Compensation Commission Orders - H.B. 145</td>
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<td>Group Benefits for Community Supervision and Corrections Employees - H.B. 725</td>
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<td>Disposition of Unclaimed Wage Payments - H.B. 826</td>
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<td>Criminal History Record Information for Employment - H.B. 983</td>
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<td>Audit Assistance to Texas Workforce Commission - H.B. 1496 (Vetoed)</td>
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<td>Chargeback Relief for Employers in Governor-Declared Disaster - H.B. 1819</td>
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<td>Nonresident Alien Worker Wages Exempted from Unemployment Taxes - H.B. 1820</td>
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<td>Entrance Examinations for Fire and Police Departments - H.B. 2038</td>
<td>444</td>
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<td>Self-Insured Workers' Compensation Insurance Coverage - H.B. 2095</td>
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<td>Payment of Workers Compensation Benefits - H.B. 2199</td>
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<td>Transfer of Certain Workers' Compensation Suits - H.B. 2323</td>
<td>446</td>
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<td>Temporary Assistance and Related Support Services for Needy Persons - H.B. 2970</td>
<td>446</td>
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<td>Transition Planning Programs - H.B. 3124</td>
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<td>Eligibility Requirements for Workers' Compensation Benefits - S.B. 478</td>
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<td>Workers' Compensation and Maximum Medical Improvement Rules - S.B. 820</td>
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<td>Sufficient Notice Regarding Worker’s Compensation Insurance Benefits - S.B. 1282</td>
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<td>Protocols for Workers’ Compensation Commission - S.B. 1572</td>
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<td>Workers Compensation and Medical Quality Review - S.B. 1574</td>
<td>449</td>
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<tr>
<td>Resolution of Disputes Concerning Pharmaceutical Services - S.B. 1804</td>
<td>449</td>
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</table>
Factors Affecting the Budget

The 78th Legislature was faced with an unprecedented $9.9 billion shortfall for the 2004-2005 biennium. This shortfall was caused by a combination of factors, including a lack of surplus revenues, one-time revenue measures taken in the 2002-2003 biennium, a weakened economy, and a historic failure of sales tax revenues to meet projections.

In response to these budgetary obstacles, along with the leadership directive of no new taxes, budget writers chose a different approach in drafting recommendations for the 2004-2005 General Appropriations Act. Rather than the traditional performance-based budgeting approach, budget writers requested state agencies, institutions of higher education, and the judiciary to submit budget requests within an allotted amount of money, and prioritize core services and essential functions.

In addition to legislation required to balance the budget for the 2004-2005 biennium, the 78th Legislature passed a series of bills to alter statutory requirements in order to accommodate the level of available revenue.

Some key legislative actions necessary to support the budget included:

- passing the Supplemental Appropriations Bill, for fiscal year (FY) 2003, reflecting seven percent across-the-board budget reductions ($1.4 billion);
- moving the System Benefit Fund inside the Treasury ($186 million);
- changing the Permanent School Fund to a total return investment strategy ($474 million);
- changing the point of collection for motor fuels tax ($35 million);
- raising the cap on the Telecommunication Infrastructure Fund ($250 million);
- delaying the Foundation School Program payment without impacting services ($800 million);
- closing a loophole in the property tax system by requiring values to be reported for the purposes of property tax liability ($13.7 million);
- closing a loophole in the auto sales tax system ($176 million); and
- consolidating health and human services agencies ($95 million).

Other revenue-generating and revenue-saving items did not require passage of separate legislation, including implementation of various Limited Government, Unlimited Opportunity (e-Texas) riders and changes the method of finance changes.

In addition, with the passage of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Texas will receive an estimated $1,262.4 million in federal funds state fiscal relief. This fiscal relief is allocated for enhanced Federal Medical Assistance Percentage (FMAP) and flexible grants to state governments.
Programs identified as priority budget items to be funded or restored with federal state fiscal relief funds are identified in Articles III (Education) and IX (General Provisions) of the General Appropriations Act.

Finally, in order for the comptroller of public accounts (comptroller) to certify H.B. 1, the governor vetoed items totaling $81.1 million in all funds, and eliminated more than $200 million in appropriations by vetoing Section 122 of H.B. 2425 and all of H.B. 3175.

Overview of H.B. 1 as Enrolled

The recommended final appropriations for state government operations for the 2004-2005 biennium total $117.4 billion from all fund sources. The adjusted recommended amounts provide approximately $1,602 million or a 1.4 percent increase from the 2002-2003 level. (See Figure 1.) Reductions in appropriated amounts made by the 78th Legislature, as directed by the governor, lieutenant governor, and speaker of the house for the 2002-2003 biennium are included in the 2002-2003 totals; the totals for the 2004-2005 biennium have not been adjusted to reflect appropriations vetoed by the governor. (See Table 1.)

![Figure 1: ALL FUNDS](image-url)

Notes: Excludes interagency contracts. Totals may not add because of rounding.

Source: Legislative Budget Board
Table 1

ALL FUNDS

<table>
<thead>
<tr>
<th>Function</th>
<th>Expended/Budgeted 2002-03*</th>
<th>Conference Recommended 2004-05</th>
<th>Biennial Change</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article I - General Government</td>
<td>2,546.0</td>
<td>2,684.0</td>
<td>138.1</td>
<td>5.4</td>
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<tr>
<td>Article II - Health and Human Services</td>
<td>38,711.4</td>
<td>39,786.2</td>
<td>1,074.8</td>
<td>2.8</td>
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<tr>
<td>Article III - Agencies of Education</td>
<td>48,753.2</td>
<td>50,092.8</td>
<td>1,339.6</td>
<td>2.7</td>
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<tr>
<td>Public Education</td>
<td>32,711.4</td>
<td>33,894.4</td>
<td>1,183.0</td>
<td>3.6</td>
</tr>
<tr>
<td>Higher Education</td>
<td>16,041.8</td>
<td>16,198.4</td>
<td>156.7</td>
<td>1.0</td>
</tr>
<tr>
<td>Article IV - The Judiciary</td>
<td>422.9</td>
<td>421.5</td>
<td>(1.3)</td>
<td>(0.3)</td>
</tr>
<tr>
<td>Article V - Public Safety and Criminal Justice</td>
<td>8,314.6</td>
<td>7,983.8</td>
<td>(330.8)</td>
<td>(4.0)</td>
</tr>
<tr>
<td>Article VI - Natural Resources</td>
<td>2,135.6</td>
<td>1,998.0</td>
<td>(137.6)</td>
<td>(6.4)</td>
</tr>
<tr>
<td>Article VII - Business and Economic Development</td>
<td>13,913.5</td>
<td>14,145.8</td>
<td>232.3</td>
<td>1.7</td>
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<tr>
<td>Article VIII - Regulatory</td>
<td>712.8</td>
<td>764.8</td>
<td>52.0</td>
<td>7.3</td>
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<tr>
<td>Article IX - General Provisions</td>
<td>0.0</td>
<td>(737.5)</td>
<td>(737.5)</td>
<td>NA</td>
</tr>
<tr>
<td>Article X - The Legislature</td>
<td>297.2</td>
<td>269.4</td>
<td>(27.8)</td>
<td>(9.4)</td>
</tr>
<tr>
<td>Total</td>
<td>115,807.1</td>
<td>117,408.9</td>
<td>1,602.0</td>
<td>1.4</td>
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</tbody>
</table>

*Includes $1,444 million in reductions and $503 million in supplemental appropriations from the Economic Stabilization Fund (i.e., General Revenue Funds) pursuant to H.B. 7 (assumes $769 million in additional Federal Funds tied to supplemental appropriations).

Notes: Tobacco Settlement receipts are allocated to Articles II, III, and VII.
Excludes interagency contracts.
Totals may not add because of rounding.
Biennial change and percentage change calculated on actual amounts before rounding.

Source: Legislative Budget Board

General revenue funding, including general revenue-dedicated funds, totals $63.5 billion for the 2004-2005 biennium. “Pure” general revenue funding totals $58.2 billion for the 2004-2005 biennium, representing 49.5 percent of the total budget recommendations - a decrease of $2.6 million, or 4.3 percent compared to the 2002-2003 spending level. General revenue-dedicated funding totals approximately $5.4 billion, an increase of $334.4 million, or 6.6 percent above the 2002-2003 level. (See Figure 2 and Table 2.)
**Figure 2**

**GENERAL REVENUE AND GENERAL REVENUE-DEDICATED FUNDS**

**TOTAL = $63,546.2 MILLION**

- **Health and Human Services**
  - $15,600.3
  - (24.5%)

- **Agencies of Education**
  - $37,098.8
  - (58.4%)

- **General Government**
  - $1,809.9
  - (2.8%)

- **The Legislature**
  - $265.2
  - (0.4%)

- **Regulatory**
  - $502.6
  - (0.8%)

- **Business & Economic Development**
  - $678.1
  - (1.1%)

- **Natural Resources**
  - $1,436.4
  - (2.3%)

- **Public Safety and Criminal Justice**
  - $6,667.4
  - (10.5%)

- **The Judiciary**
  - $344.7
  - (0.5%)

- **General Provisions**
  - -$857.1
  - (-1.3%)

**Notes:** Totals may not add because of rounding.

_Source: Legislative Budget Board_

---

**Table 2**

**GENERAL REVENUE AND GENERAL REVENUE - DEDICATED FUNDS**

<table>
<thead>
<tr>
<th>Function</th>
<th>Expended/Budgeted 2002-03*</th>
<th>Conference Recommended 2004-05</th>
<th>Biennial Change</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article I - General Government</td>
<td>1,783.5</td>
<td>1,809.9</td>
<td>26.4</td>
<td>1.5</td>
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<tr>
<td>Article II - Health and Human Services</td>
<td>15,499.4</td>
<td>15,600.3</td>
<td>100.9</td>
<td>0.7</td>
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<tr>
<td>Article III - Agencies of Education</td>
<td>38,118.1</td>
<td>37,098.8</td>
<td>(1,019.2)</td>
<td>(2.7)%</td>
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<tr>
<td>Public Education</td>
<td>25,593.1</td>
<td>24,717.9</td>
<td>(875.2)</td>
<td>(3.4)%</td>
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<td>Higher Education</td>
<td>12,525.0</td>
<td>12,381.0</td>
<td>(144.0)</td>
<td>(1.1)%</td>
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<tr>
<td>Article IV - The Judiciary</td>
<td>355.5</td>
<td>344.7</td>
<td>(10.8)</td>
<td>(3.0)%</td>
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<td>Article V - Public Safety and Criminal Justice</td>
<td>6,967.1</td>
<td>6,667.4</td>
<td>(299.8)</td>
<td>(4.3)%</td>
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<td>Article VI - Natural Resources</td>
<td>1,544.8</td>
<td>1,436.4</td>
<td>(108.4)</td>
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<td>Article VII - Business and Economic Development</td>
<td>752.3</td>
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<td>(74.2)</td>
<td>(9.9)%</td>
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<td>Article VIII - Regulatory</td>
<td>479.9</td>
<td>502.6</td>
<td>22.7</td>
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<td>Article IX - General Provisions</td>
<td>0.0</td>
<td>(857.1)</td>
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<td>NA</td>
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<tr>
<td>Article X - The Legislature</td>
<td>293.8</td>
<td>265.2</td>
<td>(28.6)</td>
<td>(9.7)%</td>
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<tr>
<td>Total</td>
<td>65,794.2</td>
<td>63,546.2</td>
<td>(2,248.1)</td>
<td>(3.4)%</td>
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</table>

*Includes reductions of $1,267 million in General revenue Funds and $177 million in General Revenue-Dedicated Funds pursuant to H.B. 7.

_Notes:_ Tobacco Settlement receipts are allocated to Articles II, III, and VII.

Totals may not add because of rounding.

Biennial change and percentage change calculated on actual amounts before rounding.

_Source: Legislative Budget Board_
H.B. 1 recommendations for the 2004-2005 biennium include the following funding changes from the 2002-2003 biennium (See Figure 3.):

- General Revenue Funds - a $2.6 billion or 4.3 percent decrease in general revenue funds (49.5 percent of the budget);
- General Revenue-Dedicated Funds - a $334.4 million or 6.6 percent increase (4.6 percent of the budget);
- Federal Funds - a $2.2 billion or 5.9 percent increase in federal funds (33.4 percent of the budget); and
- Other Funds - a $1.7 billion or 13 percent increase (12.5 percent of the budget).

**Figure 3**

**BIENNIAL RECOMMENDATIONS FOR 2004-05**

**BY FUND SOURCE**

<table>
<thead>
<tr>
<th>Fund Source</th>
<th>Amount (in millions)</th>
<th>Percentage</th>
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<tr>
<td>General Revenue Funds</td>
<td>$58,163.0</td>
<td>49.5%</td>
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<tr>
<td>Federal Funds</td>
<td>$39,217.7</td>
<td>33.4%</td>
</tr>
<tr>
<td>General Revenue-Dedicated Funds</td>
<td>$5,383.2</td>
<td>4.6%</td>
</tr>
<tr>
<td>Other Funds</td>
<td>$14,645.0</td>
<td>12.5%</td>
</tr>
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</table>

TOTAL = $117,408.9

Notes: Excludes interagency contracts. Totals may not add because of rounding.

Source: Legislative Budget Board

H.B. 1 provides for 226,630 full-time equivalent (FTE) positions in 2004 and 225,665 in 2005, a reduction of 5,699 FTE positions by 2005 from the 2003 budgeted level. The decrease in the number of FTEs is reflective of state agencies and institutions of higher education being appropriated less money than the 2002-2003 level and needing to remain within the available revenue. The state’s contributions to the retirement programs within the Employees Retirement System (ERS) and the Teacher Retirement System (TRS) remain at the constitutional floor of six percent. (See Table 3.)
Several substantive changes were made to the general state employees Uniform Group Insurance Program (UGIP), through ERS Board action and other legislative changes, resulting in a reduction of approximately $31 million in all funds for the state’s UGIP contribution for the 2004-2005 biennium compared to the 2002-2003 biennium. In addition, substantial changes were made to the TRS group benefits for retired school employees. While changes to these programs took place outside of H.B. 1, the recommended appropriation levels reflect these and other substantial programmatic revisions.

Governor’s Vetoes

In accordance with Article IV, Section 14, Texas Constitution, the governor has the right to file objections to individual items or appropriations, make proclamation of the same, and thereby remove from such items or appropriations any force or effect. The governor vetoed the following items to reduce the budget by $81.1 million:

- $7.4 million appropriated to the State Aircraft Pooling Board;
- $2 million appropriated to the Telecommunications Infrastructure Fund Board;
- $9.5 million appropriated to the Texas Higher Education Coordinating Board (THECB) for the Advanced Research Program;
- $250,000 in FY 2005 appropriated to THECB for the Parker Chiropractic College and the Texas Chiropractic College;
- $22.5 million appropriated for the Texas Excellence Fund;

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<td>8,974</td>
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<td>Article IV - The Judiciary</td>
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<td>1,318</td>
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<td>Article V - Public Safety and Criminal Justice</td>
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<td>Article VI - Natural Resources</td>
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<td>8,600</td>
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<td>8,584</td>
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<td>Article VII - Business and Economic Development</td>
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<td>3,745</td>
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<td>Article IX - General Provisions</td>
<td>0</td>
<td>0</td>
<td>(210)</td>
<td>(567)</td>
</tr>
<tr>
<td>Grand Total</td>
<td>223,375</td>
<td>231,365</td>
<td>226,630</td>
<td>225,665</td>
</tr>
</tbody>
</table>

FTE Cap                                  | 229,627       | 229,950       | 226,630       | 225,665       |
Difference (total minus cap)             | (6,252)       | 1,415         | NA            | NA            |

Notes: Totals may not add because of rounding.

Source: Legislative Budget Board
- $22.5 million appropriated for the University Research Fund;
- $6.6 million appropriated to the Texas Wildlife Damage Management Service;
- $2.5 million appropriated to the Criminal Justice Policy Council;
- $3 million appropriated to the Texas Council On Environmental Technology;
- $451,237 appropriated to the Board of Nurse Examiners;
- $2 million appropriated to the Research and Oversight Council on Workers' Compensation; and
- $2.4 million appropriated for legislation that did not pass or was vetoed by the governor.

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

Economic Stabilization Fund (Rainy Day Fund) - The comptroller projected that the Rainy Day Fund would have approximately $1 billion available at the end of FY 2003. The legislature appropriated all funds available, including the amounts expected to be deposited for 2004-2005 biennium, for supplemental needs, primarily in health and human services, for FY 2003 and for new funding in 2004-2005. Major appropriations from the Rainy Day Fund include:

- $396 million in supplemental need for Medicaid; and
- $295 million in new funding (appropriated through H.B. 7) for the Texas Enterprise Fund.

Key Funding Actions of the Conference Committee on H.B. 1

In making appropriation recommendations for the 2004-2005 biennium, the appropriations conference committee identified 12 key funding actions. They are:

- maintaining eligibility for the Children’s Health Insurance Program at 200 percent of the Federal Poverty Level (FPL);
- maintaining the current Medicaid income eligibility level for children and long term care clients in an institution or on a waiver;
- funding TEXAS Grants at $324 million, which is above the 2002-2003 biennium funding need;
- funding the Foundation School Program at $1.2 billion above current law;
- funding the Active Teacher Health Insurance Program;
- funding indirect cost recovery for institutions of higher education at 100 percent as compared to the 2002-2003 biennium level of 50 percent;
- recommending the funding of all mental health and mental retardation hospitals and state schools;
- assuring that tuition deregulation would not impact appropriations to institutions of higher education in the 2004-2005 General Appropriations Act;
- recommending funding of $45 million for courthouse preservation;
- maintaining prison and jail correctional officer staff;
- accommodating the growing adult prison population by increasing capacity; and
- funding debt service requirements on construction projects at state agencies and institutions of higher education.

**Significant Policy and Budgetary Changes**

**Acute Care Medicaid – Health and Human Services Commission (HHSC)**

- The total budget for acute care Medicaid is $7.1 billion in general revenue; $18.5 billion in all funds.
- The budget is based on a more conservative estimate of future caseload growth and costs in the Medicaid program than those originally projected by HHSC.
- Total number of acute care Medicaid clients to be served is projected to be 2,450,868 in FY 2004 and 2,478,652 in FY 2005.
- Assumes that all children who are currently eligible for Medicaid will continue to receive services.
- Medicaid acute care provider reimbursement rates are reduced to 95 percent of FY 2003 levels.

**Medicaid - HHSC**

- Implementation of 12 months continuous eligibility is to be delayed.
- Assets tests will be conducted with face-to-face interviews, as deemed necessary.
- A preferred drug list, prior authorization requirements, and certain prescription limitation changes are made to the prescription drug program to contain costs and control utilization; maintains current prescription drug coverage for nursing facility residents and community care clients.
- Nursing home/Community care eligibility maintained at current income levels.
- Income eligibility is changed for certain pregnant women, adults receiving benefits under the Temporary Assistance for Needy Families (TANF) program, and medically needy adults.
- Some optional services are not funded for the 2004-2005 biennium.

**Children’s Health Insurance Program (CHIP) - HHSC**

- The total budget for CHIP in 2004-2005 is $286.7 million in general revenue; $807.9 million in all funds.
- Income eligibility is maintained at 200 percent of FPL.
- Benefits are maintained for the three state-funded groups (legal immigrants, school employee children, and state employee children).
- The number of children served is projected to be 380,603 in FY 2004 and 346,818 in FY 2005.
- Continuous eligibility is reduced to six months from 12 months.
- A 90-day waiting period is implemented.
- Changes are made to income disregard policies and an assets test is added.
- Cost-sharing, including premiums and co-pays, is increased.
- Benefits are reduced, including prescription drug benefits.
- Provider reimbursement rates are set at 95 percent of FY 2003 rates.

**Texas Department of Human Services (DHS)**

- The total budget for DHS is $3.31 billion in general revenue; $9.13 billion in all funds. The total also includes a reduction in the form of general revenue contingency appropriations of $0.714 billion.
- Funding for Medicaid long-term care and related services at DHS is $2.81 billion in general revenue and $7.09 billion in all funds.
- Current eligibility policies are maintained for most programs, including nursing facility care and community care waivers.
- Community care service hours are reduced by 15 percent.
- Funding for state community care programs, including respite, residential care, and In-Home and Family Support, is reduced by 17.8 percent.
- Provider rates for nursing homes, community care providers, and Star+Plus providers are reduced from 2002-2003 levels.
- Personal needs allowance for nursing home clients is reduced by 25 percent, from $60 to $45 per month.
- TANF cash assistance maintains the earned income disregard policy of $120 plus 90 percent of earnings for four months, and maintains the TANF Grant at 17 percent of FPL.
- Reductions in TANF are made in annual supplemental back-to-school payments, asset limits, and two parent family vehicle limits.
- Implements enhanced penalties for non-compliance with Personal Responsibility Agreements, including full family sanctions.

**Mental Health and Mental Retardation (MHMR)**

- The total budget for MHMR is $2.1 billion in general revenue; $4.0 billion in all funds.
- The total budget for mental health is $1,049.1 million in general revenue; $1,443.9 million in all funds.
- The total budget for mental retardation services is $1,002.9 million in general revenue; $2,443.8 million in all funds.
- All 10 state mental health facilities and three community hospitals are maintained.
- All 11 state schools and two state centers are maintained.
- Extends six percent quality assurance fee which has been assessed against nongovernmental facilities to state schools.
- Maintains current service levels for adult mental health services and NorthStar; eliminates the In-Home and Family Support program.
Funding for mental retardation In-Home and Family support Services is reduced by 61 percent compared to FY 2003.

Provider reimbursement rates for Community Waiver Services (Home and Community-Based Services) and for Community Intermediate Care Facilities-Mentally Retarded (ICF-MRs) are reduced to 97.8 percent and 96.5 percent of FY 2003 levels, respectively.

**Texas Department of Health (TDH)**

- The total budget for TDH is $885.3 million in general revenue; $3,418.9 million in all funds. The total also includes contingency appropriations of $173.7 million in all funds.
- The immunization program is maintained at current levels.
- A substantial amount of federal dollars are allocated for bioterrorism preparedness planning, training, and programs.
- Funding for HIV medications is increased by $26.5 million in general revenue. Total funding is $51.2 million in general revenue; $136 million in all funds.
- Total funding for children with special healthcare needs is $49.3 million in general revenue; $75.05 million in all funds. Funding includes an additional $3.8 million in general revenue to enable TDH to move children off the medical services waiting list.
- County indigent health care funding is reduced by $6.3 million in general revenue from the 2002-2003 biennium levels.
- Infrastructure Grants to assist in the development of additional Federally Qualified Health Centers funded at $5 million per year.

**Department of Protective and Regulatory Services (DPRS)**

- Funding for DPRS is $483.7 in general revenue; $1,769.4 million in all funds.
- Funding for foster care is $714.8 million in all funds, restoring funding to approximately 99 percent of DPRS's projected need. DPRS will restructure the six levels of care used for foster care payments into four levels to generate administrative savings.
- Funding for adoption subsidy payments totals $204.4 million in all funds. DPRS will develop a two-tiered program with a higher payment for higher needs children, and a payment ceiling will be implemented in new adoption subsidy agreements.
- A total of $359 million in all funds is provided to maintain Child Protective Services Direct Delivery staff caseloads. This level of funding restores direct delivery staff to FY 2003 levels and adds 178 full-time positions each fiscal year of the biennium.
- Adult Protective Service Delivery is funded at the 2002-2003 biennium caseload levels.
- Funding for the Services to At-Risk Youth (STAR) program is reduced by 12 percent in all funds from to the 2002-2003 biennium levels.
- Funding is maintained at the 2002-2003 biennium levels for Texas Families: Together and Safe, the Texas Runaway/Youth Hotline, and the Communities in Schools program.
The following programs are not funded for the 2004-2005 biennium: At-Risk Mentoring, Healthy Families, Family Outreach, Home Instruction Program for Preschool Youngsters (HIPPY), Gang Activity Prevention, Parents as Teachers, and Second Chance Teen Parent Program.

Public Education

- Total funding for public education for the 2004-2005 biennium is approximately $33.9 billion in all funds.
- The Texas Education Agency is appropriated $20.7 billion in general revenue and $6.9 billion in federal funds for the 2004-2005 biennium compared to the 2002-2003 appropriated levels of $22.3 billion in general revenue and $5.6 billion in federal funds; this represents a 3.4 percent decrease in general revenue and a 22.8 percent increase in federal funds.
- Funding for public education in H.B. 1 is also predicated on statutory changes made in H.B. 3459, S.B. 1369, and S.B. 1370.

Higher Education

- Total funding for higher education for the 2004-2005 biennium is approximately $16.2 billion, of which approximately $10.1 billion is general revenue.
- Total funding includes funding for all general academic institutions, health-related institutions, community and junior colleges, Texas State Technical Colleges, A&M Service Agencies, THECB, higher education group health insurance, optional retirement program, and multiple higher education funds.
- Total funding for the THECB is $890.5 million, including $684.6 million in general revenue and $112.5 million in federal funds.
- General revenue funding for general academic institutions is approximately $3.5 billion.
- The targeted level of funding for the nine health-related institutions is $1.816 billion. Of this amount, $1.750 billion is appropriated in H.B. 1, with the difference to be made up from a less than 0.5 percent reduction in appropriations to all general academic institutions and receipt of expected federal funds.
- Total funding for community colleges and junior colleges is approximately $1.511 billion for the 2004-2005 biennium as compared to $1.567 billion for the 2002-2003 biennium.

Criminal Justice - Texas Department of Criminal Justice (TDCJ) and Texas Youth Commission (TYC)

- The total general revenue budget for TDCJ is $4,602 million for the 2004-2005 biennium. This represents a reduction of approximately 5.3 percent from the 2002-2003 biennium.
- The general revenue amount includes funding for Correctional Managed Healthcare services, parole supervision, residential parole, and probation basic supervision.
- Funding for Correctional Unit Support operations and staffing levels are reduced; correctional officer FTEs are maintained.
Funding for Parole Field Operations Support is reduced; parole officer FTEs are maintained.
Critical Substance Abuse Treatment Programs are funded at varying levels.
The Texas Council on Offenders with Mental Impairments is fully funded at $22.2 million.
Funding is eliminated for Probation Employment and Education Diversion and Community Programs.
TYC is funded at $433.9 for the 2004-2005 biennium, an eight percent reduction from the 2002-2003 biennium.

**Employees Retirement System (ERS)**

In order to reduce spending during the 2002-2003 biennium and to contain costs for the 2004-2005 biennium, the following major changes were made to ERS health benefit plans. The appropriated amounts in H.B. 1 for the 2004-2005 biennium, $1.39 billion in general revenue, reflect these changes:

- implementing a 90-day waiting period for new-hires;
- establishing as the minimum eligibility for retiree insurance age 65 and 10 years of service or satisfaction of the Rule of 80, for future retirees only;
- reducing the contribution for employees working 20-39 hours a week to 50 percent of the full contribution;
- discontinuing the contribution for nonemployee board members;
- reducing the contribution for graduate teaching assistants to 50 percent of the full contribution;
- decreasing the maximum age for dependent children to 19 years unless the child is a full-time student, for whom coverage can remain in effect until age 23;
- eliminating HealthSelect Plus;
- standardizing retail pharmacy reimbursement;
- increasing primary care copays from $15 to $20 for HealthSelect and from $10 to $30 for HMOs;
- adding a $10 copay for specialists;
- implementing a $100 per day inpatient hospital copay, applicable to the first five days;
- implementing a $100 outpatient hospital copay;
- reducing the HealthSelect coinsurance rates (HMO remains at 100 percent);
- changing the HealthSelect coinsurance stop loss levels;
- increasing prescription drug copays;
- implementing a $50 annual prescription drug deductible;
- changing requirements relating to maintenance medications;
- implementing a mandatory generic prescription drug requirement with the member paying the difference in cost for nongeneric prescriptions; and
- increasing the emergency room copay from $50 to $100.
**Teacher Retirement System (TRS)**

Certain changes were made to the group benefits for retired school employees. H.B. 1’s recommended appropriation levels, $3.9 billion in general revenue, incorporate the changes that are required for method of finance and/or savings modifications. Major modifications include:

- amending eligibility requirements for certain retirees;
- deleting “automatic” coverage;
- changing open enrollment periods for selections of coverage under the TRS-Care plan and providing for special enrollment events;
- requiring the state, through TRS, to make certain contributions from the fund for the total cost of the basic plan covering each participating retiree, each participating dependent, surviving spouse, and surviving dependent child the amount prescribed in H.B. 1 to cover the part of the cost of the basic plan for the aforementioned groups; and to collect the amount of premium required for basic coverage under the group program that exceeds the amount contributed by the state for each participating dependent, surviving spouse, and surviving dependent child;
- increasing the state’s contribution to TRS from 0.5 percent to 1.0 percent of the salary of each active employee;
- increasing each active employee’s contribution to TRS from 0.25 percent to 0.5 percent of the employee’s salary;
- implementing a cost sharing program between the state, the public schools, and active employees; and
- requiring the comptroller to transfer $42 million from the Texas School Employees Uniform Group Coverage Trust Fund to the Retired School Employees Group Insurance Fund, to compensate the Retired School Employees Group Insurance Fund for money transferred from that fund by the 77th Legislature.

Source: *Summary of Conference Committee Report on House Bill 1, Conference Committee, Senate Finance Committee (June 1, 2003); Summary of Conference Committee Report for House Bill 1, Legislative Budget Board (May 30, 2003), Proclamation by the Governor of the State of Texas, H.B.1, General Appropriations Act, June 22, 2003.*
Water, Wastewater, and Colonia Self-help Account - H.B. 1875
by Representative Wise - Senate Sponsor: Senator Lucio

S.B. 312 and S.B. 322, 77th Legislature, created new water and wastewater-related funds, including the colonia self-help account under the Texas Water Development Board (TWDB). This bill:

Establishes the water infrastructure fund and the rural water assistance funds.

Allows the rural water assistance fund to be used to provide low-interest loans to rural political subdivisions for water or water-related projects and for water quality enhancement projects.

Allows the rural water assistance fund to be used to enable a rural political subdivision to obtain water or wastewater service supplied by larger political subdivisions or to finance the consolidation or regionalizing of neighboring political subdivisions.

Establishes the colonia self-help account as an account in the water assistance fund that may be used by TWDB only for the purposes described in the Water Code, and consisting of money transferred by the legislature directly to the account; money transferred at TWDB’s discretion from the water infrastructure fund; and gifts, grants, or donations to the account.

by Representatives Garza and Guillen - Senate Sponsor: Senator Madla

Provides for a set-aside of funds generated from the general obligation bonds issued under S.B. 1296, 77th Legislature, for specific colonia access roadway projects proposed by rural border counties.

Motor Vehicle Inspection Facilities Near the Mexican Border - H.B. 3554
by Representatives Raymond and Krusee - Senate Sponsor: Senator Zaffirini

The implementation of the North American Free Trade Agreement has brought dramatically increased traffic, and subsequently, collisions to border cities. Border cities have organized to place border inspection stations near ports of entry without interrupting the flow of traffic. Currently the Texas Department of Transportation (TxDOT) is building eight inspection stations but is not required to consult with the border municipalities on the placement of the stations. This bill:

Allows cities with more than 900,000 commercial border crossings in the state fiscal year ending August 31, 2002, to direct where the inspection station will be located, if the station is to be located inside the city limits or the city’s extraterritorial jurisdiction.

Directs TxDOT to erect and maintain border inspection facilities in the Pharr, Laredo, and El Paso districts.
State and Certain Local Fiscal Matters - H.B. 2425  *(Partially Vetoed)*
*by Representative McCall*  -  *Senate Sponsor: Senator Duncan*

Amends various provisions of current law relating to state fiscal matters.

Gains revenue from:
- natural gas tax provisions related to high-cost gas, the treatment of cash sales, and marketing costs;
- motor fuels tax treatment of power take-off equipment;
- tax refund changes;
- streamlined sales tax project simplification;
- certain sales tax enforcement provisions; and
- treatment of the insurance tax liability of unauthorized insurers.

Saves revenue from:
- a provision related to interest paid under the prompt payment law; and
- delaying the final payment to school districts each year.

Costs revenue from:
- a provision related to vacation carry-forward for state employees; and
- an increase in the transfer to the Economic Stabilization Fund (Rainy Day Fund) offsetting a portion of the revenue gain from provisions relating to the natural gas tax.

Repeals the statutory cap on borrowing related to temporary cash flow shortages in the general revenue fund. Authorizes the Cash Management Committee to set the limit.

Authorizes the comptroller of public accounts (comptroller) to borrow certain funds managed by or in the custody of the comptroller, including funds held outside the state treasury, to prevent temporary cash flow deficiencies in the general revenue fund.

Appropriates from the general revenue fund amounts necessary to return the transferred cash and maintain the equity of funds from which transfers are made.

Authorizes the Pre-Paid Higher Education Tuition Board, on request of the comptroller, to suspend new enrollment in the Pre-Paid Higher Education Tuition Program to ensure actuarial soundness of the program.

Requires a university to accept as payment in full for tuition and required fees the lesser of the amount of tuition and required fees charged by the institution or an amount equal to the weighted average amount of tuition and required fees of all public senior colleges and universities.

Exempts certain pharmaceutical biotechnology cleanroom equipment from the sales tax.
Provides insurance tax credits for certified capital companies, resulting in an aggregate loss to the general revenue related funds over the period 2009-2012.

**Authority of Comptroller to Manage Cash Flow - H.B. 3175**

by Representative Pitts - Senate Sponsor: Senator Bivins

Authorizes the comptroller of public accounts (comptroller) to borrow certain funds managed by or in the custody of the comptroller, including funds held outside the state treasury, to allow efficient management of the cash flow of the general revenue fund and to avoid a temporary cash deficiency in the general revenue fund.

Requires interest to be credited to the fund from which money was borrowed, regardless of the period such funds were borrowed.

Prohibits the comptroller from transferring available cash to the general revenue fund from the Texas Tomorrow Fund.

Appropriates to the comptroller from the general revenue for the fiscal biennium beginning September 1, 2003, the amount needed to return any available cash that was transferred to the general revenue fund from a fund outside the state treasury and needed to maintain the equity of the fund from which the transfer was made.

**Certain Expenditures and Charges of Certain Governmental Entities - H.B. 3442**

by Representative Picket - Senate Sponsor: Senator Averitt

Changes affecting Article IV-Natural Resources agencies:

Texas Department of Agriculture:
- makes certain changes regarding revenue and expenditures from general revenue funds regarding livestock pens;
- makes certain changes regarding Octane fees; resulting in a revenue gain to general revenue; and
- makes certain changes regarding weights and measurements, producing a savings to general revenue in 2004 and each year thereafter, which is accounted for in H.B. 1 and includes reductions in full-time equivalents (FTEs) beginning in fiscal year 2004.

Texas Animal Health Commission:
- makes certain changes regarding riding stables resulting in a revenue loss and a reduction in expenditures which is accounted for in H.B. 1; and
- authorizes the implementation of new fees by 50 cents per head of cattle at first-point testing, resulting in a revenue gain to general revenue to offset appropriations made in H.B. 1.
Texas Commission on Environmental Quality:
- makes certain changes regarding expedited letters resulting in a revenue gain and offset by expenditures in the same amounts in the general revenue-dedicated Water Resource Management Account, including the addition of an FTE.

Texas Parks and Wildlife Department:
- authorizes the issuance of a freshwater fishing stamp and prohibits freshwater fishing by a person not possessing the stamp, resulting in a revenue gain to the Game, Fish, and Water Safety Account;
- requires that 15 percent of amounts collected for motorboat registration and motorboat manufacturer or dealer registration fees be deposited into the State Park Account resulting in a revenue gain; and
- deletes the requirement for non-negotiable boats titles, resulting in revenue gain to the general revenue-dedicated Game, Fish, and Water Safety Account in fiscal years 2004, 2006, and 2008, and decreased expenditures in fiscal year 2004 and each fiscal year thereafter.

Texas Railroad Commission:
- authorizes the assessment of fees against operators of pipelines and pipeline facilities, resulting in a gain to the general revenue fund, that is accounted for in H.B. 1;
- transfers the functions associated with the Texas Quarry and Pit Safety program from the Texas Railroad Commission to the Texas Department of Transportation, resulting in savings to the general revenue fund and increasing expenditures out of the State Highway Fund;
- authorizes the assessment of fees on railroads to recover costs for the rail safety program, resulting in a revenue gain to general revenue, already accounted for in H.B. 1;
- makes certain changes to administrative hearings, resulting in a revenue gain to general revenue, already accounted for in H.B. 1; and
- broadens the collection of the Oil Field Cleanup Regulatory Fees, resulting in a revenue gain to the general revenue-dedicated Oil Field Cleanup Account, and assumes that all new revenues will be spent on additional cleanups and pluggings.

Texas Soil and Water Conservation Board:
- makes changes to the composition and duties of the Texas Soil and Water Conservation Board, including a joint management audit conducted by the State Auditor and the Legislative Budget Board; and
- changes provisions relating to the eligibility of brush control projects and cost-share requirements.

Texas Water Development Board:
- consolidates the Agricultural Trust Fund and the Agricultural Soil and Water Conservation Account into the Agricultural Water Conservation Fund, resulting in a loss to the Agricultural Soil and Waste Conservation Account and a loss to the Agricultural Trust Fund, along with losses of revenues otherwise accruing to the Agricultural Trust Fund for each fiscal year from 2005-2008.
Corresponding increases in revenue will be realized in the Agricultural Water Conservation Fund equal to the balances and revenues from the accounts being consolidated.

Changes affecting state agencies:

Reduces human resources staffing in certain state agencies, resulting in a gain to the general revenue fund, general-revenue dedicated accounts, federal funds, and savings to other funds, annually.

Requires state agencies with 100 or more FTEs to reach a 1:11 manager to staff ratio by 2007, resulting in a savings to the general revenue fund, general-revenue dedicated accounts, federal funds, and other funds for the 2004-2005 biennium.

Increases fees on landscape architects, interior designers, land surveyors, and property tax consultants by $200 each year, with $50 allocated to the Foundation School Account and $150 allocated to general revenue, resulting in revenue gains to the Foundation School Account and the general revenue fund, respectively.

Revisions to TIF, TRS, and the Lottery Commission - H.B. 3459

Repeals the funding mechanism for public school finance, contingent upon the legislature enacting a school finance system to replace the one in current law.

Restricts the Texas Education Agency’s (TEA) monitoring of school districts to the extent necessary to comply only with federal law, financial accountability, and data integrity, with exceptions for state law regarding special education and certain accreditation procedures.

Authorizes the use of non-general revenue funding to reimburse teachers for classroom supplies.

Changes the method of finance for the technology allotment from the general revenue Available School Fund (ASF) to the general revenue-dedicated Telecommunications Infrastructure Fund (TIF).

Reduces the career and technology education allotment of the Foundation School Program (FSP) by decreasing its funding weight from 1.37 to 1.35.

Authorizes the state to avoid overpaying state aid to school districts in certain instances.

Delays the final monthly payment from the FSP for each fiscal year until September of the following fiscal year.

Moves the accounting for the Permanent School Fund (PSF) from a cash to an accrual basis by redefining the fund to include unrealized interest and dividends.
Changes the eligibility for the Existing Debt Allotment by rolling forward by two years the date by which a district must make a payment in order to be eligible.

Delays membership in and contributions to the Teacher Retirement System (TRS) retirement program by new employees for 90 days.

Prohibits TRS from excluding in its two insurance programs a general hospital in a county in the Texas-Louisiana border area that has a population between 100,000 and 175,000, if the hospital agrees to provide services subject to the same terms and conditions as other hospital providers in the plan.

Increases the state contribution to the TRS-Care program from 0.50 percent to 1.0 percent.

Increases the active employee contribution to the TRS-Care retiree insurance program from 0.25 percent to 0.50 percent.

Establishes a school district contribution to the TRS-Care retiree insurance program of between 0.25 percent and 0.75 percent.

Reduces the compensation supplement for active school district employees from the current $1,000 annual supplement per employee to a $500 annual supplement per full time employee and $250 for part-time employees. Eliminates the supplement for professional staff.

Requires new employees to wait 30 days before receiving the supplement. Defers the last month of the fiscal year 2005 supplement payment to fiscal year 2006.

Reinstates the $1,000 supplement, beginning in fiscal year 2006 and thereafter, but continues the 90-day waiting period for new employees to be eligible for the supplement.

Raises the TIF revenue limit from the current $1.5 billion to $1.75 billion.

Transfers $42 million from the TRS insurance fund for active school district employees to the TRS retiree insurance program.

Provides language to override any conflicting provision in H.B. 1.

Establishes the guaranteed yield at $25.81 per weighted student per penny of tax effort.

Authorizes the Texas Lottery Commission to participate in operating, marketing and promoting a multijurisdiction lottery game or games.
Magistrate’s Order for Emergency Protection - H.B. 297
by Representative Goodman - Senate Sponsor: Senator West

A victim of domestic violence or stalking may move to a new location after an incident and file for a temporary emergency protective order under the Code of Criminal Procedure in the new jurisdiction. Subsequently, a court may issue a protective or other order under the Family Code. This bill clarifies which order prevails when there is a conflict between an order issued under the Family Code and an order for emergency protection issued under the Code of Criminal Procedure. This bill:

Provides that a condition imposed by an order subsequently issued under certain provisions of the Family Code will prevail over a condition in an order for emergency protection issued by a magistrate under the Code of Criminal Procedure.

Authorizes a court issuing an emergency protection order under the Code of Criminal Procedure, after notice and a hearing, to modify the order if the order as originally issued is unworkable, the modification will not place the victim at greater risk, and the modification will not endanger a person protected under the order.

Permits the transfer of an emergency protection order to the court assuming jurisdiction over the criminal act giving rise to the issuance of the order. On transfer, the criminal court may modify all or part of an order.

Prohibition on Limitation of a Tenant, Right to Call Law Enforcement - S.B. 92
by Senator West - House Sponsor: Representative Kolkhorst

Currently, there is no statute that prohibits a landlord from evicting a tenant from a rental property because law enforcement or emergency assistance was called in response to domestic violence. This bill:

Prohibits a landlord from: prohibiting or limiting a residential tenant’s right to summon police or other emergency assistance in response to family violence; or imposing monetary or other penalties on a tenant who summons police or emergency assistance in response to family violence.

Provides that a provision in a lease is void if the provision purports to: waive a tenant’s right to summon police or other emergency assistance in response to family violence; or exempt any party from a liability or a duty under these provisions.

Provides that in addition to other remedies provided by law, if a landlord violates these provisions, a tenant is entitled to recover from or against the landlord: a civil penalty in an amount equal to one month’s rent; actual damages suffered by the tenant as a result of the landlord’s violation of this section; court costs; injunctive relief; and reasonable attorney’s fees incurred by the tenant in seeking enforcement of this section.
Violation of a Protective Order or Magistrate's Order - S.B. 317
by Senator Hinojosa - House Sponsor: Representative Naishtat

Under current Texas law, a violation of a protective order occurs if a person knowingly or intentionally: communicates directly with a protected individual in a threatening way; communicates a threat through any person to a protected individual or a member of the family or household; and communicates in any manner with the protected individual, except through the person's attorney. In order for the protective order to be violated, the individual has to communicate with the protected person in all three ways, making enforcement difficult. This bill:

Updates existing law so that a violation of a protective order occurs when there is an attempt by the individual to communicate with the protected person.

Confidentiality of Information Associated with Family Violence Centers - S.B. 1050
by Senator Nelson - House Sponsor: Representative Mabry

Under Chapter 51 of the Human Resources Code, the Texas Department of Human Services (DHS) is prohibited from disclosing information collected through reports, case data, or inspections that would identify a particular center or person working at or receiving services at a family violence center. Current law does not cover similar information gained through other sources, which makes such information subject to disclosure. This bill:

Prohibits DHS from disclosing any information that would identify a particular family violence center location, a board member of a family violence center or family violence special project, or a person working at or receiving services through a family violence center or family violence special project.
**Capital Murder and Terroristic Threat - H.B. 11**  
*by Representative Keel, et al.*  
*Senate Sponsor: Senator Shapiro*

Provides that a person commits an offense if the person commits murder and the person intentionally commits the murder in the course of committing or attempting to commit a terroristic threat.

Provides that a person commits an offense if the person threatens to commit any offense involving violence to any person or property with intent to place the public or a substantial group of the public in fear of serious bodily injury, or influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

**Voyeurism In Public Areas - H.B. 12**  
*by Representatives Keel and Phillips*  
*Senate Sponsor: Senator Armbrister*

Provides that it is a criminal offense for a person to look into another's hotel room, public restroom, dressing room, shower stall, or similar area for a lewd or unlawful purpose.

Makes the offense a Class C misdemeanor.

**State Jail Volunteer Programs - H.B. 28**  
*by Representative Hodge*  
*Senate Sponsor: Senator Whitmire*

Under current law, the state jail division of the Texas Department of Criminal Justice (TDCJ) is required to develop work programs as well as programs for rehabilitation, education, and recreation. However, current law does not provide direction as to the use of volunteers to assist with rehabilitation and education of state jail offenders. This bill:

Requires the state jail division of the TDCJ to allow capable offenders to tutor illiterate offenders and to actively encourage volunteer organizations to assist with rehabilitative services, such as literacy and education programs, life skills programs, and job skills programs.

**Punishment for the Offense of Kidnapping and Trafficking - H.B. 59**  
*by Representative Wise, et al.*  
*Senate Sponsor: Senator Van de Putte*

Provides that the offense of kidnapping is a second degree felony if the perpetrator exposed the person abducted to a risk of serious bodily injury.

Provides that a person commits the offense of aggravated kidnapping if the perpetrator holds the person abducted in a condition of involuntary servitude, or the perpetrator intentionally or knowingly abducts a person who is younger than 18 years of age or incompetent.
Provides that it is a criminal offense if the perpetrator kidnaps a person to coerce a third person to perform some act.

Provides that a person commits a criminal offense if the person knowingly traffics another person with the intent to force that person to engage in forced labor.

Provides that trafficking of a person is a second degree felony, unless noted otherwise.

Provides for increased penalties (first degree felony) for trafficking of people if the offense is committed against a person 14 years of age or younger, or if the offense results in the death of the person who is trafficked.

**Counterfeit Disabled Parking Placard - H.B. 148**  
*by Representative Solomons - Senate Sponsor: Senator West*

While the Transportation Code provides penalties for the misuse of a legitimately issued disabled parking placard, the penalty provisions are not adequate to address the problems of the manufacture, sale, possession, or use of counterfeit placards. This bill:

Provides that a person commits an offense if, without Texas Department of Transportation authorization, the person manufactures, sells, or possesses a placard that is deceptively similar to a disabled parking placard. Makes the offense a Class A misdemeanor.

Provides that a person commits an offense if the person knowingly parks a vehicle displaying a counterfeit placard in a parking space or area designated specifically for persons with disabilities. Makes the offense a Class C misdemeanor.

**Penalty for Agricultural Terrorism - H.B. 240**  
*by Representatives Miller and Rose - Senate Sponsor: Senator Fraser*

Current law does not contain a specific provision penalizing agricultural terrorism. This bill:

Makes it a first degree felony to introduce mad cow disease, foot-and-mouth disease, and several other debilitating diseases into livestock.

**Jurisdiction for Prosecution of Identity Theft - H.B. 254**  
*by Representative Kolkhorst, et al. - Senate Sponsor: Senator Armbrister*

Currently, a person commits an offense if the person obtains, possesses, transfers, or uses identifying information of another person without the other person's consent and with intent to harm or defraud another. This bill:
Authorizes prosecution of identity theft in any county in which the offense was committed or in the county of residence of the person whose identifying information was fraudulently obtained, possessed, transferred, or used.

**Carrying a Weapon in Recreational Vehicles - H.B. 284**  
*by Representatives Ellis and Kuempel - Senate Sponsor: Senator Staples*

Under current law, the offense of unlawfully carrying a weapon does not apply if a person possesses a handgun, illegal knife, or club on the person’s own premises; however, there is confusion as to whether it is legal to carry firearms or knives in a recreational vehicle, which can be considered temporary living quarters, regardless of whether the use is temporary or permanent. This bill:

Provides that a person may carry a handgun, illegal knife, or club in that person’s recreational vehicle.

**BAC Analysis of an Accident Victim's Breath or Blood - H.B. 292**  
*by Representative Reyna, et al. - Senate Sponsor: Senator Zaffirini*

Currently, when a person dies in an accident and the accident is believed to be related to alcohol, a specimen of the person’s blood or breath is required for analysis. However, no blood alcohol content (BAC) analysis is required if a person is seriously injured in an accident. This bill:

Requires a BAC analysis of a person if any individual has died or is likely to die, or if an individual other than the person has suffered serious bodily injury as a result of a motor vehicle or watercraft accident.

**Representation Before the Board of Pardons and Paroles - H.B. 301**  
*by Representative Talton - Senate Sponsor: Senator Whitmire*

Under current law former board members or employees of the Texas Board of Pardons and Paroles, the Texas Board of Criminal Justice (board), or the Texas Department of Criminal Justice (TDCJ) may not, before the 10th anniversary of the end of employment or board membership, represent any person before the Board of Pardons and Paroles or a parole panel or receive compensation for services rendered on behalf of any person regarding a matter pending before the Board of Pardons and Paroles or a parole panel. This bill:

Requires that a former employee or member of the Texas Board of Pardons and Paroles, the board, or TDCJ wait two years before representing a person before the Board of Pardons and Paroles or a parole panel.
Punishment for Providing False Information - H.B. 325
by Representative McCall - Senate Sponsor: Senator Estes

Under current law, the penalty for providing false information to a peace officer is a Class C misdemeanor; however, the current language in the Penal Code does not take into account the prevalence or severity of the identity theft. This bill:

Increases the penalty for providing false information to a peace officer from a Class C to a Class B misdemeanor.

Punishment for Property Offenses Committed Against the Elderly - H.B. 420
by Representative Martinez Fischer, et al. - Senate Sponsor: Senator Zaffirini

Increases to the next higher category of offense the crime of defrauding an elderly person (65 years and older) by persuading them to sign or execute any document affecting the property, service, or the pecuniary interest of any person.

Increases to the next higher category of offense the crime of recklessly misapplying property the perpetrator holds as a fiduciary in a manner that involves substantial risk of loss to the owner (65 years and older) of the property.

Collection of DNA from Person Convicted of Capital Murder - H.B. 562
by Representative McCall, et al. - Senate Sponsor: Senator Duncan

In 1995, the 74th Legislature created a state DNA database, compatible with the national DNA identification index system. The Texas Department of Criminal Justice (TDCJ) and the Texas Youth Commission (TYC) are required to collect DNA samples from inmates and juveniles convicted of or committed for certain crimes for submission to the database. The database has been useful in solving a number of investigations. However, under current law, capital murder is not included as an offense requiring submission of a sample to the database. This bill:

Requires submission of DNA information by persons convicted of capital murder.

Provides that this Act applies to inmates incarcerated in the TDCJ institutional division and juveniles committed to TYC for capital murder.

Requires TDCJ or TYC to obtain a DNA sample for the purpose of creating a DNA record.

Provides that the Act takes effect on the date on which the director of the Department of Public Safety 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 other sources sufficient to pay all costs to the state associated with taking DNA samples from all inmates or juveniles incarcerated or committed for capital murder.

Sets out when TDCJ and TYC must collect samples.
Punishment for Pecuniary Loss Due to Terroristic Threats - H.B. 616
by Representatives Keel and Mercer - Senate Sponsor: Senator Hinojosa

Currently, a terroristic threat is categorized as a misdemeanor, unless the threat is made with intent to impair or interrupt public utilities or public transportation, in which event it is a felony of the third degree. In situations where a terroristic threat is made with intent to interrupt the occupation or use of a building, church, or transportation conveyance, the punishment is a Class A misdemeanor. This bill:

Increases the penalty category for terroristic threats to a state jail felony, if the perpetrator causes pecuniary loss of $1,500 or more to the owner of the building, room, place, or conveyance where the threat was made.

Punishment for Assaults Against Sports Participants - H.B. 716
by Representative Delisi, et al. - Senate Sponsor: Senator Harris

In recent years, sports officials, including referees and coaches, have increasingly become targets of violent acts. This bill:

Raises the level of a crime for assault against sports participants – including athletes, referees, umpires, coaches, instructors – from a Class C misdemeanor to a Class B misdemeanor.

Interference with Emergency Telephone Call - H.B. 778
by Representatives Naishtat and Swinford - Senate Sponsor: Senator Nelson

Current law defines emergency as “imminent danger of serious bodily injury.” This definition places an individual in a dangerous position because a law enforcement officer can only intervene when there is an imminent danger to the individual’s safety and does not take into account situations where a person fears he or she is in imminent danger. This bill:

Provides that an emergency is defined as a situation in which a person is in “fear of imminent assault.”

Allows an officer to arrest, without warrant, a person who prevents or interferes with another person’s ability to place a phone call in an emergency.
Regulation of the Use of Laser Pointers - H.B. 831
by Representatives Reyna and Pena - Senate Sponsor: Senator Deuell

Current law provides no penalty for the directing of light from a laser pointer at a uniformed safety officer. This bill:

Provides that a person commits an offense if the person knowingly directs a light from a laser pointer at a uniformed safety officer, including a peace officer, security guard, firefighter, emergency medical service worker, or other uniformed municipal, state, or federal officer.

Makes the offense a Class C misdemeanor.

Possession of Contraband in Correctional Facilities - H.B. 864
by Representatives Kolkhorst and Branch - Senate Sponsor: Senator Staples

The introduction of contraband, including weapons, into Texas Department of Criminal Justice (TDJC) correctional facilities poses a significant threat to the security of the institutions. This bill:

Makes it a criminal offense to provide money, cigarettes, or a tobacco product to an inmate; for an inmate to possess, or for an individual to provide an inmate with a cell phone; or for an unauthorized individual to possess a weapon in a penal institution or provide an inmate with a weapon.

Postconviction Testing of DNA Evidence - H.B. 1011
by Representative Hochberg, et al. - Senate Sponsor: Senator Duncan

The 77th Texas Legislature enacted Chapter 64 of the Code of Criminal Procedure, which establishes procedures regarding the postconviction testing of DNA evidence when such testing or technology was not available at the time of the trial. This bill:

Provides that a convicting court must appoint counsel for an indigent convicted person wishing to submit a motion for forensic DNA testing of evidence only if the court finds reasonable grounds for the motion.

Requires the convicted person to establish by a preponderance of the evidence that the person would not have been convicted if the person had been absolved through DNA testing.

Provides that if the convicted person was convicted in a capital case and sentenced to death, the appeal goes directly to the Texas Court of Criminal Appeals.

Authorizes the convicting court to modify or withdraw the order setting a date for execution in a death penalty case if the court determines that additional proceedings are necessary on a motion for forensic testing of DNA evidence.

Authorizes the state to appeal an order of a court issued under Chapter 64, Code of Criminal Procedure.
Confidentiality of Reports of Criminal Activity - H.B. 1036  
by Representatives Ritter and Homer - Senate Sponsor: Senator Shapiro

Authorizes a person who is charged in a criminal case based on a crime stopper’s tip, is exonerated of the charges, and then files a civil suit, to submit crime stoppers records as proof of his or her claims in the civil suit.

Provides that a person who communicates to the Crime Stoppers Advisory Council (council) or a crime stoppers organization to report of a criminal activity that leads to the arrest of, the filing of charges against, or the conviction of a person for a criminal offense is immune from civil liability for damages resulting from the communication, unless the communication was intentionally, willfully, or wantonly negligent or done with conscious indifference or reckless disregard for the safety of others.

Provides that a person who in the course and scope of the person's duties or functions receives, forwards, or acts on a report of criminal activity communicated to the council or a crime stoppers organization is immune from civil liability for damages resulting from an act or omission in the performance of the person's duties or functions unless the act or omission was intentional, willfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

Prohibiting the Promotion of Improper Photographs or Visual Recordings - H.B. 1060  
by Representative Thompson, et al. - Senate Sponsor: Senator Ellis

Recently, video recordings have been produced via hidden broadcast cameras in locker rooms, bathrooms, and other locations. These recordings are promoted on the Web without the consent of the person who was recorded. This bill:

Provides that it is an offense to promote a photograph or visual recording which was obtained without the subject's consent and which is intended to arouse or gratify the sexual desire of any person.

State Boot Camp Program - H.B. 1180  
by Representative Chisum - Senate Sponsor: Senator Duncan

Current law prescribes a state boot camp program for certain offenders who are required to serve a maximum of 90 days in the Texas Department of Criminal Justice institutional division; however, the current 90-day statutory maximum does not provide sufficient time for properly processing an inmate and completing the full boot camp program. This bill:

Increases the 90-day maximum sentence for state boot camp participants to 180 days.
Motor Vehicle Racing - H.B. 1326
by Representative Martinez Fischer, et al. - Senate Sponsor: Senator Whitmire

Existing law prohibits racing and the exhibition of speed and classifies such as misdemeanors with a maximum fine of $200. This bill:

Prohibits a person from participating in any manner with a drag race. Makes the offense a Class B misdemeanor.

Makes the offense of racing a Class A misdemeanor, if it is shown that:
- the person has previously been convicted one time of a racing offense; or
- the person, at the time of the offense was operating the vehicle while intoxicated or was in possession of an open container.

Makes the offense of racing on a public highway or street:
- a state jail felony, if it is shown that the person has previously been convicted two times of a racing offense;
- a third degree felony, if it is shown that as a result of the offense an individual suffered bodily injury; or
- a second degree felony, if it is shown that as a result of the offense an individual suffered serious bodily injury or death.

Allows for the suspension of a person's driver's license if he or she is convicted of participating in racing of motor vehicles on public streets or highways and imposes a penalty of at least 10 hours of community service.

Performing Surgery While Intoxicated - H.B. 1592
by Representatives Nixon and Villarreal - Senate Sponsor: Senator Janek

Makes it a state jail felony for a physician to perform surgery on a patient while intoxicated and place the patient in substantial and unjustifiable risk of harm.

Provides it is an affirmative defense to prosecution that the physician performed the surgery in an emergency; defines emergency.

Precursor Substances - H.B. 1629
by Representatives Jim Keffer and Homer - Senate Sponsor: Senator Deuell

Provides that a person commits an offense if, with intent to unlawfully manufacture a controlled substance, the person possesses or transports a chemical precursor or an additional chemical substance named as a precursor.
Provides that an offense otherwise punishable as a state jail felony (i.e., the manufacture and delivery of controlled substances) is punishable as a third degree felony, and an offense otherwise punishable as a second degree felony is punishable as a first degree felony, if it is shown at the punishment phase of the trial that the offense was committed on the premises of a public or private youth center.

Provides that the provisions do not apply to the sale or transfer of a non-narcotic product that is sold with a prescription or over the counter.

**Video Camera Surveillance Systems in County Jails - H.B. 1660**
*by Representative Flores - Senate Sponsor: Senator Hinojosa*

Requires the Commission on Jail Standards to report to certain legislative leaders, no later than December 1, 2004, regarding the feasibility of installing and operating of video camera surveillance systems in county jails that record video images in each jail corridor, solitary confinement cell, suicide watch cell, kitchen, and dining area or other common area.

Requires that potential sources of revenue available to counties to pay for video camera surveillance be identified within the report.

**Possession of Chemical Dispensing Devices by Private Security - H.B. 1661**
*by Representative Haggerty - Senate Sponsor: Senator Jackson*

Under current law, it is illegal for a private security officer to possess a chemical dispensing device. This bill:

Provides private security officers, with proper training, a defense to prosecution for possession of a chemical dispensing device.

**Releasing Inmates on Medically Recommended Intensive Supervision - H.B. 1670**
*by Representative Allen - Senate Sponsor: Senator Whitmire*

Authorizes an inmate, other than an inmate who is serving a capitol sentence or an inmate who has a reportable conviction or adjudication under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, to be released on medically recommended intensive supervision on a date approved by a parole panel, if certain conditions apply.

Requires the Texas Council on Offenders with Mental Impairments (council), if the council identifies an inmate as a candidate for release, to present to a parole panel relevant information concerning the inmate.
Authorizes only parole panels composed of the presiding officer of the Texas Board of Pardons and Paroles and two members appointed to the panel by the presiding officer to make determinations regarding the release of inmates on the grounds of medically recommended intensive supervision.

Concealed Handgun Licenses for Persons Relocating - H.B. 1704
by Representatives Taylor and Hughes - Senate Sponsor: Senator Janek

Requires the Texas Department of Public Safety (DPS) to establish a procedure for a person who meets the eligibility requirements other than the residency requirement to obtain a concealed handgun license, if the person is a legal resident of a state that does not provide for the issuance of a license to carry a concealed handgun or if the person relocates to this state with the intent to establish residency in this state.

Requires the procedure to include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigating on a nonresident applicant.

Provides that if a state whose residents may obtain a license by following the procedure established by DPS enacts a law providing for the issuance of a license to carry a concealed handgun, a license to a resident of that state:

- remains in effect until the license expires; and
- may be renewed.

Pawnshop Procedure for Holding Items Suspected of Being Stolen Goods - H.B. 1839
by Representative Solomons, et al. - Senate Sponsor: Senator Armbrister

Current law requires pawnbrokers to watch for goods that might be stolen and assist law enforcement officers in the recovery of stolen property, but there are no standardized procedures for implementing this law exist. This bill:

Authorizes a chief law enforcement officer, if the officer has reasonable suspicion to believe that goods in the possession of a pawnbroker are misappropriated, to place a hold order on the goods.

Requires goods subject to a hold order to be physically retained by the pawnbroker in a secure area and prohibits them from being released, sold, redeemed, or disposed of unless the chief law enforcement officer delivers a written release to the pawnbroker, the hold order and any extension of the hold order expires, or a court order, including a search warrant, requires the release, sale, or disposal of the property.

Prohibits the initial holding period of the hold order from exceeding 60 days. Authorizes a hold order to be extended for up to three successive 60-day periods on written notification to the pawnbroker before the expiration of the immediately preceding holding period or extension.

Provides that a person commits a Class B misdemeanor offense if the person pledges with or sells misappropriated property to a pawnbroker.
Sets forth provisions relating to the transmission, retention, and access to reportable data submitted by pawnbrokers to a law enforcement agency via electronic means.

**Bereavement Compensation for Crime Victims’ Families - H.B. 1895**  
*by Representative Hope - Senate Sponsor: Senator Staples*

Immediate family members of deceased crime victims often suffer pecuniary losses of wages and travel expenses as a direct result of the sudden and unexpected death. Some employers offer paid bereavement leave to their employees; however, it is not the practice of all employers. This bill:

Provides limited compensation for certain survivors of deceased crime victims for expenses associated with attending the funeral, and provides a bereavement period during which the person may be reimbursed for lost wages for up to 10 work days, or a maximum of $1,000.

**Convictions Bar Employment in Facilities Serving the Elderly or Disabled - H.B. 1971**  
*by Representative Uresti - Senate Sponsor: Senator Nelson*

Currently, a person convicted of theft is prohibited from being employed in a position the duties of which involve direct contact with a consumer in a facility serving the elderly or persons with disabilities before the fifth anniversary of the date of the conviction, but no prohibition exists for other offenses. This bill:

Prohibits a person from being employed in a position the duties of which involve direct contact with a consumer in a facility serving the elderly or persons with disabilities before the fifth anniversary of the date the person is convicted of assault, burglary, theft, misapplication of fiduciary property or property of a financial institution, or securing execution of a document by deception.

Exempts a person who is employed by a facility on the effective date of this Act for the period during which the person is continuously employed by that facility.

**Preventing the International Abduction of a Child by a Parent - H.B. 1899**  
*by Representatives Nixon and Wise - Senate Sponsor: Senator Nelson*

Requires a court in a suit concerning conservatorship, right of possession, or access to a child to determine whether it is necessary to take measures to protect the child from the risk of international abduction.

Requires the court to consider in making such determination certain issues including any obstacles to locating and returning the child, if the child is abducted to a foreign country, and the potential physical or psychological harm to the child.

Requires the court to consider certain evidence in determining whether there is a risk of the international abduction of a child by a parent, including: whether that parent has withheld or concealed a child in
violation of another person's right of possession or access to the child; has previously threatened to
withhold or conceal a child, lacks financial reason to stay in the United States; or the parent has a criminal
history or a history of violating court orders.

Requires the court to consider certain factors if the court finds that there is credible evidence of a risk of
abduction of the child by a parent, including whether the parent has strong ties to another country, the
parent has been denied United States citizenship or has forged or presented misleading or false evidence
to the United States government, or the foreign country to which the parent has ties presents obstacles to
the recovery and return of a child who is abducted from the United States.

Authorizes a court to take measures to protect a child from international abduction by a parent, including:
appointing another person as the sole managing conservator of the child; requiring supervised visitation of
the parent; prohibiting the parent from applying on behalf of the child for a passport or international travel
visa; and ordering the parent to execute a bond or deposit security in an amount sufficient to offset the cost
of recovering the child, if the child is abducted by the parent to a foreign country.

**Variances on Jail Standards - H.B. 2071**

*by Representative Pitts - Senate Sponsor: Senator Averitt*

The Texas Commission on Jail Standards (commission) is charged by state law with adopting and
enforcing standards for the safe and efficient operation of county jails. Occasionally, a facility will be
determined to be out of compliance because of architectural anomalies attributed to facilities built before
the current standards were adopted or minor construction deficiencies that have no impact on the safe,
sanitary, and healthy operation of a jail facility. It is unclear whether the commission may grant a variance
that is valid for the life of these facilities. Consequently, these variances are granted for only one year. The
annual application for these variances is time consuming and causes uncertainty for counties when they
are planning for future detention facility needs. This bill:

Provides the commission with the authority to grant reasonable variances that may last for the life of a
facility, if the variances are clearly justified by the facts and will allow for the healthy, sanitary, and safe
operation of a jail facility.

**Criminal Consequences for the Trafficking or Transporting of People - H.B. 2096**

*by Representative Pickett - Senate Sponsor: Senator Lucio*

Currently, Texas law does not prohibit operating a tractor-trailer while knowingly transporting persons inside
the trailer. This bill:

Prohibits a person from operating a truck or tractor when another person occupies the trailer being drawn
by the truck or tractor.

Provides that it is a defense to prosecution if:
- the person was operating or towing the vehicle in a parade or in an emergency, to transport farm workers from one field to another, or in a hayride;
- the person operating or towing the vehicle did not know that another person occupied the trailer or semitrailer; or
- the person occupying the trailer or semitrailer was in a part of the trailer or semitrailer designed for human habitation.

Makes the offense a Class B misdemeanor.

Provides that a person commits an offense if the person knowingly traffics another person with the intent to force that person to engage in forced labor.

Provides that trafficking of a person is a second degree felony, unless noted otherwise.

Provides for increased penalties (first degree felony) for trafficking people, if the offense is committed against a person 14 years of age or younger, or if the offense results in the death of the person who is trafficked.

**Certain Electronic Devices for Committing Identity Theft - H.B. 2138**  
*by Representative Hopson - Senate Sponsor: Senator Hinojosa*

Credit card "skimming" is a method by which information encoded in a magnetic strip of a credit card is gathered by an electronic card reader or skimmer. This information is used legitimately when processing a credit card transaction; however, a skimmer can be used for illegal transactions and purchases or to re-encode the magnetic strip of a counterfeit card. This bill:

Provides that it is an offense for a person to use a skimmer or re-encoder to access, read, scan, store, or transfer the information encoded on a payment card’s magnetic strip without the consent of the card’s authorized user and with intent to harm or defraud. Makes the offense a Class B misdemeanor.

**Texas Controlled Substances Act Updated - H.B. 2192**  
*by: Representatives Keel and Naïshtat - Senate Sponsor: Senator Van de Putte*

Federal law has been amended to add new controlled substances to the federal penalty groups, resulting in inconsistencies between Texas’ current controlled substances statutes and recently amended federal law. This bill:

Revises and updates provisions in the Texas Food, Drug, and Cosmetic Act and the Texas Controlled Substances Act relating to controlled substances.

Provides that if the director of the Department of Public Safety (DPS) names a chemical substance as a chemical precursor for purposes of this Act or designates a substance as an immediate precursor, a
substance that is a precursor of the chemical precursor or the immediate precursor is not subject to control solely because it is a precursor of the chemical precursor or the immediate precursor.

Provides that for purposes of the prosecution of an offense involving the manufacture, delivery, or possession of a controlled substance, Penalty Groups 1, 1-A, and 2 include a controlled substance analogue that has a chemical structure substantially similar to the chemical structure of a controlled substance listed in the applicable penalty group, or is specifically designed to produce an effect substantially similar to, or greater than, a controlled substance listed in the applicable penalty group.

Provides that it is an affirmative defense to the prosecution of an offense involving the manufacture, delivery, or possession of a controlled substance analogue that the analogue:
- was not in any part intended for human consumption;
- was a substance for which there is an approved new drug application under federal law; or
- was a substance for which an exemption for investigational use has been granted under federal law, if the actor's conduct with respect to the substance is in accord with the exemption.

Provides that for the purposes of this Act, Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 355) applies to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

Authorizes the director of DPS to enter controlled premises at any reasonable time and inspect the premises and items in order to inspect, copy, and verify the correctness of a record, report, or other document required to be made or kept under this Act and to perform other functions under Act. Defines "reasonable time" as any time during the normal business hours of the person or activity regulated under this Act or at any time an activity regulated under this Act is occurring on the premises.

Requires the director of DPS to state the purpose of the entry, display to the owner, operator, or agent in charge of the premises appropriate credentials, and deliver to that person a written notice of inspection authority.

Authorizes the director of DPS to:
- inspect and copy a record, report, or other document required to be made or kept under this Act;
- inspect, within reasonable limits and in a reasonable manner, the controlled premises and all pertinent equipment, finished and unfinished drugs, other substances, and materials, containers, labels, records, files, papers, processes, controls, and facilities as appropriate to verify a record, report, or document required to be kept under this Act or to administer this Act;
- examine and inventory stock of a controlled substance and obtain samples of the controlled substance;
- examine a hypodermic syringe, needle, pipe, or other instrument, device, contrivance, equipment, control, container, label, or facility relating to a possible violation of this chapter; and
- examine a material used, intended to be used, or capable of being used to dilute or adulterate a controlled substance.
Requires that proof of an offer to sell for the purpose of establishing a delivery under this Act must be corroborated by a person other than the person to whom the offer is made or evidence other than a statement of the person to whom the offer is made.

Modifies existing factors considered by a court or other authority, in assessing whether an item is drug paraphernalia.

Provides that no liability is imposed on an authorized state, county, or municipal officer engaged in the lawful performance of official duties.

Authorizes the director of DPS, in the exercise of regulatory functions under this Act, to rely on results, information, and evidence relating to the regulatory functions of this Act received from the Federal Drug Enforcement Administration or a state agency. Authorizes issuance of a search warrant to search for and seize a drug, controlled substance, immediate precursor, chemical precursor, or other controlled substance property, including an apparatus or paraphernalia kept, prepared, or manufactured in violation of the laws of this state.

**Fraudulent Criminal Conduct Regarding Debit Cards - H.B. 2248**

*by Representative Denny - Senate Sponsor: Senator Armbrister*

Makes it a state jail felony to forge an authorization to debit an account at a financial institution.

Expands the definition of "debit card" to include a card authorizing a designated person or bearer to property or services by debit to an account at a financial institution.

Expands certain offenses regarding the abuse of a credit card to include when a person uses a debit card with the intent to obtain a benefit fraudulently.

Expands the offense of fraudulent use or possession of identifying information to include a financial institution account number.

**Electronic Surveillance - H.B. 2474**

*by Representative Callegari - Senate Sponsor: Senator Deuell*

Authorizes an investigative or law enforcement officer who, by any means authorized, obtains knowledge of the contents of a wire, oral, or electronic communication or evidence derived from the communication to disclose the contents or evidence to another investigative or law enforcement officer, including a federal law enforcement officer or agent or a law enforcement officer or agent of another state, to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

Deletes language requiring consent to be obtained from a magistrate for an officer to possess, install, operate, or monitor an electronic, mechanical, or other device to intercept wire, oral, or electronic
communications. Requires an officer to obtain oral or written consent from a district judge for the county in which the device will be installed or used or a judge of a court of appeals or of a higher court.

Provides that any provider of wire or electronic communications service, communication common carrier, landlord, custodian, or other person furnishing facilities or technical assistance is entitled to compensation by the applicant for reasonable expenses incurred in providing the facilities or assistance at the prevailing rates.

Provides that a computer trespasser or a user, aggrieved person, subscriber, or customer of a communications common carrier or electronic communications service does not have a cause of action against the carrier or service, its officers, employees, or agents, or other specified persons for providing information, facilities, or assistance as required by a good faith reliance on legislative authority or a court order, warrant, subpoena, or certification. Authorizes a district judge to issue an order for the installation and use within the judge's judicial district of a mobile tracking device.

Requires a governmental agency authorized to install and use a pen register to use reasonably available technology to only record and decode electronic or other impulses used to identify the numbers dialed, routed, addressed, or otherwise processed or transmitted by a wire or electronic communication so as to not include the contents of the communication.

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Mental Health Court Program - H.B. 2609

by Representative Coleman - Senate Sponsor: Senator Nelson

The Texas Criminal Justice Policy Council reports that 17 percent of adults and juveniles on probation with the criminal justice system have had prior contact with the public mental health system. Although the number of offenders with mental health problems is significant, the criminal justice system is not designed to handle the needs of the mentally ill, nor does it adequately distinguish between criminal activity and mental illness. This bill:

Defines a "mental health court program" as a program that has the following essential characteristics:
- integration of mental illness treatment services and mental retardation services in the processing of cases in the judicial system;
- use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;
- early identification and prompt placement of eligible participants in the program;
- access to mental illness treatment services and mental retardation services;
- ongoing judicial interaction with program participants;
- diversion of potentially mentally ill or mentally retarded defendants to needed services as an alternative to subjecting those defendants to the criminal justice system;
- monitoring and evaluation of program goals and effectiveness;
continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

development of partnerships with public agencies and community organizations, including local mental retardation authorities.

Authorizes the commissioners court of a county to establish a mental health court program for persons who have been arrested for or charged with a misdemeanor and are suspected by a law enforcement agency or a court of having a mental illness or mental retardation.

Authorizes a mental health court program to handle all issues arising under Articles 16.22 (Examination and Transfer of Defendant Suspected of Having Mental Illness or Mental Retardation), 17.032 (In Case of No Arrest), and 46.02 (Incompetency to Stand Trial), Code of Criminal Procedure.

Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of mental health court programs.

Authorizes a legislative committee or the governor to request the state auditor to perform a management, operations, or financial or accounting audit of a mental health court program.

Authorizes a mental health court program to require a participant to pay the cost of all treatment and services received while participating in the program, based on the participant’s ability to pay.

**Punishment of Offenses Under the Controlled Substances Act - H.B. 2668**

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

Requires a judge, on conviction of state jail felonies (i.e., offenses involving small amounts of controlled substances) under the Texas Substance Controlled Act, to suspend the imposition of the sentence and place the defendant on community supervision, unless the defendant has previously been convicted of a felony, in which event the judge may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed. These provisions do not apply to a defendant who possessed more than five units of the controlled substance or possessed more than one pound of marihuana.

Requires a judge who places a defendant on community supervision for an offense to require the defendant to comply with substance abuse treatment conditions that are consistent with standards adopted by the Texas Board of Criminal Justice.

Authorizes a judge to waive the treatment conditions requirement if the judge makes an affirmative finding that the defendant does not require imposition of the conditions to successfully complete the period of community supervision.
Crime Laboratory Accreditation - H.B. 2703
by Representative Bailey, et al. - Senate Sponsor: Senator Gallegos

Defines “forensic analysis” as including DNA evidence, but excluding latent print examination, a test of a specimen of breath, and an examination or test excluded by rule under the Government Code.

Bars the admission of physical evidence subjected to a forensic analysis, and testimony regarding the evidence, in a criminal case if, at the time of the analysis or the time the evidence is submitted to the court, the crime laboratory or other entity conducting the analysis was not accredited by the Department of Public Safety (DPS) under this Act.

Provides that physical evidence subjected to a forensic analysis is not inadmissible in a criminal case based solely on the accreditation status of the crime laboratory or other entity conducting the analysis if the laboratory or entity has preserved one or more separate samples of the physical evidence for use by the defense attorney or use under order of the convicting court, and has agreed to preserve those samples until all appeals in the case are final. (This provision expires September 1, 2005).

Requires the DPS director to establish an accreditation process for crime laboratories, including DNA laboratories, and other entities conducting forensic analyses of physical evidence for use in criminal proceedings. The DPS director may exempt a crime laboratory or other entity if the director makes certain determinations.

Requires the DPS director to regulate DNA testing, including regulation of DNA laboratories.

Destruction of Records Following Expunctions - H.B. 2725
by Representative Talton - Senate Sponsor: Senator West

Currently, if a person is acquitted of a crime, the trial court presiding over the case is required to enter an order of expunction. Upon receiving this order, the clerk of the court may not destroy the files and records before the first anniversary of the date the order for expunction is issued, necessitating storage of such records for one year. This bill:

Authorizes clerks to destroy certain expunction records after the 60th day the order is given to destroy the records, but no later than the first anniversary of the date the order of expunction is issued.

Allows the attorney representing the state in the expunction proceeding to object to the destruction of the records before the first anniversary of the date the order of expunction is issued.

Persons Arrested Without a Warrant - H.B. 2795
by Representative Riddle - Senate Sponsor: Senator Whitmire

Under current law, a person can only be held in custody without a warrant for 24 hours when arrested before being charged with an offense or released. Typically, that 24-hour period begins when the person is
initially taken before a magistrate. However, when a person with a mental or physical condition that requires medical evaluation and/or treatment is arrested without a warrant and taken to a county or city jail prior to appearing before a magistrate or judge, the arrestee frequently will not be accepted into custody at the jail until he or she has been taken to a hospital or clinic for evaluation and/or treatment. This process can use up part or all of the 24-hour period. This bill:

Clarifies that, in cases where a person arrested without a warrant requires medical evaluation or care prior to being brought before a magistrate, the time required for that medical evaluation or care does not count against the 24-hour period but begins at the time that a physician or other medical professional releases the person from the hospital, clinic, or other medical facility.

**Creating an Offense for Attacking an Assistance Dog - H.B. 2881**  
*by Representatives Driver and Elizabeth Jones - Senate Sponsor: Senator Deuell*

Current law does not specifically protect the rights of a disabled person if the person's assistance animal is killed or injured by another person or another person's dog. This bill:

Creates a specific offense, “Attack on Assistance Animal,” prohibiting a person or a person’s dog from attacking, injuring, or killing an assistance animal; provides certain penalties.

Requires payment of restitution for any related veterinary or medical bills and the cost of replacing or retraining an assistance animal.

**Illegal Barter Expenditure - H.B. 2892**  
*by Representative Allen - Senate Sponsor: Senator Whitmire*

Current law addresses the illegal expenditure, financing, or investing of funds derived from or intended to further the commission of a crime, but fails to include the illegal offering of real property (cars, jewelry, other valuables) instead of currency. This bill:

Includes bartered property derived from or intended to further certain controlled substance offenses as an illegal act.

**Concealed Handgun Licenses and Reciprocity Agreements - H.B. 3477**  
*by Representative Stick, et al. - Senate Sponsor: Senator Estes*

Current Texas law provides the means for a resident of another state that does not have a concealed handgun program to obtain a Texas concealed carry license and requires the Department of Public Safety (DPS) to negotiate reciprocity agreements with other states to allow Texas residents to legally carry a concealed handgun in another state. This bill:

Allows out-of-state licensees to retain their Texas licenses issued under Section 411.173, Government Code (Nonresident License), until Texas recognizes the licenses issued by their home state.
Requires the governor to negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun.

**Driving While Intoxicated with a Child Passenger - S.B. 45**  
*by Senator Zaffirini - House Sponsor: Representative Talton*

Under current Texas law, a person who is driving while intoxicated (DWI) and has a child in the motor vehicle can be charged with child endangerment. Often, in such cases, DWI, the lesser charge, will not be prosecuted. This bill:

Creates a new offense of “DWI with a child” as a state jail felony.

**Creation of a Statewide Alert System for Abducted Children - S.B. 57**  
*by Senators Zaffirini and Hinojosa - House Sponsor: Representative Driver*

In August 2002, Governor Perry issued an executive order establishing a statewide AMBER Alert Network. AMBER is an acronym for “America’s Missing: Broadcast Emergency Response.” The purpose of the network is to provide a rapid and comprehensive tool to help track missing children who have been abducted. The statewide network works in coordination with local AMBER Alert systems. This bill:

Establishes the AMBER Alert Network in statute.

**Carrying of Weapons by Peace Officers and Special Investigators - S.B. 103**  
*by Senator Van de Putte - House Sponsor: Representative Alonzo*

Adds language to the Penal Code that specifies that a peace officer or special investigator is authorized to carry a weapon in this state, “including in an establishment in this state serving the public.”

Extends this authorization to include special investigators and peace officers from other states if that state allows Texas peace officers to carry a weapon in that state.

**Interference with Emergency Telephone Call - S.B. 176**  
*by Senators Nelson and Hinojosa - House Sponsors: Representatives Naishtat and Swinford*

Current law defines emergency as “imminent danger of serious bodily injury.” This definition could place an individual in jeopardy because a law enforcement officer can only intervene when there is an imminent danger to the individual’s safety, but the definition does not take into account situations where a person fears he or she is in imminent danger. This bill:
Amends the Penal Code to change the definition of an emergency from a situation in which a person is in imminent danger of serious bodily injury to a situation in which a person is in “fear of imminent assault.”

Authorizes an officer to arrest, without warrant, a person who prevents or interferes with another person’s ability to place a phone call in an emergency.

Identity Theft Protection Through Credit Card Receipt Regulation - S.B. 235
by Senators Fraser and West - House Sponsor: Representative McCall

Currently, there is no Texas law that protects credit card numbers through the regulation of credit card receipts. Stealing a credit or debit card number is one of the easiest ways to commit identity fraud. This bill:

Prohibits a person accepting a credit or debit card for the transaction of business from printing more than the last four digits of the credit or debit account number or the month and year of the card’s expiration date on any document that evidences the transaction and that is provided to a cardholder.

Requires a person who provides, leases, or sells cash registers, or other machines used to print receipts or other documents that evidence credit or debit card transactions, to provide a notice of the requirements of this Act to the customer.

Provides that a violation of the provisions of this Act carries a civil penalty not to exceed $500 for each calendar month during which the violation occurs. Prohibits the penalty from being imposed for more than one violation in a month. Authorizes the attorney general or prosecuting attorney in the county in which the violation occurs to bring suit to recover the civil penalty.

Punishment for the Offense of Terroristic Threat - S.B. 408
by Senator Deuell - House Sponsor: Representatives Robert "Robby" Cook

Increases the penalty of terrorist threats made against a person’s family member or household, or against a public servant from a Class B to a Class A misdemeanor.

Altered or Obscured License Plate - S.B. 439
by Senator Lindsay - House Sponsor: Representative Hamric

Companies are now marketing technologically advanced products designed to obscure information on license plates to defeat photo radar and enforcement cameras. This bill:

Prohibits the use of coatings or reflective matter that obscures the readability of a license plate.

Prohibits the use of an attached illuminated device not authorized by law and that interferes with the readability of a license plate.
Consumer Identity Theft - S.B. 473
by Senator Ellis, et al. - House Sponsor: Representative Giddings

Defines "security alert" as a notice placed on a consumer file that alerts a recipient of a consumer report involving that consumer file that the consumer's identity may have been used without the consumer's consent to fraudulently obtain goods or services in the consumer's name.

Defines "security freeze" as a notice placed on a consumer file that prohibits a consumer reporting agency from releasing a consumer report relating to the extension of credit involving that consumer file without the express authorization of the consumer.

Requires any written disclosure to a consumer by a consumer reporting agency to include a written statement that explains in clear and simple language the consumer's rights and includes:
- the process for receiving a consumer report or consumer file;
- the process for requesting or removing a security alert or freeze;
- the toll-free telephone number for requesting a security alert;
- applicable fees;
- dispute procedures;
- the process for correcting a consumer file or report; and
- information on a consumer's right to bring an action in court or arbitrate a dispute.

Requires a consumer reporting agency on a request in writing or by telephone and with proper identification provided by a consumer, to place a security alert on the consumer's consumer file not later than 24 hours after the date the agency receives the request. Requires the security alert to remain in effect for not less than 45 days after the date the agency places the security alert on the file.

Requires a consumer reporting agency at the end of a 45-day security alert, on request in writing or by telephone and with proper identification provided by the consumer, to provide the consumer with a copy of the consumer's file.

Authorizes a consumer to include with the security alert request a telephone number to be used by persons to verify the consumer's identity before entering into a transaction with the consumer.

Requires a consumer reporting agency to notify a person who requests a consumer report if a security alert is in effect for the consumer file and include a verification telephone number for the consumer if a number has been provided.

Requires a consumer reporting agency on written request sent by certified mail that includes proper identification and a copy of a valid police report, investigative report, or complaint, to place a security freeze on a consumer's consumer file not later than the fifth business day after the date the agency receives the request.
Requires a consumer reporting agency on written request for a security freeze by a consumer to disclose to the consumer the process of placing, removing, and temporarily lifting a security freeze and the process for allowing access to information from the consumer's file for a specific requester or period while the security freeze is in effect.

Requires a consumer reporting agency to, not later than the 10th business day after the date the agency receives the request for a security freeze: send a written confirmation of the security freeze to the consumer and provide the consumer with a unique personal identification number or password to be used by the consumer to authorize a removal or temporary lifting of the security freeze.

Requires a consumer reporting agency on a request in writing or by telephone and with proper identification provided by a consumer, including the consumer's personal identification number or password, to remove a security freeze not later than the third business day after the date the agency receives the request.

Requires a consumer reporting agency on a request in writing or by telephone and with proper identification provided by a consumer, including the consumer's personal identification number or password, not later than the third business day after the date the agency receives the request, to temporarily lift the security freeze for a certain properly designated period or a certain properly identified requester.

Provides that a security freeze does not apply to a consumer report provided to:
- a state or local governmental entity, including a law enforcement agency, court, or private collection agency, if the entity, agency, or court is acting under a court order, warrant, subpoena, or administrative subpoena;
- a child support agency acting to investigate or collect child support payments;
- the Health and Human Services Commission acting to investigate Medicaid and welfare fraud;
- the comptroller acting to investigate or collect delinquent sales or franchise taxes;
- a tax assessor-collector acting to investigate or collect delinquent ad valorem taxes;
- a person for the purposes of prescreening as provided by the federal Fair Credit Reporting Act;
- a person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the person's subsidiary, affiliate, agent, assignee, prospective assignee, or private collection agency, for purposes related to that account, contract, or instrument;
- a subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted;
- a person who administers a credit file monitoring subscription service to which the consumer has subscribed;
- a person for the purpose of providing a consumer with a copy of the consumer's report on the consumer's request;
- a check service or fraud prevention service company that issues consumer reports to prevent or investigate fraud or for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment;
- a deposit account information service company that issues consumer reports related to account closures caused by fraud, substantial overdrafts, automated teller machine abuses, or similar
negative information regarding a consumer to an inquiring financial institution for use by the financial institution only in reviewing a consumer request for a deposit account with that institution; or

- a consumer reporting agency that:
  - acts only to resell credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and
  - does not maintain a permanent database of credit information from which new consumer reports are produced.

Provides that the requirement under this Act to place a security alert or security freeze on a consumer file does not apply to:

- a check service or fraud prevention service company that issues consumer reports to prevent or investigate fraud or for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment; or

- a deposit account information service company that issues consumer reports related to account closures caused by fraud, substantial overdrafts, automated teller machine abuses, or similar negative information regarding a consumer to an inquiring financial institution for use by the financial institution only in reviewing a consumer request for a deposit account with that institution.

Requires a consumer reporting agency to honor a security freeze placed on a consumer file by another consumer reporting agency.

Authorizes a consumer reporting agency to charge a fee not to exceed $8 for placing a security freeze on a consumer file, but prohibits a fee on a request by a consumer for a copy of the consumer's file made on the expiration of a 45-day security alert.

Authorizes the attorney general to file suit against a person for injunctive relief or a civil penalty in an amount not to exceed $2,000 for each violation of Chapter 20 (Regulation of Consumer Credit Reporting Agencies), Business and Commerce Code.

Prohibits a person, other than government or a governmental subdivision or agency, from:

- communicating intentionally or otherwise making available to the general public an individual's social security number;
- displaying an individual's social security number on a card or other device required to access a product or service provided by the person;
- requiring an individual to transmit the individual's social security number over the Internet unless the connection with the Internet is secure or the number is encrypted;
- requiring an individual's social security number for access to an Internet website, unless a password or unique personal identification number or other authentication device is also required for access; or
printing an individual's social security number on any materials that are sent by mail, unless state or federal law requires that the individual's social security number be included in the materials.

Authorizes a person that is using an individual's social security number before January 1, 2005, in a manner prohibited by the aforementioned provision, to continue that use if:
- the use is continuous; and
- the person provides annual disclosure to the individual, beginning January 1, 2006, stating that on written request from the individual the person will cease to use the individual's social security number.

Provides that the provision of social security number confidentiality does not apply to:
- the collection, use, or release of a social security number that is required by state or federal law, including Chapter 552 (Public Information), Government Code;
- the use of a social security number for internal verification or administrative purposes;
- documents that are recorded or required to be open to the public under Chapter 552 (Public Information), Government Code;
- court records; or
- an institution of higher education if the use of a social security number by the institution is regulated by Chapter 51 (Provisions Generally Applicable to Higher Education), Education Code, or another provision of the Education Code.

Prohibits a person who receives notification of a security alert in connection with a request for a consumer report for the approval of a credit-based application, including an application for an extension of credit, a purchase, lease, or rental agreement for goods, or for an application for a noncredit-related service, from lending money, extending credit, or authorizing an application without taking reasonable steps to verify the consumer's identity.

Requires a person who receives a telephone number to be used for verification purposes with a security alert to take reasonable steps to contact the consumer using that number before lending money, extending credit, or completing any purchase, lease, or rental of goods, or approving any noncredit-related services.

Authorizes a person, if that person uses a consumer report to facilitate the extension of credit or for any other transaction on behalf of a subsidiary, affiliate, agent, assignee, or prospective assignee, to verify the consumer's identity.

**Places Where a License Holder May Carry a Handgun - S.B. 501**

*by Senators Armbrister and Williams - House Sponsor: Representative Hupp*

Provides an exception to the application of Section 30.06 (Trespass by Holder of License to Carry Concealed Handgun), Penal Code, which allows a license holder to carry a handgun on property that is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun.
Provides that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon “on the premises” of any government court or offices utilized by the court.

Provides that it is a defense to prosecution under Section 30.05 (Criminal Trespass), Penal Code, that:

- the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and
- the person was carrying a concealed handgun and a license to carry a concealed handgun of the same category the person was carrying.

Consolidation of Certain Driving Offenses - S.B. 582

by Senator Williams - House Sponsor: Representative Driver

Provides that a person commits an offense, if the person operates a motor vehicle on a highway:

- during a period that the person’s driver’s license or privilege is suspended or revoked under any law of this state;
- while the person’s driver’s license is expired if the license expired, during a period of suspension;
- after renewal of the license has been denied, if the person does not hold a license subsequently issued; or
- if the person is subject to an order issued under any law that prohibits the person from obtaining a driver’s license.

Increasing Inmate Capacity - S.B. 704

by Senator Jackson - House Sponsor: Representative Taylor

Requires a facility to be designed, constructed, operated, and maintained to hold not more than an average daily population of 4,000 inmates. Applies only to:

- a municipality that has a population of more than 17,500 and is not the county seat; and
- the county in which that municipality is located.

Reporting the Deaths of Individuals - S.B. 826

by Senator Whitmire - House Sponsor: Representative Keel

Currently, superintendents or general managers of health-care institutions, including nursing homes, extended-care facilities, and retirement homes, must notify the local justice of the peace if a person residing in that institution dies and there is not an attending physician or that physician is not able to certify the cause of death. However, there is no requirement that such notice be given to the Office of the Attorney General (OAG).
In addition, police departments and correctional facilities are required to report the death of persons in the custody of a police officer or housed in a correctional facility; juvenile correctional facilities are not required to report such incidents. This bill:

Requires health-care institutions, police departments, and adult and juvenile correctional facilities to report the death of individuals in their care or due to use of force to OAG.

Provides that a superintendent or general manager of an institution commits an offense if the person fails to:
- provide notice of the death of an individual under the care, custody, or control of or residing in the institution;
- submit a report on the death of the individual; or
- include in the report material facts known or discovered by the person at the time the report was filed.

Makes the offense a Class B misdemeanor.

Criminalizing Neglect of Children, Elderly, and Disabled - S.B. 827

by Senator Whitmire - House Sponsor: Representative Keel

Provides that a person commits an offense if, having custody, care, or control of a child younger than 15 years, an elderly individual, or a disabled individual, the person intentionally abandons the child, elderly individual, or disabled individual in any place under circumstances that expose the child, elderly individual, or disabled individual to an unreasonable risk of harm.

Makes the offense:
- a state jail felony if the actor abandoned the child, elderly individual, or disabled individual with intent to return for the child, elderly individual, or disabled individual;
- a felony of the third degree if the actor abandoned the child, elderly individual, or disabled individual without intent to return for the child, elderly individual, or disabled individual; or
- a felony of the second degree if the actor abandons the child, elderly individual, or disabled individual under circumstances that a reasonable person would believe would place the child, elderly individual, or disabled individual in imminent danger of death, bodily injury, or physical or mental impairment.

Provides that a person commits an offense if the person intentionally, knowingly, or recklessly by act or omission, engages in conduct that places a child younger than 15 years, an elderly individual, or a disabled individual in imminent danger of death, bodily injury, or physical or mental impairment. Makes the offense a state jail felony.
Provides that it is a defense to prosecution that the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

Provides that a person commits an offense if, having custody, care, or control of a child younger than 15 years, an elderly individual, or a disabled individual, the person intentionally or knowingly fails to provide food, medical care, or shelter for the child, elderly individual, or disabled individual. Makes the offense a second degree felony.

Provides that it is a defense to prosecution that the person is a health care facility licensed under law, or a licensed health care professional providing medical treatment at, or is an employee of, a licensed health care facility and that the person's conduct is the result of:

- a decision to withhold or withdraw life-sustaining treatment from a qualified terminal or irreversible patient;
- a power of attorney;
- consent to medical treatment of a minor nature;
- consent for emergency care;
- a hospital patient transfer;
- a decision made by a patient's legal guardian who has the authority to make a decision regarding the patient's medical treatment; and
- a reasonable decision consistent with:
  - a physician's orders, care, treatment, or individual service plan with respect to the child, elderly individual, or disabled individual;
  - the diagnosis or medical condition of the child, elderly individual, or disabled individual;
  - the scope and nature of a health care provider's license or certification;
  - an individual contract for services with the health care provider, entered into by the child, elderly individual, or disabled individual or a legal guardian with authority to make health care decisions for the child, elderly individual, or disabled individual; or
  - a decision to discharge a child, elderly individual, or disabled individual from a health care facility based on the child's, elderly individual's, or disabled individual's inability to pay for care or treatment provided by the health care facility.

Provides that it is an affirmative defense to prosecution for failure to provide medical care that the actor's conduct was based on treatment in accordance with the tenets and practices of a recognized religious method of healing that has a generally accepted record of efficacy.
Aggravated Sexual Assault Against a Disabled Individual - S.B. 837
by Senator Williams - House Sponsor: Representative Riddle

Includes disabled individuals as a specially-protected class of victims for the purposes of aggravated sexual assault prosecutions.

Authority of Peace Officers to Make Arrests Outside Their Jurisdictions - S.B. 840
by Senator Whitmire - House Sponsor: Representative Gattis

Under current law, peace officers have the authority to make arrests outside of their jurisdiction without a warrant if the officer views a person committing an offense of disorderly conduct, breach of the peace, or public intoxication. This bill:

Extends the authority of peace officers by enabling them to arrest persons who commit any intoxication and alcoholic beverage offense under Chapter 49 of the Penal Code, including:
- Public Intoxication;
- Possession of Alcoholic Beverage in Motor Vehicle;
- Driving While Intoxicated;
- Flying While Intoxicated;
- Boating While Intoxicated;
- Assembling or Operating an Amusement Ride While Intoxicated;
- Intoxication Assault; and
- Intoxication Manslaughter.

Disposition of Charges Regarding a Violation of Parole - S.B. 880
by Senator Whitmire - House Sponsor: Representative Capelo

Current law requires the Texas Board of Pardons and Paroles (board) to dispose of the revocation charges against a parolee charged with a technical violation within 61 days. A parolee may also be granted multiple continuances pending final adjudication, increasing the cost to local jurisdictions. This bill:

Requires a parole panel or a designee of the board to dispose of the charges against an inmate or person described by Section 508.281(a) (Hearing), Government Code, before the 41st day after the date on which a warrant issued is executed, if the inmate or person is arrested only on an administrative violation of a condition of release, and the inmate or person is not charged before the 41st day with the commission of an offense described by Section 508.2811(2)(B) (Preliminary Hearing), Government Code.

Provides that a parole panel or a designee of the board is not required to dispose of the charges against an inmate or person within the 41 day time period if:
- the parole panel or a designee of the board is not provided a place by the sheriff to hold the hearing, in which event the parole panel, or designee is not required to dispose of the charges
against the inmate or person until the 30th day after the date on which the sheriff provides a place to hold the hearing; or

- the inmate or person is granted a continuance by a parole panel or a designee of the board in the inmate's or person's hearing, but in no event may a parole panel or a designee of the board dispose of the charges against the person later than the 15th day after the date on which the parole panel or designee would otherwise be required to dispose of the charges, unless the inmate or person is released from custody and a summons is issued requiring the inmate or person to appear for a hearing.

Review of Inmates for Parole Purposes - S.B. 917
by Senator Whitmire - House Sponsor: Representative Talton

Texas has no provision that establishes a specific future date for the review of an inmate for parole purposes. This bill:

Requires the policy board of the Board of Pardons and Paroles (TBPP) to adopt a policy establishing the date on which the parole board may reconsider for release an inmate who has previously been denied release.

Requires the policy to require TBPP to reconsider for release an inmate serving a sentence for an offense listed in Section 508.149(a) (Inmates Ineligible for Mandatory Supervision), Government Code, during a month designated by the parole panel that denied release. Requires the designated month to begin after the first anniversary of the date of the denial and before the fifth anniversary of the date of the denial.

Requires the policy to require TBPP to reconsider for release an inmate serving a sentence for an offense listed in Section 508.149(a) (Inmates Ineligible for Mandatory Supervision), Government Code, as soon as practicable after the first anniversary of the date of the denial.

Admission of a Certificate of Analysis - S.B. 1129
by Senator Bivins - House Sponsor: Representative Riddle

Currently, the results of a private forensic laboratory analysis may be admissible in evidence as a business record or as a public record when the chemist who performed the analysis is unavailable to testify; however, these exceptions are not available for a forensic analysis conducted in a criminal case by a laboratory affiliated with law enforcement, including the Texas Department of Public Safety crime laboratory. This bill:

Amends the Code of Criminal Procedure to allow the admission of a certificate of analysis and a chain of custody affidavit without requiring certain individuals to appear in court.

Requires the certificate of analysis or chain of custody affidavit to contain certain information certified under oath.
Sets forth time frames, forms, and procedures for filing certificates of analysis or chain of custody affidavits.

**Diversion of Mentally Impaired Offenders - S.B. 1145**  
*by Senator Madla - House Sponsor: Representative Uresti*

Some estimate that 15 to 20 percent of people confined in Texas jails and prisons have a diagnosis of serious mental illness and/or substance abuse. To divert these people from jail and prison, the availability of treatment programs is essential. This bill:

Requires the Texas Board of Mental Health and Mental Retardation to adopt rules relating to the responsibility of the local mental health authorities to make recommendations relating to the most appropriate and available treatment alternatives for individuals in need of mental health services including individuals who are in contact with the criminal justice system and individuals detained in local jails and juvenile detention facilities.

Sets forth requirements for the system to divert persons with special needs from incarceration to services appropriate to their needs.

Provides for specialized training and crisis intervention training for law enforcement and court personnel.

Requires local mental health or mental retardation authorities to collaborate with other local resources, including law enforcement and judicial systems in developing a system, training, or a model program and requires prior approval from the Texas Department of Mental Health and Mental Retardation before implementing any such system, training, or model program.

Authorizes a local mental health or mental retardation authority to develop and prioritize its available funding for a system to divert members of the priority population, including those members with co-occurring substance abuse disorders, from contact with the criminal justice system, to provide specialized training to local law enforcement and court personnel on identifying and managing offenders or suspects who may be part of the priority population, and to develop other model programs.

**Procedure for Arresting Persons for Misdemeanor Offenses - S.B. 1597**  
*by Senator Hinojosa - House Sponsors: Representative Thompson and Dutton*

Requires each law enforcement agency in this state to adopt a detailed written policy relating to the arrest of persons without a warrant for misdemeanor offenses, including traffic offenses punishable by fine only.
Authority of a Peace Officer to Make a Warrantless Arrest - S.B. 1896

by Senator Whitmire - House Sponsor: Representative Talton

Allows a peace officer to make a warrantless arrest when a person confesses to committing a felony, if the confession would be admissible as evidence and establishes probable cause.

Allowing the Release of Tulia Defendants on Bond - S.B. 1948


In 1999, 46 persons, 38 of whom were African-American, were arrested in a drug sting in the small town of Tulia, Texas. Based solely on testimony of an undercover agent, many of these people were convicted. Although the investigation has since been discredited and the agent was indicted for aggravated perjury, a number of those convicted remain in custody. This bill:

Provides that this Act applies only to an applicant for a writ of habeas corpus seeking relief from the judgment in a criminal case, other than an applicant seeking relief from a judgment imposing a penalty of death.

Authorizes a convicting court, on making or approving proposed findings of fact and conclusions of law jointly stipulated to by the applicant and the state, to order that the applicant be released on bond, subject to conditions imposed by the court, until the applicant is denied relief, remanded to custody, or ordered released.
Progressive Sanctions for Juvenile Offenders - H.B. 888
by Representative Dutton - Senate Sponsor: Senator Whitmire

In 1995, the legislature enacted progressive sanction guidelines to be used in determining the punishment for juvenile offenders. These guidelines set out seven sanction levels based on the severity of the offense and the criminal history of the juvenile. This bill:

Changes the characterization of the progressive sanctions from guidelines to a model and eliminates requirements for reporting deviations from the model. This bill:

Eliminates provisions requiring juvenile courts or probation departments to report deviations from the guidelines.

Authorizes departure of a disposition from this model under certain circumstances.

 Strikes the requirement that the Criminal Justice Policy Council analyze compliance with guidelines.

Juvenile Delinquency Prevention Fund - H.B. 1828
by Representative Farabee - Senate Sponsor: Senator Whitmire

Currently, counties deposit fees received under into the County Graffiti Eradication Fund; however, counties are limited in how they may spend these funds. This bill:

Expands current law to allow a commissioners court broad latitude to dispense funds for teen recognition programs, teen court funding, juvenile probation expenses, and teen recreation or prevention programs.

Renames the County Graffiti Eradication Fund the Juvenile Delinquency Prevention Fund.

Juvenile Delinquency - H.B. 2319
by Representative Dutton, et al. - Senate Sponsor: Senator West

Grants the juvenile court jurisdiction over two new traffic offenses that are punishable by confinement in jail if committed by an adult (Driving While License Invalid and Duty on Striking Fixture or Highway Landscaping).

Requires appointment of counsel for appeal of determinate sentences if the court finds the parents are indigent. Requires the child to be released from detention during the pendency of the appeal.

Authorizes employment of juvenile case managers to provide services in all cases involving children in justice and municipal courts, not just truancy cases.

Authorizes the juvenile court to establish a payment schedule for a parent or other person responsible for a child’s support to reimburse, in full or in part, the costs of appointed counsel.
Authorizes the appointment of interpreters in juvenile proceedings for parents and guardians who are deaf or who cannot speak or understand English.

Authorizes a law enforcement officer to take a child into custody and to bring the child to juvenile court intake if the officer has probable cause to believe the child has violated a probation condition.

Authorizes the court to order parents or other persons responsible for a child's support to pay, to the extent they are able, all or part of the costs of treatment programs while the child is on probation.

Clarifies that for commitment to the Texas Youth Commission for a violation of a condition of a Class A or B misdemeanor probation there must have been at least one adjudication for a felony or Class A or B misdemeanor offense before the adjudication that resulted in the child's current probation.

Clarifies that statutory restrictions imposed by the Code of Criminal Procedure for “3g offenses”, for setting minimum periods of probation and for imposing sentence following probation revocation, are not applicable to an 18 year old who is transferred from juvenile probation to criminal court for continuation of determinate sentence probation.

Authorizes the criminal court to re-examine the need for sex offender registration in transferred cases when the juvenile court would have been authorized to do so before the transfer.

Prohibits punishment of a child for contempt of court for violating conditions of probation, deferred prosecution, or release from detention.

Authorizes direct contempt proceedings against a child for conduct occurring in the presence of the court, limited to up to 10 days detention and/or 40 hours of community service.

Requires detention, separate from other children if practicable, of determinate sentence for youth pending a juvenile court hearing regarding their transfer to prison, and authorizes their detention in adult jail facilities, without bond, if they are 17 years of age or older.

Clarifies that all children's records and personally identifiable information in a placement facility are confidential, not just the files and records that have a treatment purpose.

Creates Chapter 61 (RIGHTS AND RESPONSIBILITIES OF PARENTS AND OTHER ELIGIBLE PERSONS), Family Code.

Establishes court procedures for ordering parents and other eligible persons to take some action or refrain from taking some action in a child’s case and sets out the powers and procedures for enforcing the orders.

Provides that persons have the right to counsel, and to appointed counsel if indigent, in enforcement hearings.

Requires that a record of the enforcement hearing proceedings be made and all allegations in the notice be proved beyond a reasonable doubt.
Authorizes a single fine up to $500 and a single jail sentence up to six months from a single enforcement proceeding.

Authorizes a court in lieu of incarceration, to require future conduct in compliance with its previous orders or new conduct that is remedial of prior failures to comply.

 Requires that the parent, guardian, or custodian of a child referred to juvenile court to be informed as soon as practicable about some of the facts of the offense, the next step in the juvenile process, visitation rules, the child’s right to counsel, and how to apply for appointed counsel, and what the parent can do to assist the child in the process.

Authorizes a parent to have private, in-person communication with a child for reasonable periods of time when the child is in the juvenile processing office, a detention facility, a Texas Youth Commission (TYC) facility, or other placement facility.

Requires the justice or municipal court to provide a child notice and the opportunity to be heard before holding the child in contempt of court for failing to obey an order. Clarifies that a person age 17 or older may be held in contempt for violating an order that was entered before the person became age 17, whether the violation occurred before or after age 17.

Makes it a Class C misdemeanor for a parent to fail to appear with a child in traffic offense cases and for a child, parent, or guardian to fail to keep the court advised of a change of residence of more than 30 days.

Amends provisions related to the hearing to determine the need for sex offender registration for juveniles.

Requires the Department of Public Safety (DPS) to remove all information about a person in the sex offender registry when it verifies, after notification by a local law enforcement authority, the juvenile court, the person or the person’s representative, that the person is no longer required to register.

Requires a local law enforcement authority to determine whether the duty to register has expired in an individual case and, if it has (or when it does), to remove all information about the person from its registry and notify DPS of the expiration.

Requires a school district to grant a student credit for courses the student successfully completes in TYC educational programs.

Authorizes TYC to grant a diploma or a certificate of course work completion under the same terms and conditions as public schools.

Requires expunction of a person’s DNA record from the DPS’s database if the person provides DPS with a certified copy of an order to seal records in the case.

Limits access to public records by youth who are confined in public and private juvenile correctional and detention facilities.
Provides that, subject to specified exceptions, all files and records pertaining to TYC youth are confidential, including all personally identifiable information.

Authorizes TYC to disclose information concerning a child to the child and the child’s parents or guardian only if doing so would not harm the child’s treatment nor decrease the likelihood of receiving information from similar sources in the future.

Requires the consent of a TYC youth age 18 or older in order to release information to the youth’s parents.

Authorizes TYC to release information regarding a youth’s location and name of committing court under certain conditions.

Removes the requirement that youth who are sentenced to commitment for capital murder be transferred automatically at age 21 to the institutional division of the Texas Department of Criminal Justice (TDCJ).

Authorizes DPS to suspend or deny the issuance of a child’s driver’s license or instruction permit when it receives an order to that effect entered by the justice or municipal court and to reinstate the license or permit only upon notice from the justice or municipal court that the person has complied with the court’s orders.
Sex Offenders and Sex Oriented Establishments - H.B. 155  
by Representative West, et al. - Senate Sponsor: Senator Whitmire

Prohibits a sex offender from owning or serving as a director, officer, operator, manager, or employee of a sexually oriented business.

Prohibits a sexually oriented business from contracting with a person to operate or manage the business as an independent contractor or employ a person as an officer, operator, manager, or other employee if the business knows the person is a sex offender.

Makes both offenses Class A misdemeanors.

Offense of Obscenity and Consequences for Sex Offenses - H.B. 236  
by Representative West, et al. - Senate Sponsor: Senator Shapiro

There is currently no enhanced penalty for promotion or wholesale promotion of obscene material depicting a child. This bill:

Specifies that a person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device; the punishment is increased from a state jail felony to a third degree felony, if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts deviant activities engaged in by: a child younger than 18 years of age at the time the image of the child was made; an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or an image created, adapted, or modified to be the image of an identifiable child.

Specifies that a person commits an offense if, knowing its content and character, he: promotes or possesses with intent to promote any obscene material or obscene device; or produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity; the punishment is increased from a Class A misdemeanor to a state jail felony, if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts deviant activities engaged in by: a child younger than 18 years of age at the time the image of the child was made; an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or an image created, adapted, or modified to be the image of an identifiable child.

Provides that an attorney representing the state who seeks an increase in punishment is not required to prove the actual identity of an identifiable child.

Provides that it is no longer an affirmative defense to a prosecution if the defendant, in good faith, reasonably believed that the child who engaged in the sexual conduct was 18 years of age or older.

Requires a business that develops or processes visual material and determines that the material may be evidence of a criminal offense to report the existence of the visual material to a local law enforcement agency.
Improper Sexual Relations Between School Employees and Students - H.B. 532  
by Representative Giddings - Senate Sponsor: Senator Nelson

The Educators' Code of Ethics states that an educator should not "solicit or engage in sexual conduct or a romantic relationship with a student." Although an educator may be sanctioned for violation of this rule, current law does not apply to sexual relations between a school employee and a student. This bill:

Creates the offense of improper sexual relations between employees of a public or private primary or secondary school and students younger than 18 years of age. Makes the offense a second degree felony.

Pseudonym for Victims of Sexual Offenses - H.B. 670 
by Representatives Phillips and Paxton - Senate Sponsor: Senator Estes

Under current law, a victim of a sexual offense is allowed to use a pseudonym instead of the victim's actual name in public files and records, including police summary reports, press releases, and records of judicial proceedings. If the person is the victim of several offenses that occurred in the same episode, the pseudonym may only be used for the sexual offenses, potentially allowing the true identity of the victim to be ascertained from indictment records in which the victim's true name is used for the non-sexual offenses. This bill:

Allows a victim to use a pseudonym for public files and records of any offenses that occur during the same criminal episode as a sexual offense.

Expansion of Sex Offenses - H.B. 1246  
by Representative Riddle, et al. - Senate Sponsor: Senator Hinojosa

Current law makes "the penetration of the anus or female sexual organ of another person by any means" a sexual assault or aggravated assault, depending upon other circumstances; however, the law does not criminalize the penetration of a male sexual organ. This bill:

Provides that a person commits an offense if the person intentionally or knowingly causes the penetration of the anus or sexual organ (male or female) of another person by any means, without that person's consent.

Provides that a person commits an offense if the person intentionally or knowingly causes the penetration of the anus or sexual organ (male or female) of a child by any means.
Sexual Assault Program Referral Provided by Law Enforcement - S.B. 51  
*by Senator Zaffirini - House Sponsor: Representative Goolsby*

Currently, law enforcement agencies are not required to provide a victim of sexual assault with written information relating to local sexual assault victims’ services. Studies show that the first response a victim receives after reporting a sexual assault significantly impacts the recovery period. This bill:

Requires law enforcement agencies, if the agency possesses the relevant information, to provide victims of sexual assault with written information regarding available sexual assault services.

Procedural and Registration Requirements for Sex Offenders - S.B. 146  
*by Senators Estes and Shapiro - House Sponsor: Representative Phillips*

A sex offender must report to the proper law enforcement agency at specified time intervals to update most registry information. If there is a change that affects the sex offender’s physical health or job status, notification must be made within seven days of the change; however under current law, a sex offender is not required to report a name change until the periodic registry update, which could be a year later. This bill:

Requires that a person subject to registration requirements report to local law enforcement any change in his or her name within seven days of the change.

Requires that petitions to change the name of a child or an adult include whether that person is subject to sex offender registration requirements.

Provides that a court may not grant an order to change the name of such a child unless the change is in the interest of the public and the person petitioning on behalf of the child provides proof that local law enforcement has been notified of the proposed name change.

Provides that a court may not grant an order to change the name of an adult unless the change is in the interest or to the benefit of the petitioner and in the interest of the public and the person provides the court with proof that the person has notified local law enforcement of the proposed name change.

Protective Orders for Victims of Sexual Assault - S.B. 433  
*by Senator Nelson - House Sponsor: Representative Naishat*

Currently, Texas law provides that a person who is battered, sexually assaulted, or harassed by a family member, household member, or by someone the person is dating may seek a protective order under the Texas Family Code. This remedy is not available to a person who is battered, sexually assaulted, or harassed by a stranger or a friend/acquaintance in a non-dating relationship. This bill:

Creates a Sexual Assault Order of Protection that would be available to individuals alleging sexual assault as well as to a victim who has no prior relationship with the perpetrator.
Sets forth the procedures and required findings by a court in issuing such orders.

Sets forth the conditions that may be imposed by a court in such an order, including suspension of a license to carry a concealed weapon.

Creates a criminal offense for violating these protective orders.

**Sexual Assault Committed Against Residents of Certain Facilities - S.B. 825**  
*by Senator Whitmire - House Sponsor: Representative Keel*

Currently, it is a crime for health-care providers to engage in sexual contact with persons in their charge or with persons with whom they have a provider-patient relationship. Many of these providers are responsible for caring for physically or mentally impaired individuals, thus sexual contact with a patient is considered nonconsensual and is sexual assault. Employees of long-term care facilities are not specifically included in this prohibition. This bill:

Amends the Penal Code to specify that sexual contact between an employee of a long-term care facility and a resident is nonconsensual and therefore constitutes sexual assault.

**Sex Offender Registration Program - S.B. 871**  
*by Senator Shapiro - House Sponsors: Representatives Allen and Wise*

Requires that for each person subject to the sex offender registration program, the Texas Department of Public Safety (DPS) must determine which local law enforcement authority serves as the person's primary registration authority based on the municipality or county in which the person resides or the municipality or county in which the person works or attends school.

Requires DPS to provide an authority for campus security with a registration form indicating whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution.

Requires a person subject to registration who is an employee or student at an institution of higher education in another state, if an authority for campus security exists at the institution, to register with that authority not later than the 10th day after the date on which the person begins to work or attend school.

Clarifies that an official of a penal institution must inform a person prior to their release that they must report within seven days to the law enforcement agency designated as the primary registration authority.

Removes language relating to publication of notice in a newspaper regarding a conviction or deferred adjudication for an offense under Section 25.02 (Prohibited Sexual Conduct), Penal Code.
Removes language limiting the requirement that a local law enforcement agency provide notice to school officials in the school district in which the person subject to registration intends to reside to those cases wherein the victim was a child under 17 years old or the person subject to registration is 17 or older and a student enrolled in secondary school.

Requires the person to register with the authority for campus security or, if none exists, the local law enforcement authority of the municipality or county in which the institution is located, regardless of the state in which the person intends to reside, not later than the seventh day after the date on which the person begins to work or attend school, and requires the person to notify the appropriate authority for campus security or local law enforcement of the termination of a person’s status as a worker or student no later than seven days after termination.

Prohibits a local law enforcement authority from publishing notice in a newspaper if:
- the basis on which the person is subject to registration is an adjudication of delinquent conduct
- the basis is a conviction or deferred adjudication for an offense under Section 25.02 (Prohibited Sexual Conduct), Penal Code, or the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under Section 25.02 (Prohibited Sexual Conduct), Penal Code, if the victim of the offense was younger than 17 years of age.

Prohibits publication of notice in newspaper if the person subject to registration is assigned a numeric risk level of one (i.e., the person poses a low danger to the community and will not likely engage in criminal sexual conduct).

Requires a local law enforcement authority to provide notice to the superintendent and each administrator of every school in the school district in which the registrant resides:
- if the victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school
- the person subject to registration is a student enrolled in a public or private secondary school
- the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 43.25 (Sexual Performance by a Child) or 43.26 (Possession or Promotion of Child Pornography), Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under either of those sections.

Prohibits local law enforcement authorities from providing notice to the superintendent or any administrator if the basis on which the person is subject to registration is an adjudication of delinquent conduct or if the basis is a conviction or deferred adjudication for an offense under Section 25.02 (Prohibited Sexual Conduct), Penal Code, or the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under that section.

Requires that a registrant’s community supervision officer notify the local law enforcement authority if the person begins or ceases to work or study at an institution of higher education within seven days of receiving that information.
Requires the registrant to report a change in educational status to local law enforcement not later than the seventh day after the change.

Requires local law enforcement authority to notify DPS of any change in the job or educational status of a registrant at an institution of higher education.

Authorizes an authority for campus security and an institution of higher education to release information to the public about a person required to register as a sex offender, but only if that information is public.

Provides that if a court orders that a juvenile’s records are nonpublic, that information will remain available to institutions of higher education.

Sets forth requirements and procedures for a motion for juvenile sex offender deregistration.

Requires the Office of State Counsel for Offenders (office) to represent an indigent person subject to a civil commitment proceeding under this chapter; if for any reason the office is unable to represent an indigent person at a civil commitment proceeding the court shall appoint other counsel to represent the indigent person.

Requires that not later than the 270th day after the date a petition is served on the person under Section 841.041(Petition Alleging Predator Status), the judge shall conduct a trial to determine whether the person is a sexually violent predator.

Requires a person who is on trial to determine the person's status as a sexually violent predator to submit to all expert examinations that are required or permitted by the state to prepare for the person's trial. A person who fails to submit to expert examination on the state's behalf as required by this subsection is subject to the following consequences:

- the person’s failure to participate may be used as evidence against the person at trial;
- the person may be prohibited from offering into evidence the results of an expert examination performed on the person's behalf; and
- the person may be subject to contempt proceedings if the person violates a court order by failing to submit to an expert examination on the state's behalf.

Requires the State of Texas to pay all costs associated with a civil commitment proceeding, not to exceed $2,500.

Requires the State of Texas to pay the reasonable costs of state or appointed counsel or experts for any other civil commitment proceeding and to pay the reasonable costs of the person’s outpatient treatment and supervision.

Clarifies that a person who suffers from a behavioral abnormality as determined under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code, is not because of that abnormality a
person of unsound mind for purposes of Section 15-a (Commitment of Persons of Unsound Mind), Article I, Texas Constitution.

Provides that personal information, including a home address, home telephone number, and social security account number, that identifies the victim of a person subject to a civil commitment proceeding is privileged from discovery by that person.

Clarifies that the following convictions, judgments, or verdicts do not affect an order of civil commitment under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code:
- a conviction for a felony if a sentence is not imposed;
- a conviction for a misdemeanor, regardless of whether a sentence is imposed; and
- a judgment or verdict of not guilty by reason of insanity for any offense absent a corresponding commitment to the Texas Department of Mental Health and Mental Retardation.

Updates the list of those immune from liability for good faith conduct under Chapter 841 (Civil Commitment of Sexually Violent Predators), Health and Safety Code, to include an employee or officer of the Texas Department of Health and an employee of the division of the prison prosecution unit charged with initiating and pursuing civil commitment proceedings.

**Treatment and Supervision of Sex Offenders - S.B. 1054**
*by Senator Shapleigh - House Sponsor: Representative Pena*

Currently, the Texas Code of Criminal Procedure does not specify the use of evaluative and rehabilitative treatment procedures for adult sex offenders or in conjunction with the conditions of an offender’s probation. This bill:

Authorizes a supervision officer to release information about a sex offender defendant in a presentence or postsentence report concerning the social and criminal history of the defendant to a person who:
- is licensed or certified in this state to provide mental health or medical services, including a:
  - physician;
  - psychiatrist;
  - psychologist;
  - licensed professional counselor;
  - licensed marriage and family therapist; or
  - certified social worker; and
- provides mental health or medical services for the rehabilitation of the defendant.

Authorizes the judge to direct a supervision officer to evaluate the appropriateness of, and a course of conduct necessary for, treatment, specialized supervision, or rehabilitation of the sex offender defendant and to report the results of the evaluation to the judge.
Provides that the judge may require the evaluation to employ offense-specific standards of practice adopted by the Council on Sex Offender Treatment (council) and may require the report to reflect those standards.

 Requires the evaluation to be made after conviction and before the entry of a final judgment or, if requested by the sex offender defendant, after arrest and before conviction.

 Authorizes a judge who grants community supervision to a sex offender may require the sex offender as a condition of community supervision to submit to treatment, specialized supervision, or rehabilitation according to offense-specific standards of practice adopted by the council.

 Provides that on a finding that the defendant is financially able to make payment, the judge shall require the defendant to pay all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation.

 Extends to 1,000 feet the restricted zone surrounding certain premises where sex offenders are prohibited, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility.
Small Business Compliance Assistance Program Expanded - H.B. 44  
by Representatives Chisum and Wise - Senate Sponsor: Senator Armbrister

Currently, the federal Clean Air Act requires a small business advisory panel in a state with delegation of federal air programs. However, no similar panel is required for water programs in the federal Clean Water Act, though small businesses face similar obstacles complying with water requirements as those faced in complying with air requirements. This bill:

Transfers provisions relating to the formerly named small business stationary source assistance program from the Health and Safety Code to the Water Code to facilitate the expansion of the program’s scope to include Clean Water Act and Solid Waste Disposal Act compliance assistance.

Requires the Texas Commission on Environmental Quality to establish a small business compliance assistance program, rather than a small business stationary source technical and environmental compliance assistance program.

Expands the scope of the program to include compliance assistance relating to the Clean Water Act, Clean Air Act, and Solid Waste Disposal Act.

Financing of Venue Projects - H.B. 1150  
by Representative Puente - Senate Sponsor: Senator Wentworth

San Antonio voters passed a proposition in May, 2000, authorizing a sales tax to fund a parks and venue project. The purpose of the project was to locate and purchase undeveloped land in the recharge and contributing zones of the Edwards Aquifer and to leave the land undeveloped as a means of protecting the aquifer from increased pollution. A restriction contained in the Local Government Code limits such venue projects to within a municipality or county. This bill:

Adds to the definition of “venue” a watershed protection and preservation project, a conservation easement, a recharge, recharge area, or recharge feature protection project, and an open-space preservation project as being authorized under the state statue governing sports and community venue projects to make this type of project eligible for funding through an authorized sales tax.

Texas Department of Economic Development Grants - S.B. 15  
by Senator Madla, et al. - House Sponsor: Representative Puente

Toyota recently selected San Antonio as the site of its new North American Facility. One of Toyota’s requirements was that the site offer rail access. The site selected by Toyota does not have rail access. This bill:

Authorizes the Texas Department of Economic Development to make grants to local governmental entities within Texas for business location incentives.
Economic Development Programs and Funding - S.B. 1771
by Senators Brimer and Ellis - House Sponsor: Representative Jim Keffer

Requires the Department of Economic Development (TDED) or its successor to work with the legislature and state agencies in identifying grants and funds related to economic development.

Requires TDED or its successor, at the direction of the governor, to work with each state agency that administers a program related to job training or job creation.

Creates the Texas Enterprise Fund (fund) as a dedicated account in the general revenue fund.

Provides that the fund be composed of any amount appropriated by the legislature and gifts, grants, and other donations received for the fund.

Authorizes the fund to be used for economic development, infrastructure development, community development, job training programs, and business incentives.

Requires interest earned from the fund account to be deposited back into the enterprise fund.

Authorizes the governor to negotiate on behalf of the state, and to grant money from the fund.

Authorizes the governor to only appropriate funds along with the express written consent of the lieutenant governor and the speaker of the house of representatives.

Authorizes TDED or its successor to make certain recommendations regarding tax abatements and limitations on appraised value.
Prairie View Adds A Pre-Med Academy - H.B. 85  
_by Representative McClendon, et al. - Senate Sponsor: Senator West_

Creates the Prairie View A&M university undergraduate medical academy to train students to enter medical school.

Provides for an application process in which a successful applicant will have at least one year of college in a math or science degree program, and has demonstrated interest in medical school.

Requires the academy to provide faculty mentors, academic and professional counseling, visits to medical schools, and consultation with medical professionals to determine the best curriculum and activity for the student.

Non-Traditional College Applicants - H.B. 944  
_by Representative King, et al. - Senate Sponsor: Senator Estes_

Requires institution of higher educations (IHEs) to treat nontraditional applicants who present evidence of successfully completing the secondary curriculum that is equivalent to public high school either from an unaccredited private high school or a home school the same as traditional applicants.

Prohibits IHEs from requiring a nontraditional applicant to supply credentials, such as a general equivalency development certificate, or to take an examination not required of traditional applicants.

Junior College Tuition and Bonds - H.B. 1621  
_by Representative Flores - Senate Sponsor: Senator West_

Currently junior colleges may waive tuition for dual credit courses for public school students. Bond debt service is limited to $15 per student per semester or term. This bill:

Allows a junior college to waive all or part of the tuition and fees.

Allows a junior college board to irrevocably pledge up to 25 percent of tuition for repayment of bond debt.

On-Time College Graduation Incentive - H.B. 1890  
_by Representative Morrison - Senate Sponsor: Senator Williams_

Texas has a college graduation incentive program that refunds a portion of tuition paid by a student who graduates with no more than three semester credit hours over those required by the degree program. This bill:

Exempts from the three-hour limit up to nine semester credit hours earned by examination only, such as advanced placement tests.
New Campuses for All - H.B. 2522
by Representative Krusee, et al. - Senate Sponsor: Senator Ogden

Designates the University of North Texas (UNT) System Center location as the future campus of the UNT at Dallas.

Authorizes the Texas State University System board of regents to issue $27 million in bonds to create a multi-institutional educational center in Williamson County for the use of Southwest Texas State University (SWTSU).

Exempts both UNT and SWTSU facilities from approval by the Texas Higher Education Coordinating Board.

Creation of the Research Development Fund - H.B. 3526
by Representative Hamric, et al. - Senate Sponsor: Senator Duncan

Establishes the Research Development Fund, effective September 1, 2005, to provide funding to promote increased research capacity at eligible general academic teaching institutions and abolishes the Texas Excellence Fund and the University Research Fund. Sets forth the method of allocation and use of the funds.

Irma Rangel School of Pharmacy - H.B. 3552
by Representative Gallego, et al. - Senate Sponsor: Senator Lucio

Representative Irma Rangel, a former long-term chairman of the House Higher Education Committee and advocate for higher education died of cancer in March, 2003. This bill:

Names The University of Texas (UT) -- Kingsville school of pharmacy the Irma Rangel School of Pharmacy and requires the pharmacy building’s official name to include the name of Irma Rangel.

Texas B-On-Time Loans - S.B. 4
by Senator Zaffirini - House Sponsor: Representative Morrison

Provides interest-free loans to eligible students at a public or private institution of higher education (IHE).

Authorizes the Texas Higher Education Coordinating Board (THECB) to make rules for and administer the program.

Prohibits loans to persons who have a baccalaureate degree or have accumulated 150 or more credit hours.

Sets student eligibility, eligibility for succeeding semesters, and academic requirements.
Directs THECB to determine the loan amount for an undergraduate, associates or technical program by calculating the average state tuition and fees for a full time resident student at each type of institution.

Requires THECB, when eligible students exceed the appropriated amount, to reduce payments to institutions where the loans shall be distributed on student financial need.

Permits payment deferral while student is enrolled in an IHE.

Establishes loan forgiveness for students who receive a degree or certification with a 3.0 grade point average within four calendar years of initial enrollment in a four-year institution; five years if enrolled in engineering or architecture; or two years for a two-year institution.

Establishes the B-On-time fund consisting donations, grants, appropriations, or general obligation bonds issued and sold by THECB not to exceed $125 million in debt and repaid by appropriations and loan payments with first loans made for fall 2003.

Requires each IHE to deposit in the B-On-time fund five percent of the increase in designated tuition above that charged in 2002-2003 and.

Directs THECB to set up a two-year pilot program, “Freshman SUCCESS Program” to provide assistance to freshmen students who come from underrepresented groups or have high attrition rates.

**Dual Credit Tuition Waivers - S.B. 258**

*by Senator West - House Sponsor: Representative Deshotel*

Allows institutions of higher education (IHE) to waive tuition and fees for a high school student enrolled in a course in which the student earns both high school and college credits.

**Del Mar Community College Annexation - S.B. 315**

*by Senator Hinojosa - House Sponsor: Representative Luna*

Limits annexation by Del Mar Community College (Del Mar) district to territory that is contiguous and, rather than or, within the junior college district.

Requires an annexation election to be determined by majority votes in both the proposed annexation area and the existing district.

Allows Del Mar’s governing board to expand each of its five single-member districts to include annexed territory without electing new members and continuing the regular election schedule.

Prohibits Del Mar from holding a subsequent annexation election before the expiration of one year.
Texas A&M - San Antonio and Texas A&M - Central Texas - S.B. 800

Creates Texas A&M University System components in South San Antonio and Killeen where system educational centers operate currently.

Requires each center to have a full-time enrollment of 2,500 for one semester before operating as a general academic institution.

Requires the components to receive Texas Higher Education Coordinating Board (THECB) approval before offering a degree program or level.

Permits Texas A&M University (TAMU) to sell $15 million in revenue bonds for a biosciences research center at the TAMU Health Sciences Center in Temple, and requires repayment by the Temple Health and Bioscience Economic Development District, if created.

TEXAS Grant Program Requirements - S.B. 1007
by Senator West - House Sponsors: Representatives Giddings and West

Authorizes universities to determine initial eligibility for a Texas Grant by using a student's transcript from the fall semester of the senior year to indicate if the student is on schedule to complete the recommended high school curriculum (RHSC).

Authorizes the Texas Higher Education Coordinating Board (THECB) to require repayment or cancellation of a grant made to a student who fails to complete the RHSC but allows such a student to reapply for a Texas Grant after earning an associate degree.

Allows revocation of a Texas Grant when a student does not satisfy academic requirements of grade point average or hours enrolled.

Limits a student's Texas Grant plus all other grant sources to the amount of a student's financial need, rather than cost of attendance.

Accelerated Instruction and Middle College Programs - S.B. 1108
by Senator Shapiro - House Sponsor: Representative Grusendorf

Authorizes a school district to grant a charter for a program operated by a contractor to provide educational services within the district boundaries and prohibits a district from assigning to such a charter school any student or a teacher who has provided a written statement refusing an assignment.

Requires charter schools under this Act to include intensive instruction for a student who fails the Texas Assessment of Knowledge and Skills (TAKS) test designed to permit the student to perform to the extent
practicable on grade level by the end of the subsequent school term or to attain annual growth specified by the district.

Permits development and implementation of a personal graduation plan (PGP) for each secondary student who does not perform satisfactorily on TAKS or is not likely to graduate four years after entering ninth grade.

Requires a PGP to identify educational goals, include diagnostic and evaluation information and appropriate interventions, intensive instruction, and flexible scheduling, alternative learning environments, online instruction, and other proven interventions.

Directs the commissioner of education (commissioner) to allocate funds appropriated by the legislature for accelerated instruction based on the number of students who do not pass TAKS or are unlikely to graduate on time.

Requires districts participating in an electronic course program to provide on its website an “Informed Choice” report that includes a program description, the TAKS essential elements, and the process used to place a student in the appropriate academic level.

Requires the commissioner of education (commissioner) to develop a diagnostic and assistance program for each subject included in TAKS and to seek private funding to support the program.

Adds a science assessment to the eighth grade TAKS.

Requires the commissioner to provide training resources to bilingual teachers to improve academic achievement of limited-English proficient students and allows the commissioner to use compensatory education funds for these programs.

**Sports Injury Education Program - S.B. 1127**

*by Senator Van de Putte - House Sponsor: Representative Mercer*

Each year, athletes die or become seriously injured while participating in sports. Most coaches and other athletic personnel do not have training to recognize characteristics of serious injuries or respond appropriately when a student is injured. This bill:

Establishes a coaching education program administered by The University of Texas Sports Sciences Institute at the San Antonio Life Sciences Institute (institute).

Requires the institute to provide courses that include appropriate coaching philosophies; coaching techniques; sports psychology, pedagogy, physiology, management, and risk management; and knowledge of and adherence to applicable federal, state, and local rules.
Proprietary Career Schools and Colleges - S.B. 1343  
by Senator Jackson - House Sponsor: Representative Morrison

Proprietary school regulation was transferred from the Texas Education Agency (TEA) to the Texas Workforce Commission (TWC). TEA used its own hearings examiners to conduct hearings and imposed administrative penalties on unlicensed schools to provide an incentive to become licensed. The transfer required the State Office of Administrative Hearings to conduct hearings, resulting in increased costs and limiting the use of administrative penalties to enforce licensing. This bill:

Renames “proprietary school” as a “career school or college.”

Defines distance learning.

Allows TWC to exempt from regulation a career school or college but also allows TWC to inspect the school and require the school to provide any information TWC requests.

Grandfathers existing exempt career schools or colleges.

Invalidates any note or contract to pay for training by a student enrolled in an unlicensed career school or college and provides refund calculation methods.

Provides a hearing process to make findings, determine whether a violation has occurred, and assess a penalty; provides for judicial appeals.

Creates a tuition trust account to pay tuition refunds to students enrolled in a school that closes, allows TWC to charge a fee of not more than 0.2 percent of gross tuition and fees to each career school or college, and limits the balance of the account to no more than $1 million.

Graduate Business School Tuition - S.B. 1521  
by Senator Zaffirini - House Sponsor: Representative Morrison

Sets tuition for a resident student enrolled in a graduate school of business equal to the tuition of the law school, both of which may be up to three times the amount currently charged, which is $80 per credit hour.

Higher Education Lab Fees - S.B. 1546  
by Senator Janek - House Sponsor: Representative Nixon

Under current law, institutions of higher education (IHEs) may set lab fees based on the cost of materials and supplies that a student uses. It limits the fees to a range of $2 to $30 per semester per lab course. A junior college may charge no more than $24 per semester. This bill:

Permits junior colleges to charge a student registered in a lab course the lesser of the actual cost of material and supplies used but no more than $24 per semester credit hour, rather than per semester.
Authorizes a junior college offering an aerospace mechanics certification program to charge an additional $4 per contact hour per enrolled student.

**Tyler Geriatric Center - S.B. 1642**  

Authorizes The University of Texas (UT) System to create the East Texas Center for Rural Geriatric Studies (center) within The UT Health Science Center at Tyler (UTHSCT) to research issues associated with the elderly population in rural areas.

Establishes the center subject to availability of federal funding, gifts, grants or other funding.

Requires the center, if created, to provide resources for training and research on geriatric care for medical professionals, nursing home employees, caregivers, advocates for the elderly, and home health care workers.

Directs The UT System board of regents, if they create the center, to provide staff and an operating budget, and a site at UTHSCT.

Allows the center to use gifts and grants, or contract with another entity, to operate the center.

**Higher Education Miscellany - S.B. 1652**  
*by Senators Shapiro and West* - *House Sponsor: Representative Morrison*

Clarifies that only the part of property owned by an institution of higher education (IHE) that is used for a public purposes is exempt from the property tax.

Permits an IHE to bypass the Legislative Budget Board review of a major consulting services proposal if the president of an institution includes a finding of necessity in the bid notification.

Limits “borrower” under the Higher Education Authority (HEA) Act to an IHE; a nonprofit corporation created for the exclusive benefit of and controlled by an IHE or operated for the exclusive benefit of and authorized by the IHE’s governing board; and a public school district and charter school.

Allows a municipally created higher education authority (MHEA) to have ownership or operational responsibility for student housing only when the housing is located within the municipality’s borders.

Permits a MHEA to own or operate facilities outside its city limits only when a governing body of an IHE requests an MHEA to acquire a facility for the benefit of the IHE; the facility becomes university property when the facility’s bonds are paid, and the MHEA has approval of each local taxing entity.

Allows an HEA to contract with another entity to operate the facility and grandfathers current housing facilities located outside the municipality.
Allows an HEA to issue and execute bonds only if requested and approved by the governing body of the borrower (IHE) for an educational, housing, or other facility which at all times is under the ownership of the IHE.

Exempts from tuition and fees a student who formerly lived in foster care or a residential care and was adopted or received adoption assistance.

Permits the payment of tuition and fees with credit cards and electronic funds transfer and allows IHEs to provide a discount or service charge for the transactions and to collect a fee when a payment is returned or dishonored.

Permits a center for technology development and transfer to contract for legal services for patent applications, copyright protection, trademark and service mark applications, and to pursue litigation of infringement.

Authorizes a physician employed by an IHE who provides medical care to an individual who was injured by another party, to have a lien on any financial settlement, so long as the hospital’s lien does not include the physician’s charges.

Requires an IHE, in a suit to recover a delinquent student loan, to pay one-half of the filing fees required in advance for a suit and pay the remaining fees at the end of the trial if the borrower prevails or if the IHE prevails within seven days of receiving payment from the delinquent party.

Prohibits the comptroller of public accounts from requiring IHEs to submit payroll records that are unnecessary for the distribution of state money.

Provides for the creation and operation of deferred compensation plans (457 plans) for IHE employees.

Reduces to 30 days the time a Teacher Retirement System retiree must be retired before beginning employment with an IHE.

Includes, in any across-the-board pay increase, an IHE employee hired under a pay-for-performance program.

Creates the Information Technology Council (ITC) for Higher Education made up of one representative from each university system and one representative of a public general academic institution that is independent.

Requires the Department of Information Resources to consult the ITC before adopting a rule that would affect IHEs.

Allows, in the construction or rehabilitation of a university facility, the construction manager-at-risk to compete in the bid process under the same conditions as other contractors, and complete the work itself if no other bids are received.
Includes, under the Texas A&M University System (TAMUS) and The University of Texas System (UTS) workers’ compensation insurance, coverage of employees who may or do work in other states, but excludes from coverage by Texas workers’ compensation insurance, an employee who pursues remedies provided by law in the state in which the employee was injured.

Withdraws authorization for UTS to operate a center for technology development and transfer and allows the board of regents to form corporations or participate in other cooperative arrangements to promote commercialization of new discoveries.

Permits the board of regents to contract with another governmental entity an allow UTS to manage a national laboratory.

Allows the Board for Lease of University Lands to meet by telephone conference call and specifies the location of the meeting to be the UTS office.

Permits the name or other identifying information of a person making a donation to an IHE to be deleted from the recording requirement of an open meeting but not the value of the gift.

Requires the governing boards of IHEs to include in their strategic plans the use of historically underutilized businesses.

Establishes the county in which suits against an IHE may be filed.

Permits the TAMUS board of regents to impose, after approval in a student election, an intercollegiate athletics fee not to exceed $10 per semester credit hour up to 15 hours.

Lowers from 2,500 to 1,000 full-time equivalent students the threshold for the University of North Texas System Center at Dallas to operate as a general academic teaching institution but maintains spending controls until enrollment reaches 2,500.

Authorizes an interim study of the organization, operations, and funding of higher education.

Allows a medical corporation that operates a public or private medical school located within a city of 1.18 million to commission officers holding a peace officer license, who are empowered to make arrests on property controlled by the corporation and streets and alleys that abuts the property, and that an officer’s commission ends upon termination of employment.

Compensation for Faculty Who Serve on Water Boards - S.J.R. 19

by Senator Williams - House Sponsor: Representative Eissler

Simultaneously holding more than one “office of emolument” is prohibited by the Texas Constitution, but since 1972, the constitution has allowed state employees who receive all or part of their compensation from state funds and who are not state officers to serve as members of the governing bodies of school districts, cities, towns, or other local governmental districts, provided there is no salary for serving as members of
these governing bodies. In 2001, schoolteachers, retired schoolteachers, or retired school administrators were permitted to receive compensation for serving on governing bodies of school districts, cities, towns, or local governmental districts, including water districts. Faculty members of public colleges and universities were not specifically included and as a result are not authorized to receive compensation for serving as a member of the governing body of a water district. This bill:

Authorizes a faculty member or retired faculty member of a public institution of higher education to receive compensation for serving as a member of a governing body of a water district.

Provides that this proposed constitutional amendment will be submitted to the voters at an election to be held September 13, 2003.
Displaying National Motto - H.B. 219
by Representative Hope, et al. - Senate Sponsor: Senator Staples

Permits the display of “In God We Trust” in public schools and institutions of higher education.

Nonassent to Certain Psychiatric or Psychological Treatment of a Child - H.B. 320
by Representative Grusendorf, et al. - Senate Sponsor: Senator Fraser

Provides that the refusal of a child's parent or guardian to administer or consent to the administration of a psychotropic drug to the child, or to consent to any other psychiatric or psychological treatment of the child, does not by itself constitute neglect of the child unless the refusal to consent:
- presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Prohibits a school district employee of a school district using or threatening to use that refusal as the sole basis for making a report of neglect of the child the parent's or guardian's refusal, unless the employee has cause to believe that the refusal:
- presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Requires a school district, before obtaining the parent's consent for the administration of any psychological examination or test to evaluate the child's need for special education, and to provide to the child's parent, at the parent's request, certain information about the test.

Improving Science Education - H.B. 411
by Representative Grusendorf - Senate Sponsor: Senator Ellis

Creates the master science teacher certification for elementary, middle, and high school levels and sets eligibility criteria.

Requires an additional test in science in the eighth grade Texas Assessment of Knowledge and Skills and any other test required by federal law.

Requires the commissioner of education (commissioner) and State Board of Education (SBOE) to develop and approve science training materials and resources to improve expertise in science curriculum and to reduce disparities in student performance.

Provides for the master science teacher grant program to encourage science certification and allows the commissioner to distribute money specifically appropriated for the grants among school districts in order to
pay stipends of $5,000 to certified master science teachers who teach in high-needs campuses, as determined by the commissioner.

Permits schools to provide additional science programs after school or during the summer for students who perform below grade level or who may fail science and other courses.

**Special Education Assessment - H.B. 447**  
*by Representative Hochberg - Senate Sponsor: Senator Zaffirini*

Currently, students in special education may be exempted from the Texas Assessment of Knowledge and Skills or another assessment measuring academic progress. This bill:

- Requires the Texas Education Agency to provide an assessment for those students who have received modified instruction in the essential knowledge and skills curriculum but for whom the current assessment does not reflect the student’s academic progress.
- Includes in a school district’s performance measures the percentage of special education students who have taken the appropriate assessment of progress.
- Authorizes special accreditation investigations when a large percentage of special education students has been exempted.

**Special Education Student Expulsion - H.B. 469**  
*by Representative Berman - Senate Sponsor: Senator Deuell*

Current law requires a school district to provide academic information to a juvenile justice alternative education program (JJAEP) upon the placement of a special education student, and to hold a meeting of the student’s admissions, review, and dismissal committee (ARD committee), which may include a representative of the JJAEP. After the placement of the student in the JJAEP, if the JJAEP determines it cannot fulfill the student’s educational or behavioral needs, the student’s ARD committee must meet to review placement. This bill:

- Extends the effect of current law to September 1, 2005.

**Expulsion for Offenses Committed in Another District - H.B. 552**  
*by Representative Hegar - Senate Sponsor: Senator Janek*

Allows expulsion of a student who commits an expellable offense on the property of another school district or at school-related events of another school district.
Probationary Contracts for Returning Teachers - H.B. 558
by Representative Grusendorf - Senate Sponsor: Senator Shapiro

Teachers who have a lapse of two-years or more in employment with a school district and return must be hired by the district on a term or continuing contract, if the teacher had obtained that level before the lapse. This bill:

Allows a school district to rehire a teacher on a probationary contract.

Assault Against a Student - H.B. 567
by Representative Berman - Senate Sponsor: Senator Deuell

Current law allows expulsion when a student attacks a school employee, volunteer, or other person at school-related activities. This bill:

Allows a school to expel a student for committing assault, sexual assault, aggravated assault, and aggravated sexual assault against another student whether or not the action took place on school property or at a school event.

Teacher’s Development and Training Revisited - H.B. 1024
by Representatives Crownover and Wong - Senate Sponsor: Senator Shapiro

Over the last decade the legislature gave authority to the commissioner of education in many areas. In the area of staff development, legislators required training in technology, violence prevention, disciplinary techniques, and teaching students with disabilities, most of whom are placed in regular classrooms. Many argued that these requirements diminish local control under which the board of trustees may set policy. This bill:

Removes the commissioner of education’s authority to prescribe training areas.

Transfers the authority to prescribe training areas to the school district and recommends, rather than requires, staff development in the same areas.

Option to Return to Probationary Contract - H.B. 1113
by Representative Crownover - Senate Sponsor: Senator Zaffirini

A certified teacher who performs below expectations now receives written notification that the district proposes termination, discharge, or contract nonrenewal. The under-performing teacher may agree to accept probationary contract status. This bill:

Allows a teacher to agree to a probationary contract status after receiving a written notice from a board of trustees that it proposes termination, discharge, or contract nonrenewal and requires the notice to include
the choice to return to probationary contract status, the period allowed for consideration of the offer, and
the right to seek counsel.

Authorizes, but does not require, a superintendent to provide notice of proposed termination, discharge, or
contract nonrenewal.

**Certain School Board Private Meetings Approved - H.B. 1226**
*by Representative Eissler - Senate Sponsor: Senator Williams*

School boards must comply with the Texas Open Records Act by holding public meetings, with some
exceptions. School records under federal law may not be revealed in public meetings if information
contained therein will identify the student. The law prevents board members from holding a private meeting
on a student’s issue or a public meeting when the identity of an individual would be revealed. Parents or a
student over the age of 18 may request a public hearing. This bill:

Exempts school boards from the Open Records Act if personally identifiable information on a student will be
disclosed in a public meeting.

Allows a public meeting when a parent or student over 18 requests an open hearing when personally
identifiable information on the student will be disclosed.

Allows a school district to withhold directory information (name, address, age, classification) as personally
identifiable information upon written request from a parent or student over 18.

**Public School Bond Guarantee - H.B. 1295**
*by Representative Hochberg - Senate Sponsor: Senator Shapiro*

The Permanent School Fund (PSF) guarantees bonds used to build and renovate school facilities resulting
in lower interest charges. The amount of bonds secured by the PSF has climbed rapidly leaving about $3
billion available to back new bond issues. In fiscal year (FY) 2001, school districts issued $5.62 billion in
bonds; FY 2000 bonding totaled only $3.52 billion. The maximum bond-value guarantee allowed by state
law is two times the value of the fund, but the Internal Revenue Service limitation is $200 million lower than
that in state law. This bill:

Increases the state limit from twice the PSF corpus to 2.5 times the fund value.

**Changes to Alternative Education Programs - H.B. 1314**
*by Representative Pitts - Senate Sponsor: Senator Averitt*

Requires a charter school to adopt a code of conduct including sanctioned behaviors, potential
consequences of prohibited behaviors, and due process procedures for expulsion.
Prohibits a charter school from expelling a student for behavior not included in statute or the code of conduct.

Requires a charter school that expels a student to include in a transferred student’s records the expulsion order when the student enrolls in another school.

Requires a school board to include in its code of conduct the effect of self-defense in considering disciplinary alternatives and guidelines to determine the length of punishment.

Clarifies protections for students with disabilities from disciplinary confinements unless the student is restrained by a law enforcement officer or a juvenile justice official, or has been assigned by a court order to a disciplinary alternative education program (DAEP).

Requires expulsion of a student whose actions equate with aggravated robbery, manslaughter, or criminally negligent homicide.

Allows a principal to determine placement of a student who committed a violation on school grounds or at school activities at least one year prior to discovery.

Requires DAEPs to employ only certified teachers and requires current teachers two years to become certified within two years.

Permits a school district to place in a DAEP a student who transfers from a charter school or from another state where the student had been assigned to a DAEP.

Requires the district to provide instruction to a student assigned to a DAEP, or another setting, to complete coursework by the beginning of the next school year.

Directs the commissioner of education (commissioner) to create a system to monitor school districts compliance with DAEP regulations.

Allows a district to assign to a DAEP any student who received deferred adjudication or was found by a court to have engaged in conduct constituting certain felonies without regard to where or when the event occurred.

Prohibits appeals of school board disciplinary decisions.

Allows a noncustodial parent to receive any written disciplinary notifications.

Requires juvenile justice alternative education programs (JJAEP) to provide education services to clients eligible for public school enrollment.

Provides that a school district may not pay for educating a JJAEP client who was not also expelled from school.
Requires a district to report to the commissioner the number of disciplinary placements or expulsions inconsistent with its code of conduct and the number of full or partial days each student was assigned and attended the program.

**Special Education Evaluation and Services - H.B. 1339**  
*by Representative Eissler - Senate Sponsor: Senator Williams*

Many students arrive at school with learning difficulties or may be eligible for special education services. Under federal law an evaluation must be completed within 60 days of the initiation of the process which most often is the identification of the student as possibly eligible. Texas schools often do not complete the process within 60 days and have been cited for noncompliance. This bill:

- Requires the Texas Education Agency (TEA) to produce and distribute written information to school districts on the options and eligibility requirements for children who have or may have learning difficulties or may need special education services.
- Requires school districts to distribute this information to each parent beginning with the 2004-2005 school year.
- Allows parents at any time to request an evaluation for special education services under Section 29.004 (Special Education: Full and Initial Evaluation), Texas Education Code.
- Provides that the 60-day evaluation period begins upon receipt of written permission from the parent or guardian.
- Requires the evaluation of a child to be completed within 60 days of receiving the written consent of the parent or guardian.

**Psychiatric Drugs and Evaluations of Students - H.B. 1406**  
*by Representative Betty Brown, et al. - Senate Sponsor: Senator Staples*

Some school employees have recommended to parents that their children need psychotropic drugs, such as Ritalin, or psychiatric evaluations. This bill:

- Prohibits a school employee from recommending that a student use a particular drug, undergo psychiatric evaluation, or be excluded from school activities because parents refused the recommendation.
- Allows a school employee to discuss a student’s behavior or academic progress with the parent.
- Allows a school health professional to recommend a student be evaluated by an appropriate health practitioner.
Teacher Evaluation Schedule - H.B. 1440
by Representative Eissler - Senate Sponsor: Senator Van de Putte

Provides that, with a teacher’s written consent, evaluations of the teacher may occur less frequently than once per year but must occur at least once every five years, if the most recent evaluation rated the teacher as proficient with no areas of deficiency.

New Approach to Drop-Out Accountability - H.B. 1518
by Representative Dutton - Senate Sponsor: Senator West

Determining how to count high school dropouts has challenged lawmakers for many years. This bill:

Requires school districts to evaluate the effectiveness of each drop-out prevention program included in the campus and district improvement plans.

Directs the Legislative Budget Board (LBB), the State Auditor’s Office, and the comptroller of public accounts to review Texas Education Agency’s (TEA) standards and definitions of dropping out and completing high school.

Allows school boards to determine the campus to which a student in a parenting or pregnancy program is enrolled for performance reporting purposes.

Requires TEA to evaluate drop-out programs and distribute the results to school districts.

Requires the commissioner of education to adopt rules for exempting, for one year, school districts that consistently, significantly reduce performance gaps between students in compensatory education and other students from certain auditing and reporting requirements.

Compensatory Education Funds for Students with Dyslexia - H.B. 1691
by Representative Phillips - Senate Sponsor: Senator Zaffirini

Allows districts to include students with dyslexia in those categorized as at-risk and therefore eligible for funding through compensatory education.

Reimbursing Teachers for Classroom Supplies - H.B. 1844
by Representative Grusendorf, et al. - Senate Sponsor: Senator Shapiro

Creates a classroom “reimbursement program” for teachers who spend personal money on classroom supplies, beginning in the 2005-2006 school year.

Requires a teacher to use any reimbursement to benefit district students.
Requires a school district to match the amount of state funds for which the district is eligible.

Directs the commissioner of education to adopt rules for the program and allocation of funds among districts and to identify state and federal funds that may be available.

Prohibits the legislature from appropriating general revenue funds to be expended by the reimbursement program until September 1, 2007.

**Disciplinary Action Enforcement - H.B. 2061**
*by Representative Grusendorf - Senate Sponsor: Senator Janek*

Requires a district or charter school that takes disciplinary action against a student who enrolls in another school before completion of the action, to inform the district to which the student transfers at the same time the student’s other records are delivered.

Permits the receiving district to continue the period of disciplinary action or return the student to regular classes.

**No Charge for Lost Textbooks - H.B. 2072**
*by Representative Grusendorf - Senate Sponsor: Senator Shapiro*

Prohibits a teacher from being charged for any textbooks lost by students.

**Educators Retirement Options - H.B. 2169**
*by Representative Telford, et al. - Senate Sponsor: Senator Shapiro*

Retired educators may receive benefits under the Teacher Retirement System (TRS) and work at a school as an employee of a third-party contractor, increasing their income by $30,000 or more. TRS, already operating with unfunded liabilities, became concerned that many educators would retire earlier, then return to work in schools as an employee of a contractor, thus increasing the system’s liabilities. This bill:

Provides that an educator who retires after May 24, 2003, and becomes an employee of a third-party contractor is considered to be employed by a Texas public educational institution and is ineligible for TRS benefits.

Allows the commissioner of education to participate in the Teacher Retirement System, rather than the Employees Retirement System.
Sale and Lease of Public School Land - H.B. 2249
by Representative Howard - Senate Sponsor: Senator Staples

Changes the Permanent School Fund’s handling of forfeitures of delinquent property contracts related to the Permanent School Fund and gives the School Land Board (SLB) authority to use brokers to market land.

Authorizes reinstatement of land purchases if no rights of third persons have intervened.

Authorizes purchasers or their vendees, heirs, or legal representatives, who claim land that has been forfeited for nonpayment of principal and interest, to have the claim reinstated on written request by paying into the state treasury the amount of all principal and interest due on the claim up to the date of reinstatement.

Establishes that the right to reinstate a claim is limited to the last purchaser from the state, or his vendees, heirs, or legal representatives, and must be exercised within six months from the date of forfeiture.

Establishes that a reinstatement fee is due when a forfeited award is reinstated, calculated at one-and-one-half percent of all amounts delinquent at the time of the reinstatement.

Authorizes unsold public school land to be leased for any purpose the Commissioner of the General Land Office (commissioner) determines is in the best interest of the state, rather than for agricultural, grazing, or commercial purposes, under terms and conditions set by the commissioner.

Authorizes, rather than requires, the commissioner, for each lease of public school land issued for agricultural or grazing purposes, to require the lessee to implement a soil and water conservation plan approved by the commissioner.

Removal of TYC Students for Accreditation Purposes - H.B. 2683
by Representative Denny - Senate Sponsor: Senator Shapiro

Under the Texas education accountability system, school districts are evaluated based on the academic achievement of its students in addition to other factors. Currently districts must include all students to which the district provides educational services in the accountability report. Some districts serve students confined in a Texas Youth Commission-affiliated (TYC) residential program. This bill:

Removes students confined in a TYC facility program from a school district’s attendance for the purposes of accreditation ratings.
Beyond Public School - H.B. 2823
by Representative Eissler - Senate Sponsor: Senator Shapiro

School district personnel are required to develop a plan for a student in special education to transition from school when the student becomes 21 years of age. This bill:

Removes the commissioners of health and human services and of mental health and mental retardation, and the Texas Rehabilitation Commission from responsibility in developing the transitional plan.

Requires the commissioner of education to adopt federal compliance procedures that a student’s admission, review, and dismissal committee must consider in the student’s individualized education program for living to include:
- the level of a student’s capability to participate and parental involvement for a student under the age of 18;
- postsecondary educational options;
- vocational evaluation;
- employment goals and objectives;
- age-appropriate educational environments;
- independent living goals and objectives; and
- appropriate referrals to a governmental agency for services.

Designated Tuition Deregulation and Financial Aid - H.B. 3015
by Representatives Morrison and Fred Brown - Senate Sponsor: Senator Shapiro

As a result of rising costs for institutions of higher education (IHE) and flagging state appropriations, some public colleges and universities, particularly The University of Texas at Austin and Texas A&M University, have delayed maintenance and purchases. Before and during the 78th session, total tuition (both “statutory” and “designated”) deregulation was proposed, but the legislature, concerned that total deregulation would cause tuition to surge and student limited the tuition increase to designated tuition, formerly known as the building use fee.

 Deletes references to the building use fee and designates it as designated tuition.

Authorizes a board of regents to charge, in addition to tuition, designated tuition of the amount the board considers necessary for effective operation of the institution.

Permits the boards to set different designated tuition rates for each program and course level in each institution and to increase graduation rates, ensure efficient use of facilities, or enhance employee performance.

Establishes a legislative oversight committee, representative of the state population, composed of six representatives appointed by the speaker and six senators appointed by the lieutenant governor, with each
appointing a co-chair; empowered to review tuition deregulation, order reports from institutions of higher education (IHEs), and make recommendations for legislation.

Requires IHEs to make satisfactory progress toward the state’s higher education goals as contained in its master plan, “Closing the Gaps,” and to meet performance criteria based on graduation rates, enrollment growth, retention rates, educational quality, minority participation, financial aid, and affordability.

Requires IHEs to set aside 20 percent of new revenue gained from increasing designated tuition for undergraduate students and 15 percent of new revenue from graduate tuition to provide financial assistance to eligible undergraduate and graduate students with financial need unmet by other sources.

Requires each IHE to submit to its board of regents yearly reports on affordability including the percentage of gross family income required to pay tuition and required fees, admissions and financial aid criteria.

Revises the pre-paid college tuition board, allowing the comptroller to accept new enrollment only when the pre-paid college tuition fund is sound and requiring IHEs to accept as full payment of tuition and fees the lesser of the IHE’s charge or the state average weighted tuition and fees.

Retirees and the Teacher Retirement System - H.B. 3237

by Representative Todd Smith - Senate Sponsor: Senator Harris

Currently, retirees of the Teacher Retirement System may return to work without losing monthly benefits as long as the work is part-time and in one position. This bill:

Authorizes a retiree and disability retiree who works as a substitute or no more than half-time to also work in another position in the same month and if the total number of days that the retiree works in those positions in that month do not exceed the number of days per month for work on a half-time basis.

School Employee Health Plan - H.B. 3257

by Representative Delisi - Senate Sponsor: Senator Duncan

The 77th Texas Legislature established a uniform group coverage program for school district employees with funds from state, district, and employee contributions and created a $1,000 “pass through” of state funds to assist these employees with their health care needs. The Internal Revenue Service (IRS) approved a new method for use by employers to assist their employees in paying for health care, a health reimbursement arrangement (HRA). An employer can make a tax-free contribution to an account held on behalf of an employee, from which the employee can pay for qualified health services with pre-tax dollars. Unexpended funds would "rollover" into the next year. Current Texas law does not provide for HRAs. This bill:

Defines an HRA as a health benefit plan paid solely by the employer, without any salary reduction election, and reimburses the employee for health benefits up to a specific amount, and allows any unused portion of the reimbursable amount to be carried forward.
Deletes the existing “cafeteria plan” and the option for a teacher to take the payment as supplemental income.

Requires the state to contribute $1,000 per employee or the amount set in the General Appropriations Act and the Teacher Retirement System (acting as trustee) to contribute a like amount into the account in equal monthly installments.

Requires the HRA to fund only health benefits for the employee and his/her dependents.

Requires that any remaining cafeteria-plan funds be used for qualified health expenses before an employee may use an HRA.

Provides direction for a funding structure designed by TRS in consultation with the comptroller of public accounts that must include a separate account for each participating school employee.

Allows TRS to contract with another state agency and to use a competitive bidding process to select the administrator for a health benefit plan.

Provides requirements for an approved health benefit plan provider.

Provides an effective date of September 1, 2004, for HRAs and allows TRS to continue programs and duties required under current law until that date.

### Mentoring with Compensatory Education Funds - S.B. 16

*by Senators Staples and Lucio - House Sponsor: Representative Woolley*

Allows a school district to use compensatory education funds to provide mentoring to students at risk of dropping out.

Authorizes the commissioner of education in consultation with the governor, lieutenant governor, and speaker of the house of representatives to develop standards for such a mentoring program.

Requires parental consent before a student participates in the mentoring program.

Allows the school board to contract with a public or nonprofit community-based organization to implement the mentoring.

### Pledges of Allegiance and a Minute of Silence in Public Schools - S.B. 83

*by Senators Wentworth and Lucio - House Sponsors: Representative Branch, et al.*

Requires the board of trustees of each school district to require that students, once during each school day at all schools in the district, recite the pledges of allegiance to the United States and Texas flags.
Requires the trustees, following the pledges, to require one minute of silence during which students may choose to reflect, pray, meditate, or engage in any other silent activity not likely to interfere with or distract another student.

Provides that on the written request from a student's parent or guardian, a school district must excuse the student from reciting a pledge of allegiance.

Provides that this Act applies beginning with the 2003-2004 school year.

**Dropout and Graduation Rate Calculations for Federal Funds - S.B. 186**  
*by Senator Janek and West - House Sponsor: Representative Dutton*

Conforms state dropout rates and graduation rates calculations in accordance with federal laws no later than the 2005-2006 school year.

Requires the Texas Education Agency (TEA) to collect data in a form consistent with the National Center for Education Statistics definition no later than the 2005-2006 school year.

Directs TEA to assist school districts to collect and report data in a form necessary to qualify for federal dropout reduction grants.

**Optional Flexible Year Program - S.B. 346**  
*by Senator Ogden - House Sponsor: Representative Grusendorf*

Allows school districts to provide a flexible year program to students who failed the grade-level Texas Assessment of Knowledge and Skills or are unlikely to be promoted.

Allows districts, with approval of the commissioner of education (commissioner), to provide additional instructional days for such students by reducing the school year for all other students by no more than 10 days or by using no more than five staff development days for instruction of such students.

Requires teachers to work the currently required number of days.

Authorizes the commissioner to adopt rules for this program.

Creates an alternative calculation of average daily attendance.
Interim Study on Nutrition and Health in Public Schools - S.B. 474
by Senator Lucio, et al. - House Sponsors: Representatives Capelo and Naishat

Sets forth legislative findings relating to the problem of childhood obesity in Texas and the associated health risks.

Establishes a joint interim committee composed of the certain members.

Requires the joint interim committee, to the extent that funds are available, to hold hearings throughout the state to:
- determine the nutritional content and quality of foods and beverages served to public school children, including food service meals, a la carte foods, and competitive foods and food provided in vending machines;
- evaluate the short-term and long-term financial, psychological, and physiological impact of obesity in public school children;
- assess the academic, emotional, and health value of a universal breakfast and lunch program by evaluating school children from school districts that provide each child a free or reduced-price breakfast and lunch; and
- evaluate school contracts relating to competitive food products and vending machines, including the following issues related to competitive food products and vending machines:
  - economic and other impacts of potential conflicts of interest;
  - the length of contracts;
  - advertising and marketing of competitive food products;
  - revenues realized by schools and school districts from the sale of competitive food products;
  - officials in charge of receiving and disbursing revenue and the accounting of that revenue; and
  - the extent to which competitive foods impact each school district’s food service program.

Authorizes the joint interim committee to consult with the School Health Advisory Committee to carry out its duties.

Requires the joint interim committee, to the extent that funds are available, and no later than October 1, 2004, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report of the committee’s findings and recommendations under this Act.

School Reconstitution - S.B. 618
by Senator Shapleigh, et al. - House Sponsor: Representative Dutton

Requires the commissioner of education (commissioner) to reconstitute a school that has been rated low-performing for two consecutive years or more.
Authorizes the commissioner to appoint a campus intervention team to review and retain desirable educators on the campus, although each educator may continue employment in the district or be terminated under current law.

Authorizes the commissioner to appoint a district superintendent and a board of managers to exercise the powers of the board of trustees, and authorizes the board of managers and the appointed superintendent the authority to amend the budget.

Authorizes the commissioner to select a campus board of managers and a principal and authorizes the campus board to amend the campus budget, which if the commissioner approves the changes, the board of trustees must adopt.

School Property Tax Appraisal Changes - S.B. 671
by Senator Staples - House Sponsor: Representative Wohlgemuth

Currently the comptroller of public accounts (comptroller) conducts an annual study to determine the accuracy of county appraisal districts (CAD) for the purpose of equitable school finance. When the comptroller determines the CAD values are below market values, all school districts within the CAD will receive less state funding in the next school year that may result in either higher property taxes or budget cuts. This bill:

Defines an eligible school district as one that has invalid local values in the current year study but not lower than ninety percent of the lower margin of error (five percent), and had accurate local values in the two previous years.

Defines “local value” as the market value as appraised by the CAD less current exemptions and “state value” as the value as determined by the annual study conducted by the comptroller.

Provides that when the comptroller determines that the local CAD value is valid, then the local value is presumed to represent taxable value; when that presumption is absent, the state value represents taxable value unless the local value is higher than the state value, in which case local value is used.

Limits audit requests to corrections and changes to the appraisal roll and requires the request be filed not later than the third anniversary of the date of filing of preliminary reports and only when there is a material reduction in taxable value.

Allows an eligible school district, beginning with the 2003 tax study, to use local values for two years while the comptroller completes an appraisal standards review of the CAD.
Consistent Standards for Schools - S.B. 815

by Senator Van de Putte - House Sponsor: Representative Eissler

Currently only the foundation (minimum) curriculum, but not the recommended or advanced high school curriculum, must include the identified elements of the state curriculum. This bill:

Directs the State Board of Education to identify the essential knowledge and skills for the required curriculum, which is the recommended high school curriculum.

Provides a waiver for districts that cannot adapt by September 1, 2003.

Suspension and Termination Hearings - S.B. 893

by Senator Bivins - House Sponsor: Representative Grusendorf

Currently the Texas Education Agency appoints a hearings examiner on a rotating basis when a teacher requests a hearing in a suspension or contract termination dispute. This bill:

Authorizes the district and teacher to select a hearing examiner from a list prepared by the commissioner of education (commissioner) or to select another person licensed to practice law in the state and requires the commissioner to appoint an examiner only when the parties do not agree.

Requires the parties to notify the commissioner promptly after they agree to an examiner.

Prohibits hearings from being held on a weekend or federal holiday unless both parties agree.

Allows the parties to agree to reject an examiner appointed by the commissioner for any reason or for either party to reject for cause.

Allows either party to request a rehearing by the commissioner; provides that if the commissioner has not responded within 45 days, the request is denied.

Dropout Rate Audit - S.B. 894

by Senator Bivins - House Sponsor: Representative Grusendorf

Requires the commissioner of education (commissioner) to develop a process for electronic auditing of dropout records.

Requires the commissioner to create data standards for audit review and to identify school districts with a high risk of having inaccurate dropout records.

Prohibits on-site inspections of a district identified as at high risk of inaccurate dropout reports until the commissioner receives a response, and provides auditing and corrective measures.
Deletes the requirement for districts to have an outside audit of dropout records conducted by a certified public accountant at district expense of its dropout records.

Lowers by 20 percent the disadvantaged student enrollment required for a campus to use compensatory education funds to provide intensive and accelerated instruction to reduce the achievement gap between low-income and other students.

Permits a district to use compensatory education funds to support a program designed to serve at-risk students and designates such a program as supplemental.

Directs the commissioner to identify districts at high risk of misusing or inadequately reporting the use of compensatory education funds.

Prohibits on-site inspections of a district identified as at high-risk of misallocating compensatory education funds until the commissioner receives a response, and provides auditing and corrective measures.

Requires the commissioner to grant a one-year exemption from the new compensatory education requirements when the group of students who triggered the response passes the accountability test the subsequent year.

**Report Direct Instructional Ratios - S.B. 900**

*by Senator Shapiro* - *House Sponsor: Representative Eissler*

Requires districts to report to the commissioner of education (commissioner) the percentage of total expenditures represented by direct instructional cost and the percentage of employees involved in direct instruction to all employees, calculated by dividing the total number of hours worked in classroom instruction by the total hours worked by all employees.

Requires each district to distribute to all educators a list of employees considered to be in direct instruction and the percentage of each listed employee’s time spent in direct instruction of students.

Requires such information to be included in the campus report card and the district report, including a comparison to the state average of such percentages as calculated by the commissioner.

Requires inclusion in the comprehensive report to the legislature of instructional expenditures ratios and instructional employee ratios.

**Regional Education Service Centers - S.B. 929**

*by Senator Shapiro* - *House Sponsor: Representative Grusendorf*

Defines a regional education service center (RESC) as a state agency, and its employees as state employees for purposes of Chapter 556, Government Code (political activities and influencing legislation); Sec. 171, Local Government Code, and Chapter 171, Local Government (conflict of interest).
Provides that RESCs are subject to Sunset review and requires the review to be conducted in conjunction with the Texas Education Agency (TEA) Sunset review.

Directs the comptroller of public accounts (comptroller) to review RESCs and report to the legislature.

Prohibits a RESC when acting as a broker between two school districts from charging any amount that exceeds the administrative costs of the agreement or any other amounts unless the receiving district provides written permission.

Requires the comptroller to contract with a consultant for a comprehensive audit of RESCs in this state and authorizes payment of no more than $750,000 from state funds appropriated to fund RESC core services costs.

**Professional School Employee Liability Protections - S.B. 930**

*by Senator Shapiro - House Sponsor: Representative Hope*

Defines professional school employees.

Provides that the statutory immunity provided by this Act is in addition to current immunities and to immunity provided under federal law.

Prohibits a school district or the State Board of Educator Certification from instigating disciplinary proceedings against a professional employee who used physical force against a student to further education or to control a group, excluding compliance with school district corporal punishment policy.

Requires a person to exhaust all district remedies before instituting legal action over the incident, a 90-day notice to the teacher, and a description of the incident to the employee before suit is filed; allows court to abate for 90 days the lawsuit when notice was not given.

Limits the professional's liability to $100,000 exclusive of attorney and court fees.

Allows the court to refer the lawsuit to alternative dispute resolution or mediation procedures.

Allows a professional to recover attorney’s and court fees if the employee is found to be immune under this law.

Includes immunity for the administration of drugs by a school employee from a properly labeled, original container.
Credit or Debit Card Agreement Benefiting Public Schools - S.B. 966
by Senator Averitt - House Sponsor: Representative Grusendorf

Allows the comptroller of public accounts to enter into an agreement with a credit card or debit card issuer for the benefit of public schools. Allows the cardholder to designate a particular school district as the recipient of money generated by the cardholder’s credit or debit card use and, to the extent possible, allows the cardholder to designate a particular school.

Middle College Program to Reduce Drop Out Rate - S.B. 976
by Senator Shapiro - House Sponsor: Representative Morrison

Requires each district-level planning and decision-making committee and each campus-level planning and decision-making committee to use dropout prevention information in developing district or campus improvement plans including:
- dropout records audit results;
- campus dropout, graduation, equivalency certification, and persistence rates;
- credit accumulation by 10th and 11th graders; and
- effectiveness of campus dropout prevention programs.

Creates a middle college education pilot program (MCEPP) for students at risk of dropping out of school or to accelerate graduation and provides for maximum scheduling flexibility to respond to an individual student’s needs.

Requires MCEPP to provide courses which provide both high school and college (dual) credits in grades 11 and 12, and allows a student to graduate with at least a high school diploma and associate degree.

Permits each student to receive funding from the foundation school program for that part of the day the student is in high school credit courses.

Provides for reconstitution of a district or campus after the district or campus has been rated academically unacceptable for two or more years.

Authorizes the commissioner to approve for certain schools a dropout prevention program, to restructure to focus on services to students who may drop out, to reduce the students per counselor ratio, and to adopt any other interventions such as mentoring programs and flexible class scheduling.

Directs the Texas Higher Education Coordinating Board (THECB) to establish a pilot project allowing three public junior colleges to offer baccalaureate degree programs in applied science and applied technology.

Requires THECB to report biennially on the feasibility and effectiveness of the pilot project, including the recommendation that a junior college receive the same funding for junior- and senior-level courses as general academic institutions (GAIs) and the calculation of contact hours; and produce a progress report to the legislature no later than January 1, 2007.
Requires each junior college participating in the pilot to meet accreditation requirements, to consult and comply with THECB, to offer no more than five baccalaureate degrees at one time based on regional needs, to avoid duplication of course offerings at other area IHEs, and to be complementary to other offerings of the junior college and the capability of the college to support the programs.

Requires a participating junior college to complete an articulation agreement with a general academic teaching institution to ensure student credits transfer.

Prohibits enrollment of new baccalaureate students after the 2011 fall semester or offering upper division courses after 2015, unless the legislature authorizes continuation of the program.

Community in Schools Moved - S.B. 1038

The Community in Schools (CIS) program has proven successful in reducing the percentage of at-risk students who drop out of school. CIS is currently part of the Texas Education Agency. This bill:

Relocates the CIS program in the Department of Protective and Regulatory Services.

Adds students in family conflict or crisis to those who can receive CIS services.

Educator Decertification for Certain Crimes - S.B. 1109
by Senators Shapiro and Hinojosa - House Sponsor: Representative Van Arsdale

Requires the State Board of Educator Certification (SBEC) within five days of notification of a certified educator’s conviction for criminal homicide, kidnapping, or sexual or assaultive offenses against a person under the age of 18, or that requires registration as a sex offender, to:

- revoke an educator’s certification;
- provide written notice of the revocation and conviction to the person and the school that employs that person; and
- requires a school to remove the person from contact with students and terminate employment in accordance with the person’s contract.

Allows a person whose certification was revoked to apply to SBEC for recertification in the future.

Requires a clerk of a court in which an educator was convicted or received deferred adjudication to notify the SBEC.
School Health Advisory Committees - S.B. 1357
by Senator Nelson - House Sponsors: Representative Capelo and Naishtat

Adds physical activity and nutrition to the current duties of the School Health Advisory Committees (advisory committees).

Charges the advisory committees to devise strategies to integrate school health services, counseling and guidance services, and to create a safe and healthy school environment and employee wellness programs.

Requires districts to provide public information on policies ensuring 30 minutes per day of physical activity for elementary students; the number of times the health advisory committee has met; district compliance with Texas Education Agency restrictions on vending machine and food service guidelines; and district adoption and enforcement of penalties prescribed for use of tobacco products at school events.

Requires the commissioner of education to adopt criteria for evaluating a coordinated health program in consultation with the Texas Department of Health.

Curriculum Requirements for Early High School Graduation Scholarship - S.B. 1366
by Senator Bivins - House Sponsors: Representative Eissler, et al.

Requires a student to complete the recommended or advanced high school curriculum to be eligible for the early high school graduation scholarship program.

Provides an extension if the high school transcript indicates the courses were not available to the student within the time limit.

Group Benefits for Retired School Employees - S.B. 1369
by Senator Duncan - House Sponsor: Representative Delisi

This bill incorporates certain statutory changes required for method of finance and/or savings modifications made in the General Appropriations Act (H.B. 1) affecting certain group benefits for retired school employees. This bill:

Amends the definition and conforms language of:
- “active employee” to mean a contributing member of the Teacher Retirement System of Texas (TRS) who is employed by a public school;
- “fund” to mean the retired school employees group insurance fund;
- “public school” to mean a school district, another educational district whose employees are members of the TRS, a regional education service center established under certain provisions, or an open-enrollment charter school established under certain provisions; and
- “trustee” to mean the TRS.
Amends the definition effective September 1, 2004, of a “retiree” to mean:
- an individual not eligible for coverage under a plan provided by The Texas Employees Group Benefits Act or the Uniform Insurance Benefits Act for Employees of the University of Texas System and The Texas A&M University System who:
  - is at least 65 years of age and has taken a service retirement under TRS with at least 10 years of service credit in the system for actual service in a public school in Texas or with at least five years of service credit for actual public service in the public schools in Texas and with five years of military service credited in TRS; or
  - has taken a service retirement under TRS, and who has at least 10 years of service credit for actual public service in the public schools in Texas or has at least five years of service credit for actual public service in the public schools in Texas and has five years of military service credited in TRS and the sum of the individual’s age and amount of service credit described in this paragraph equals or exceeds the number 80; or
  - has taken a disability retirement under TRS; and
  - is entitled to receive monthly benefits from TRS.

Deletes effective September 1, 2004, “automatic” basic coverage and prohibits active employees of a participating school district from participating in TRS-Care.

Amends effective September 1, 2004, open enrollment periods for selection of coverage under TRS-Care plans and provides for special enrollment events.

Requires the state, through TRS, effective September 1, 2003, to make certain contributions from the fund for:
- the total cost of the basic plan covering each participating retiree;
- for each participating dependent, surviving spouse, and surviving dependent child, the amount prescribed by the General Appropriations Act to cover part of the cost of the basic plan covering the dependent, surviving spouse, and surviving dependent child; and
- requires TRS to collect the amount of premium required for basic coverage under the group program that exceeds the amount contributed by the state for each participating dependent, surviving spouse, and surviving dependent child.

Increases the state’s contribution to the fund from 0.5 percent to one percent of the salary of each active employee for each fiscal year effective September 1, 2003.

Increases each active employee’s contribution to the fund from 0.25 percent to 0.5 percent of the employee’s salary for each fiscal year, effective September 1, 2003.

Implements a cost sharing program effective September 1, 2003, as follows:
- requires the total costs for the operation of the group program to be shared among the state, the public schools, the active employees, and the retirees in the manner prescribed by the General Appropriations Act;
• in determining the allocation of total costs, limits the state’s contribution to no more than 55 percent of the total costs, requires retirees to pay at least 30 percent of the total costs, and requires the balance to be paid by active employees and public schools; and

• requires TRS, by rule, to establish ranges of payment of the share of total costs allocated to retirees with different levels concerning the individual’s participation in certain Medicare programs and allows TRS to consider years of service credit in determining cost allocations.

Requires the comptroller of public accounts effective September 1, 2003, to transfer $42 million from the Texas School Employees Uniform Group Coverage Trust Fund to the Retired School Employees Group Insurance Fund, to compensate the Retired School Employees Group Insurance Fund for money transferred from that fund by the 77th Legislature.

Experienced Teachers and Principals Contracts - S.B. 1394

by Senator Shapiro - House Sponsor: Representative Griggs

Currently experienced educators hired by a new school district work under probationary contracts that can be terminated. A new principal hired for a troubled campus needs the security of a term contract to provide an incentive to move and to weather criticism as the principal makes personnel and curriculum decisions. This bill:

Permits a school district to hire an experienced principal or teacher under a term contract without regard to whether the person has worked for the district previously.

High-School Equivalency Programs - S.B. 1470

by Senator West - House Sponsors: Representatives Grusendorf and Dutton

Permits a district or open-enrollment charter school to apply for a permit to operate a high school equivalency program.

Allows a student who has earned less than one-third of credits required to graduate two years after first enrollment in ninth grade to enroll in such a program.

Requires a student to have taken the ninth-grade assessment (TAKS) before enrolling and to take each grade level TAKS while attending the program.

Educator-Student Abuse Reports - S.B. 1488

by Senator Ogden - House Sponsor: Representative Grusendorf

Provides a specific duty for educators, other school employees, and employees of a regional education service center to report abuse involving a teacher and a minor or student.
Requires a written report to be submitted to the Texas Board of Educator Certification (TBEC) within seven days when a superintendent has reasonable cause to believe that an employee has a criminal record, is involved in illegal drug activities, embezzled money or misused property, attempted to get a promotion with fraudulent certification documents, committed a crime on school grounds or at a school-sponsored event, or resigned based on misconduct.

Requires the superintendent or director to notify the governing board and the educator of the TBEC report.

Provides immunity for the superintendent or director who in good faith filed a report; authorizes TBEC to sanction a superintendent or director who fails to report.

Requires the Department of Protective and Regulatory Services to inform a superintendent when it has determined that an abuse investigation involves a school employee who may have abused a student in the school.

**Career and Technology Program Effectiveness - S.B. 1820**

*by Senator Van de Putte - House Sponsors: Representative Grusendorf and Madden*

Adds to the set of academic indicators included in the public education accountability system the effectiveness of a district's career and technology program.
Credit Union Statutes Updated - H.B. 1307
by Representative Marchant - Senate Sponsors: Senator Brimer and Averitt

The Credit Union Department (department), comprised of the Credit Union Commission (CUC), the commissioner, and the department’s staff, performs a comprehensive study of the credit union statutes on a periodic basis. The department met with representatives of the credit union industry to develop a bill to modernize the credit union statutes. This bill:

Sets forth provisions for the update and modernization of statutes relating to the operation of the credit union industry and relating to the governmental entities responsible for the regulation of the credit union industry.

Reverse Mortgages - H.J.R. 23
by Representatives Hochberg and Solomons - Senate Sponsor: Senator Carona

Under the Texas Constitution, home equity loans may be refinanced, but must remain home equity loans. This assures that the constitutional consumer protections applicable to home equity loans are not circumvented by refinancing. Reverse mortgages, like home equity loans, have strong constitutional consumer protections, limiting the ability of a lender to foreclose on a homestead. This bill:

Authorizes a home equity loan secured by the homestead to be refinanced as a reverse mortgage.

Sets September 13, 2003 as the date for the election on this proposed constitutional amendment.

State Agency Authority to Interpret Home Equity Lending Laws - S.B. 1067
by Senator Carona - House Sponsor: Representative Solomons

Unlike other finance and credit laws in Texas, no state agency has the authority to interpret the home equity law. This bill:

Authorizes the State Finance Commission (SFC) and the Credit Union Commission (CUC), on request of an interested person or on their own motion, to issue interpretations of certain provisions of Article XVI of the Texas Constitution, relating to homesteads.

Provides that an interpretation under this Act is subject to Chapter 2001 (Administrative Procedure), Government Code, and is applicable to all lenders authorized to make extensions of credit under certain provisions of Article XVI, Texas Constitution, except lenders regulated by CUC.

Requires SFC and CUC to attempt to adopt interpretations that are as consistent as feasible or to state justification for any inconsistency.

Provides that this Act takes effect on the date on which the constitutional amendment proposed by the 78th Legislature, Regular Session, 2003, authorizing a home equity line of credit, providing for administrative interpretation of home equity lending law, and otherwise relating to the making, refinancing, repayment, and
enforcement of home equity loans takes effect (S.J.R. 42), and that if that amendment is not approved by the voters, this Act has no effect.

(See S.J.R. 42, page 105)

Character Responsibility Requirement for Mortgage and Loan Officers - S.B. 1577
by Senator Carona - House Sponsor: Representative Flynn

Under the Mortgage Broker License Act, a person is ineligible for a mortgage broker or loan officer license if the individual has been convicted of certain criminal offenses. However, current law does not place character responsibility or general fitness requirements on license applicants. Because mortgage brokers are engaged in the business of brokering loans on homesteads and other real property, it is important that consumers know that their mortgage broker is not only licensed but also of good character and general fitness to be a mortgage broker. This bill:

- Adds a character responsibility requirement for a mortgage broker and loan officer license.
- Requires licensees to not be in violation of orders issued by the savings and loan commissioner, any commission rule, or any provision of the Mortgage Broker License Act.

Mortgage Broker and Loan Officer Licensing Examination - S.B. 1578
by Senator Carona - House Sponsor: Representative Flynn

Current law does not require applicants for mortgage broker or loan officer licenses to demonstrate their knowledge of the mortgage lending industry or the responsibilities of their proposed profession. This bill:

- Requires an applicant for a mortgage broker license to provide the savings and loan commissioner (commissioner) with satisfactory evidence of having passed an examination, offered by a testing service or company approved by the Texas Finance Commission, that demonstrates knowledge of the mortgage industry and the role and responsibilities of a mortgage broker.
- Requires an applicant for a loan officer license to provide the commissioner with satisfactory evidence of having passed an examination, offered by a testing service or company approved by the Texas Finance Commission, that demonstrates knowledge of the mortgage industry the role and responsibilities of a loan officer.
Private Activity Bonds - S.B. 1664
by Senators Averitt and Lindsay - House Sponsors: Representative Christian, et al.

Makes certain programmatic changes to the state’s private activity bond allocation program for tax-exempt bonds for single-family housing mortgage revenue bonds, small issue industrial development bonds (enterprise and empowerment zones), certain state-voted bond issues, student loan bonds, multi-family housing, sewage facilities, and solid and hazardous waste disposal facilities.

Increases the private activity bond application fee for residential rental projects from $500 to $5,000.

Authorizes the Bond Review Board to retain $1,000 of the $5,000 fee to offset the costs of program administration.

Authorizes the remainder of the fee, $4,000, to be transferred to the Texas Department of Housing and Community Affairs (TDHCA) to establish an affordable housing research and information program.

Requires TDHCA to establish an affordable housing research and information program and to contract for the following market studies:
- determination of the need for affordable housing in census tracts throughout the state;
- research the effect of affordable housing projects on property values in surrounding neighborhoods;
- research affordable housing design and development approaches that enhance community acceptance of affordable housing; and
- development of public education and outreach programs for affordable housing projects.

FBI Background Check Used for Mortgage and Loan Officers - S.B. 1667
by Senator Averitt - House Sponsor: Representative Flynn

Current law requires the savings and loan commissioner (commissioner) to obtain criminal history information from the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) for applicants for a mortgage broker or loan officer license. However, this authorization does not meet the stringent federal requirements for obtaining FBI data. Relying solely on DPS background checks is not sufficient because applicants may have moved here from another state, and their criminal history from other states will not be included in a DPS background check. This bill:

Requires the commissioner to obtain both DPS and FBI criminal history record information on an applicant.

Requires each applicant to submit with the application fingerprint and other necessary information.

Authorizes the commissioner to submit the fingerprint and other information to the FBI, and designates DPS as the recipient of the criminal history record information.
Authorizes criminal history record information obtained from the FBI to be released or disclosed only to a governmental entity or as authorized by federal statute, federal rule, or federal executive order.

Provides that the commissioner is entitled to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an applicant for or holder of a mortgage broker or loan officer license.

Authorizes criminal history record information obtained by the commissioner to be released or disclosed in a certain specified manner.

**Home Equity Line of Credit in Constitution - S.J.R. 42**

*by Senator Carona - House Sponsor: Representative Solomons*

The Texas Constitution prohibits the forced sale of a homestead except for very limited purposes, including the non-payment of taxes or a valid lien secured by the homestead. Texans have been able to borrow against the equity in their homes and use the funds for any purpose since 1998, when a constitutional amendment authorizing home equity loans took effect. Any refinancing of debts secured by the homestead which include a home equity loan must be a home equity loan, not a first lien. No state agency currently has the authority to interpret home equity law, leaving the resolution of questions over the meaning of the law exclusively to the judiciary. This bill:

Requires and provides that the homestead of a family or of a single adult person is to be protected from forced sale, for the payment of all debts except for certain circumstances, including an extension of credit that:

- is not a form of open-end account that may be debited from time to time or under which credit may be extended from time to time unless the open-end account is a home equity line of credit;
- is scheduled to be repaid in substantially equal successive periodic monthly installments, rather than monthly installments, not more often than every 14 days and not less often than monthly, or if the extension of credit is a home equity line of credit, in periodic payments;
- is closed not before certain times, including one business day after the date that the owner of the homestead receives a final itemized disclosure of the actual fees, points, interest, costs, and charges that will be charged at closing;
- is made by certain persons that have not been found by a federal regulatory agency to have engaged in the practice of refusing to make loans because the applicants for the loans reside or the property proposed to secure the loans is located in a certain area, including a person regulated by the state as a mortgage broker; and
- is made on certain conditions, including that:
  - the lender or any holder of the note for the extension of credit, with a certain exception, shall forfeit all principal and interest of the extension of credit if the lender or holder fails to comply with the lender’s or holder’s obligations under the extension of credit and fails to correct the failure to comply not later than the 60th day after the date, rather than within a reasonable time after, the lender or holder is notified by the borrower of the lender’s failure to comply in certain specified manners; and
the lender or any holder of the note for the extension of credit shall forfeit all principal and interest of the extension of credit if the extension of credit is made by certain persons or if the lien was not created under a written agreement with the consent of each owner and each owner’s spouse.

Provides that a home equity line of credit is a form of an open-end account that may be debited, under which credit may be extended, and under which:

- the owner requests advances, repays money, and reborrows money;
- any single debit or advance is not less than $4,000;
- the owner does not use a credit card, debit card, preprinted solicitation check, or similar device to obtain an advance;
- any applicable fees are charged and collected only at the time the extension of credit is established and no fee is charged or collected in connection with any debit or advance;
- the maximum principal amount that may be extended under the account, when added to the aggregate total of the outstanding principal balances of all indebtedness secured by the homestead on the date the extension of credit is established, does not exceed 80 percent of the fair market value of the homestead;
- no additional debits or advances are made if the total principal amount outstanding exceeds an amount equal to 50 percent of the fair market value of the homestead as determined on the date the account is established;
- the lender or holder may not unilaterally amend the extension of credit; and
- repayment is to be made in regular periodic installments.

Authors the legislature to delegate to one or more state agencies the power to interpret certain provisions of the Constitution relating to home equity lending.

Requires the submission to the voters of a constitutional amendment authorizing a home equity line of credit, providing for administrative interpretation of home equity lending law, and otherwise relating to the making, refinancing, repayment, and enforcement of home equity loans.

(See S.B. 1067, page 102)
Coordinated Fire Safety and Sanitation Inspection of Child-Care Facilities - H.B. 2866
by Representative Swinford - Senate Sponsor: Senator Madla

Prohibits the Texas Department of Protective and Regulatory Services (DPRS) from inspecting a licensed day-care center, licensed group day-care home, or registered family home for compliance with DPRS fire safety or sanitation standards if the facility, at the time of the DPRS inspection provides DPRS with documentation relating to a current fire safety or sanitation inspection, as applicable, performed by a political subdivision of this state that indicates that the facility is in compliance with the applicable standards of the political subdivision.

Requires DPRS, if the documentation provided indicates that the facility was required to take corrective action or that the political subdivision imposed a restriction or condition on the facility, to determine whether the facility took the required corrective action or complied with the restriction or condition.

Authorizes DPRS to inspect a child-care facility for compliance with DPRS fire safety or sanitation standards if the facility does not provide the required documentation or DPRS determines that the facility did not take a corrective action or comply with a restriction or condition.

Requires DPRS to report to the appropriate political subdivision any violation of fire safety or sanitation standards observed by DPRS at a facility subject.

Coordinating Early Childhood Education and Certain Day Care Services - S.B. 76
by Senators Zaffirini and Hinojosa - House Sponsors: Representatives Grusendorf and Villareal

Requires a school district to consider using existing Head Start or other day-care programs before implementing a new prekindergarten program.

Allows the commissioner of education (commissioner) to expend funds appropriated for this purpose to coordinate early childhood care and education programs; develop and distribute prekindergarten and school-readiness information to parents; and to develop standards for model early childhood care and education coordination.

Allows a school district to use state funding appropriated for the coordination effort to contract with a public or private entity to provide services.

Permits the commissioner to waive a state law or rule relating to early childhood education that is more restrictive than or conflicts with federal requirements.

Requires any day-care, early childhood, Head Start, or Early Head Start provider to coordinate with the Texas Education Agency, Texas Workforce Commission, and local workforce boards regarding subsidized child-care services.
Requires coordination to include referral to child-care providers of the highest quality and to ensure that full-day, year-round child care services are available for low-income parents who either work or participate in education or training.

Provides for a demonstration project with the State Center for Early Childhood Development (SCECD) and other entities for rating providers and evaluating the effectiveness of coordination of services.

Requires the SCECD to create an advisory board of representatives of relevant state agencies.

Requires the advisory board to report on data collection and various aspects of coordination of early childhood development services to the legislature and the governor by September, 2004.

Carbon Monoxide Detectors in Certain Facilities - S.B. 100
by Senators Van de Putte and Gallegos - House Sponsor: Representative Uresti

Requires by January 1, 2004, each day-care, group day-care home, and family home to have carbon monoxide detectors that meet requirements relating to the placement, installation, number, and maintenance of those detectors as established by the Texas Department of Protective and Regulatory Services.

Exempts a day-care center from the carbon monoxide detector requirements if the day-care center is located in a school facility that is subject to the school facility standards adopted by the commissioner of education or similar safety standards adopted by the board of a local school district.
Termination of the Parent-Child Relationship and Adoption - H.B. 233
by Representative Goodman - Senate Sponsor: Senator Harris

Under current law, prospective adoptive parents do not have standing to file suit for adoption without a valid voluntary relinquishment of parental rights signed by the parent not earlier than 48 hours after the birth of a child. This bill:

Authorizes a birth parent to confer standing in a verified written statement to a prospective adoptive parent prior to birth and sets out what the statement must contain.

Prohibits use of a statement to confer standing in a suit filed by a governmental entity to protect the health and safety of the child and to establish foster care placement of the child.

Authorizes a person who executes a statement to confer standing to revoke the statement at any time before the person executes an affidavit for voluntary relinquishment of parental rights.

Improving Children’s Advocacy Centers - H.B. 263
by Representative Goodman, et al. - Senate Sponsor: Senator Ellis

Children’s Advocacy Centers (CACs) were established to ensure effective coordination among the various professionals who investigate and prosecute cases of child abuse. This bill:

Clarifies practices relating to the organizational structure, ongoing operations, and delivery of services by CACs.

Requires the inclusion in CAC activities and on the governing board and the multidisciplinary team of a CAC of certain representatives from the area served by that CAC who are involved in child abuse investigations, including representatives from a law enforcement agency that investigates child abuse, the child protective services division of the Texas Department of Protective and Regulatory Services (DPRS), and the county or district attorney’s office involved in the prosecution of child abuse cases.

Authorizes a CAC’s multidisciplinary team to include professionals involved in the delivery of services, including medical and mental health services, to child abuse victims and the victims’ families.

Adds to the list of required contractor participation elements that a contractor operates under a working protocol that includes the CAC’s procedures for conducting case reviews and forensic interviews and for ensuring access to specialized medical and mental health services, and policies regarding confidentiality and conflict resolution.

Adds a member of the governing board of a CAC, and an employee, a volunteer, or an applicant volunteer of a CAC, to the list of persons for whom DPRS is authorized to conduct criminal background checks.
Attorney’s Fees for the Possession of or Access to a Child - H.B. 886  
by Representatives Dutton and Hodge - Senate Sponsor: Senator Averitt

Current Texas law requires a respondent who fails to make child support payments to pay reasonable attorney’s fees and all court costs in addition to the arrearage. Presently, there is no provision for the awarding of attorney’s fees when a parent is deprived of possession of or access to a child. This bill:

Authorizes the awarding of attorney’s fees when a court finds that a parent has failed to comply with an order of possession of or access to a child.

Conservatorship and Possession of a Child - H.B. 913  
by Representatives Goodman and Dutton - Senate Sponsor: Senator Harris

Amends family law regarding conservatorship and possession of a child to correct inconsistent or outdated terminology and reflect the current practice and case law.

Prohibits a court from contravening a jury verdict regarding certain issues concerning conservatorship, including which joint managing conservator may designate the child’s primary residence and any restrictions on the geographic area in which the joint managing conservator may designate such residence.

Changes the weekday that certain possessory managing conservators have a right to possession of the child from Wednesday to Thursday.

Limited Contact with a Child Following Relinquishment of Parental Rights - H.B. 1536  
by Representatives Reyna and Goodman - Senate Sponsor: Senator Shapiro

Authorizes a court, in an order terminating the parent-child relationship when the biological parent has voluntarily relinquished parental rights, to provide limited post-termination contact with the child, if the court finds it to be in the best interest of the child.

Provides that the order of termination may include terms that allow the biological parent to receive certain information regarding the child, provide written communications to the child, and have limited access to the child.

Provides that the terms of such an order regarding limited post-termination contact may be enforced only if the party seeking enforcement pleads and proves that the party attempted in good faith to resolve the matter through mediation. The terms of an order are not enforceable by contempt.

Prohibits modification of the terms of an order of termination regarding limited post-termination contact.

Declares that providing limited post-termination contact does not affect the finality of a termination order or grant standing to the parent whose parental rights have been terminated to file certain actions.
Provides that an order terminating the parent-child relationship may not require that a subsequent adoption order include terms regarding limited post-termination contact between the child and a biological parent.

**Adoption of a Child by a Foster Parent - H.B. 1648**  
*by Representative Morrison - Senate Sponsor: Senator Shapiro*

Currently, a foster parent must wait 12 months before filing a petition to adopt a child in the foster parent’s care. This bill:

Allows a person who is the foster parent of a child to file a suit to adopt the child at any time after the person has been approved to adopt the child.

**Representation in Suits Affecting the Parent-Child Relationship - H.B. 1815**  
*by Representatives Goodman and Wise - Senate Sponsor: Senator Harris*

Clarifies the roles of certain persons appointed by the court to represent a person in a suit affecting the parent-child relationship to avoid confusion or multiple appointments.

Creates the position of the "amicus attorney," whose role is to provide legal services necessary to assist the court in protecting a child's best interests, rather than to provide legal services to the child.

Defines various terms. "Attorney ad litem" is defined as an attorney who provides legal services to a person, including a child, and who owes to the person the duties of undivided loyalty, confidentiality, and competent representation. "Guardian ad litem" is defined as a person appointed to represent the best interests of a child, including a volunteer, a professional other than an attorney, or an attorney ad litem appointed to serve in the dual role.

Sets out various powers and duties of the amicus attorney, attorney ad litem, and guardian ad litem.

Authorizes a court, when appointment of both a guardian ad litem and of an attorney ad litem are required under law, to appoint an attorney to serve in the dual role.

Sets out when a court must or may appoint an amicus attorney, attorney ad litem, or a guardian ad litem.

Authorizes a court to appoint a charitable organization composed of volunteers or an individual as a guardian ad litem for the child in certain suits. Sets out the qualifications for such organizations or individuals.
Family Violence Protective Orders in Custody Proceedings - H.B. 2099
by Representatives Dutton and Hodge - Senate Sponsor: Senator West

Requires a court, in determining conservatorship, right of possession, or access to a child, to consider whether a family violence protective order has been issued against the parent during the two-year period preceding the filing of the suit or during the pendency of the suit.

Faith-Based Recruitment of Foster Parents - S.B. 1489
by Senator Ogden - House Sponsor: Representative Wohlgemuth

Data from the Texas Department of Protective and Regulatory Services (DPRS) indicates that approximately 15,000 children are in need of foster care placement, but only 7,000 foster families are eligible to provide such care. This bill:

Requires DPRS to develop a program to recruit and retain foster parents from faith-based organizations.

Requires DPRS to collaborate with faith-based organizations to inform prospective foster parents about the need for foster parents, the requirements for becoming a foster parent, and any other aspect of the foster care program that is necessary to recruit foster parents.

Requires DPRS to provide training for prospective foster parents recruited from faith-based organizations.

Requires DPRS to identify and recommend ways in which faith-based organizations may support persons as they are recruited, trained, and serve as foster parents.

Provides that a faith-based organization, including the organization’s employees and volunteers, that participates in a program under this act is subject to certain civil liability.

Provides that a faith-based organization that provides financial or other assistance to a foster parent or to a member of the foster parent’s household is not liable for damages arising out of the conduct of the foster parent or a member of the foster parent’s household.
Court-Supervised Effort to Improve Child Support Payments - H.B. 518
by Representative Menendez - Senate Sponsor: Senator Whitmire

Authorizes a court in a suit involving the termination of the parent-child relationship or one brought by a government entity to protect a child in which the last name of the respondent is unknown to order substituted service of citation by publication, including publication by posting at the courthouse door for a specified time.

Authorizes a court to exempt an obligor who is delinquent in child support payments from state law barring payment of state grants or loans or payment on state contracts as part of a court-supervised effort to improve earnings and child support payments.

Ineligibility of a Delinquent Child Support Obligor - H.B. 529
by Representative Betty Brown - Senate Sponsor: Senator Deuell

Provides that a child support obligor who is more than six months delinquent in paying child support is not eligible to receive student financial assistance that is paid directly to the obligor from the comptroller of public accounts (comptroller).

Provides that this Act does not apply to an obligor who submits required documentation to the comptroller that the obligor is not delinquent or that errors have been corrected.

Establishment and Enforcement of Child and Medical Support Obligations - H.B. 1878
by Representative Dutton, et al. - Senate Sponsor: Senator Harris

Makes technical corrections and clarifies certain sections of the Family Code relating to the determination of parentage, the establishment and enforcement of child support and medical support obligations, and administrative procedures used by the Texas Title IV-D child support enforcement program.

Provides that a parent ordered to provide health insurance or who fails to pay the other parent additional child support for the cost of health insurance is liable for certain costs.

Requires a financial institution doing business in Texas to comply with liens and levies imposed in relation to child support and medical support obligations regardless of whether the institution’s corporate headquarters is located in this state.

Requires an insurance carrier that receives an order of withholding for workers’ compensation benefits to withhold a maximum of 50 percent of the person’s disposable earnings, regardless of whether the income is paid in a lump sum or as periodic payments.

Authorizes a presumption of paternity to be rebutted only by adjudication or the filing of a valid denial of paternity by a presumed father in conjunction with the filing by another person of a valid acknowledgement of paternity.
Establishes that proceedings are open to the public as in other civil cases and papers and records are available for public inspection.

**Medical Support Orders in Child Support Cases - H.B. 2001**  
*by Representative Dutton - Senate Sponsor: Senator Harris*

Currently, the Texas Family Code provides for the establishment and enforcement of child support and medical support obligations in suits affecting the parent-child relationship. This bill:

Requires the Office of the Attorney General (OAG) to send a national medical support notice to employers of child support obligors in appropriate cases, as required by federal law to bring Texas into compliance. All state Title IV-D agencies are required to use the national medical support notice to enforce the health care coverage provision in a child support order.

Extends the use of the notice to child support cases not being enforced by the Title IV-D agency.

Subjects an employer who fails to enroll a child in a health care plan, fails to withhold or remit premiums or cash medical support, or discriminates in hiring or employment on the basis of a medical support order or notice, to certain penalties and fines.

**Fees and Costs in Certain Child Support Matters - H.B. 2588**  
*by Representative Goodman - Senate Sponsor: Senator Harris*

Provides that if a respondent is in contempt of court for failure to pay child support and owes $20,000 or more in child support, the court may not waive the requirement that the respondent pay attorney’s fees and costs unless the court also finds that the respondent: is involuntarily unemployed or is disabled; and lacks the financial resources to pay the attorney’s fees and costs.

Authorizes a Title IV-D agency to charge a $25 annual service fee in a Title IV-D case if the recipient of Title IV-D services has never received public assistance under the federal Social Security Act and receives more than $500 in support payments in a year.

Authorizes a Title IV-D agency to impose and collect a fee as authorized by federal law for each request for parent locator services.

Provides that the state disbursement unit established and operated by the Title IV-D agency may collect a monthly service fee of $3 deducted from support payments in cases for which the Title IV-D agency is not providing services.

Authorizes a Title IV-D agency to establish procedures for the imposition of fees and recovery of costs authorized under this Act.
Provides that the attorney general child support application and service fee account is an account in the general revenue fund in the state treasury, consisting of fees collected by a Title IV-D agency.

Authorizes the state disbursement unit to deduct the amount of the fee from the support payment before the payment is disbursed to the obligee.

Enforcement of Child Support Obligations - S.B. 1805

by Senator Harris - House Sponsor: Representative Dutton

In 1997, the 75th Texas Legislature enacted the 1996 version of the Uniform Interstate Family Support Act (UIFSA). In 2000, the child support enforcement community asked for a review of UIFSA in light of the expanded experience of the states in using its provisions. In March 2001, the UIFSA drafting committee recommended certain changes to the Act. This bill:

Conforms relevant provisions, primarily Chapter 159 of the Texas Family Code, to the 2001 version of UIFSA, keeping Texas fully in compliance with the congressional mandate.

Adjudication of Paternity - S.B. 1807

by Senator Harris - House Sponsor: Representative Dutton

Provides that a man is presumed to be the father of a child if, during the first two years of the child's life, he continuously resided in the household in which the child resided and he represented to others that the child was his own.

Provides that once a child having no presumed, acknowledged, or adjudicated father becomes an adult, a proceeding to adjudicate the parentage of the adult child may only be maintained by the adult child.
Admission of Video Testimony in Child Abuse or Neglect Proceedings - H.B. 1869
by Representatives Baxter and Mercer - Senate Sponsor: Senator Williams

With the exception of a pilot program in Harris County, current law does not allow courts to accept videoconference testimony from certain professionals in proceedings regarding alleged abuse or neglect of a child. This bill:

Authorizes the court, in a proceeding brought by the Department of Protective and Regulatory Services (DPRS) concerning a child who is alleged in a suit to have been abused or neglected, to order, with the agreement of the counsel for the state and the defense that the testimony of a professional, as defined by this Act, may be taken outside the courtroom by videoconference.

Requires the court, in ordering testimony to be taken outside the courtroom by videoconference, to ensure that the videoconference testimony allows the parties and attorneys involved in the proceeding to be able to see and hear the professional as the professional testifies and the professional to be able to see and hear the parties and attorneys examining the professional while the professional is testifying.

Prohibits the professional, if the court permits the testimony of a professional by videoconference to be admitted during the proceeding, from being compelled to be physically present in court during the same proceeding to provide the same testimony unless ordered by the court.

Vaccines for Children and Immunization Education - H.B. 1920
by: Representative Capelo - Senate Sponsor: Senator Zaffirini

Texas has participated in the federal Vaccines for Children (VFC) program which provides eligible children, including those of Native American or Native Alaskan heritage, children on Medicaid, or those enrolled in the Children’s Health Insurance Program (CHIP), and underinsured children whose insurance does not provide coverage for vaccines, access to lower cost immunizations. According to the Texas Department of Health (TDH), 70 percent of children born in Texas qualify for VFC, but the fee paid to physicians for administering vaccines is below the cost of providing the vaccine and procedural requirements make participation in the program unnecessarily burdensome to providers. This bill:

Requires TDH to develop continuing education programs for providers relating to immunizations and the VFC program operated by TDH.

Requires TDH to establish a work group composed of physicians, nurses, TDH representatives, representatives of managed care organizations that provide health care services, representatives of health plan providers that provide certain health care services, and members of the public to assist TDH in developing the continuing education programs and materials.

Requires the Health and Human Services Commission (HHSC) to ensure that a provider can enroll in the VFC program on the same form the provider completes to apply as a Medicaid health care provider.
Requires HHSC to allow providers to report vaccines administered under the VFC program to the immunization registry and to use the immunization registry, including individually identifiable information in accordance with state and federal law, to determine whether a child has received an immunization.

Childhood Lead Poisoning Prevention Act - H.B. 3264
by Representative Hunter - Senate Sponsor: Senator Deuell

An estimated one million American children potentially have excessive levels of lead in their blood. Without prevention or treatment, elevated blood lead levels can result in an impaired ability to think, concentrate, and learn. Some believe that by educating property owners on how to make their property lead-free or lead-safe and educating tenants about lead poisoning, the state can protect children and reduce the high costs of treating lead poisoning. This bill:

Authorizes this Act to be known as the Childhood Lead Poisoning Prevention Act.

Provides that the Childhood Lead Poisoning Prevention Act represents an effort by Texas to prioritize education, screening, and the overall prevention of childhood lead poisoning and sets forth statistical information about childhood lead poisoning.

Authorizes the Texas Board of Health (board) to implement policies and procedures to promote the elimination of childhood lead poisoning within the state.

Authorizes the board to adopt measures to:
- significantly reduce the incidence of childhood lead poisoning throughout the state;
- improve public awareness of lead safety issues and educate both property owners and tenants about practices that can reduce the incidence of lead poisoning; and
- encourage the testing of children likely to suffer the consequences of lead poisoning so that prompt diagnosis and treatment and the prevention of harm are possible.

Investigation of Certain Reports of Child Abuse or Neglect - S.B. 669
by Senator Ogden - House Sponsor: Representative Woolley

Currently, the Department of Protective and Regulatory Services (DPRS) and local law enforcement are required to conduct a joint investigation of a report of serious physical or sexual abuse of a child. Local law enforcement and DPRS are not expressly required to respond jointly to a report of serious physical or sexual abuse of a child. This bill:

Requires an investigation of a report to DPRS that is assigned the highest priority in accordance with DPRS rules and that alleges an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child to be conducted jointly by a peace officer from the appropriate local law enforcement agency and DPRS or the agency responsible for conducting an investigation.
Requires DPRS and the appropriate local law enforcement agency to conduct an investigation, other than an investigation relating to a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare in a facility, if the investigation is of a report of child abuse or neglect that is assigned the highest priority in accordance with DPRS rules and that alleges an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child.

Requires DPRS to immediately notify the appropriate local law enforcement agency of the report on receipt of a report described by this Act.

Requires a peace officer and DPRS to investigate jointly as soon as possible after being notified by DPRS of the report, but no later than 24 hours after being notified, a report that is assigned the highest priority in accordance with rules adopted by DPRS that alleges an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child by a person responsible for the care, custody, or welfare of the child.

Requires the peace officer to accompany the DPRS investigator in initially responding to such reports.
Performance of Asbestos Surveys - H.B. 1723
by Representatives Gerten and Zedler - Senate Sponsor: Senator Averitt

The 70th Texas Legislature enacted the Texas Asbestos Health Protection Act to regulate persons engaged in the business of removing or encapsulating asbestos in public buildings. The 73rd Legislature transferred enforcement authority for asbestos regulation required by the National Emission Standard for Hazardous Air Pollution from the Texas Natural Resource Conservation Commission to the Texas Department of Health (TDH). The 77th Legislature enacted S.B. 509 to prohibit a municipality that issues a renovation or demolition permit for a public or commercial building from doing so unless the applicant provides acceptable evidence that an asbestos survey of the affected parts of the building has been completed by a licensed asbestos surveyor or an engineer or architect has certified the lack of asbestos in the affected parts of the building. Under current law, a building owner could be required to conduct separate asbestos surveys for each activity relating to construction, renovation, or finish-out of a building if such activities occur at different times. This bill:

Clarifies requirements related to asbestos surveys.

Provides that an asbestos survey performed for a public building is valid if the survey was performed in compliance with the law in effect at the time and asbestos-containing material was identified.

Authorizes any activity for which an asbestos survey is required that is initiated during the time an existing survey is valid to be conducted without obtaining a new asbestos survey.

Immunization Registry - H.B. 1921
by Representative Capelo, et al. - Senate Sponsor: Senator Zaffirini

In 1994, the Texas Department of Health (TDH) established an immunization tracking system (ImmTrac) to monitor immunization rates for children across Texas. ImmTrac also serves as an information depository for providers who are able to determine if a child’s immunization record is up to date and for children who do not consistently see the same health care provider, protection from over immunization. The lack of data from the private sector in ImmTrac, however, distorts information relating to the actual rate of immunizations in Texas and makes the system less reliable. This bill:

Provides that the written consent from a parent or guardian authorizing inclusion in ImmTrac is required to be obtained only one time and remains valid until the child is 18 years of age unless the consent is subsequently withdrawn in writing.

Authorizes a parent, managing conservator, or guardian of a child to provide the written consent by using an electronic signature on the child's birth certificate.

Prohibits TDH from retaining individually identifiable information about any person for whom consent has been withdrawn.
Requires a payor that receives data elements from a health care provider and/or a health care provider who administers an immunization to a person younger than 18 years of age to provide the data elements to TDH in a format prescribed by TDH.

Requires a payor to provide TDH with only the data elements the payor receives from a health care provider, and a health care provider who administers an immunization to a person younger than 18 years of age to provide data elements regarding an immunization to TDH in a format prescribed by TDH.

Requires TDH to verify consent before including the reported information in the ImmTrac registry and prohibits TDH from retaining individually identifiable information about a person for whom consent cannot be verified.

Provides that an insurance company, health maintenance organization, or other organization is not required to provide an immunization history to TDH for whom consent has not been obtained or for whom consent has been withdrawn.

Requires TDH to provide notice to a health care provider that submits an immunization history for a person for whom consent cannot be verified and requires the notice to contain instructions for obtaining consent and resubmitting the immunization history to TDH.

Authorizes TDH and health care providers to use the registry to provide notice by certain means.

Requires TDH to provide instruction and education to providers about the immunization registry provider application and enrollment process and to initially target providers in the geographic regions of the state with immunization rates below the state average for preschool children and expedite the processing of provider applications.

Provides that a person, including a health care provider, payor, or an employee of TDH who submits or obtains in good faith immunization data elements to or from TDH in compliance with the provisions of this section and any rules adopted under this law is not liable for any civil damages.

Requires TDH, the first time TDH receives registry data for a child for whom TDH has received consent to be included in the registry, from a person other than the child's parent, managing conservator, or guardian, to send a written notice to the child's parent, managing conservator, or guardian disclosing certain information.

Requires TDH, on discovering that consent to be included in the registry has not been granted, to exclude the child's immunization records from the registry and any other registry-related TDH record that individually identifies the child.

Requires TDH, on receipt of a written request to exclude a child's immunization records from the registry, to send to a parent, managing conservator, or guardian who makes the request a written confirmation of receipt of the request for exclusion and to exclude the child's records from the registry.
Provides that TDH commits a violation if TDH fails to exclude a child's immunization information from the registry if consent is not given or if the parent or managing conservator, or guardian requests exclusion in writing.

Requires TDH to accept a written statement from a parent, managing conservator, or guardian communicating to TDH that a child should be excluded from the registry, including a statement on the child's birth certificate, as a request for exclusion.

Authorizes the parent, managing conservator, or guardian, if the parent, managing conservator, or guardian of a child has reasonable concern that the child's health care provider is not submitting the immunization history to TDH and the parent, managing conservator, or guardian wants the child included in the registry, to provide the child's immunization history directly to TDH to be included in the immunization registry.

Authorizes the parent, managing conservator, or guardian of a child to send evidence of the child's immunization history to TDH by facsimile transmission or by mail.

Requires the Texas Board of Health (board) to develop rules to ensure that the immunization history submitted by a parent, managing conservator, or guardian is medically verified immunization information.

Provides that the information that individually identifies a child received by TDH for the immunization registry is confidential and may be used by TDH for registry purposes only.

Prohibits TDH, unless specifically authorized, from releasing registry information to any individual or entity without the consent of the person or, if a minor, the parent, managing conservator, or guardian of the child.

Prohibits a person required to report information to TDH for registry purposes or authorized to receive information from the registry from disclosing the individually identifiable information to any other person without written consent of the parent, managing conservator, or guardian of the child.

Provides that registry information is not subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this law and is not or admissible in any civil, administrative, or criminal proceeding.

Provides that if the provisions of this chapter relating to the use or disclosure of information in the registry are more stringent than the Health Insurance Portability and Accountability Act and Privacy Standards then the use or disclosure of information in the registry is governed by this chapter.

Provides that a person, including a health care provider, a payor, or an employee of TDH, that submits in good faith an immunization history or data to or obtains in good faith an immunization history or data from TDH in compliance with the provisions of this section and any rules adopted under this section is not civilly or criminally liable for furnishing the information required under the law.

Authorizes TDH to release non-identifying summary statistics related to the registry that do not individually identify a child.
Provides that a person commits an offense if the person negligently releases or discloses immunization registry information in violation of this law, fails to exclude a child's immunization information as required by law, or negligently uses information in the immunization registry to solicit new patients or clients or for other purposes that are not associated with immunization or quality-of-care purposes, unless authorized under this law.

Requires TDH, by January 1, 2005, to adopt rules and forms necessary to implement this Act and prohibits the data reported under this Act from being accepted or released by TDH until such rules and forms have been adopted.

Certificates of Death After a Catastrophe - H.B. 2185
by: Representatives Geren and Zedler - Senate Sponsor: Senator Brimer

In Texas, if an individual is believed to have been killed in a catastrophic event but the body or remains are not recovered obtaining issuance of a death certificate can be extremely burdensome. This bill:

Defines “catastrophe” to mean the occurrence of a substantial force that causes widespread or severe damage, injury, or loss of life or property and from which it is not reasonable to assume that a person could survive.

Requires a local registrar to issue and file a certificate of death by catastrophe for a person if an affidavit is submitted to the registrar stating that:
- the person was last reasonably believed to be at the scene of a catastrophe;
- at least 10 days have passed since the day of the catastrophe;
- a diligent search has been made by a governmental authority and the authority has concluded the search for the person;
- the catastrophe was not intentionally caused by the person; and
- the affiant does not know whether the person is alive or dead, has received no information about the person since the catastrophe, is not aware of any custody or guardianship issues involving the person, and is not aware of any reasonable motive for the person to disappear or for another person to abduct the person.

Requires the affidavit to be accompanied by a written statement signed by a governmental authority that a search was conducted and concluded.

Authorizes the Texas Department of Health to issue a certificate of death by catastrophe for a minor or a person for whom a guardian has been appointed who is the subject of a custody or guardianship dispute only if all parties to the dispute submit an affidavit.

Requires an insurer to accept as proof of death of an insured a certificate of death by catastrophe issued under this law.
Advanced Directives for Medical Treatment and Treatment Decisions - S.B. 1320


The 76th Texas Legislature created the “Advance Directives Act (Act).” The United States Supreme Court has held that individuals have a constitutional right to consent or refuse to consent to medical treatment. This bill:

Provides that this Act is subject to applicable federal law and regulations relating to child abuse and neglect to the extent applicable to the state based on its receipt of federal funds.

Requires an ethics or medical committee of a hospital, medical organization, university medical school or health science center, health maintenance organization (including an independent practice association or other physician association whose committee is a condition of contract with the health maintenance organization,) extended care facility, hospital district, or hospital authority to review a physician’s refusal, if an attending physician refuses to honor a patient’s advance directive or a health care or treatment decision made by or on behalf of a patient.

Prohibits the attending physician from being a member of the ethics committee.

Requires the patient to be given life-sustaining treatment during the review.

Requires the patient or the person responsible for the health care decisions of the individual who has made the decision regarding the directive or treatment decision to be:

- given a written description of the ethics or medical committee review process and any other policies and procedures related to this section adopted by the health care facility;
- informed of the committee review process not less than 48 hours before the meeting called to discuss the patient’s directive, unless the time period is waived by mutual agreement;
- provided, at the time of being so informed, a copy of the appropriate statement set forth in this Act, and a copy of the registry list of health care providers and referral groups that have volunteered their readiness to consider accepting transfer of the patient or to assist in locating a provider willing to accept transfer that is posted on the website maintained by the Texas Health Care Information Council; and
- entitled to attend the meeting and receive a written explanation of the decision reached during the review process.

Requires the patient to be given available life-sustaining treatment pending transfer, if the patient or the person responsible for the health care decisions of the patient is requesting life-sustaining treatment that the attending physician has decided and the review process has affirmed is inappropriate treatment.

Provides that the patient is responsible for any costs incurred in transferring the patient to another facility.

Provides that the physician and the health care facility are not obligated to provide life-sustaining treatment after the 10th day after the written decision is provided to the patient or the person responsible for the health care decisions of the patient unless ordered to do so in accordance with this Act.
Provides that if during a previous admission to a facility a patient’s attending physician and the review process have determined that life-sustaining treatment is inappropriate, and the patient is readmitted to the same facility within six months from the date of the decision reached during the review process conducted upon the previous admission, the review provisions in this Act need not be followed if the patient’s attending physician and a consulting physician who is a member of the ethics or medical committee of the facility document on the patient’s readmission that the patient’s condition either has not improved or has deteriorated since the review process was conducted.

Requires the required statement when there is a disagreement about medical treatment in cases in which the attending physician refuses to honor an advance directive or treatment decision requesting the provision of life-sustaining treatment, or in cases in which the attending physician refuses to comply with an advance directive or treatment decision requesting the withholding or withdrawal of life-sustaining treatment, to be in a form specified by the Act.

Authorizes an attending physician or health care facility to include any additional information concerning the physician’s or facility’s policy, perspective, experience, or review procedure.

Requires the Texas Health Care Information Council (THCIC) to maintain a registry listing the identity of and contact information for health care providers and referral groups, situated inside and outside this state, that have voluntarily notified the council they may consider accepting or may assist in locating a provider willing to accept transfer of a patient.

Provides that the listing of a provider or referral group in the registry described in this section does not obligate the provider or group to accept transfer of or provide services to any particular patient.

Requires THCIC to post the current registry list on its website in a form appropriate for easy comprehension by patients and persons responsible for the health care decisions of patients and to provide a clearly identifiable link from its home page to the registry page.

Requires the registry list to separately indicate those providers and groups that have indicated their interest in assisting the transfer of:

- those patients on whose behalf life-sustaining treatment is being sought;
- those patients on whose behalf the withholding or withdrawal of life-sustaining treatment is being sought; and
- both of the above.

Requires the registry list to include a certain disclaimer.

Authorizes a minor’s parents, a minor’s legal guardian, or a minor’s managing conservator to execute an out-of-hospital do-not-resuscitate (DNR) order on behalf of a minor.

Prohibits execution of an out-of-hospital DNR order on behalf of a minor unless the minor has been diagnosed by a physician as suffering from a terminal or irreversible condition.
Authorizes a licensed nurse or person providing health care services in an out-of-hospital setting to honor a physician’s DNR order except when responding to a call for assistance.

Requires emergency medical services personnel to honor only a properly executed or issued out-of-hospital DNR order or prescribed DNR identification device in accordance with statute.

**Health and Human Services Spending - S.B. 1862**
*by Senator Bivins - House Sponsor: Representative Wohlgemuth*

Due to the current budget shortfall, state agencies and institutions of higher education were asked to prioritize spending based on core functions and essential services. Certain statutory changes are needed to conform with appropriations levels in the 2004-05 General Appropriations Act. This bill:

Imposes a quality assurance fee on each intermediate care facility for the mentally retarded, on each facility owned by a community mental health and mental retardation center, and on each facility owned by the Texas Department of Mental Health and Mental Retardation (MHMR).

Estabishes the fee as an amount established by MHMR multiplied by the number of patient days as determined in accordance with statute, payable monthly, and payable in addition to other fees imposed under statute.

Requires MHMR, no later than August 31, 2003, to pay for each facility owned by MHMR the quality assurance fee for patient days occurring between September 1, 2002, and July 31, 2003.

Provides that MHMR is not required to pay that quality assurance fee as provided by this Act if it does not take effect before September 1, 2003, and, in that event, any appropriation made to MHMR for that purpose may not be made available to MHMR for that purpose.

Sets forth requirements relating to calculating and reporting of patient days.

Authorizes HHSC, subject to legislative appropriation and state and federal law, to use money in the quality assurance fund, together with any federal money available to match that money to:

- offset expenses incurred to administer the quality assurance fee under this Act;
- increase reimbursement rates paid under the Medicaid program to facilities or waiver programs for persons with mental retardation operated in accordance with federal law; or
- for any other health and human services purpose approved by the governor and Legislative Budget Board.

Requires HHSC to ensure, if money in the quality assurance fund is used to increase a reimbursement rate in the Medicaid program, that the reimbursement methodology used to set that rate provides incentives to increase direct care staffing and direct care wages and benefits.
Repeals provision directing HHSC or MHMR at the direction of HHSC to by rule adopt the formula by which amounts received under this section increase the reimbursement rates paid to facilities and Home and Community-Based Services and Mental Retardation Local Authority waiver programs under the Medicaid program.

Requires DHS, in determining whether an applicant is eligible for assistance, to exclude from the applicant’s available resources:

- $1,000 for the applicant’s household, including a household in which there is a person with a disability or a person who is at least 60 years of age; and the fair market value of the applicant’s ownership interest in a motor vehicle, but not more than the amount determined according to the following schedule:
  - $4,550 on or after September 1, 1995, but before October 1, 1995;
  - $4,600 on or after October 1, 1995, but before October 1, 1996;
  - $5,000 on or after October 1, 1996, but before October 1, 1997; and
  - $5,000 plus or minus an amount to be determined annually beginning on October 1, 1997, to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

Applies sanctions and penalties provisions to a person receiving financial assistance on or after the effective date of the Act, regardless of the date on which eligibility for financial assistance was determined.

Requires the Department of Human Services (DHS), subject to appropriated state funds, in its adoption of rules to establish a medically needy program that serves pregnant women, children, and caretakers who have high medical expenses.

Requires DHS to permit an application requesting Medicaid for a child under 19 years of age to be conducted by mail instead of through a personal appearance at a DHS office, unless the DHS determines that the information needed to verify eligibility cannot be obtained in that manner.

Authorizes DHS, by rule, to develop procedures requiring an application for a child described by this subsection to be conducted through a personal interview with a DHS representative only if DHS determines that information needed to verify eligibility cannot be obtained in any other manner.

Requires DHS to permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by telephone or mail instead of through a personal appearance at a DHS office, unless DHS determines that the information needed to verify eligibility cannot be obtained in that manner.

Authorizes DHS, by rule, to develop procedures to determine whether there is a need for a recertification review of a child to be conducted through a personal interview with a DHS representative. Requires procedures developed under this Act to be based on objective, risk-based factors and conditions and to focus on a targeted group of recertification reviews for which there is a high probability that eligibility will not be recertified.
Authorizes DHS to use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person’s eligibility and need for medical assistance.

Provides that third-party information includes information obtained from a consumer reporting agency, an appraisal district, or the Texas Department of Transportation’s vehicle registration record database.

Requires DHS, subject to appropriated state funds, to assure that a recipient of medical assistance may select a licensed podiatrist to perform any foot health care service or procedure covered under the medical assistance program if the podiatrist is authorized by law to perform the service or procedure.

Requires DHS, subject to appropriated state funds, to assure that a recipient of medical assistance may select a licensed psychologist or a licensed marriage and family therapist to perform any health care service or procedure covered under the medical assistance program if the selected psychologist or marriage and family therapist is authorized by law to perform the service or procedure.

Requires the Texas Department of Health, notwithstanding any other provision of state law, to consider a nationally recognized, unbiased pricing standard for prescription drugs in determining reimbursement amounts under the vendor drug program, and to update reimbursement amounts under the vendor drug program at least weekly.

Requires the commissioner of health to adopt rules implementing changes to the vendor drug program, and in adopting rules, to ensure that implementation of these changes do not adversely affect the amount of federal funds available to the state for providing benefits under the vendor drug program.

Requires HHSC or the appropriate state agency operating part of the medical assistance program to adopt rules relating to 12-months continuous eligibility so that the rules take effect in accordance with that section not earlier than September 1, 2005.

Requires the rules to provide for a 12-month period of continuous eligibility in accordance with statute for a child whose initial or continued eligibility is determined on or after the effective date of the rules.

Provides that in the event of a conflict between a provision of this Act and another Act passed by the 78th Legislature, Regular Session, 2003, that becomes law, this Act prevails and controls regardless of the relative dates of enactment.

Authorizes each health and human services agency, notwithstanding any other statute of this state, to reduce expenditures by:

- consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;
- extending the effective period of any license, permit, or registration the agency grants or administers;
- authorizing any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, to be made or delivered by electronic mail or through the Internet; and
- adopting and collecting fees or charges to cover any costs the agency incurs in performing its lawful functions.

Requires a state agency, if it determines that a waiver or authorization from a federal agency is necessary for implementation of any provision of this Act to request the waiver or authorization and delay implementing that provision until the waiver or authorization is granted.
Information Relating to Postpartum Issues - H.B. 341
by: Representative Uresti - Senate Sponsor: Senator Lindsay

Several physical and psychological health risks are associated with pregnancy, childbirth, and the postpartum period. It has been documented that postpartum depression, a mood disorder that begins after childbirth, affects approximately 15 percent of all childbearing women. Such disorders may be treated with therapy and support networks. This bill:

Requires a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a pregnant woman during gestation or at delivery of an infant to:
- provide the woman with a resource list of the names, addresses, and phone numbers of professional organizations that provide postpartum counseling and assistance to parents;
- document in the patient’s record that the patient received the information; and
- retain the documentation for at least three years in the hospital’s, birthing center’s, physician’s, nurse midwife’s, or midwife’s records.

Requires the list to include resources a parent may contact to receive counseling and assistance for postpartum depression and other emotional traumas associated with pregnancy and parenting.

Provides a presumption that a hospital, birthing center, physician, nurse midwife, or midwife who provides prenatal care to a woman during gestation or at delivery has complied with the requirements of this Act if the woman received prior prenatal care from another hospital, birthing center, physician, or midwife in this state during the same pregnancy.

Requires the Texas Department of Health to establish guidelines for the provision of the information required by this Act, and make available on TDH’s website a printable current list of professional organizations that provide postpartum counseling and assistance to parents.

Health Care Coverage for Children 25 Years of Age or Older - H.B. 1446
by Representative Betty Brown - Senate Sponsor: Senator Averitt

State law prohibits health benefit plans from conditioning coverage for a child up to 25 years of age on the child’s being a full-time student at an educational institution. This bill:

Requires a health benefit plan that conditions coverage for a child 25 years of age or older on the child’s being a full-time student at an educational institution to provide the coverage for an entire academic term during which the child begins as a full-time student and remains enrolled, regardless of whether the number of hours of instruction for which the child is enrolled is reduced to a level that changes the child’s academic status to less than that of a full-time student.
Disease Management Programs for Chronic Illness - H.B. 1735
by Representative Delisi, et al. - Senate Sponsor: Senator Janek

Requires the Health and Human Services Commission, the Teacher Retirement System, the Employees Retirement System, the Texas Criminal Justice System, and The University of Texas and Texas A&M health systems to ensure that their managed care plans include disease management programs for people with chronic illness such as heart disease, respiratory illness, end-stage renal disease, diabetes, asthma, HIV, or AIDS.

Requires these agencies to conduct studies of the benefits and costs of applying disease management principles and to report the progress of the study to the governor, lieutenant governor, and speaker of the house of representatives by December 1, 2004, and the final results of the study by December 1, 2005.

Pilot Program to Promote and Facilitate Diabetes Groups - H.B. 2692
by Representative Guillen - Senate Sponsor: Senator Zaffirini

Diabetes rates continue to rise and the onset of diabetes is occurring earlier in many cases. Medical research shows that this is partly due to diet and lifestyle choices which exacerbate the onset of diabetes. Recent research suggests that disease management approaches may be effective for people at risk of developing diabetes and help reduce the severity of the disease for those already diagnosed. This bill:

Requires the Texas Diabetes Council (council), in consultation with the Texas Department of Health (TDH), to develop a pilot program to promote and facilitate the operation of diabetes groups to enable persons with diabetes to exchange information and strategies to manage the disease and to obtain relevant information and education.

Prohibits the council from providing direct financial support to fund a diabetes group.

Authorizes the council to provide meeting space in a state-owned building, if available, and requires TDH to cooperate with the council to provide such meeting space.

Requires the council to operate the pilot program in not more than two counties in this state selected by the council from among the counties that are located on the border of this state and the United Mexican States and that have a high proportion of low-income households.

Requires the council to submit a report, no later than December 1, 2004, that summarizes the results of the pilot program to the governor, the lieutenant governor, and the speaker of the house of representatives.

Provides that the pilot program provisions expire September 2, 2005.
Local Health Benefits Demonstration Projects for Low-Income Persons - H.B. 3122

by Representative Truitt - Senate Sponsor: Senator Lindsay

Texas counties are required to provide health care services to indigent residents up to 121 percent of the federal poverty level. These services are funded primarily through a county indigent health care program, a hospital district, a public hospital, or other form of service delivery that relies on local property taxes. This bill:

Provides that it is the intent of the legislature that local government entities (including a hospital district; a hospital authority; a hospital owned and operated by a municipality, county, or hospital authority; a medical school operated by the state; a medical school that receives state funds; a teaching hospital operated by The University of Texas System; a county that provides health care services and assistance to indigent residents of the county; a statewide rural health care system or health services district) collaborate to the extent necessary with other local governmental entities and small business employers to provide or deliver cost-effective health care services to persons eligible to participate in the initiatives established by this Act.

Requires the Health and Human Services Commission (HHSC) to adopt rules as necessary to implement this Act.

Authorizes HHSC to require the Texas Department of Human Services or any other health and human services agency to adopt, with the approval of HHSC, any rules that may be necessary to implement this Act.

Requires the commissioner of health and human services (commissioner) to establish a task force on local health care initiatives and to appoint certain persons as members of the task force.

Provides that a member of the task force serves a staggered two-year term and serves at the will of the commissioner.

Requires the task force to:
  - advise HHSC on local health care issues and concerns affecting local governmental entities selected to participate in a demonstration project;
  - assist HHSC with the preparation of certain reports that may be required;
  - if one or both of the demonstration projects authorized under this Act are established, identify administrative costs that HHSC may incur with regard to the implementation of each of the demonstration projects that is established and develop a mechanism to provide for the reimbursement of those costs by the participating local governmental entities; and
  - perform any other duty or function prescribed by this Act or other law.

Authorizes HHSC and the task force to jointly develop a locally-based demonstration project to provide medical assistance under the state Medicaid program to an individual who:
  - is the parent of a child receiving medical assistance under the state Medicaid program;
  - has a family income that is at or below 100 percent of the federal poverty level;
is not otherwise eligible for medical assistance under the state Medicaid program at the time the individual’s eligibility for participation in the demonstration project is determined; and

is not covered by health insurance or another type of health benefit plan other than a health benefit plan administered by or on behalf of a local governmental entity.

Requires HHSC and the task force, if the demonstration project is established, to jointly:

- develop a health benefit plan operating as an extension of the state Medicaid program and determine the benefits package included in the plan, which may not include all of the Medicaid program benefits;
- ensure that the project is financed using money and any other resources made available by participating local governmental entities to HHSC for matching purposes to maximize federal money for the state Medicaid program;
- ensure that each participating local governmental entity receives money to provide services, through the health benefit plan, to project participants residing in the geographical area served by the entity in an amount that is at least equal to the amount of money or other resources that were provided for matching by the entity for purposes of the project, and any corresponding federal matching money;
- provide participating local governmental entities with the option to form, with the assistance of HHSC and the task force, exclusive provider networks to provide and deliver health care services to project participants using a managed care approach;
- design the project in a manner that, to the extent possible, uses a local governmental entity’s existing indigent health care delivery system and administrative structure to provide services through the health benefit plan to project participants; and
- design the project in a manner that allows, to the extent allowed by federal law or other federal authorization, local governmental entities to make determinations of eligibility and enroll eligible individuals in the project.

Authorizes a health benefit plan developed under this Act to require an individual who participates in the project to make co-payments or pay deductible amounts on a sliding scale basis.

Provides that local money includes tax or other revenue spent to provide indigent health care services to project participants before they were eligible to participate in the demonstration project and that the manner in which a local governmental entity makes money available for matching purposes may include an option for the entity to be able to certify the amount of money considered available instead of sending the money directly to the state.

Authorizes a provider network described by this Act to include a combination of public and private health care providers and authorizes a local government entity that forms an exclusive provider network under the demonstration project to include itself as a member of the network.

Prohibits HHSC from implementing a project without the approval of the task force.
Requires a local governmental entity that wants to participate in a demonstration project to obtain approval for that participation from the entity’s governing body or from the commissioners court of the county in which the district is located, as appropriate.

Requires a local governmental entity that receives permission to participate to notify HHSC and the task force of its intention to participate as soon as possible after September 1, 2003.

Requires HHSC, if a project is implemented, to select each local governmental entity that makes money available for matching purposes under the Act.

Authorizes HHSC and the task force to jointly develop a demonstration project in which local governmental entities partner with employers to offer health benefits coverage to employees who:

- are the parents of a child receiving medical assistance under the state Medicaid program or the state child health plan program;
- have family incomes that are at or below 200 percent of the federal poverty level; and
- are not covered by health insurance or another type of health benefit plan other than a health benefit plan that is administered by or on behalf of a local governmental entity.

Requires the components of a demonstration project to include:

- development of a health benefit plan to provide coverage for health care services to project participants that requires plan coverage to be purchased using a combination of local, federal, participant, and employer contributions, and provides a benefits package that is similar to benefits packages offered by employer-sponsored health benefit plans but may not cover all of the state Medicaid program benefits; and
- to the extent possible elimination of coverage for duplicative or extraordinary services and the development of sliding scale premiums for certain project participants, including the manner in which the premium is paid.

Requires HHSC and the task force, if the demonstration project is established, to jointly:

- review similar initiatives in other states;
- ensure that the project is designed and administered in a manner that qualifies for federal funding and financed using a combination of local, federal, and private money; and
- provide a participating local governmental entity with the option to contract with a managed care organization to administer the health benefit plan in the geographical area served by the local governmental entity.

Requires the HHSC commissioner and the task force, in developing a health benefit plan, to include provisions intended to discourage employers and other persons from electing to discontinue offering coverage for individuals under employee or other group health benefit plans and individuals with access to adequate health benefit plan coverage, other than coverage under the health benefit plan developed under this Act, from electing not to obtain or to discontinue that coverage.
Provides that the health benefit plan developed under this Act is not subject to a law that requires coverage or the offer of coverage of a health care service or benefit.

Requires HHSC and the task force to jointly determine the amounts each person must contribute to the total cost of the health benefit plan developed for the demonstration project, except that HHSC is prohibited from requiring a project participant whose income is not greater than 100 percent of the federal property level to pay a premium.

Provides that at the request of the commissioner, the Texas Department of Insurance must provide any necessary assistance with the development of the health benefit plan under this Act.

Requires HHSC, not later than December 1 of each even numbered year, to submit a report to the legislature regarding the operation and cost-effectiveness of the demonstration projects established under this Act, if a demonstration project is established, including a recommendation regarding the feasibility of expanding the project statewide.

Authorizes a hospital district created under general or special law to contract or collaborate with a local government entity or any other public or private entity as necessary to provide or deliver health care services under a demonstration project established under this Act.

Authorizes HHSC, to request and actively pursue any necessary waivers, including a Health Insurance Flexibility and Accountability (HIFA) waiver, from a federal agency or any other appropriate entity to enable it to implement the demonstration projects required by this Act.

Prohibits HHSC from delaying implementing a demonstration project until the necessary waivers or authorizations are granted.

Requires the commissioner to appoint, not later than January 1, 2004, members to the task force on local health care initiatives established this Act.

Requires HHSC, on the first anniversary of the date of approval of the federal waiver or other authorization submitted for the implementation of a demonstration project established by this Act, and with the assistance of the task force, to submit a report on the operation of the project to certain persons.

Requires HHSC, if a requested federal waiver or other authorization is not obtained, to identify any federal, state, or local issues that may have impacted the determination for approval or disapproval of the authorization; and submit a report of its findings to the governor, lieutenant governor, speaker of the house of representatives, and clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the state Medicaid program and indigent health care matters.
Exempts from civil liability for any act or omission resulting in the death of or injury to the patient a health care practitioner who, without compensation, conducts a physical examination of a patient for the purpose of certifying eligibility to participate in a school-sponsored extracurricular or sporting activity if:

- the practitioner was acting in good faith and in the course and scope of the practitioner's duties;
- the practitioner commits the act or omission in the course of conducting the physical examination or medical screening of the patient;
- the services provided to the patient are within the scope of the practitioner's license; and
- before the health care practitioner conducts the examination or screening, the patient or the patient's parent or legal guardian signs a written statement acknowledging that the health care practitioner is not expecting compensation and the limitations on the recovery of damages.

Provides that this exemption applies only to a health care practitioner who has certain liability insurance coverage in effect.

Provides that this Act does not apply to an act or omission that is intentional, willfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

Provides that this Act does not limit the liability of a school district to its students, teachers, or staff; or affect a school district's liability limits or immunities under state law.

Provides that this Act does not apply to a governmental unit or its employees.

Provides that this Act does not limit the liability of an insurer or insurance plan in an action under state law or for bad faith conduct, breach of fiduciary duty, or negligent failure to settle a claim.

Requires the Texas Department of Health (TDH) to establish a continuous statewide immunization education program to educate the public about the importance of fully immunizing children and contraindications of immunizations.

Requires TDH to increase coordination between public and private entities and stakeholders at the local, regional, and state level through a statewide coalition.

Requires TDH to increase coordination among entities that have an interest in immunizations.
Immunization of Children - S.B. 486  
by Senator Zaffirini - House Sponsor: Representative Capelo

Requires the Texas Department of Health (TDH) to work with the Texas Education Agency (TEA) to increase immunization awareness and participation among parents of preschool and school-age children.

Directs TDH and TEA to jointly apply for federal funds for immunization programs, and to work together to create public-private partnerships with health, service, and education organizations to increase awareness and participation in the state’s early childhood vaccination program.

Requires each state agency that has contact with families in this state either in person or by telephone, mail, or the Internet to include a strategy in the agency’s strategic plan for increasing public awareness of the need for early childhood immunizations.

Provides that a health care provider who acts in compliance with this law and any rules adopted under this law is not civilly or criminally liable for furnishing the required information on immunizations. A person who administers a vaccination under this program may be held liable only to the extent the person would be liable if the person administered the vaccination outside the program. The person is not liable for damages arising from the acts or omissions of another person acting under the program or TDH.

Assessing of School-Based Mental Health and Substance Abuse Programs - S.B. 491  
by Senator Shapleigh - House Sponsor: Representative Uresti

School-based mental health and substance abuse programs may help to reduce the risk of mental illness and substance abuse problems or provide a means of early detection for such problems. However, no state agency has been directed to study and assess the capacity of Texas schools to identify and address mental health and substance abuse problems in students. This bill:

Requires the Texas Education Agency (TEA) in conjunction with the Texas Department of Mental Health and Mental Retardation, the Texas Department of Health, and the Texas Commission on Alcohol and Drug Abuse to conduct a joint assessment of existing school-based mental health and substance abuse programs.

Requires that the assessment include recommendations regarding the further development of such programs including the information concerning substance abuse prevention, mental health education, and access to related services.

Requires that TEA report the results of the assessment to the 79th Texas Legislature by January 11, 2005.
Immigration Visa Waivers for Physicians - S.B. 558  
*by Senator Madla, et al. - House Sponsors: Representatives Hardcastle and Chavez*

Under current law, the Texas Department of Health (THD) is authorized to request a federal waiver that would allow qualified foreign physicians to remain in the United States; however, in order to apply for a waiver, a foreign physician must agree to work in a medically underserved area that is located within Cameron, Hidalgo, Starr, or Willacy counties, but it precludes other medically underserved areas of the state.

Authorizes TDH to request to waive the foreign country residence requirement for a qualified alien physician who agrees to practice medicine in a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human Services, that has a current shortage of physicians.

Grants for Federally Qualified Health Centers - S.B. 610  

In Texas, 196 of the 254 counties are considered rural and most are classified as medically underserved or have an insufficient number of health care professionals. Sixty-two rural counties do not have a hospital, some have no primary care physician, and others have only one health care practitioner. In urban areas, health care professionals who will accept Medicaid, low income, or uninsured patients are declining in number and hospital emergency rooms are finding it increasingly difficult to sustain an adequate level of care. Federally qualified health centers can provide health care services in these areas. This bill:

Authorizes the Texas Department of Health (TDH) to make grants to establish new or expand existing facilities that can qualify as federally qualified health centers, as defined by 42 U.S.C. Section 1396d(l)(2)(B), including planning grants, development grants, capital improvement grants, and grants for transitional operating support.

Provides that the authorization for TDH to make such grants expires September 1, 2009.

Emergency Medical Services, Trauma Facilities, and Care Systems - S.B. 1131  
*by Senator Harris - House Sponsors: Representative Capelo, et al.*

Establishes a fund for emergency medical services, trauma facilities, and trauma care systems as an account in the general revenue fund.

Authorizes money in the account to be appropriated only to the Texas Department of Health’s (TDH) Bureau of Emergency Management for the purposes specified by this Act.

Provides that the account is composed of money deposited to the account under the Code of Criminal Procedure, and the earnings of the account.
Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments), Government Code, do not apply to the account.

Requires the commissioner of health (commissioner), with advice and counsel from the chairpersons of the trauma service area regional advisory councils (RAC), to use money in the accounts established to fund county and regional emergency medical services, designated trauma facilities, and trauma care systems in accordance with this Act.

Requires the commissioner to maintain a reserve of $500,000 of funds appropriated from the accounts for extraordinary emergencies.

Requires the commissioner, in any fiscal year, to use 50 percent of the appropriated money remaining from the accounts, after any amount necessary to maintain the reserve is deducted, to fund, in connection with an effort to provide coordination with the appropriate trauma service area, the cost of supplies, operational expenses, education and training, equipment, vehicles, and communications systems for local emergency medical services.

Requires the money to be distributed on behalf of eligible recipients in each county to the trauma service area RAC for that county.

Requires the RAC, to receive a distribution to be incorporated as an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3) of the code.

Requires the share of allocations to the eligible recipients in a county’s geographic area to be based on the relative geographic size and population of the county and on the relative number of emergency or trauma care runs performed by eligible recipients in the county.

Authorizes money that is not disbursed by a RAC to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed to be retained by the RAC to be used during the following fiscal year in accordance with this Act.

Requires money that is not disbursed by the RAC during the following fiscal year to be returned to the account.

Prohibits the commissioner, in any fiscal year, from using more than 20 percent of the appropriated money remaining from the accounts, after any amount necessary to maintain the reserve is deducted, for operation of the 22 trauma service areas and for equipment, communications, and education and training.

Requires money distributed under this provision to be distributed on behalf of eligible recipients in each county to the trauma service area RAC for that county.

Requires the RAC, to receive a distribution under this provision, to be incorporated as an exempt organization under Section 501(c)(3) of the federal Internal Revenue Code.
Requires a RAC’s share of money distributed under this provision to be based on the relative geographic size and population of each trauma service area and on the relative amount of trauma care provided.

Authorizes that money not disbursed by a RAC to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed to be retained by the RAC to be used during the following fiscal year. Requires money that is not disbursed by the RAC during that following fiscal year to be returned to the account.

Prohibits the commissioner, in any fiscal year, from using more than three percent of the appropriated money from the accounts after any amount necessary to maintain the reserve is deducted to fund the administrative costs associated with these programs and accounts.

Requires the commissioner, in any fiscal year, to use at least 27 percent of the appropriated money remaining from the accounts after deducting the amount necessary to maintain the reserve to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by TDH.

Authorizes the administrator of a designated trauma facility to request a RAC chairperson to petition TDH for disbursement of funds for uncompensated trauma care.

Authorizes funds to be disbursed based on a proportionate share of uncompensated trauma care provided and to be used to fund innovative projects that enhance the delivery of patient care in the overall emergency medical services and trauma care system.

Requires TDH to annually review the percentages for disbursement of funds and make recommendations for proposed changes to ensure that appropriate and fair funding is provided.

Imposes a $100 fine on conviction of an intoxication or alcoholic beverage offense, excepting the offenses of public intoxication and possession of alcoholic beverage in a motor vehicle, in addition to the costs on conviction imposed by Articles 102.016 (Costs for Breath Alcohol Testing Program) and 102.018 (Costs Attendant to Intoxication Convictions), Code of Criminal Procedure.

Provides that these costs are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred disposition or deferred adjudication for the offense.

Provides procedures for the collection and recordkeeping of such fines and requires the comptroller of public accounts to deposit the funds received to the credit of the account established by this Act.
Training for Caregivers to Persons with Dementia - H.B. 776
by Representative Naishat, et al. - Senate Sponsor: Senator Nelson

Employees at Texas nursing home facilities are not required to receive training relating to the care of people who suffer from dementia. This bill:

Requires each institution, as part of its existing training program, to provide each registered nurse, licensed vocational nurse, nurse aide, and nursing assistant who provides nursing services in the institution with at least one hour of training each year in caring for people with dementia.

Provides that it is the intent of the legislature that the requirements added by this Act not impose any training requirement that will cause certain convalescent and nursing homes and related institutions to incur additional costs.

Requires the Texas Board of Human Services to adopt the minimum standards required by this Act in time for the standard to take effect on January 1, 2004.

Minimum Standards for Nursing Homes and Assisted Living Facilities - H.B. 867
by Representatives Jesse Jones and Naishat - Senate Sponsor: Senator Deuell

Facilities designed for the care of seniors are not required to be equipped with central air. Severe temperature can affect the health condition of seniors, and heat has been the cause of death of some seniors in Texas. This bill:

Requires the Texas Department of Human Services (DHS), as soon as practicable after the effective date of this Act, to review the rules and minimum standards applicable to nursing homes, assisted living facilities, and other like facilities to ensure that the rules and minimum standards require each affected institution to use a central air conditioning system or a substantially similar air conditioning system that is capable of maintaining a temperature within the areas of the institution used by residents suitable for the comfort of the residents.

Requires DHS, no later than January 1, 2004, to amend the applicable rules and minimum standards as necessary to comply with this Act.

Assisted Living Facility Standards - H.B. 3200
by Representatives Hegar and Hunter - Senate Sponsor: Senator Armbrister

The Texas Board of Human Services (board) has the authority to prescribe different levels of minimum standards for assisted living facilities according to the number and type of residents, the level of personal care provided, the nutritional needs of residents, and other distinctions the board considers relevant. The standards are geared toward the needs of a geriatric population because that is the primary population served, however, these standards may be inappropriate for assisted living facilities serving specialized, nonelderly populations, such as the developmentally disabled. This bill:
Authorizes the board to prescribe different levels of minimum standards for assisted living facilities according to the number of residents, the type of residents, the level of personal care provided, the nutritional needs of residents, and other distinctions the board considers relevant.

Requires the board, if the board does not prescribe minimum standards for facilities serving nongeriatric residents, to develop procedures for consideration and approval of alternate methods of compliance by such facilities with the board’s standards.

**Criminal History Checks for Nursing Home Employees and Applicants - S.B. 923**

*by Senator Zaffirini - House Sponsor: Representative Miller*

Prohibits a facility from employing a person if it is determined, as a result of a criminal history check, that a person has been convicted of an offense that bars employment or that a conviction is a contraindication to employment with the consumers the facility serves, and if the applicant is a nurse aide, until the facility further verifies that the applicant is listed in the nurse aide registry and verifies that the applicant is not designated in the registry as having a finding entered into the registry concerning abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer’s property.

Provides that except for an applicant for employment at or an employee of a nursing facility or an assisted living facility, a person licensed under another law of this state is exempt from the requirements of this Act.

Prohibits a nursing facility or assisted living facility, except in an emergency requiring immediate employment, from employing an applicant who has been convicted of an offense that bars employment, or that a conviction is a contraindication to employment with the consumers the facility serves or is designated in the registry as having a finding entered into the registry concerning abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer’s property.

Authorizes a facility to hire on a temporary or interim basis a person not listed in the registry pending the results of a criminal conviction check, which must be requested within 72 hours of employment or if it is a nursing facility or assisted living facility, within 24 hours of employment.

Adds to the Acts for which a person must be denied employment, a conviction for burglary or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense of burglary.

Exempts a person who is employed by a facility on the effective date of this Act for the period during which the person is continuously employed by that facility.
Electronic Monitoring Devices in Assisted Living Facilities - S.B. 1012  
*by Senator West, et al.* - *House Sponsors: Representatives Raymond and Naishtat*

Under current Texas law, electronic monitoring devices may be placed in the rooms of nursing home residents. This bill:

Directs the Texas Department of Human Services (DHS) to adopt rules to provide for the placement of electronic monitoring devices by a family member in the room of a person who is a resident of an assisted living facility.

Requires DHS to administer the provisions for an assisted living facility in the same manner the provisions are administered and enforced for a nursing home.

Provides that certain enforcement and criminal offense provisions applicable to nursing homes do not apply to an assisted living facility or to conduct within an assisted living facility.

Expands Offenses that Bar Employment in Certain Facilities - S.B. 1073  
*by Senators West and Nelson* - *House Sponsor: Representative Miller*

Current law prohibits a person convicted of an offense of theft from being employed in a position which involves direct contact with a consumer in a facility serving the elderly or persons with disabilities before the fifth anniversary of the date of the conviction. This bill:

Prohibits a person from being employed in a position the duties of which involve direct contact with a consumer in a facility before the fifth anniversary of the date the person is convicted of:

- assault that is punishable as a Class A misdemeanor or as a felony;
- burglary;
- theft that is punishable as a felony;
- misapplication of fiduciary property or property of a financial institution that is punishable as a Class A misdemeanor or a felony; or
- securing execution of a document by deception that is punishable as a Class A misdemeanor or a felony.

Exempts a person who is employed by a facility on the effective date of this Act for the period during which the person is continuously employed by that facility.

Reports and Investigations of Abuse and Neglect in Nursing Facilities - S.B. 1074  
*by Senators West and Nelson* - *House Sponsor: Representative Naishtat*

A recent federal report, by the Special Investigations Division of the Committee on Government Reform titled *Nursing Home Conditions in Texas: Many Nursing Homes Fail to Meet Federal Standards for Adequate Care*, found that 39 percent of Texas nursing homes had a violation of federal quality care
requirements that placed residents at risk of death or serious injury or caused actual harm to nursing home residents, including dehydration, physical abuse, and sexual assault. This bill:

Requires a report of abuse or neglect in an institution, including a report made by an owner or employee of an institution relating to abuse or neglect or another complaint, to be filed the Texas Department of Human Services (DHS) or a local or state law enforcement agency.

Requires a local or state law enforcement agency that receives a report of abuse or neglect to refer the report to DHS or the designated agency.

Requires DHS to begin the investigation of a report of abuse or neglect:
- within 24 hours of receipt of the report or other allegation, if the report of abuse or neglect or other complaint alleges that:
  - a resident's health or safety is in imminent danger;
  - a resident has recently died because of conduct alleged in the report of abuse or neglect or other complaint;
  - a resident has been hospitalized or been treated in an emergency room because of conduct alleged in the report of abuse or neglect or other complaint;
  - a resident has been a victim of any act or attempted act of indecency with a child, sexual assault, or aggravated sexual assault; or
  - a resident has suffered bodily injury because of conduct alleged in the report of abuse or neglect or other complaint; or
- before the end of the next working day, after the date of receipt of the report of abuse or neglect or other complaint, if the report or complaint alleges the existence of circumstances that could result in abuse or neglect and that could place a resident's health or safety in imminent danger.

Requires the investigator for the agency investigating the report of abuse or neglect or other complaint to:
- make an unannounced visit to the institution to determine the nature and cause of the alleged abuse or neglect of the resident;
- interview each available witness, including the resident that suffered the alleged abuse or neglect, if the resident is able to communicate, or another resident or other witness identified by any source as having personal knowledge relevant to the report of abuse or neglect or other complaint;
- personally inspect any physical circumstance that is relevant and material to the report of abuse or neglect or other complaint and that may be objectively observed;
- make a photographic record of any injury to a resident; and
- write an investigation report that includes: the investigator's personal observations; a review of relevant documents and records; a summary of each witness statement, including the statement of the resident that suffered the alleged abuse or neglect and any other resident interviewed in the investigation; and a statement of the factual basis for the findings for each incident or problem alleged in the report or other allegation.
Requires the investigator, no later than the 30th day after the date the investigation is completed, to prepare the written report.

Requires DHS to make the investigation report available to the public on request after DHS’s letter of determination is complete.

Requires DHS to delete from any copy made available to the public:
- the name of any resident, unless DHS receives written authorization from a resident or the resident’s legal representative requesting the resident's name be left in the report; the person making the report of abuse or neglect or other complaint; and an individual interviewed in the investigation; and
- photographs of any injury to the resident.

Requires DHS or a designated agency to report, within 24 hours of receipt of a report of abuse or neglect or other complaint, the report or complaint to the law enforcement agency.

Requires DHS or a designated agency to cooperate with that law enforcement agency in the investigation of the report or complaint.

Provides that the inability or unwillingness of a local law enforcement agency to conduct a joint investigation does not constitute grounds to prevent or prohibit DHS from performing its duties.

Requires DHS to document any instance in which a law enforcement agency is unable or unwilling to conduct a joint investigation.

Requires an investigator, if DHS determines that, before a photographic record of an injury to a resident may be made, consent is required under state or federal law, to seek to obtain any required consent, and prohibits making the photographic record unless such consent is obtained.

Provides that a report, record, or working paper used or developed in an investigation, and the name, address, and phone number of any person making a report are confidential and may be disclosed only for purposes consistent with the rules adopted by the DHS board or the designated agency.

Requires the report, record, or working paper, and the name, address, and phone number of the person making the report to be disclosed to a law enforcement agency as necessary to permit the law enforcement agency to investigate a report of abuse or neglect or other complaint.

Requires DHS or a designated agency to investigate a report of abuse or neglect or other complaint jointly with the municipal law enforcement agency, if the institution is located within the territorial boundaries of a municipality, or the sheriff’s department of the county in which the institution is located, if the institution is not located within the territorial boundaries of a municipality.

Requires a law enforcement agency to acknowledge a report of abuse or neglect or other complaint and begin the joint investigation required within 24 hours of receipt of the report or complaint.
Requires the law enforcement agency to cooperate with DHS or the designated agency, and to report to DHS or the designated agency the results of the investigation.

Provides that the requirement that the law enforcement agency and DHS or the designated agency conduct a joint investigation does not supercede the requirement that a representative of each agency be physically present during all phases of the investigation or that each agency participate equally in each activity conducted in the course of the investigation.

Requires DHS and an investigator from the appropriate local law enforcement agency to investigate jointly a report alleging serious physical or sexual abuse of a child by a person responsible for the care, custody, or welfare of the child.

Requires the appropriate local law enforcement agency to investigate the report of a report of abuse or neglect or other complaint of a resident of a nursing home, convalescent home, or other related institution.

Requires DHS, no later than January 1, 2004, to determine whether, before a photographic record of an injury to a resident may be made as required under this Act, consent is required under state or federal law and to adopt any rules necessary to implement any consent requirement.

Training in Caring for People with Dementia - S.B. 1549
by Senator Nelson - House Sponsor: Representative Naishtat

Dementia, which is defined as a loss of intellectual functioning (thinking, remembering, and reasoning) that is so severe it interferes with an individual's daily functioning and eventually results in death, can require in depth care for the duration of the disease. Registered nurses, licensed vocational nurses, nurse aides, and nursing assistants who provide direct services to the elderly in nursing facilities currently are not required to complete any training in dementia; however, understanding dementia and associated care strategies is vital for providing adequate care for dementia patients. This bill:

Requires the Texas Board of Human Services to amend its rules to require institutions to provide at least one hour of dementia-specific training annually to registered nurses, licensed vocational nurses, nurse aides, and nursing assistants who provide nursing services in an institution.
Medicaid Non-Emergency Transportation - H.B. 111
by: Representative Chavez - Senate Sponsor: Senator Zaffirini

Medicaid health care providers are required under the Medicaid program to provide and arrange non-emergency transportation for severely disabled Medicaid patients. This requirement includes obtaining prior authorization from the Health and Human Services Commission (HHSC) before contacting the ambulance provider for transportation. If prior authorization is not received by the health care provider, payment to the ambulance service provider may be denied. This bill:

Requires HHSC by rule to require a physician, nursing facility, health care provider, or other responsible party to obtain authorization from HHSC before an ambulance is used to transport a recipient of Medicaid in circumstances not involving an emergency and to set forth the procedures for such.

Requires a request for authorization to be evaluated based on the recipient’s medical needs and authorizes the request to be granted for a length of time appropriate to the recipient’s medical condition.

Requires a response to a request for authorization to be made not later than 48 hours after receipt of the request.

Requires a request for authorization to be immediately granted and to be effective for a period of 180 days from the date of issuance if the request includes a written statement dated not earlier than the 60th day before the date on which the request for authorization is made from a physician that alternative means of transporting the recipient are contraindicated.

Provides that a person denied payment for ambulance services rendered is entitled to payment from the nursing facility, health care provider, or other responsible party that requested the services if payment under the Medicaid program is denied because of lack of prior authorization and the person provides the nursing facility, health care provider, or other responsible party with a copy of the bill for which payment was denied.

Provides that a person denied payment for services rendered because of failure to obtain prior authorization or because a request for prior authorization was denied is entitled to appeal the denial of payment to HHSC.

Requires HHSC to incorporate physician-oriented instruction on the appropriate procedures for authorizing ambulance services in medical education courses.

Medicaid Continuous Eligibility Delay - H.B. 728
by Representative Delisi - Senate Sponsor: Senator Duncan

Current Texas law requires implementation of 12-months continuous eligibility for children served by Medicaid by June 1, 2003. The e-Texas report, Limited Government, Unlimited Opportunity, recommended that the state maintain the current period of Medicaid eligibility for children and postpone implementation of expanded eligibility. This bill:
Delays implementation of 12-months continuous eligibility for certain Medicaid children under the age of 19 to not earlier than September 1, 2005.

Medicaid Fraud and Abuse Prevention and Control - H.B. 1743
by Representative Delisi, et al. - Senate Sponsor: Senator Nelson

Currently Texas has Medicaid fraud investigation divisions in both the Health and Human Service Commission’s Office of Investigations and Enforcement (OIE) and in the Attorney general’s Medicaid Fraud Control Unit (MFCU) and Civil Medicaid Fraud (CMF) section. This bill:

Authorizes HHSC to perform a prepayment review of a claim for reimbursement under the medical assistance program (Medicaid) to determine whether the claim involves fraud or abuse and, as necessary to perform that review, withhold payment of the claim for not more than five working days without notice to the person submitting the claim.

Authorizes HHSC to impose a post payment hold on payment of future claims submitted by a provider if it has reliable evidence that the provider has committed fraud or willful misrepresentation regarding a claim for reimbursement under Medicaid.

Sets forth provisions relating to HHSC’s authority to impose a post payment hold, the procedures required to impose a post payment hold on a provider, and the rights of a provider against whom a post payment hold is imposed.

Requires HHSC to adopt reasonable rules for minimizing the opportunity for fraud and abuse, for establishing and maintaining methods for detecting and identifying situations in which a question of fraud or abuse in the program may exist, and for referring cases where fraud or abuse appears to exist to the appropriate law enforcement agencies for prosecution.

Requires HHSC by rule to require a Medicaid provider to file a surety bond in a reasonable amount if HHSC identifies a pattern of suspected fraud or abuse involving criminal conduct relating to the provider’s services under Medicaid that indicate the need for protection against potential future acts of fraud or abuse.

Clarifies the definition of "inducement" by including a service, cash in any amount, entertainment, or any item of value and adds provisions that prohibit engaging in the conduct of soliciting or receiving, directly or indirectly, overtly or covertly any remuneration, in cash or in kind for certain items or services for which payment may be made under Medicaid, including:

- a referral to a person;
- a referral for purchasing, leasing, ordering, arranging for or recommending any good, facility, service, or item;
- inducing a person to refer an individual to another person;
- purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or order of, any good, facility, service, or item; and
providing or offering an inducement in a manner or for a purpose not otherwise prohibited, to an individual, including a recipient, provider, or employee of a provider, for the purpose of influencing a decision regarding selection of a provider or receipt of a good or service under the medical assistance program or for the purpose of otherwise influencing a decision regarding the use of goods or services provided under the medical assistance program.

Excepts from the provision against inducements the referral of a patient to another practitioner within a multi-specialty group or university medical services practice plan for medically necessary services.

Authorizes HHSC by rule to prescribe criteria under which a person is not prohibited from providing or arranging to provide health care services under Medicaid, including consideration of the person’s knowledge of the violation, the likelihood that education provided to the person would be sufficient to prevent future violations, the potential impact on availability of services in the community served by the person, and any other reasonable factor identified by HHSC.

Provides that the prohibited behaviors do not prohibit a person from engaging in generally accepted business practices, as determined by HHSC rule, providing complimentary refreshments at an informational meeting promoting the person’s goods or services, the provision of a value-added service if the person is a managed care organization, or other conduct specifically authorized by law, including conduct authorized by federal safe harbor regulations.

Provides that a person commits an offense which is a state jail felony if the person intentionally or knowingly commits a prohibited act.

Provides that if conduct constituting an offense under this section also constitutes an offense under another provision of law, including a provision in the Penal Code, the person may be prosecuted under either this Act or the other provision.

Provides that the Texas Office of the Attorney General (OAG), with the consent of the appropriate local county or district attorney, has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this Act.

Prohibits a third-party billing vendor from submitting a claim for reimbursement on behalf of a provider of medical services under Medicaid unless the vendor has entered into a contract with HHSC authorizing that activity.

Requires the contract, to the extent practical, to contain provisions comparable to the provisions contained in contracts between HHSC and providers of medical services, with an emphasis on provisions designed to prevent fraud or abuse under the medical assistance program.

Requires the contract, at a minimum, to require the third-party billing vendor to:

- provide documentation of the vendor’s authority to bill on behalf of each provider for whom the vendor submits claims;
submit a claim in a manner that permits HHSC to identify and verify the vendor, any computer or telephone line used in submitting the claim, any relevant user password used in submitting the claim, and any provider number referenced in the claim; and

subject to any confidentiality requirements imposed by federal law, provide HHSC, OAG, or authorized representatives with access to any records maintained by the vendor, including original records and records maintained by the vendor on behalf of a provider, relevant to an audit or investigation of the vendor’s services or another function of HHSC or OAG relating to the vendor and if requested, copies of any records at no charge to HHSC, OAG, or authorized representatives.

Requires HHSC, on receipt of a claim submitted by a third-party billing vendor, to send a remittance notice directly to the provider referenced in the claim. The notice must include detailed information regarding the claim submitted on behalf of the provider and require the provider to review the claim for accuracy and notify HHSC promptly regarding any errors.

Requires HHSC to take all action necessary, including any modifications of the claims processing system, to enable identification and verification of a third-party billing vendor submitting a claim for reimbursement under the medical assistance program, including identification and verification of any computer or telephone line used in submitting the claim, any relevant user password used in submitting the claim, and any provider number referenced in the claim.

Requires HHSC, if HHSC receives a complaint of Medicaid fraud or abuse from any source, to conduct an integrity review to determine whether there is sufficient basis to warrant a full investigation.

Requires an integrity review to begin not later than 60 days after HHSC receives a complaint or has reason to believe that fraud or abuse has occurred, and to be completed not later than 90 days after it has started.

Requires HHSC, if the findings of an integrity review give HHSC reason to believe that an incident of fraud or abuse involving possible criminal conduct has occurred in the Medicaid program, to take certain actions, as appropriate, not later than 30 days after the completion of the integrity review.

Requires HHSC, whenever HHSC learns or has reason to suspect that a provider’s records are being withheld, concealed, destroyed, fabricated, or in any way falsified, to immediately refer the case to the MFCU; however, such criminal referral does not preclude HHSC from continuing its investigation of the provider, which investigation may lead to the imposition of appropriate administrative or civil sanctions.

Requires HHSC, in addition to other instances authorized under state or federal law, to impose without prior notice a hold on payment of claims for reimbursement submitted by a provider to compel production of records or when requested by the state’s Medicaid fraud control unit, as applicable.

Requires HHSC to notify the provider of the hold on payment not later than the fifth working day after the date the payment hold is imposed.
Requires HHSC, on timely written request by a provider subject to hold on payment, other than a hold requested by the state’s MFCU, to file a request with the SOAH for an expedited administrative hearing regarding the hold.

Requires the provider to request an expedited hearing not later than the 10th day after the date the provider receives notice from HHSC.

Requires HHSC to adopt rules that allow a provider subject to a hold on payment, other than a hold requested by the state’s MFCU, to seek an informal resolution of the issues identified by HHSC in the notice provided.

Requires a provider to seek an informal resolution within prescribed time lines.

Provides that a provider’s decision to seek an informal resolution does not extend the time by which the provider must request an expedited administrative hearing.

Authorizes HHSC to request that any expedited administrative hearing be stayed until informal resolution process is completed.

Requires HHSC, in consultation with the state’s MFCU, to establish guidelines under which holds on payment or program exclusions may permissively be imposed on a provider or shall automatically be imposed on a provider.

Requires the memorandum of understanding between HHSC and OAG to ensure that no barriers to direct fraud referrals to the state’s MFCU by Medicaid agencies or unreasonable impediments to communication between Medicaid agency employees and MFCU will be imposed.

Provides that with the consent of the appropriate local county or district attorney, OAG has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense that involves the state Medicaid program.

Requires the attorney representing the state, to the extent necessary to protect HHSC’s ability to recover amounts wrongfully obtained by the owner of the property and associated damages and penalties to which HHSC may otherwise be entitled by law, to transfer to HHSC all forfeited property defined as contraband in this Act.

Authorizes the attorney representing the state, if the forfeited property consists of property other than money or negotiable instruments, if approved by HHSC, to sell the property in a manner that is reasonably expected to result in receiving the fair market value for the property and deliver to HHSC the proceeds from the sale, minus costs attributable to the sale.

Requires the Medicaid and Public Assistance Fraud Oversight Task Force (task force), with the participation of the Texas Department of Health’s Bureau of Vital Statistics and other agencies designated by the comptroller of public accounts, to study procedures and documentation requirements used by the state in confirming a person’s identity for purposes of establishing entitlement to Medicaid and other
benefits provided through health and human services programs and to submit a report to the legislature containing recommendations for improvements in the procedures and documentation requirements that would strengthen the state’s ability to prevent fraud and abuse in the Medicaid program and other health and human services programs, no later than December 1, 2004.

Requires HHSC or OAG, as appropriate, to request the waiver or authorization and authorizes a delay in implementing that provision until the waiver or authorization is granted, if before implementing any provision of this Act HHSC or OAG, as appropriate determines that a waiver or authorization from a federal agency is necessary for implementation of that provision.

Health Care Coverage and Services for Employed Disabled Persons - H.B. 3484
by Representatives Delisi and Uresti - Senate Sponsor: Senator Deuell

State law does not allow for a Medicaid buy-in program for persons with disabilities, forcing such persons to choose between keeping needed health care coverage or giving it up in order to be employed. This bill:

Establishes a work group to assist the Health and Human Services Commission (HHSC) in identifying, recommending, and developing policy options to improve access to health care coverage and services necessary to support increased employment of persons with disabilities in Texas.

Requires the commissioner of health and human services (commissioner) to define the size of the work group, defines the composition of the work group, and requires the work group to examine options for access to health care coverage and services for employed persons with disabilities in this state.

Requires the work group to evaluate the extent to which employers offer health insurance or other health benefits coverage to their employees; the types and adequacy of benefits related to the health care needs of disabled employees provided through employer-based health insurance or other health benefits coverage; utilization of Medicaid services by persons with disabilities and related cost data; the use in Texas of existing employment incentive programs and factors related to improved use of these programs to increase employment of persons with disabilities; the potential for increased use of the health insurance premium payment reimbursement program for medical assistance recipients or other cost-sharing assistance options; and the projected impact on the rate of employment of persons with disabilities of implementing a Medicaid buy-in program as authorized by the Ticket to Work and Work Incentives Improvement.

Requires HHSC with the assistance of the work group to report its findings and policy options to the legislature by November 1, 2004.

Requires HHSC to use a federal grant awarded in 2001 under the Ticket to Work and Work Incentives Improvement Act of 1999 to support the design, establishment, and operation of infrastructures that provide support services for employed persons with disabilities.

Directs HHSC to actively pursue additional grants for this purpose.
Respiratory Therapy Services under Medicaid - S.B. 245  
by Senator Zaffirini - House Sponsor: Representative Wohlgemuth

Requires the Health and Human Services Commission (HHSC), or an agency designated by HHSC to operate part of the Medicaid program, to adopt rules no later than December 1, 2003, to require that respiratory therapy services for ventilator-dependent persons furnished as part of a plan of care under the Medicaid program be provided by a respiratory therapist authorized to practice respiratory care under state law when such therapy is determined by the recipient’s treating physician to be the most effective method of treatment and the use of a respiratory therapist is practicable and cost-neutral or cost-effective.

Requires HHSC to obtain any waiver or authorization from a federal agency necessary for implementation and authorizes HHSC to delay implementing a provision until the waiver or authorization is granted.

Continuous Eligibility of Certain Children for Medicaid Benefits - S.B. 1522  
by Senator Zaffirini - House Sponsor: Representative Luna

Requires the Health and Human Services Commission (HHSC) or the appropriate state agency operating part of the medical assistance program (Medicaid) under Chapter 32, Human Resources Code, to adopt rules required by this Act, so that the rules take effect in accordance with that section not earlier than September 1, 2002, or later than September 1, 2005.

Requires the rules adopted under this Act to provide for a 12-month period of continuous eligibility for a child whose initial or continued eligibility is determined on or after the effective date of the rules.

Requires HHSC or the appropriate state agency operating part of the medical assistance program to permit an application requesting medical assistance for a child under 19 years of age to be conducted by mail instead of through a personal appearance at a Department of Human Services (DHS) office, unless it is determined that the information needed to verify eligibility cannot be obtained in that manner.

Authorizes HHSC or the appropriate state agency operating part of the medical assistance program by rule to develop procedures requiring an application for a child described by this Act to be conducted through a personal interview with a DHS representative only if DHS determines that information needed to verify eligibility cannot be obtained in any other manner.

Requires HHSC or the appropriate state agency operating part of the medical assistance program to permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by telephone or mail instead of through a personal appearance at a DHS office, unless the DHS determines that the information needed to verify eligibility cannot be obtained in that manner.

Authorizes HHSC or the appropriate state agency operating part of the medical assistance program by rule to develop procedures to determine whether there is a need for a recertification review of a child to be conducted through a personal interview with an agency representative.
Requires procedures developed under this Act to be based on objective, risk-based factors and conditions and to focus on a targeted group of recertification reviews for which there is a high probability that eligibility will not be recertified.

Authorizes DHS to use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person’s eligibility and need for medical assistance.

Authorizes third-party information to include information obtained from a consumer reporting agency, an appraisal district, or the Texas Department of Transportation’s vehicle registration record database.

Provides that in the event of a conflict between a provision of this Act and another Act passed by the 78th Legislature, Regular Session, 2003, that becomes law, this Act prevails and controls regardless of the relative dates of enactment.

Requires a state agency, if before implementing any provision of this Act it determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and authorizes the agency to delay implementing that provision until the waiver or authorization is granted.
Regulation of Abortion – Woman’s Right to Know Act - H.B. 15

by Representative Corte, et al. - Senate Sponsor: Senator Williams

H.B. 15 regulates abortion and abortion providers. This bill:

Defines “abortion” to mean the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant with the intention that the termination of the pregnancy by those means will, with reasonable likelihood, cause the death of the fetus.

Provides that an abortion may be performed only by a physician licensed to practice medicine in this state.

Provides that an abortion of a fetus age 16 weeks or more may be performed only at an ambulatory surgical center or hospital licensed to perform the abortion.

Prohibits a person from performing an abortion without the voluntary and informed consent of the woman on whom the abortion is to be performed, except in the case of a medical emergency, and establishes the parameters of voluntary and informed consent for abortion.

Requires the woman on whom the abortion is to be performed to be informed by the physician who is to perform the abortion or the referring physician of:

- the name of the physician who will perform the abortion;
- the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate:
  - the risks of infection and hemorrhage;
  - the potential danger to a subsequent pregnancy and of infertility; and
  - the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer;
- the probable gestational age of the unborn child at the time the abortion is to be performed;
- the medical risks associated with carrying the child to term;
- medical assistance benefits which may be available for prenatal care, childbirth, and neonatal care;
- the father’s liability for assistance in the support of the child without regard to whether the father has offered to pay for the abortion;
- public and private agencies providing pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices, including emergency contraception for victims of rape or incest;
- the woman’s right to review the printed materials provided by the Texas Department of Health (TDH) and to know that the materials are accessible on an Internet website sponsored by TDH; and
- materials describing the unborn child and listing agencies that offer alternatives to abortion.
The bill also requires:

- the woman to certify in writing before the abortion is performed that the required information has been provided to her and that she has been informed of her opportunity to review the information; and
- before the abortion is performed, the physician who is to perform the abortion must receive a copy of the written certification.

Requires the information required to be provided to be provided orally by telephone or in person, at least 24 hours prior to the time the abortion is to be performed.

Authorizes the physician or agent to furnish the materials to the woman by mail if the materials are mailed, restricted delivery to addressee, at least 72 hours before the abortion is to be performed.

Authorizes the physician and agent to disassociate themselves from the materials and to choose to comment on the materials or refrain from commenting.

Requires the information provided to the woman to include, based on information available from the Texas Office of the Attorney General and the United States Department of Health and Human Services Office of Child Support Enforcement for the three-year period preceding the publication of the information, information regarding the statistical likelihood of collecting child support.

Requires TDH to annually review the materials to determine if changes to the contents of the materials are necessary; however, TDH is not required to republish informational materials unless the statistical information in the materials changes by five percent or more.

Requires TDH to develop and maintain an Internet website to display the information and to provide appropriate quantities of the written materials to any person.

Requires TDH, in developing and maintaining the website, to the extent reasonably practicable, to safeguard the website against alterations by anyone other than TDH and to monitor the website each day to prevent and correct tampering.

Requires TDH to use, in addition to any other organization or entity, the American College of Obstetricians and Gynecologists as the resource in developing information required to be provided under this subchapter and in maintaining TDH’s Internet website.

Requires the materials to include either geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, childbirth, and the child’s dependency, including certain elements, or a toll-free, 24-hour telephone number that may be called to obtain an oral list and description of agencies that are located near the caller and of the services offered by the agencies.

Requires the informational materials to include materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two week gestational increments from
the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child’s survival.

Requires the materials to include color pictures representing the development of the child at two-week gestational increments, the dimensions of the unborn child and be realistic.

Requires the materials under this section to be objective and nonjudgmental and be designed to convey only accurate scientific information about the unborn child at the various gestational ages.

Provides that if the woman is an unemancipated minor subject to Chapter 33 (Notice of Abortion), Family Code, the 24-hour periods established under Sections 171.012(b) and 171.013(a) may run concurrently with the period during which actual or constructive notice is provided under Section 33.002 (Parental Notice), Family Code.

Provides that a physician who intentionally performs an abortion on a woman in violation of this subchapter commits a Class A misdemeanor punishable by a fine not to exceed $10,000.

Provides that the office of a physician licensed under Subtitle B, Title 3, Occupations Code, that is used substantially for the purpose of performing abortions is not exempted from the licensing requirement under this chapter and defines such a facility.

Requires the Texas Board of Health to set fees imposed by this chapter in amounts reasonable and necessary to defray the cost of administering this law.

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Radiation Control Authority - H.B. 253
by Representative Chisum - Senate Sponsor: Senator Armbrister

The 77th Texas Legislature in reviewing and reconstituting the Texas Natural Resource Conservation Commission as the Texas Commission on Environmental Quality (TCEQ) inadvertently removed the Texas Department of Health’s (TDH) authority to consider past compliance history of all radiation applicants and licensees when evaluating license applications for persons who wish to possess radioactive material or work with radiation-producing machines. This bill:

Authorizes TCEQ and TDH, in making a determination whether to grant, deny, amend, renew, revoke, suspend, or restrict a license or registration, to consider the technical competence, financial qualifications, and compliance history of an applicant, license holder, or registration holder.

Requires TDH, after an opportunity for a hearing, to deny an application for a license or registration, license or registration amendment, or license or registration renewal if the applicant’s compliance history reveals a recurring pattern of conduct that demonstrates a consistent disregard for the regulatory process through significant violations of this Act or TDH rules adopted under this Act.

Adds to the items required to be considered by TDH or TCEQ, within its jurisdiction, in making a licensing decision on a specific license application to process or dispose of low-level radioactive waste from other
persons, the applicant's qualifications, including financial and technical qualifications and compliance history under the method for evaluation of compliance history developed by TCEQ for an application to TCEQ or the requirements for an application to TDH.

Shampoo Apprentice Permit - H.B. 653
by: Representative John Davis - Senate Sponsor: Senator Janek

Currently, the Texas Cosmetology Commission (TCC) has a designation for a shampoo conditioning specialist, but TCC has issued few such licenses. This bill:

Requires an applicant for an operator license, instructor license, reciprocal license, specialty certificate, or shampoo apprentice permit to submit a certificate of health, signed by a licensed physician, advanced practice nurse, or licensed physician assistant, that shows the applicant is free from tuberculosis or a contagious disease for which the applicant is not entitled to protection under the federal Americans with Disabilities Act of 1990.

Provides that a person holding a shampoo apprentice permit may perform only the practice of cosmetology defined by this Act.

Requires the TCC to issue a shampoo apprentice permit to an applicant who is at least 16 years of age and submits the necessary certificate of health.

Provides that a shampoo apprentice permit expires on the first anniversary of the date of issuance and may not be renewed.

Prohibits TCC from requiring an applicant to complete any hours of instruction at a cosmetology training program as a prerequisite for the issuance of a shampoo apprentice permit or pay a fee for a shampoo apprentice permit.

Authorizes a facility licensed under this chapter to employ a person who holds a shampoo apprentice permit to perform shampooing or conditioning services and requires the facility to pay the person at least the federal minimum wage as provided by the federal Fair Labor Standards Act of 1938.

Regulating Gestational Agreements - H.B. 729
by Representatives Goodman and Dutton - Senate Sponsor: Senator Shapiro

Texas currently does not regulate gestational agreements, under which a woman agrees to conceive a child through assisted reproduction for a couple in which the woman is unable to bear a child. The legal relationships of a child of born under a gestational agreement may be unclear. This bill sets out requirements and procedures regarding gestational agreements. This bill:
Authorizes a gestational agreement between a woman and the intended parents of a child in which the woman relinquishes all parental rights to the child she conceives by means of assisted reproduction and provides that the intended parents become the child's parents.

Declares that a parent-child relationship exists between the intended parents and a child born to a gestational mother under a valid gestational agreement.

Sets out the requirements for a gestational agreement and the procedures for validating such agreements.

Provides that a gestational agreement does not apply to the birth of a child conceived by sexual intercourse.

Requires a court, following notice of the birth of a child to a gestational mother under a validated gestational agreement, to render an order confirming that the intended parents are the child's parents, requiring the gestational mother to surrender the child to the intended parents, and requiring the Texas Department of Health (TDH) bureau of vital statistics to issue a birth certificate naming the intended parents as the child's parents.

Requires a court to order that scientifically accepted parentage testing be conducted to determine the child's parentage if a person alleges that a child born to a gestational mother did not result from assisted reproduction.

Provides that the marriage of the gestational mother after the court renders an order validating a gestational agreement does not affect the validity of the gestational agreement.

Declares that a gestational agreement that is not validated as provided by this Act is unenforceable and the parent-child relationship of a child born under such agreement is to be determined as otherwise provided by the Family Code.

Removal of Remains Interred in a Cemetery - H.B. 1077

by Representatives Jesse Jones and Yvonne Davis - Senate Sponsor: Senator West

Current Texas law permits a cemetery organization to move remains interred in a cemetery from one plot to another within the same cemetery without obtaining written consent from the decedent’s next of kin. This bill:

Authorizes remains interred in a cemetery to be removed from a plot in the cemetery with the written consent of the cemetery organization operating the cemetery and the written consent of the current plot owner or owners and from at least one of, in the priority listed, the decedent’s surviving spouse, adult children, parents, adult siblings, or the adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.
Requires personal notice to be given at least 11 days before the date of application to a court for permission to remove the remains, or notice by certified or registered mail to be given at least 16 days before the date of application.

Requires in an emergency circumstance that necessitates immediate removal of remains from a plot, a court to hear an application for permission to remove remains not later than the first business day after the application is made and authorizes personal notice to be given on the date the application is made.

Provides that the notice and consent provisions do not apply to the removal of remains:

- from one plot to another plot in the same cemetery, if the cemetery is a family, fraternal, or community cemetery that is smaller than 10 acres, is owned or operated by an unincorporated association of plot owners not operated for profit, is owned or operated by a church, a religious society or denomination, or an entity solely administering the temporalities of a church or religious society or denomination, or is a public cemetery owned by this state, a county, or a municipality;
- by the cemetery organization from a plot for which the purchase price is past due and unpaid, to another suitable place;
- on the order of a court or person who conducts inquests; or
- from a plot in a cemetery owned and operated by the Veterans’ Land Board.

Authorizes a cemetery organization to remove remains from a plot in the cemetery and transfer the remains to another plot in the same cemetery without the written consent if the cemetery seeks consent by sending written notice indicating that the remains will be removed, the reason for the removal of the remains, and the proposed location of the re-interment of the remains by certified mail, return receipt requested, to the last known address of the current owner of the plot from which the remains are to be removed or to a person designated under this Act.

Authorizes the cemetery to transfer the remains to another plot if an objection is not received in response to the notice before the 31st day after the date the notice is sent.

Prohibits a cemetery from removing remains for a fraudulent purpose or to allow the sale of the plot in which the remains are located to another person.

Authorizes a cemetery organization, in an emergency circumstance that necessitates immediate removal of remains before the date on which the court is required to hear an application for permission to remove remains, to remove remains from a plot in the cemetery and transfer the remains to another plot in the same cemetery without the court hearing.

Requires a cemetery association that removes remains under such circumstances to send written notice of the removal by certified mail, return receipt requested, to the last known address of the person designated under this Act not later than the fifth day after the date the remains are removed indicating that the remains were removed, the reason for the removal of the remains, and the location of the re-interred remains.
Senior Prescription Drug Information and Assistance Program - H.B. 1090  
by Representative Miller, et al. - Senate Sponsor: Senator Averitt

In Texas, an estimated 748,000 Medicare recipients, most over the age of 65, lack prescription drug coverage. This bill:

Authorizes the Texas Department on Aging (TDOA) to establish, by rule, and operate a Texas Cares program to provide persons eligible for discount drug price programs offered by pharmaceutical companies with information regarding the availability of those programs and where appropriate, assistance in enrolling in such programs.

Requires TDOA to design the Texas Cares program to meet the primary goal of increasing awareness in appropriate populations of the availability of discount drug programs offered by pharmaceutical companies.

Requires TDOA, to the extent that adequate resources are available, to make information regarding discount drug price programs readily available on the TDOA Internet site, maintain a toll-free telephone number through which a person may obtain information regarding such programs, and make brochures or other written informational materials regarding such programs available on request by a pharmacist, physician, representative of an organization serving senior citizens, or other interested person.

Authorizes TDOA to conduct community outreach and education activities to increase awareness of the availability of discount drug price programs offered by pharmaceutical companies, solicit and train volunteers to perform functions associated with the Texas Cares program, and coordinate operation of the Texas Cares program with the activities of local agencies on aging.

Expanded Authority to Write Prescriptions - H.B. 1095  
by Representative Capelo - Senate Sponsor: Senator Nelson

Currently, Texas physicians are authorized by law to delegate to advanced practice nurses and physician assistants the authority to write prescriptions for “dangerous drugs.” This bill:

Expands the authority of advanced practice nurses and physician assistants to administer, provide, and carry out or sign a prescription drug order.

Expands current law to allow physicians to delegate the authority to write prescriptions to advanced practice nurses and physician assistants, but limits a physician’s authority to delegate the carrying out or signing of a prescription drug order under this chapter to dangerous drugs and controlled substances and only if the prescription meets certain criteria.

Requires insurers and hospitals to use the same credentialing form for advanced practice nurses and physician assistants as is currently used for physicians.
Mandatory Birth Defects Registry - H.B. 1097
*by Representative Capelo - Senate Sponsor: Senator Gallegos*

Texas currently has a birth defects registry program that is authorized but not required by law. This bill:

Requires the Texas Board of Health (board) to identify and investigate certain birth defects in children, and maintain a central registry of cases of birth defects.

Requires the board and the Texas Department of Health (TDH) to design the birth defects registry program to identify risk factors and causes of birth defects, identify other possible causes of birth defects, provide for interview studies about the causes of birth defects, and contribute birth defects data to a central registry.

Requires the birth defects registry program to also provide for the appointment of authorized agents to collect birth defects information and the active collection of birth defects information.

Authorizes the board and TDH to design the program to also provide for the passive collection of birth defects information.

Disposition of Cruelly Treated Animals - H.B. 1119
*by Representative Goodman - Senate Sponsor: Senator Brimer*

Although the Texas Health and Safety Code sets forth a civil procedure by which county or municipal authorities can seize an animal that is being or has been cruelly treated by its owner and divest the owner of ownership rights to the animal, the current process can be cumbersome and costly. This bill:

Authorizes a peace officer or an officer who has responsibility for animal control in a county or municipality who has reason to believe that an animal has been or is being cruelly treated, to apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

Requires the court or magistrate, on a showing of probable cause to believe that the animal has been or is being cruelly treated, to issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.

Requires the officer executing the warrant to impound the animal and give written notice to the owner of the animal of the time and place of the hearing.

Provides that a finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense of cruelty to animals is prima facie evidence that the animal has been cruelly treated.

Provides that a statement of an owner made at a hearing provided for under this Act is not admissible in a trial of the owner for cruelty to animals and that each interested party is entitled to an opportunity to present evidence at the hearing.
Requires the court, if the court finds that the animal’s owner has cruelly treated the animal, to divest the owner of ownership of the animal, and order a public sale of the animal by auction, give the animal to a nonprofit animal shelter, pound, or society for the protection of animals, or order that the animal be humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

Requires a court that finds that an animal’s owner has cruelly treated the animal to order the owner to pay all court and related costs.

Authorizes the court to order that a confiscated animal be spayed or neutered at the cost of the receiving party.

Requires the court to order the animal returned to the owner if the court does not find that the animal’s owner has cruelly treated the animal.

Prohibits a bid by the former owner of a cruelly treated animal or the owner’s representative from being accepted at an auction.

Requires proceeds from the sale of the animal to be applied first to any costs owed by the former owner, and then to the justice or municipal court ordering the auction. Any excess proceeds are to be returned to the former owner of the animal.

Provides that if the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

Authorizes an owner of an animal ordered sold at public auction as provided by this Act to appeal the order to a county court or county court at law in the county in which the justice or municipal court is located, but requires the owner to file an appeal bond in an amount determined by the justice or municipal court to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process.

Prohibits further appeal of the decision of the county court or county court at law.

Prohibits an owner from appealing an order to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals, or to humanely destroy the animal.

Prohibits selling or destroying an animal while an appeal is pending, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.
Restructuring the Texas Commission for the Deaf and Hard of Hearing - H.B. 1322
by Representative Naishat - Senate Sponsor: Senator Shapleigh

Revises provisions of the Human Resources Code to more clearly define the responsibilities and functions of the Texas Commission for the Deaf and Hard of Hearing (TCDHH).

Defines “deaf-blind” population, a population which TCDHH already serves but has not clearly been within its statutory scope of responsibility.

Directs TCDHH to develop rules and guidelines for use of revenue generated from the sale of its specialty license plate, as well as to design and provide for the issuance of a symbol or other form of identification that may be attached to a motor vehicle regularly operated by a person who is deaf or hard of hearing.

Removes TCDHH’s responsibility to set a schedule of fees for interpreter services.

Authorizes TCDHH to establish fees for interpreter training and to appoint an advisory board to assist in administration of its interpreter certification program.

Authorizes TCDHH to charge fees for written and performance examinations, for annual certificate renewal, and for recertification.

Makes certificates valid for five years, subject to the certificate holder’s payment of an annual certificate renewal fee.

Authorizes TCDHH to revoke or suspend a certificate or place a certificate holder on probation for violation of a statute, rule, or policy of TCDHH.

Grants certificate holders certain due process rights in such cases and entitles a certificate-holder to a hearing.

Authorizes TCDHH to contract with private entities to provide for the participation of children and their parents who are deaf or hard of hearing, at outdoor recreational programs operated for the purpose of providing skill training and recreational experiences.

Requires TCDHH, in selecting children to attend such programs to select qualified children from across the state who TCDHH thinks will benefit from the program.

Authorizes TCDHH to request criminal background information on individuals applying for employment in such outdoor training programs.

Requires TCDHH, with respect to grant funding, to develop a formula, based on population and region, to allocate those funds among the agencies, organizations, or individuals that are awarded the contracts or grants, to ensure an equitable distribution of contract or grant funds.
Texas is one of only five states in the country with separate boards and licensing Acts for registered nurses (RNs) and licensed vocational nurses (LVNs). From a public policy perspective, a single board and licensing Act regulating nursing practice across the continuum of nursing would provide for more consistency in policy and regulation. This bill:

Provides that a rule or form adopted by the Board of Vocational Nurse Examiners (BVNE) is a rule or form of the Board of Nurse Examiners (BNE) and remains in effect until amended or replaced by BNE.

Abolishes BVNE, transfers its powers to the BNE, and provides for the continuation of BNE until September 1, 2007.

Provides that a vocational nurse organization that operates a nonprofit registry to enroll members to provide nursing to the public is not liable for the payment of an occupation tax or license fee unless the law imposing the tax or fee specifically imposes the tax or fee on vocational nurse organizations that operate nonprofit registries.

Reconstitutes BNE with 13 certain members appointed by the governor with the advice and consent of the senate to staggered six year terms, a third of which expire on January 31 of each odd-numbered year.

Requires a person eligible for appointment as a registered nurse or vocational nurse member of the board to have practiced nursing in the role for which the member was appointed for at least three of the five years preceding the date of appointment.

Authorizes BNE to adopt and enforce rules consistent with this Act and necessary to:
- perform its duties and conduct proceedings before BNE;
- regulate the practice of professional nursing and vocational nursing;
- establish standards of professional conduct for license holders; and
- determine whether an act constitutes the practice of professional nursing or vocational nursing.

Authorizes the BNE to recommend to the Texas State Board of Medical Examiners the adoption of rules relating to the delegation by physicians of medical Acts to registered nurses and vocational nurses licensed by BNE, and authorizes BNE, in making a recommendation, to distinguish between nurses on the basis of special training and education.

Requires BNE to prescribe two programs of study to prepare vocational nurses – a program conducted by an educational unit in nursing within the structure of a school, including a college, university, or proprietary school, and a program conducted by a hospital.

Requires BNE to prescribe and publish the minimum requirements and standards for a course of study in each program that prepares registered nurses or vocational nurses; prescribe other rules as necessary to conduct approved schools of nursing and educational programs for the preparation of registered nurses or
vocational nurses; approve schools of nursing and educational programs that meet the board's requirements; and deny or withdraw approval from a school of nursing or educational program that fails to meet the prescribed course of study or other standard.

Prohibits a program approved to prepare registered nurses from being less than two academic years or more than four calendar years.

Prohibits a person from being certified as a graduate of any school of nursing or educational program unless the person has completed the requirements of the prescribed course of study, including clinical practice, of an approved school of nursing or educational program.

Requires BNE to disseminate, at least twice a year and at other times BNE determines necessary, information that is of significant interest to nurses and employers of nurses in this state, including summaries of final disciplinary action taken against nurses by the board since its last dissemination of information.

Prohibits a person from practicing or offering to practice professional nursing or vocational nursing in this state unless, with certain exceptions, the person is licensed.

Requires each applicant for a registered nurse license or a vocational nurse license to submit to the board a sworn application that demonstrates the applicant's qualifications, accompanied by evidence that the applicant has good professional character and has successfully completed an approved program of professional or vocational nursing education established by BNE rule.

Authorizes BNE to waive the educational requirement for a vocational nurse applicant if the applicant provides satisfactory sworn evidence that the applicant has completed an acceptable level of education in a professional nursing school approved by BNE or a school of professional nurse education located in another state or a foreign country.

Requires BNE to design an examination to determine the fitness of the applicant to practice professional nursing or vocational nursing.

Authorizes BNE, pending the results of a licensing examination, to issue to an applicant who is a graduate of an approved educational program a permit to practice professional nursing under the direct supervision of a registered nurse or to practice vocational nursing under the direct supervision of a registered nurse or vocational nurse.

Authorizes BNE, on payment of a fee established by BNE, to issue a license to practice as a registered nurse or vocational nurse in this state by endorsement without examination to an applicant who holds a registration certificate as a registered nurse or vocational nurse, as applicable, issued by a territory or possession of the United States or a foreign country if BNE determines that the issuing agency of the territory or possession of the United States or foreign country required in its examination the same general degree of fitness required by this state.

Makes conforming changes to matters relating to the use of professional nursing titles.
Requires license holders, as part of continuing education requirements during each two-year licensing period, to obtain at least two hours of continuing education relating to preparing for, reporting medical events resulting from, and responding to the consequences of an incident of bioterrorism, and provides sanctions for noncompliance.

Requires BNE, in consultation with the Texas Department of Health, to adopt rules establishing the content of the continuing education requirement.

Authorizes BNE to adopt other rules, including rules under for the approval of education programs and providers.

Requires each person that regularly employs, hires, or otherwise contracts for the services of 10 or more nurses to develop a written plan for identifying and reporting a nurse in its service against whom grounds exist that the nurse caused unnecessary or likely exposure of a patient or other person to a risk of harm; engaged in unprofessional conduct; failed to adequately care for a patient; or failed to conform to the minimum standards of acceptable professional nursing practice; or suffers from an impairment or likely impairment of practice by chemical dependency.

Requires the plan to include an appropriate process for the review by a nursing peer review committee of any incident reportable under this Act and for the affected nurse to submit rebuttal information to that committee.

Provides that review by a nursing peer review committee is only advisory.

Requires BNE to enter into memoranda of understanding with each state agency which licenses, registers, or certifies a health care facility or agency or surveys that facility or agency with respect to nursing care as to how that state agency can promote compliance with the peer review requirement.

Provides that a person is not required to provide a peer review determination for a request made by a registered nurse, unless the person regularly employs, hires, or otherwise contracts for the services of at least five registered nurses; or by a vocational nurse, unless the person regularly employs, hires, or otherwise contracts for the services of at least five vocational nurses.

Provides that the BVNE shall continue to perform functions and activities under its existing statutory authority until January 1, 2004.

Requires the BNE, no later than June 1, 2004, to adopt the rules required by this Act.

Provides that a license holder may not be required to complete the continuing education requirements imposed this Act before June 1, 2006.
In 1999 the Institute of Medicine released the ground-breaking report entitled To Err is Human: Building a Safer Healthcare System. The report estimated that 44,000 Americans die each year from medical errors. While much data is available on hospital performance through various sources, reliable information about medical errors is lacking. This bill:

Provides that the purpose of this Act is to establish programs that will promote public accountability through the detection of statewide trends in the occurrence of certain medical errors by requiring hospitals, ambulatory surgical centers, and mental hospitals to report errors and implement risk-reduction strategies as well as by providing the public with access to statewide summaries of such reports.

Provides that the program also will encourage hospitals, ambulatory surgical centers, and mental hospitals to share best practices and safety measures that are effective in improving patient safety.

Requires the Texas Department of Health (TDH) to develop a patient safety program for hospitals, ambulatory surgical centers, and mental hospitals administered by the respective licensing programs within TDH that will serve as an information clearinghouse for hospitals concerning best practices and quality improvement strategies.

Requires a hospital, ambulatory surgical center, and mental hospital, on renewal of a license under this Act, to submit an annual report to TDH that lists the number of occurrences at the hospital or at an outpatient facility owned or operated by the hospital, ambulatory surgical centers, and mental hospitals of each of the following events during the preceding year:

- a medication error resulting in a patient’s unanticipated death or major permanent loss of bodily function in circumstances unrelated to the natural course of the illness or underlying condition of the patient;
- a perinatal death unrelated to a congenital condition in an infant with a birth weight greater than 2,500 grams;
- the suicide of a patient in a setting in which the patient received care 24 hours a day;
- the abduction of a newborn infant patient from the hospital or the discharge of a newborn infant patient from the hospital into the custody of an individual in circumstances in which the hospital knew, or in the exercise of ordinary care should have known, that the individual did not have legal custody of the infant;
- the sexual assault of a patient during treatment or while the patient was on the premises of the hospital or facility;
- a hemolytic transfusion reaction in a patient resulting from the administration of blood or blood products with major blood group incompatibilities;
- a surgical procedure on the wrong patient or on the wrong body part of a patient;
- a foreign object accidentally left in a patient during a procedure; and
- a patient death or serious disability associated with the use or function of a device designed for patient care that is used or functions other than as intended.
Prohibits TDH from requiring the annual report to include any information other than the number of occurrences of each event listed above.

Requires a hospital, ambulatory surgical center, and mental hospital, not later than the 45th day after the date a hospital becomes aware of the occurrence of a reportable event to conduct a root cause analysis of the event as prescribed in the act and develop an action plan that identifies strategies to reduce the risk of a similar event occurring in the future.

Authorizes TDH to review a root cause analysis or action plan related to a reportable event during a survey, inspection, or investigation of a hospital, ambulatory surgical center, or mental hospital.

Prohibits TDH from requiring a root cause analysis or action plan to be submitted to TDH.

Prohibits TDH or an employee or agent of TDH in any form, format, or manner from removing, copying, reproducing, redacting, or dictating from any part of a root cause analysis or action plan.

Provides that all information and materials, with certain exceptions, obtained or compiled by a facility under this Act are confidential and not subject to disclosure under the Public Information Act, and are not subject to discovery, subpoena, or other means of legal compulsion for release.

Prohibits information and materials obtained or compiled by TDH under this Act from being admitted in evidence or otherwise disclosed in any civil, criminal, or administrative proceeding and that provides the confidentiality protections apply regardless of whether the information or materials are obtained from or compiled by a hospital or an entity that has an ownership or management interest in a hospital, ambulatory surgical center, or mental hospital.

Prohibits the transfer of information or material from being treated as a waiver of any privilege or protection, granted under law.

Provides that information reported by a hospital, ambulatory surgical center, or mental hospital and analyses, plans, records, and reports obtained, prepared, or compiled by a facility, and all related information and materials, are subject to an absolute privilege enforceable by a court and may not be used in any form against the facility or its agents, employees, partners, assignees, or independent contractors in any civil, criminal, or administrative proceeding, regardless of the means by which the information, analysis, plan, record, report, or related information and materials came into the possession of the person attempting to use them.

Provides that the provisions regarding the confidentiality of information or materials compiled or reported by a hospital, ambulatory surgical center, or mental hospital in compliance with or as authorized under this Act do not restrict access, to the extent authorized by law, by the patient or the patient’s legally authorized representative to records of the patient’s medical diagnosis or treatment or to other primary health records.

Requires TDH on an annual basis to compile and make publicly available a aggregated, de-identified summary of the events that were reported by facilities under this Act.
Requires a hospital, ambulatory surgical center, or mental hospital to provide to TDH at least one report of the best practices and safety measures related to a reported event, as well as other best practices and safety measures effective in improving patient safety.

Requires TDH periodically to review the best practices reports, compile a summary of best practices recommended by TDH as best practices, and make the summary available to the public.

Prohibits the hospital, ambulatory surgical center, or mental hospital annual report, TDH summary, or the best practices report from distinguishing between an event that occurred at an outpatient facility owned or operated by the hospital and an event that occurred at a hospital facility, ambulatory surgical center, or mental hospital.

Requires the commissioner of health, no later than December 1, 2006, and in consultation with certain facilities, to evaluate the patient safety programs and report the results of the evaluation, and make recommendations to the legislature.

Requires the report to address the degree to which TDH was able to detect statewide trends in errors based on the types and numbers of events reported, the degree to which the statewide summaries of events compiled by TDH were accessed by the public, the effectiveness of TDH’s best practices summary in improving hospital patient care, and the impact of national studies on the effectiveness of state or federal systems of reporting medical errors.

Authorizes TDH to accept and administer a gift, grant, or donation from any source to carry out the purposes of this Act. Provides that each day of a continuing violation constitutes a separate violation.

Requires TDH, in determining the amount of an administrative penalty assessed under this section, to consider:

- the seriousness of the violation;
- the history of previous violations;
- the amount necessary to deter future violations;
- efforts made to correct the violation;
- any hazard posed to the public health and safety by the violation; and
- any other matters that justice may require.

Provides for the assessment of administrative penalties under this Act.

Provides that unless continued in existence, this Act expires September 1, 2007.
Rural Physician Relief Program - H.B. 1877
by Representative Hardcastle, et al. - Senate Sponsor: Senator Madla

Studies show that physicians in rural areas are unable to take time away from their practices due to the lack of physicians to provide coverage during their absence, work longer hours, see more patients, treat a higher percentage of indigent care patients, and receive less compensation than do their urban colleagues. This bill:

Requires the Office of Rural and Community Affairs (ORCA) to create a program to provide affordable relief services to rural physicians practicing in the fields of general family medicine, general internal medicine, and general pediatrics to facilitate the ability of those physicians to take time away from their practice.

Requires ORCA to charge a fee for rural physicians to participate in the program and for the fees collected to be deposited in a special account in the general revenue fund that may be appropriated only to ORCA for administration of this Act.

Authorizes ORCA to solicit and accept gifts, grants, donations, and contributions to support the program.

Requires ORCA to pay a physician providing relief under the program using fees collected by ORCA.

Requires ORCA, in determining where to assign relief physicians, to consider the number of physicians in the area available to provide relief services and the distance in that area to the nearest physician who practices in the same specialty.

Authorizes residency program directors, at the request of ORCA, to assist ORCA in coordinating the assignment of relief physicians.

Requires ORCA to actively recruit physicians to participate in the program as relief physicians, concentrating on recruiting physicians involved in an accredited residency program in general pediatrics, general internal medicine, and general family medicine, physicians registered on ORCA’s substitute registry, physicians employed at a medical school, and physicians working for private substitute groups.

Provides that the rural physician relief advisory committee is composed of certain members appointed by the executive committee and is to assist ORCA in administering the program.

Requires ORCA to seek state and federal money available for economic development in rural areas for programs.

Requires the ORCA executive committee, in collaboration with area health education center programs, to establish a community healthcare awareness and mentoring program for students to identify certain information.

Adds to the provisions governing the board of directors of the rural foundation the prohibition that a person formally affiliated with a Texas trade association that contracts with the foundation may not be a board member or employee of the foundation.
The Texas Traumatic Brain Injury Advisory Council (TBIAC) is a joint endeavor by the Health and Human Services Commission (HHSC) and the Texas Department of Health (TDH), devoted to the interests of persons with traumatic brain injuries and their families. This bill:

Created the TBIAC and provides that it is an advisory council within TDH or another agency designated to serve as the agency with primary responsibility in relation to persons with physical disabilities.

Requires TBIAC to be composed in accordance with federal law and appointments to TBIAC to be made without regard to the race, color, sex, religion, age, or national origin, or disability of the appointees, except as required by federal law.

Provides that TBIAC is composed of 22 members appointed, eight of whom are public consumer members appointed by the commissioner of health and human services, at least three of whom must be individuals related to persons with a traumatic brain injury and at least three of whom must be persons with a brain injury; six of whom are professional members appointed by the commissioner of health and human services, each of whom must have special training and interest in the care, treatment, or rehabilitation of persons with a traumatic brain injury; and eight of whom are state agency members.

Requires one of the six public consumer members to be a member of a statewide traumatic brain injury support group.

Applies standard Sunset provisions regarding officers, restrictions on members, terms, compensation, meetings to the TBIAC.

Provides that a person who has served one full term on TBIAC is not eligible for reappointment.

Requires TBIAC to:

- inform state leaders of issues and policies as they relate to meeting the needs of persons with a traumatic brain injury and their primary family caregivers;
- recommend to state leaders policies and programs that more effectively serve persons with a traumatic brain injury and their families;
- recommend to TDH methods to explore and promote innovative approaches to providing services and support to persons with a traumatic brain injury and their families;
- recommend to TDH methods to promote education, training, and information about traumatic brain injury issues;
- advocate for persons with a traumatic brain injury and their families;
- recommend to TDH methods to support activities aimed at reducing preventable brain injuries; and
- recommend to TDH methods to conduct outreach to obtain public input.
Requires TDH to enter into a memorandum of understanding with TBIAC that delineates the responsibilities of TDH and TBIAC and amend the memorandum as necessary to reflect changes in those responsibilities.

Authorizes the Texas Board of Health to adopt rules as necessary to implement TDH’s duties under this Act and federal developmental disability laws.

Requires TBIAC to make recommendations, at the request of the governor or legislative leaders, relating to activities appropriate to the achievement of legislative and executive functions relating to persons with a traumatic brain injury, and submit to the governor, legislature, and other appropriate state and federal authorities periodic reports on TBIAC’s responsibilities and performance.

Encourages TBIAC to seek a gift or grant from any public or private entity.

Requires HHSC to deposit any money received to the credit of the TBIAC account, an account in the general revenue fund that may be appropriated only for the purpose of carrying out this Act.

Provides that it is the intention of the legislature that changes made by this Act reflect any changes made by the 78th Legislature relating to the structure of governmental agencies providing health and human services and programs in this state, and if the relevant functions or duties of any agency referenced in this Act are transferred to another agency the reference means the agency to which the relevant functions or duties were transferred.

Regulating Health and Safety Conditions at Youth Camps - H.B. 2075
by Representative Hilderbran - Senate Sponsor: Senator Fraser

The Texas Department of Health (TDH) is responsible for inspecting and setting health and safety standards for various industries throughout the state, including youth camps which are unique in the sense that they operate on a seasonal basis. This bill:

Requires an employee or agent of TDH who enters a youth camp to investigate and inspect conditions to notify the person in charge of the camp or the person’s designee of any violations as they are discovered and allow the camp to correct the violations while the investigation and inspection is occurring.

Prohibits TDH from extending or delaying an investigation or inspection to allow the youth camp to correct a violation.

Prohibits an employee or agent of TDH who is performing an investigation and inspection from reporting a violation or TDH from imposing a penalty for a violation that is significant under TDH’s rules if the violation is corrected during the investigation and inspection.

Requires the board, in developing the rules, to consult parents, youth camp operators, and appropriate public and private officials and organizations.
Requires the board to deliver to the lieutenant governor and the speaker of the house of representatives a copy of the notice of a proposed rule when the agency files notice with the secretary of state and comply with the analysis and documentation requirements in the Government Code.

Requires the board to appoint an advisory committee for staggered six-year terms, with the terms of three members expiring on August 31 of each odd-numbered year, to advise the board in the development of standards and procedures, make recommendations to the board regarding the content of the rules adopted to implement this Act, and perform any other functions requested by the board in the implementation and administration of the Act.

Prohibits the advisory committee from exceeding nine members, requires two of the members to be members of the general public, and requires the other members to be experienced camping professionals who represent the camping communities of the state.

Requires the board, in making the appointments, to attempt to reflect the geographic diversity of the state in proportion to the number of camps licensed by TDH in each geographic area.

Prohibits TDH from assessing a penalty that exceeds $1,000 a day for each violation.

**Regulation of Operating Room Nurses - H.B. 2131**
*by Representative Zedler - Senate Sponsor: Senator Deuell*

The 77th Legislature authorized the Board of Nurse Practitioners to develop and enact rules governing Registered Nurse First Assistant (RNFA) practice. Some nurses employed by physicians, hospitals, or physician’s groups who have been assisting doctors in the operating room for many years do not want to be reimbursed for the duties they perform and do not want to go through the process to become an RNFA. This bill:

Provides that the RNFA provisions do not apply to a registered nurse who is a nurse first assistant.

Authorizes a registered nurse to whom this Act applies to directly assist a physician, physician’s group, podiatrist, or dentist to perform surgery if the nurse:
- has, before September 1, 2003, directly assisted the physician, physician’s group, podiatrist, or dentist to perform surgery for 2,500 or more hours;
- assists under the direct personal supervision and in the physical presence of the physician, physician’s group, podiatrist, or dentist in the same sterile field; and
- is employed by the physician, physician’s group, podiatrist, or dentist or by a hospital.

Prohibits a registered nurse, physician, physician’s group, podiatrist, or dentist, or the facility at which surgery is performed, from separately billing the services of the registered nurse to the patient or to any third party insurer.

Prohibits a registered nurse to whom this Act applies from using certain titles.
Regulation of the Practice of Professional Nursing - H.B. 2208
by Representative Allen - Senate Sponsor: Senator Nelson

Under current law, the Board of Nurse Examiners (BNE) is entitled to receive criminal background checks from the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) for any applicant for licensure or any person requesting a determination of eligibility for license from the board; however, questions have arisen regarding BNE authority to request and receive the DPS and FBI criminal history information of applicants for licensure as a registered nurse and for currently licensed registered nurses seeking to renew their licenses. This bill:

Authorizes BNE, in addition to other information authorized under law, to request and receive criminal history record information from the Federal Bureau of Investigation.

Authorizes criminal history record information received by BNE to be used only by BNE and provides that it is privileged and prohibits disclosure of the information to any person other than as required under a court order or to a nursing board that is a member of the nurse licensure compact.

Provides that if, on the basis of criminal history record information obtained by BNE, BNE proposes to deny an application for a license, refuse to renew a license, or suspend or revoke a license or temporary permit, the applicant or license holder is entitled to a hearing.

Requires an applicant for a registered nurse license or an applicant for renewal of an unexpired license to submit to BNE, in addition to satisfying other requirements, a complete and legible set of fingerprints, on a form prescribed by BNE, for the purpose of obtaining criminal history record information from DPS and the FBI.

Authorizes BNE by rule to develop a system for initiating the process of obtaining criminal history record information for applicants for a license under this Act by requiring persons who enroll or plan to enroll in an educational program that prepares a person for a license as a registered nurse to submit BNE a set of fingerprints.

Authorizes BNE to deny a license to an applicant who does not comply with the requirements of this Act.

Provides that issuance of a license by BNE is conditioned on BNE obtaining the applicant's criminal history record information under this Act.

Health and Human Services Reorganization - H.B. 2292
by Representatives Wohlgemuth and Heflin - Senate Sponsor: Senator Nelson

H.B. 2292 provides for a comprehensive reorganization of the structure, function and delivery health and human services in Texas. The bill also contains provisions that address specific programs, including, for example, modifications to Medicaid and children's health insurance program eligibility, regulation of nursing homes, and health-related transportation programs, as well as strengthening Medicaid fraud and abuse provisions, and allowing the state to recoup Medicaid costs through recovery from the estates of deceased...
Medicaid clients. Please note that the following represents a sampling of the major provisions and is not a comprehensive summary of the changes included in H.B. 2292.

Reorganizes the Texas health and human services agency structure.

Restructures and consolidates the functions of 12 current health and human service agencies into four new agencies under the purview of the Texas Health and Human Services Commission (HHSC).

Abolishes the Interagency Council on Early Childhood Intervention; Texas Department on Aging; Texas Commission on Alcohol and Drug Abuse; Texas Commission for the Blind; Texas Commission for the Deaf and Hard of Hearing; Texas Department of Health; Texas Department of Human Services; Texas Department of Mental Health and Mental Retardation; Texas Rehabilitation Commission; Department and Protective and Regulatory Services; and Texas Health Care Information Council.

Creates four new health and human services agencies: the Department of State Health Services; Department of Aging and Disability Services; Department of Family and Protective Services; and Department of Assistive and Rehabilitative Services.

Creates an executive commissioner of health and human services (executive commissioner) to be appointed by the governor with the advice and consent of the senate.

Requires the executive commissioner to appoint a commissioner for each health and human services agency with the approval of the governor. Provides that a commissioner appointed by the executive commissioner serves at the pleasure of the executive commissioner.

Consolidates administrative and support functions for health and human services agencies at HHSC.

Requires the executive commissioner to adopt rules and policies for the operation of and provision of health and human services by the health and human services agencies.

Grants the executive commissioner operational authority and responsibility at each health and human services agency, including authority over and responsibility for the:

- organization and management of agency operating procedures and daily operations of the agency;
- allocation of resources within the agency, including use of federal funds received by the agency;
- personnel and employment policies;
- contracting, purchasing, and related policies, subject to this chapter and other laws relating to contracting and purchasing by a state agency;
- information resources systems used by the agency;
- location of agency facilities; and
- coordination of agency activities with activities of other state agencies, including other health and human services agencies.
Grants the executive commissioner the authority and responsibility to adopt or approve, subject to applicable limitations, any rate of payment to providers or similar provision required by law to be adopted or approved by the agency.

Requires the executive commissioner to implement a program to evaluate and supervise the daily operations of the agency that must include measurable performance objectives for each agency director and adequate reporting requirements to permit the executive commissioner to perform the duties assigned to the executive commissioner.

Requires the executive commissioner and each agency director to enter into a memorandum of understanding clearly defining the responsibilities and authority of each party.

Establishes the Health and Human Services Council to assist the executive commissioner in developing rules and policies for HHSC.

Establishes similar advisory councils attached to each of the four newly created agencies to assist the commissioners of each department in developing rules and policies for the respective departments.

Requires each council to be composed of nine members of the public who meet specified requirements and who are appointed by the governor with the advice and consent of the senate.

Establishes a Health and Human Services Transition Legislative Oversight Committee (HHSTLOC) to facilitate the transfer of powers, duties, functions, programs, and activities between the state’s health and human services agencies and HHSC with a minimal negative effect on the delivery of those services in this state. Provides that the HHSTLOC is composed of seven members: two members of the senate, appointed by the lieutenant governor; two members of the house of representatives, appointed by the speaker of the house of representatives; three members of the public, appointed by the governor; and the executive commissioner of HHSC serving as an ex officio member.

Requires HHSC and the Department of State Health Services, the Department of Aging and Disability Services, the Department of Family and Protective Services, and the Department of Assistive and Rehabilitative Services to develop a comprehensive work plan to guide the transition and consolidation.

Establishes a system of call centers for enrollment information into state health and human services, if such a system is proven cost-effective.

Establishes a centralized purchasing division (CPD) for the management of administrative activities related to the purchasing functions of HHSC and the health and human services agencies that seeks to achieve targeted cost reductions, increase process efficiencies, improve technological support and customer service, and enhance purchasing support for each agency; and authorizes the CPD, if cost-effective, to contract with private entities to perform such purchasing functions.
Medicaid and Children’s Health Insurance Program (CHIP):

Requires Medicaid to be the payor of last resort, after reimbursement is sought from other sources, including Medicare, Medicare fiscal intermediaries, and any third-party payors.

Establishes a preferred drug list (PDL) for purposes of negotiating state costs with drug manufacturers and distributors and a Pharmaceutical and Therapeutics Committee to review and recommend drugs for placement on the PDL.

Creates a four-brand, 34-day prescription supply maximum on covered prescription drugs.

Requires prior authorization for certain prescription drugs that are not included in the PDL and requires such authorization to be given or denied within a 24-hour period.

Authorizes HHSC to establish prior authorization requirements for certain high-cost medical services and procedures.

Authorizes HHSC to recover the costs of Medicaid and related services from the estate of a deceased Medicaid recipient.

Maintains six-month continuous eligibility for Medicaid, and allows third-party information to be used in eligibility determination.

Establishes cost-sharing for Medicaid recipients.

Maintains CHIP eligibility at 200 percent of the federal poverty level, but provides for six months, rather than 12 months, continuous eligibility; institutes a 90-day waiting period prior to coverage; implements drug supply limits; and institutes an assets test.

Reduces certain benefits for Medicaid and CHIP recipients.

Removes the exemption from the insurance premium tax for CHIP and Medicaid health maintenance organizations (HMOs) and primary care case management models (PCCMs).

Strengthens efforts to prevent Medicaid fraud and abuse.

Establishes a Medicaid fraud pilot program utilizing “smart card” technology.

Authorizes prepayment reviews and post-payment holds of claims for reimbursement under Medicaid.

Creates an Office of Inspector General (OIG) at HHSC to operate autonomously within HHSC; grants HHSC subpoena power; allows the OIG and attorney general to pursue criminal asset forfeiture for felony violations; and requires an integrity review by HHSC prior to launching a full investigation.
Temporary Assistance for Needy Families (TANF) Benefits:

Requires TANF recipients to comply with the personal responsibility agreement to retain eligibility for TANF benefits, and certain recipients to participate in a Healthy Marriage Development Program.

Provides for suspension of TANF benefits for noncompliant individuals and families until compliance has been established for 30 consecutive days, with exceptions for those who can demonstrate “good cause.”

Provides that pregnant women and children will continue to receive Medicaid regardless of TANF compliance status.

Creates a temporary, six-month exclusion of a new spouse’s income in eligibility determination if the couple’s combined family income does not exceed 200 percent of the federal poverty level.

General Provisions:

Authorizes nursing homes to pursue alternative accreditation through the Joint Commission on Accreditation of Health Organizations, a not-for-profit, nongovernmental organization that establishes standards for the operation of health care facilities, and requires such accreditation to be accepted in lieu of an annual state agency accreditation review under certain conditions.

Establishes a nursing facility quality assurance team.

Precludes nursing homes from being assessed both state and federal-level penalties for the same violation.

Requires health and human service agencies to contract with the Texas Department of Transportation (TxDOT) for client transportation services, excepting the Department of Family and Protective Services, for which the requirement is optional.

Authorizes TxDOT to contract with regional transportation brokers.

Allows the Texas Department of Health or its successor to charge licensing fees to cover the costs of administering licensing programs, and establishes a two-year license renewal period.

Establishes requirements relating to the provision of services to children with multi-agency needs.

Establishes the authority of health and human services agencies and the procedures to be followed in case of a public health disaster, including the authority to quarantine individuals and/or property and impose other disease control measures.
Office of Patient Protection within the Health Professions Council - H.B. 2985

by Representative Capelo, et al. - Senate Sponsor: Senator Nelson

Requires the Health Professions Council (council) to establish an office of patient protection (OPP) within the council, no later than January 1, 2004, to represent the interests of consumers in matters before licensing agencies.

Requires the governor to appoint an executive committee consisting of at least three members who are public members of the governing bodies of licensing agencies.

Requires the executive committee to appoint a director for OPP who is responsible for administering the provisions of this Act.

Prohibits the OPP director from being:

- a health care professional licensed or certified by a licensing agency;
- financially involved with the provision of health care or with an entity that provides health care, including an entity regulated by a licensing agency;
- an officer, employee, or paid consultant of a trade association for a profession that is regulated by a licensing agency;
- an officer, employee, or paid consultant of a trade association for an entity regulated by the Texas Department of Insurance; or
- required to register as a lobbyist, because of the person’s activities for compensation related to a person or organization subject to regulation by a licensing agency.

Provides that OPP is located in the council but may not interfere with the other duties of the council.

Requires OPP to:

- reimburse the council from fees received by OPP for administrative costs incurred by the council in providing administrative support for OPP;
- provide to the public information about the complaint process at each licensing agency;
- conduct a public awareness campaign to increase awareness of the telephone complaint system; and
- provide, through the use of the Internet and other information and communications media, information to the public in easily understood language regarding the complaint procedures and sanctions processes used by the licensing agencies.

Requires OPP, in cooperation with the licensing agencies, to adopt a standard complaint form that may be used by a member of the public to file a complaint with a licensing agency.

Requires OPP to:

- establish, in consultation with and on the approval of the council, protocols for interaction with licensing agencies;
serve as the ombudsman for consumer complaints at the licensing agencies on the request of an individual consumer;
assist consumers in obtaining information about the status of complaints; and
review the Internet websites of licensing agencies and make recommendations to the agencies on making public information, including information relating to disciplinary actions, understandable to and easily accessible by the public.

Authorizes OPP to appear at or present information or testimony to a licensing agency on behalf of consumers as a class and appeal the decisions of licensing agencies to the governing body of the appropriate licensing agency on behalf of consumers as a class but not for individual complainants.

Prohibits OPP from appealing an individual complainant’s case before any agency.

Provides that OPP is entitled to access to complaints received by a licensing agency, unless the access would jeopardize an ongoing investigation, the public records of a licensing agency, and the records of a licensing agency that are filed with the State Office of Administrative Hearings.

Provides that the confidentiality requirements that apply to the records of a licensing agency and the sanctions for disclosure of confidential information apply to OPP and to information obtained by OPP.

Requires OPP to review and evaluate rules proposed for adoption by the licensing agencies and changes made to the statutes that govern the operation of the agencies and the professions regulated by the agencies.

Authorizes OPP to report to the legislature and recommend to licensing agencies changes in agency rules that, in OPP’s judgment, would positively affect the interests of consumers.

Requires OPP to recommend changes to certain statutes to the Sunset Advisory Commission during the commission’s review of the relevant licensing agency.

Provides that to provide funding sufficient for OPP to exercise the powers and duties prescribed by this Act the initial licensing or registration fee charged by each licensing agency is increased by $5 and the renewal fee charged by each licensing agency is increased by $1 for each year for which the license or registration is renewed. The fee increases apply only to a fee collected on or after January 1, 2004.

Provides that the council may spend the fees collected under this Act only to fund the activities of OPP.

Inquest for Found Body Parts - H.B. 2989

by Representatives Capelo and Mabry - Senate Sponsor: Senator Janek

Currently, a justice of the peace is required to conduct an inquest into a person’s death only when a body is found, the cause or circumstances of death are unknown, and the body is either identified or unidentified. No similar provision exists relating to a found body part. This bill:
Requires an inquest into a person’s death when a body part is found, in addition to other circumstances in which an inquest is required.

Authorizes the justice of the peace, rather than the medical examiner, to request the aid of a forensic anthropologist in the examination of the body or body part, on discovering the body or a body part of a deceased person.

Requires the forensic anthropologist to hold a doctoral degree in anthropology with an emphasis in physical anthropology.

**Authorizing Gifts and Grants of Drugs to State Agencies - H.B. 3014**

*by Representative Capelo - Senate Sponsor: Senator Janek*

Current Texas law prohibits pharmaceutical manufacturers and other third parties from donating drugs and devices to state agencies for use by the state. This bill:

Authorizes a health and human services agency to accept a gift or grant of money, drugs, equipment, or any other item of value from a pharmaceutical manufacturer, distributor, provider, or another entity engaged in a pharmaceutical-related business.

Provides that acceptance of a gift or grant is subject to the written approval of the commissioner of health and human services (commissioner) and authorizes the commissioner to adopt rules and procedures to implement this Act.

Requires that the rules relating to acceptance of a gift or grant under this Act are consistent with any applicable federal law or regulation and do not adversely affect federal financial participation in any state program, including the state Medicaid program.

Provides that this Act does not affect the authority under other law of the Health and Human Services Commission or a health and human services agency to accept a gift or grant from a person other than a pharmaceutical manufacturer, distributor, provider, or another entity engaged in a pharmaceutical-related business.

**Blindness Education, Screening, and Treatment Program - H.B. 3125**

*by Representative Truitt - Senate Sponsor: Senator Zaffirini*

The Blindness Education, Screening, and Treatment (BEST) program was created by the 75th Texas Legislature to provide blindness prevention education, screening, and treatment for Texans who are not covered under an adequate health benefit plan. Current Texas law prohibits the Texas Commission for the Blind (TCB) from applying donated funds toward a federal match. This bill:
Requires TCB, to the extent that funds are available under the BEST fund, to operate a BEST program to provide transition services to blind disabled individuals eligible for vocational rehabilitation services.

**Statewide Health Coordinating Council and Nursing Education - H.B. 3126**

*by Representative Truitt, et al. - Senate Sponsor: Senator Janek*

Currently, Texas is facing a shortage of nurses which some suggest is caused by demographic factors rather than economic factors. This bill:

Provides measures designed to support continued enrollment increases in nursing schools.

Requires the Texas Higher Education Coordinating Board (THECB) to adopt procedures for assuring that money appropriated by the legislature specifically to fund enrollment growth in a professional nursing program is distributed in a certain manner and expended on the professional nursing program by institutions receiving money, and that each professional nursing program receiving money files a report annually with THECB accounting for all money received.

Provides that grants awarded through this program by THECB be awarded to programs preparing students for initial licensure as registered nurses or programs preparing qualified faculty members with a master's or doctoral degree for such programs, including programs of two-year institutions of higher education, four-year general academic teaching institutions, health science centers, and independent or private institutions of higher education.

Modifies the composition of and expands the statewide health coordinating council (council) at the Texas Department of Health, and requires the council to form a nursing advisory committee (committee).

Requires the council, in conjunction with THECB, to establish a comprehensive health professions resource center for the collection and analysis of educational and employment trends for health professions in this state, and in conjunction with the committee, to establish a nursing resource section within the center to collect, analyze, and disseminate nursing data that may be used to predict supply and demand for nursing personnel in this state using appropriate federal or state supply-and-demand models, and educational and employment trends for nurses in this state.

Provides that all associated costs would be covered through funds generated by an increase in the renewal fees charged by the Board of Nurse Examiners and the Board of Vocational Nurse Examiners.

Provides that data that contains information identifying specific persons or health care facilities is confidential, is not subject to disclosure and may not be released unless all identifying information is removed.
Health Certificate for Cosmetologists - H.B. 3174  
by Representative Pitts - Senate Sponsor: Senator Averitt

Repeals the requirement requiring applicants for new and renewal cosmetology licenses to provide a health certificate signed by a healthcare provider indicating that the applicant is free of tuberculosis or contagious diseases.

Application of Sealants by Dental Assistants - H.B. 3193  
by Representative Uresti - Senate Sponsor: Senator Madla

Dental assistants are authorized under current law to apply pit and fissure sealants only if the delegating dentist is a Medicaid provider. This bill:

Authorizes a licensed dentist to delegate the application of a pit and fissure sealant to a dental assistant if the dentist is a Medicaid provider or the dentist practices in an area determined to be underserved by the Texas Department of Health.

Cosmetology Licensing and Regulation - H.B. 3460  
by Representative Pitts - Senate Sponsor: Senator Averitt

Currently, new applicants for a cosmetology license are not required to have a high school diploma or GED or to demonstrate their ability to benefit from training. Cosmetologists often use chemicals and highly-specialized procedures to perform services such as permanents, installing artificial nails, facial treatments, and other newly developing treatments. To examine applicants, the Texas Cosmetology Commission (TCC) uses written licensure examinations purchased from a national testing service in order to ensure that the tests are fully validated and legally defensible. Current statutes, however, prohibit TCC from submitting examinations of public school students to a national testing service for grading, even though the same statute allows TCC to do so for private beauty school students, resulting in additional labor and computer-related costs for TCC.

Cosmetology schools fall in one of two categories: public secondary and post-secondary vocational programs, or private beauty schools. Private schools must obtain a license ($500 license fee) and renew that license annually ($200 renewal fee), whereas public school vocational programs are required only obtain a certificate which does not have to be renewed, and pay no fees. This bill:

Sets forth the requirements, including specific educational requirements that an applicant must meet to be eligible for an operator license, a manicurist license, a facialist license, or a specialty license.

Authorizes TCC to submit to a national testing service for grading the examination of a student in a vocational cosmetology program.

Requires that a private beauty culture school license or a public secondary or postsecondary beauty culture school obtain a license and pay the required fees in order to operate and provides that the license expires on the anniversary of the date the license is issued.
Requires TCC, by rule, to recognize, prepare, or administer continuing education programs for the practice of cosmetology and requires participation in continuing education programs established by TCC for all license renewals.

**Return of Unused Drugs to a Pharmacy - H.B. 3486**  
*by Representatives Delisi and Madden - Senate Sponsor: Senator Deuell*

Prescription drugs used in health care facilities are disposed of on a daily basis for many reasons despite the fact that these medications may be in good condition, have not been utilized fully, and could be used for other patients if initially packaged in tamper-resistant or blister packs. This bill:

Authorizes a pharmacist who practices in or serves as a consultant for a health care facility in this state to return to a pharmacy certain unused drugs, other than a controlled substance, purchased from the pharmacy as provided by Texas State Board of Pharmacy (TSBP) rule.

Requires the unused drugs to:
- be approved by the federal Food and Drug Administration (FDA) and be sealed in the manufacturer’s original unopened tamper-evident packaging and either individually packaged or packaged in unit-dose packaging; oral or parenteral medications in sealed single-dose containers approved by FDA; topical or inhalant drugs in sealed units-of-use containers approved by FDA; or parenteral medications in sealed multiple-dose containers approved by FDA from which doses have not been withdrawn; and
- not be the subject of a mandatory recall by a state or federal agency or a voluntary recall by a drug seller or manufacturer.

 Requires a pharmacist for the pharmacy to examine a drug returned under this Act to ensure the integrity of the drug product.

Prohibits a health care facility from returning a drug that:
- has been compounded;
- appears on inspection to be adulterated;
- requires refrigeration; or
- has less than 120 days until the expiration date or end of the shelf life.

Authorizes a pharmacy to restock and redistribute returned unused drugs.

Requires the pharmacy to reimburse or credit the state Medicaid program for any returned unused drug.

Requires TSBP, no later than December 1, 2003, to adopt rules, policies, and procedures necessary to administer this Act, including rules that require a health care facility to inform the Health and Human Services Commission (HHSC) of drugs returned to a pharmacy.
Provides that a pharmacist who returns unused drugs or the health care facility at which the pharmacist practices or serves and a pharmacy that accepts the unused drugs and the employees of the pharmacist, health care facility, or pharmacy are not liable for harm caused by the accepting, dispensing, or administering of drugs returned in strict compliance with this Act unless the harm is caused by:

- willful or wanton acts of negligence;
- conscious indifference or reckless disregard for the safety of others; or
- intentional conduct.

Provides that this Act does not limit, or in any way affect or diminish, the liability of a drug seller or manufacturer under Chapter 82, Civil Practice and Remedies Code.

Provides that the limitation on liability does not apply if harm results from the failure to fully and completely comply with the requirements of this Act.

Requires HHSC, no later than December 1, 2003, to adopt rules governing the determination of the amount of reimbursement or credit for restocking drugs under this Act that recognize the costs of processing the drugs, including certain costs.

Requires HHSC to establish a task force, to include representatives of nursing facilities and pharmacies, to develop the rules necessary to implement this Act.

Requires HHSC to provide an electronic system for the issuance of credit for returned drugs that complies with the federal Health Insurance Portability and Accountability Act of 1996.

Provides that to ensure a cost-effective system, only drugs for which the credit exceeds the cost of the restocking fee by at least 100 percent are eligible for credit.

Provides that if before implementing any provision of this Act a state agency determines a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision must request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Provides that a pharmacy is not required to accept unused drugs from a health care facility before January 1, 2004.

**Regulation and Enforcement of the Practice of Medicine - S.B. 104**


The Texas State Board of Medical Examiners (TSBME) currently licenses and enforces licensure requirements of physicians in Texas. In May of 2002, the governor made an emergency appropriation to the board of $200,000 to improve the investigation and resolution of medical malpractice claims and to reorganize and improve the medical malpractice claims division. This bill:
Authorizes TSBME to increase the first registration permit fee from $200 to $400; increases the fee for application processing and issuance of a registration permit for outpatient anesthesia from $300 to $600.

Authorizes TSBME to collect fee surcharges of:
- $200 per license fee;
- $400 per first registration permit;
- $400 per renewal of registration permit; and
- $200 per reinstatement of a license after cancellation for cause.

Authorizes TSBME to collect an additional $80 surcharge for first registration permit and renewal of a registration permit for the “public assurance account” to pay for the board’s enforcement program, including the expert physician panel also established by this legislation and consisting of physicians licensed in this state.

Requires TSBME to include with its annual financial report information regarding any investigations that remain pending after one year, including the reasons the investigations remain pending, without identifying the patient unless the patient consents to the release.

Requires TSBME to provide a statistical report each fiscal year to the legislature and the public that provides aggregate information about all complaints received by the board, categorized by type of complaint.

Requires TSBME to require in the physician profile for licensing a description of any medical malpractice claim against the physician for which the physician was found liable, a jury award of monetary damages to a claimant, and the award has been determined to be final and not subject to further appeal.

Requires TSBME, on written request, to provide information to a health care entity regarding the basis of and current status of any complaint under active investigation that has been assigned to the executive director to a person authorized by TSBME to pursue legal action.

Requires TSBME to distinguish among categories of complaints and give priority to complaints that involve sexual misconduct, quality of care, and impaired physician issues.

Requires TSBME to establish provisions governing the composition of an expert physician panel to assist with complaints and investigations relating to medical competency, along with the qualifications for membership on the panel and the duties to be performed by the panel.

Authorizes TSBME to require that the letter informing the person who filed a complaint of the dismissal of the complaint include explanation of the reason the complaint was dismissed.

Requires each person licensed to practice medicine in this state to register with TSBME every two years instead of annually.
Exempts from the registration permit fee requirement retired physicians and physicians whose only practice is voluntary charity care.

Requires TSBME to consider taking more severe disciplinary action, including revocation of the person’s license, if the person is being disciplined for multiple violations or has previously been the subject of disciplinary action.

Requires TSBME to adopt a schedule of the disciplinary sanctions that the board may impose to ensure that the severity of the sanctions are appropriate to the type of violation or conduct that is the basis for disciplinary action.

Requires that if during the 180-day investigation period, TSBME determines that the complaint is baseless or unfounded, TSBME will dismiss the complaint and include a statement in the record that the complaint was dismissed as baseless or unfounded.

Authorizes TSBME to revoke a license issued in this state if the license holder held a license to practice medicine in another state that was revoked by the licensing authority in that state.

**Information Provided Regarding the Use and Abuse of Certain Drugs - S.B. 144**

_by Senator Averitt - House Sponsors: Representative Capelo, et al._

Requires the Texas State Board of Medical Examiners (TSBME), Texas State Board of Podiatric Medical Examiners (TSBPME), State Board of Dental Examiners (SBDE), Board of Nurse Examiners (BNE), Board of Vocational Nurse Examiners (BVNE), Texas State Board of Pharmacy (TSPB), and Texas Optometry Board (TOB), at least once each biennium, to provide to license holders information on:

- prescribing and dispensing pain medications, with particular emphasis on Schedule II and Schedule III controlled substances;
- abusive and addictive behavior of certain persons who use prescription pain medications;
- common diversion strategies employed by certain persons who use prescription pain medications, including fraudulent prescription patterns; and
- the appropriate use of pain medications and the differences between addiction, pseudo-addiction, tolerance, and physical dependence.

Requires TSBME, TSBPME, SBDE, BNE, BVNE, TSPB, and TOB to provide to license holders information regarding the services provided by poison control centers.

Requires a state agency that is subject to this Act to develop materials that contain the information required by this Act no later than January 1, 2004.

Authorizes the materials required by this Act to be provided by electronic or other means.
Requires the state agencies that are subject to this Act to cooperate in developing the materials and to ensure, to the extent possible, that the same information is contained in the materials used by each agency.

Anatomical Gifts Education - S.B. 160

Requires the Texas Department of Health (TDH) to:
- develop an educational program for health care providers and attorneys on human organ donations;
- encourage attorneys to provide information concerning organ donations to individuals seeking legal counsel for end-of-life decisions;
- encourage medical and nursing schools in Texas to include mandatory organ donation education in their curriculum;
- encourage medical schools in Texas to require a physician in either a neurology or neurosurgery residency program to complete an advanced course in organ donation education; and
- to implement the program only to the extent that funds are available, money or in-kind donations are donated to TDH for the purpose of implementing the program, or the legislature specifically appropriates money from another source for the purpose of implementing the program.

Certain Texas Department of Health Licensing Programs - S.B. 161

Authorizes the following regulatory bodies located at the Texas Department of Health (TDH) to temporarily suspend a license, certificate, or letter of documentation if it is determined from the evidence or information presented that continued practice by the documented midwife would constitute a continuing and imminent threat to the public welfare:
- Midwifery board;
- Texas Board of Orthotics and Prosthetics;
- Texas State Board of Examiners of Dietitians (TSBED);
- Advisory Board of Athletic Trainers (ABAT);
- TDH - a massage therapist;
- Texas State Board of Examiners of Marriage and Family Therapists (TSBEMFT);
- TDH - an optician;
- TDH - a contact lens dispensing permit holder;
- State Board of Examiners for Speech-Language Pathology and Audiology (SBESLPA);
- State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;
- Council on Sex Offender Treatment;
- TDH - a medical radiologic technologist;
- Texas Board of Licensure for Professional Medical Physicists; and
- Texas State Board of Examiners of Perfusionists (TSBEP).

Authorizes a suspension without notice or hearing on a complaint if action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings (SOAH) simultaneously with the temporary suspension and a hearing held as soon as practicable.

Sets forth procedures regarding a license suspension.

Authorizes the following to impose an administrative penalty on a license holder who violates this Act or a rule or order thereof:
- Texas State Board of Examiners of Professional Counselors (TSBEPC);
- State Board of Examiners for Speech-Language Pathology and Audiology (SBESLPA);
- Texas Board of Licensure for Professional Medical Physicists;
- Texas State Board of Examiners of Perfusionists (TSBEP);
- Texas Board of Orthotics and Prosthetics;
- Texas State Board of Examiners of Dietitians (TSBED);
- TDH-registered sanitarian;
- Council on Sex Offender Treatment; and
- TDH-code enforcement officer board.

Authorizes a regulatory entity to impose an administrative penalty on a license holder, the amount which, in most cases, may not be less than $50 or more than $5,000 for each violation. Provides that each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

 Requires the amount of the penalty to be based on:
- the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- the economic harm caused by the violation;
- the history of previous violations;
- the amount necessary to deter a future violation;
- efforts to correct the violation; and
- any other matter that justice may require.

Sets forth procedures regarding the imposition of administrative penalties.

Establishes that a person knowingly acting as a social worker without holding a required license commits a Class A misdemeanor.
Establishes that a person commits a Class A misdemeanor if the person knowingly practices medical physics or a specialty of medical physics without holding the required license.

Establishes that a person who knowingly practices, attempts to or offers to practice, orthotics or prosthetics without holding a required license commits a Class A misdemeanor.

**Facility Sanctions by the Texas Department of Health - S.B. 162**

Under current law, the Texas Department of Health (TDH) has the authority to deny, revoke, or suspend the licenses of certain facilities found to be in noncompliance with Texas laws. However, TDH lacks the authority to place facilities on probation or emergency suspension during the period under which the facility operates with a probationary license. This bill:

Authorizes TDH to schedule a hospital, an ambulatory surgical center, a birthing center, an abortion facility, a special care facility, an end stage renal disease facility, a private mental hospital, or mental health facility for probation rather than suspending or revoking a license if TDH finds that the facility is in repeated noncompliance but that the noncompliance does not endanger public health and safety.

Requires TDH to provide notice to the facility of the probation and of the items of noncompliance not later than the 10th day before the date the probation period begins. Requires TDH to designate a period of not less than 30 days during which the facility will remain under probation.

Requires a facility during the probationary period to correct the items that were in noncompliance and report the corrections to TDH for approval.

Authorizes TDH to suspend or revoke the license of a facility that does not correct items that were in noncompliance or that does not comply with the applicable requirements within the applicable probation period.

Authorizes TDH to issue an emergency order to suspend a license if TDH has reasonable cause to believe that the conduct of a license holder creates an immediate danger to the public health and safety. Provides that an emergency suspension is effective immediately without a hearing on notice to the license holder.

Requires TDH, on written request of the license holder, to conduct a hearing not earlier than the 10th day or later than the 30th day after the date the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded.

Provides that the hearing and any appeal are governed by TDH’s rules for a contested case hearing and the administrative procedures provisions of the Government Code.
Hospital District Alternative Financing Method - S.B. 200

by Senator Shapiro - House Sponsor: Representative Hodge

Currently, a countywide hospital district is required by the Texas Constitution to provide all medical and hospital services to the needy inhabitants of the county. Such districts have two primary sources of revenue, a tax levy that was approved by the voters when the district was created, and operating revenues. This bill:

Authorizes certain hospital districts, as an alternative financing method, to pledge hospital system revenues and tax revenues to the payment of combination tax and revenue bonds and other obligations if the pledge is approved at an election held for that purpose.

Licensing and Regulation of Chiropractors - S.B. 211

by Senator Carona - House Sponsors: Representatives Laubenberg and Zedler

Current law does not provide specific guidelines regarding the public’s access to files for open investigations of licensed chiropractors. Thus, a license holder is able to request and receive for review the information obtained about a case while an investigation is underway.

The Texas Board of Chiropractic Examiners (TBCE) may renew without reexamination the license of a license holder whose license in this state has expired, but who has moved to another state, is currently licensed in the other state, and has been in practice in that other state for the two years prior to the application; current Texas law does not extend similar privileges to a license holder who has moved to a foreign country. This bill:

Provides that TBCE investigation files are confidential, privileged, and not subject to discovery, subpoena, or any other means of legal compulsion for release other than to TBCE or an employee or agent of TBCE.

Requires TBCE to share information in investigation files, on request, with another state or federal regulatory agency or with a local, state, or federal law enforcement agency regardless of whether the investigation has been completed.

Provides that TBCE is not required to disclose information that is an attorney-client communication, an attorney work product, or other information protected by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

Requires TBCE, on the completion of the investigation and before a hearing, to provide to the license holder, subject to any other privilege or restriction set forth by rule, statute, or legal precedent, access to all information in TBCE possession that TBCE intends to offer into evidence in presenting its case in chief at the contested case hearing on the complaint.

Provides that TBCE is not required to provide an investigative report or memorandum, the identity of a nontestifying complainant, or attorney-client communications, attorney work product, or other materials covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.
Authorizes TBCE to disclose a complaint to the affected license holder and provide to a complainant the license holder’s response to the complaint, provided the response is considered necessary by TBCE to investigate the complaint.

Provides that the changes made by this Act do not prohibit TBCE or another party in a disciplinary action from offering into evidence in a contested case, a record, document, or other information obtained or created during an investigation.

Requires TBCE, by rule, to adopt requirements for registering chiropractic facilities as necessary to protect the public health, safety, and welfare.

Requires the TBCE rules to:
- specify the registration requirements for a chiropractic facility;
- prescribe the standards for the chiropractic facility registration program;
- provide for the issuance of a separate certificate of registration to an owner of a chiropractic facility for each chiropractic facility owned; and
- provide for TBCE to send notice to an owner of a chiropractic facility and to each chiropractor practicing in the facility of the impending expiration of the facility’s certificate of registration.

Requires the standards adopted under this Act to be consistent with industry standards for the practice of chiropractic.

Requires a facility owner, in order to register a chiropractic facility, to file with TBCE a written application for registration and pay, with the application, a registration fee in an amount set by TBCE not to exceed $75.

Provides that a person licensed to practice chiropractic in this state is subject to disciplinary action if the person practices chiropractic in a chiropractic facility that the person knows is not registered.

Provides that an owner of a chiropractic facility who violates this Act or a rule adopted under this Act is subject to disciplinary action by TBCE in the same manner as a license holder who violates this Act or a rule adopted under this Act.

Authorizes TBCE to renew without reexamination an expired license of a person who was licensed in this state, moved to another state or foreign country, and is currently licensed in good standing and has been in practice in the other state or foreign country for the two years preceding application.

Provides that a person is currently licensed if the person is licensed by another chiropractic licensing board recognized by TBCE.

Requires TBCE to adopt requirements for recognizing another chiropractic licensing board that has licensing requirements substantially equivalent to the requirements of this state and maintains professional standards considered to be equivalent to the standards under Texas law.
Repeals Subsection (b), Section 201.303 (Educational Requirements), Occupations Code, which provides that “the credits required under Subsection (a) include the satisfactory completion of courses in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, and public health. In this subsection, "satisfactory completion" means an average of 75 percent or better in each course.”

Requires TBCE to adopt rules specifying the maximum amount of sanctions that may be assessed against a chiropractor for violating provisions added by this Act no later than January 1, 2004.

**Disposal of Animal Remains and Associated Medical Waste - S.B. 216**

*by Senators Zaffirini and Hinojosa - House Sponsors: Representative Hardcastle, et al.*

Veterinarians across Texas treat animals infected with dangerous pathogens. Although the 77th Texas Legislature authorized a veterinarian to burn or bury a carcass on property owned by the veterinarian as long as the veterinarian does not charge for the disposal, the Texas Commission on Environmental Quality (TCEQ) cited and fined some veterinarians for burning medical waste as they destroyed contaminated carcasses. This bill:

- Clarifies the definition of "medical waste" to include animal waste, blood, gloves, sleeves, newspapers, and plastic bags, but not sharps.
- Authorizes a veterinarian to dispose of the remains of an animal and medical waste associated with the animal by burial or burning if:
  - the burial or burning occurs on property owned by the veterinarian that is located outside the corporate boundaries of a municipality, or within the corporate boundaries of a municipality as a result of an annexation that occurs on or after September 1, 2003; and
  - at least one of the following requirements is met:
    - a veterinarian-client-patient relationship existed between the veterinarian, the owner or other caretaker of the animal, and the animal before the animal’s death;
    - the veterinarian diagnosed, treated, boarded, or otherwise cared for the animal before its death; or
    - the veterinarian performed euthanasia or an autopsy on the animal.

Prohibits TCEQ from adopting a rule that prohibits conduct authorized by this Act.

Provides that this Act prevails over any other law that authorizes a governmental entity to prohibit or restrict outdoor burning, or abate a public nuisance.
Health Insurance Premium Assistance for Children - S.B. 240
by Senator Averitt - House Sponsor: Representative Wohlgemuth

S.B. 240 changes the name of the Health Insurance Premium Payment (HIPP) Reimbursement Program for Children Eligible for Child Health Plan to the Health Insurance Premium Assistance Program for Children Eligible for Child Health Plan, and revises the operational requirements of the program. The child health plan refers to the Children's Health Insurance Program or CHIP. HIPP allows the state to purchase employer-based insurance coverage for CHIP-eligible children if "premium assistance" is determined to be cost-effective compared to providing health insurance solely through CHIP. “Premium assistance” programs where states elect to subsidize employer-based health insurance premiums for low-income children, and in some cases, their parents were authorized under the federal law creating CHIP, enacted in 1997. These changes would align state law with the Health and Human Services Commission’s (HHSC) waiver proposal to the federal government to make it easier to offer premium assistance under CHIP. This bill:

Requires HHSC to identify children, otherwise eligible to enroll in CHIP, who are eligible to enroll in a group health benefit plan.

Requires HHSC, for a child so identified, to determine whether it is cost-effective to enroll the child in the group health benefit plan.

Authorizes HHSC to determine cost-effectiveness on an aggregate basis for the premium assistance program as a whole.

Requires HHSC, if HHSC determines that it is cost-effective to enroll the child in the group health benefit plan, to: inform the child and the child’s parent or guardian of the availability of the premium assistance program; offer, as an option to enrollment in CHIP, a premium assistance payment to assist with the employee’s or member’s share of the required premiums for the group health benefit plan that is available to the child; and provide written notice to the issuer of the group health benefit plan.

Requires HHSC to determine the amount of the premium assistance payment which shall be paid and limits such payments to the reimbursement of the employee’s or member’s share of required premiums for coverage of a child enrolled in the group health benefit plan. The premium assistance payment may provide assistance for the payment of a group health benefit plan premium that includes the child’s parent or other individuals who are members of the child’s family.

Prohibits HHSC from providing for the payment of any deductible, co-payment, coinsurance, or other cost-sharing obligation for the child or another individual enrolled in a group health benefit plan. Enrollment of a child in a group health benefit plan under this law does not affect the child’s eligibility for benefits under CHIP, except that the program becomes the payor of last resort for those benefits.

Authorizes HHSC to consolidate or coordinate the administration of this program with a similar program provided for individuals eligible for medical assistance under the state Medicaid program.
Chemical Dependency Counselors or Counselor Interns - S.B. 333  

Currently, Texas law allows a person with a high school degree or its equivalent to become a licensed chemical dependency counselor (LCDC). The law provides limited direction in regulating interns. This bill:

Defines "counselor intern."

Sets forth the application requirements for a license as a chemical dependency counselor through the Texas Commission on Alcohol and Drug Abuse (TCADA).

Authorizes TCADA to obtain criminal history record information relating to a counselor intern or an applicant for registration as a counselor intern from the Department of Public Safety and the Federal Bureau of Investigation.

Increases the LCDC eligibility requirements to include a requirement that the person holds an associate degree or a more advanced degree, rather than a high school diploma or its equivalent, and have completed 135 hours, or nine semester hours, specific to substance abuse disorders and treatment and an additional 135 hours, or nine semester hours, specific or related to chemical dependency counseling.

Provides that an applicant for licensure is exempt from certain requirements if the applicant holds a baccalaureate degree or a more advanced degree in chemical dependency counseling, psychology, sociology, or any other related program approved by the commission.

Authorizes a chemical dependency counselor licensed before this Act's effective date to renew that license without complying with the changes made by this Act.

JUA Coverage for Assisted Living Facilities - S.B. 421  
by Senator Carona - House Sponsor: Representative John Davis

Currently, various health care providers, including nursing homes, may acquire liability coverage through the Texas Medical Liability Insurance Underwriting Association or Joint Underwriting Association (JUA) which was created to provide a means for health care providers to obtain medical liability insurance when such coverage is not available through other markets. Assisted living facilities have reported problems relating to the lack of available and affordable medical liability coverage. This bill:

Amends the Insurance Code to include assisted living facilities as entities eligible for coverage under the JUA.

Deletes a provision authorizing the Texas commissioner of insurance (commissioner) to direct the initiation or continuation of the stabilization reserve fund charge for physicians or that category of health care provider, if certain losses and expenses result in a net underwriting loss and exceed 25 percent of the fund.
Deletes the requirement that the stabilization reserve fund be credited with all stabilization reserve fund charges collected from policyholders and be charged with any deficit from the prior year's operation.

Adds assisted living facilities to the groups for whom the Texas Public Finance Authority, on behalf of JUA, is required to issue revenue bonds to fund the stabilization reserve fund.

Provides that JUA is not liable for exemplary damages under a professional liability insurance policy that covers assisted living facilities and excludes certain exemplary damages, but does not prohibit an assisted living facility from purchasing a policy to cover exemplary damages.

Adds assisted living facilities to the groups for whom the commissioner is authorized to approve an endorsement form that provides for coverage for exemplary damages to be used on a policy of medical professional liability insurance.

Authorizes the commissioner to determine that appropriate liability insurance coverage written by authorized insurers is not reasonably available to a type of health care practitioner or facility and to designate by order that a practitioner or facility be eligible for coverage from JUA.

Requires the commissioner to establish by order the categories of physicians and health care providers who are eligible to obtain coverage from the JUA and authorizes the commissioner to revise its order to include or exclude from eligibility particular categories of such physicians and health care providers.

Provides that a for-profit or not-for-profit nursing home or assisted living facility not otherwise eligible for coverage from the JUA is eligible for coverage if the nursing home or assisted living facility demonstrates, in accordance with the requirements of the JUA, that the nursing home or assisted living facility made a verifiable effort to obtain coverage from authorized insurers and eligible surplus line insurers and was unable to obtain substantially equivalent coverage and rates.

Requires the commissioner, in consultation with the Texas Department of Human Services, by rule, to adopt minimum rating standards for for-profit nursing homes and for-profit assisted living facilities that must be met before a for-profit nursing home or for-profit assisted living facility may obtain coverage through JUA.

Requires the rating standards to promote the highest practical level of care for residents of those nursing homes and assisted living facilities.

Requires that any deficit sustained by the JUA with respect to physicians and health care providers, other than for-profit and not-for-profit nursing homes and assisted living facilities, or by for-profit and not-for-profit nursing homes and assisted living facilities in any one year shall be recouped, pursuant to the plan of operation and the rating plan then in effect, by one or more of the following procedures:

- a contribution from the policyholder’s stabilization reserve fund for physicians and health care providers, other than for-profit and not-for-profit nursing homes and assisted living facilities or from the stabilization reserve fund for for-profit and not-for-profit nursing homes and assisted living facilities, as appropriate, until the respective fund is exhausted;
- an assessment upon the policyholders; and/or
• an assessment upon the members.

Requires rates applicable to professional liability insurance provided by the JUA that cover nursing homes and assisted living facilities that are not-for-profit to reflect a discount of 30 percent from the rates for the same coverage provided to others in the same category of insureds.

Provides that to the extent a member has paid one or more assessments and has not received reimbursement from the JUA, a credit against premium taxes under Article 4.10 of the Insurance Code, as amended, is authorized at a rate of 20 percent per year for five successive years following the year in which the deficit was sustained and at the option of the insurer may be taken over an additional number of years.

Creates a policyholder’s stabilization reserve fund for physicians and health care providers, other than for-profit and not-for-profit nursing homes and assisted living facilities, which shall be administered and in the plan of operation of the JUA.

Requires each policyholder to pay annually into the stabilization reserve fund a charge, the amount of which shall be established annually by advisory directors chosen by health care providers, other than for-profit and not-for-profit nursing homes and assisted living facilities, and physicians eligible for insurance in JUA in accordance with the plan of operation.

Requires the charge to be in proportion to each premium payment due for liability insurance through the JUA, and to be separately stated in the policy, but not constitute a part of premiums or be subject to premium taxation, servicing fees, acquisition costs, or any other such charges.

Requires the stabilization reserve fund to be collected and administered by JUA and treated as a liability of JUA along with and in the same manner as premium and loss reserves.

Requires the collections of the stabilization reserve fund charge to continue until such time as the net balance of the stabilization reserve fund is not less than the projected sum of premiums for physicians and health care providers, other than for-profit and not-for-profit nursing homes and assisted living facilities, to be written in the year following valuation date.

Requires the stabilization reserve fund to be credited with all stabilization reserve fund charges collected from physicians and health care providers, other than for-profit and not-for-profit nursing homes and assisted living facilities, and charged with any deficit sustained by physicians and health care providers, other than for-profit and not-for-profit nursing homes and assisted living facilities, from the prior year’s operation of the JUA.

Provides that the legislature finds that the issuance of bonds to provide a method to raise funds to provide professional liability insurance through the JUA for nursing homes and assisted living facilities in this state is for the benefit of the public and in furtherance of a public purpose.

Requires the Texas Public Finance Authority, on behalf of the JUA, to issue revenue bonds to: fund the stabilization reserve fund for for-profit and not-for-profit nursing homes and assisted living facilities; pay costs related to issuance of the bonds; and pay other costs related to the bonds.
Management Teams for Community MHMR Centers - S.B. 464
by Senator Nelson - House Sponsor: Representative Delisi

Local community mental health and mental retardation centers (CMHMRC) while responsible to the Texas Department of Mental Health and Mental Retardation (MHMR) operate as autonomous facilities. In some cases, mismanagement issues have arisen at CMHMRCs and while state officials have the ability to assume management over a CMHMRC, this can only be done after a lengthy appeals process has been exhausted. This bill:

Allows a management team to be appointed by MHMR prior to the completion of an appeal process.

Removes the requirement to utilize contract sanctions before sending in a manager or management team to operate a community center, if the CMHMRC or an officer or employee of such a facility: intentionally, recklessly, or negligently failed to discharge the CMHMRC’s duties under its contract with MHMR; misused state or federal money; engaged in a fraudulent act, transaction, practice, or course of business; endangered or may endanger the life, health, or safety of a person served by the center; failed to keep fiscal records or maintain proper control over center assets; failed to respond to a deficiency in a review or audit; substantially failed to operate within the functions and purposes defined in the CMHMRC’s plan; or otherwise substantially failed to comply with this law or MHMR rules.

Provides that the authority of the manager or management team continues until a determination is made that the problems are resolved.

Requires the MHMR commissioner to terminate the authority of the manager or management team and restore authority to the CMHMRC’s authorized officers and employees, following such a determination.

Continuum of Care of Mental Health Care Services for Young Children - S.B. 490
by Senator Shapleigh, et al. - House Sponsor: Representative Uresti

Until the age of three, all children with mental health needs are entitled to services from the Interagency Council on Early Childhood Intervention (ECI council.) However, after the age of three, children with mental health needs become the responsibility of the Texas Department of Mental Health and Mental Retardation (MHMR) and school districts. Some children three years of age and older who were once entitled to services may no longer be eligible to receive these services, thus the continuum of care provided to these children is disrupted. This bill:

Requires MHMR and the ECI council to jointly develop a continuum of care for children from birth through six years of age who have mental illness and to develop a plan to increase the expertise of MHMR service providers who serve this population.

Directs MHMR and the ECI council to jointly coordinate, when practical, activities and services for children with mental illness and their families.
Performance Measures for Regional Advisory Councils - S.B. 530

Texas is divided into 22 trauma service areas serviced by area regional advisory councils (RACs). RACs are formal organizations chartered by the Texas Department of Health’s (TDH) Bureau of Emergency Management to develop and implement trauma services in a given region. This bill:

Requires TDH to develop performance measures for RACs in trauma service areas to:
- promote the provision of a minimum level of emergency medical services (EMS) in a trauma service area;
- promote the provision of quality care and service by the EMS and trauma care system; and
- maximize the accuracy of information provided by a RAC to TDH for increased council effectiveness.

Euthanasia of an Animal by an Animal Shelter - S.B. 572
by Senator Harris - House Sponsors: Representatives Hartnett, et al.

It is estimated that more than one million animals are put to sleep in Texas’ animal shelters annually; however, no state law exists governing the proper methods and procedures for euthanizing these animals or the proper training of shelter personnel performing the euthanasia. Currently animals are being killed by various methods by untrained and inexperienced personnel. This has resulted in both cruel and inhumane deaths for these animals and safety concerns for shelter personnel. This bill:

Requires the Board of Health to establish not later than June 1, 2004 rules and standards for the administration of sodium pentobarbital and standards for carbon monoxide chambers used to euthanize animals in the custody of animal shelters.

Requires the Texas Department of Health (TDH) to approve the sponsors and training course curriculum requirements for euthanasia technicians not later than June 1, 2004.

Provides that a person may euthanize all other animals in the custody of an animal shelter, including birds and reptiles, only in accordance with the applicable methods, recommendations, and procedures set forth in the 2000 Report of the American Veterinary Medical Association Panel on Euthanasia as modified or superseded by a subsequent report of the American Veterinary Medical Association Panel on Euthanasia that is approved by the board.

Requires that any person who euthanizes an animal in an animal shelter to have completed a training course in the proper methods and techniques for euthanizing animals within the past three years.

Requires the course curriculum to include the pharmacology, proper administration, and storage of euthanasia solutions; federal and state law regulating the storage and accountability of euthanasia solutions; euthanasia technician stress management; proper restraint and handling of an animal during
euthanasia; the procedures for administering commercially compressed carbon monoxide to an animal; techniques for verifying an animal’s death; and the proper disposal of a euthanized animal.

Exempts veterinarians licensed to practice in this state from the training course requirement.

Provides that a person commits an offense punishable as a Class B misdemeanor if the person violates this law or a board rule adopted under this law.

Indoor Air Quality in State Buildings - S.B. 599

by Senator West · House Sponsor: Representative Corte

The Texas Department of Health (TDH), in conjunction with the Texas Building and Procurement Commission (TBPC) is responsible for maintaining the indoor air quality in buildings owned or occupied by the state, including buildings or offices leased to the state for state purposes. This bill:

Requires that all matters related to the investigation and testing of indoor air quality in state buildings under the charge and control of TBPC be referred to TDH.

Provides that TDH conduct indoor air quality testing and report such findings to the State Office of Risk Management (SORM).

Requires that TBPC contract with a private entity to conduct any air monitoring related to asbestos abatement services provided by TBPC.

Provides that TBPC report findings and test results to TDH and SORM.

Requires TDH to contract for research and technical assistance related to indoor air quality from an entity that does not receive appropriations from the state to identify potential threats to indoor air quality and report these findings to TDH with a recommended plan for addressing these issues.

Requires that TDH provide a report of findings or a recommended plan of action to the Legislative Budget Board, the Governor’s Office of Budget and Planning, and SORM.

Requires SORM to conduct an annual, one-day educational seminar on maintaining safe indoor air in state buildings and publish on its Internet website information provided at the most recent seminar.

Reimbursement for Telemedicine Medical Services - S.B. 691

by Senator Madla · House Sponsor: Representative Delisi

Requires the Health and Human Services Commission (HHSC) to periodically review policies regarding reimbursement under the Medicaid program for telemedicine medical services to identify variations between permissible reimbursement under that program and reimbursement available to providers under the federal Medicare program.
Authorizes HHSC, to the extent practicable and after conducting a review, to modify rules and procedures applicable to reimbursement under the Medicaid program for telemedicine medical services as necessary to provide for a reimbursement system that is comparable to the reimbursement system for those services under the Medicare program.

Requires HHSC to perform these duties with assistance from the telemedicine advisory committee.

Authorizes HHSC to review rules and procedures applicable to reimbursement of telemedicine services provided through any government-funded health program subject to HHSC’s oversight.

Authorizes HHSC to modify rules and procedures as necessary to ensure that reimbursement for telemedicine medical services is provided in a cost-effective manner and only in circumstances in which the provision of those services is clinically effective.

Authorizes HHSC to pursue any necessary federal waivers to implement the provisions of this bill.

Practices and Regulations Regarding Professional Nursing - S.B. 718
by Senator Madla - House Sponsor: Representative McReynolds

Texas continues to face a critical shortage of registered nurses (RN) with an average statewide vacancy rate in hospitals of over 12 percent. A study by the Center for Health and Economic Policy at The University of Texas Health Science Center-San Antonio found the current shortage is primarily driven by demographics rather than economic factors – an aging population of nurses combined with a growing elderly population and increased demand for health care and nursing services. This bill:

Authorizes the Board of Nurse Examiners (BNE) to approve and adopt rules regarding pilot programs for innovative applications in the practice and regulation of professional nursing.

Requires BNE to specify the procedures to be followed in applying for approval of a pilot program.

Authorizes BNE, in approving a pilot program, to grant the program an exception to the mandatory reporting requirements or to certain rules that relate to the practice of professional nursing, including education and reporting requirements for nurses.

Requires BNE, before January 1, 2004, to solicit proposals for pilot programs designed to evaluate the efficacy and effect on protection of the public of reporting systems.

Prohibits BNE from granting an exception to:
- the education requirements unless the program includes alternate but substantially equivalent requirements; or
- to the mandatory reporting requirements unless the program is designed to evaluate the efficiency of alternative reporting methods and provides consumers adequate protection from RNs whose continued practice is a threat to public safety.
Authorizes BNE, if it grants an exception, to require that the program:
- provide for the remediation of the deficiencies of a RN;
- provide for supervision of the RN during remediation of deficiencies;
- require reporting to BNE of a RN who fails to satisfactorily complete remediation, or who does not make satisfactory progress in remediation, whose incompetence in the practice of professional nursing would pose a continued risk of harm to the public, whose error contributed to a patient death or serious patient injury; or
- provide for a nursing peer review committee to review whether a RN is appropriate for remediation.

Clarifies prohibitions relating to the use of the title "nurse" or any other designation tending to imply that the person is licensed to provide nursing care.

Authorizes BNE to recognize, prepare, or implement continuing competency programs for license holders and may require participation in such programs as a condition of renewal of a license.

Requires BNE to consider, but does not obligate BNE to approve, in adopting rules:
- a program or provider approved or accredited through the American Nurses Credentialing Center; and
- a nurse in-service program offered by a hospital that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, certified by Medicare, or maintained or operated by the federal government or the state.

Requires each licensed RN to wear a clearly legible insignia identifying the nurse as a RN while interacting with the public in a professional nursing role.

Authorizes BNE to adopt rules establishing specifications for the insignia.

Provides that the grounds for reporting a RN include:
- unnecessary or likely exposure by the RN of a patient or other person to a risk of harm;
- unprofessional conduct by the RN;
- failure by the RN to adequately care for a patient;
- failure by the RN to conform to the minimum standards of acceptable professional nursing practice; or
- impairment or likely impairment of the RN’s practice by chemical dependency.

Authorizes a nurse to report to the nurse’s employer or another entity at which the nurse is authorized to practice any situation that the nurse has reasonable cause to believe exposes a patient to substantial risk of harm as a result of a failure to provide patient care that conforms to minimum standards of acceptable and prevailing professional nursing practice.
Requires BNE, in making a determination regarding a deficiency in care provided, to review the evidence to determine the extent to which a deficiency in care by the nurse was the result of deficiencies in the nurse’s judgment, knowledge, training, or skill rather than other factors beyond the nurse’s control.

Authorizes a nurse to request on a form produced by BNE, a determination by a nursing peer review committee whether conduct violates a nurse’s duty to a patient under certain conditions.

Provides that a nurse who in good faith requests a peer review determination:
- may not be disciplined or discriminated against for making the request;
- may engage in the requested conduct pending the peer review;
- is not subject to the reporting requirement or the rules of BNE or BVNE; and
- may not be disciplined by BNE or BVNE for engaging in that conduct while the peer review is pending.

Requires that the determinations of the peer review committee be considered in a decision to discipline the nurse, but provides that the determinations are not binding if a nurse administrator believes in good faith that the peer review committee has incorrectly determined a nurse’s duty.

Provides that a nurse’s rights under this Act may not be nullified by a contract.

Prohibits a member of the peer review committee whose knowledge of the nurse’s conduct was acquired only through the peer review from reporting that nurse to the licensing board for that conduct, if a peer review committee determines that a nurse has not engaged in conduct required to be reported to the nurse’s licensing board, except in a case where the member believes the peer review committee made its determination in bad faith.

Requires the governing body of a hospital to adopt policies and procedures related to the work environment for nurses to improve workplace safety and reduce the risk of injury, occupational illness, and violence and increase the use of ergonomic principles and ergonomically designed devices to reduce injury and fatigue.

Requires the policies and procedures related to the work environment, at a minimum, to include:
- evaluating new products and technology that incorporate ergonomic principles;
- educating nurses in the application of ergonomic practices;
- conducting workplace audits to identify areas of risk of injury, occupational illness, or violence and recommending ways to reduce those risks;
- controlling access to those areas identified as having a high risk of violence; and
- promptly reporting crimes committed against nurses to appropriate law enforcement agencies.

Requires a hospital to adopt policies and procedures required by this Act no later than January 1, 2004.
Licensing and Regulation of Surgical Assistants - S.B. 769  
by Senator Carona - House Sponsor: Representative Capelo

Inconsistencies between Texas statutes governing surgical assistant licensure processes and federal surgical assistant certification standards have led to a surgical assistant shortage in Texas. This bill:

Requires the Texas State Board of Medical Examiners, by rule, to provide for the renewal of a surgical assistant license every two years on the anniversary of the date of issuance.

Authorizes a licensed surgical assistant to directly bill a patient or third-party payor for services provided by the surgical assistant.

Advertisement of Certain Compounded Drug Products by a Pharmacy - S.B. 803  
by Senator Janek - House Sponsors: Representatives Capelo and Zedler

Texas law regulating advertising and marketing by compounding pharmacists were enacted in accordance with the Food and Drug Administration Modernization Act (FDAMA) which exempts compounded drugs from the federal Food and Drug Administration’s standard drug approval requirements under the Federal Food, Drug, and Cosmetic Act, so long as the providers of the compounded drugs abide by certain restrictions. The United States Supreme Court held in Thompson v. Western States Medical Center that the FDAMA prohibitions on soliciting prescriptions for and advertising of compounded drugs are an unconstitutional restriction on commercial speech. This bill:

Authorizes a compounding pharmacist or pharmacy to advertise or promote non-sterile prescription compounding services and specific compounded drug products that the pharmacy or pharmacist dispenses or delivers.

Social Worker Regulation - S.B. 810  
by Senator Harris - House Sponsor: Representative Naishatat

In 2001, the 77th Texas Legislature passed H.B. 3365, which directed the Texas State Board of Social Work Examiners (TSBSWE) to adopt rules permitting a social worker to provide medical case management services under the state Medicaid program and provided an expiration date of September 1, 2003. TSBSWE appointed a task force to review independent practice provisions for all categories of social work licensure and make recommendations to ensure adequate participation in the Medicaid program for the delivery of social work services. This bill:

Authorizes this chapter to be cited as the Social Work Practice Act (Act) and defines the practice of social work.

Authorizes the practice of social work to include the provision of certain psychotherapy using certain assessments, diagnoses, treatments, and other activities by persons licensed under this Act.
Provides that this Act does not require a public agency or private employer, including a nonprofit corporation, to employ a person licensed under this Act rather than a licensed master social worker, licensed social worker, or social work associate.

Changes the composition of the TSBSWE.

Requires TSBSWE to establish certain requirements and criteria for each type of license and to establish procedures for recognition of independent practice.

Requires TSBSWE to prepare and publish at its discretion a roster that contains the name and address of each person licensed under this chapter and of persons recognized as qualified for the independent practice of social work.

Requires TSBSWE to adopt rules concerning the investigation of a complaint filed with the department and referred to the board, and to, among other listed requirements, prescribe the time after an act or omission during which a person may file a complaint regarding the act or omission in order for TSBSWE to consider the complaint.

Authorizes TSBSWE to establish within the scope of social work practice and this Act specialty areas of social work for license holders under this chapter who are licensed in good standing if establishment of the specialty areas is necessary to promote the public interest and to assist the public in identifying qualified persons in a social work practice specialty.

Requires TSBSWE to establish procedures for recognizing a social worker qualified for the independent practice of social work and provides that a social worker may not be recognized as qualified for the independent practice of social work unless the person satisfies the requirements of social work education, experience, and supervision.

Sets forth provisions relating to the legitimate use of social work titles.

Prohibits a person from using or causing to be used the title "social worker," "licensed baccalaureate social worker," "licensed master social worker," "licensed clinical social worker," or "licensed social worker," or any combination, variation, or abbreviation of those titles, as a professional or business identification, representation, asset, or means of obtaining a benefit unless the person holds an appropriate license issued under this Act.

Authorizes an applicant to take the TSBSWE licensing examination for:

- a baccalaureate social worker license if the applicant possesses a baccalaureate degree in social work from an educational program accredited by the Council on Social Work Education; or
- a clinical social worker license if the applicant possesses a doctoral or master's degree in social work from an accredited graduate program approved by the board and meets the qualifications for clinical social work practice as determined by the board under this Act.
Provides that a person commits a Class B misdemeanor if the person knowingly acts as a social worker without holding a license required under this Act.

Requires TSBSWE as soon as practicable on or after September 1, 2004, to issue a baccalaureate social worker license to each person who holds a social work associate license on September 1, 2004, and to cancel the person’s social work associate license.

**Chiropractic Licenses - S.B. 842**  
*by Senator Carona - House Sponsors: Representative Capelo, et al.*

Texas law relating to the Texas State Board of Chiropractic Examiners (TBCE) and licensure of chiropractors contains provisions and requirements that are no longer applicable, particularly with regard to licensure of out-of-state chiropractors. This bill:

Requires the TBCE to issue a license to practice chiropractic to an out-of-state applicant who:
- submits a written application on a form prescribed by TCBE, accompanied by the requisite application fee and any other information required by TCBE;
- is licensed in good standing to practice chiropractic in another state or foreign country that has substantially equivalent licensing requirements;
- has not been the subject of a disciplinary action and is not the subject of a pending investigation in any jurisdiction in which the applicant is or has been licensed;
- has graduated from a chiropractic school accredited by the Council on Chiropractic Education and approved by rule by TCBE;
- has passed a national or other examination recognized by TCBE relating to the practice of chiropractic;
- has passed TCBE’s jurisprudence examination;
- has, for at least three years immediately preceding the application, practiced chiropractic or served as a chiropractic educator at a chiropractic school accredited by the Council on Chiropractic Education for at least three years; and
- meets any other requirements adopted by rule.

Establishes a fee for issuance of a license to an out-of-state applicant.

**Ratio of Pharmacists to Pharmacy Technicians in Specialty Pharmacies - S.B. 939**  
*by Senators Janek and Van de Putte - House Sponsors: Representatives Capelo and Zedler*

Current law requires a ratio of one pharmacist to three technicians. This ratio adversely affects Class A specialty pharmacies which produce their own products, in addition to dispensing pharmaceuticals. This bill:
Requires the ratio of pharmacists to pharmacy technicians in a Class A pharmacy to be at least one pharmacist for every five pharmacy technicians if the Class A pharmacy dispenses not more than 20 different prescription drugs and does not produce intravenous or intramuscular drugs on-site.

**Local Area Service Planning by Local MHMR Authorities - S.B. 1182**

*by Senators Deuell and Hinojosa - House Sponsor: Representative Farabee*

Texas Community Mental Health and Mental Retardation Centers serve local communities and have developed a local view of service needs and service priorities. This bill:

Requires each local mental health or mental retardation authority (MHMRA) to develop a local service area plan to maximize the MHMRA’s services by using the best and most cost-effective means of using federal, state, and local resources to meet the needs of the local community according to the relative priority of those needs.

Requires each MHMRA to undertake efforts to maximize federal funding.

Requires a local service area plan to be consistent with the purposes, goals, and policies in law and the Texas Department of Mental Health and Mental Retardation’s (MHMR) long-range plan.

Requires MHMR and a local MHMRA to use the MHMRA’s local service plan as the basis for contracts between MHMR and the MHMRA and for establishing the MHMRA’s responsibility for achieving outcomes related to the needs and characteristics of the MHMRA’s local service area.

Requires the MHMRA, in developing the local service area plan, to:

- solicit information regarding community needs from:
  - representatives of the local community;
  - consumers of community-based mental health and mental retardation services and members of the families of those consumers;
  - consumers of services of state schools for persons with mental retardation, members of families of those consumers, and members of state school volunteer services councils, if a state school is located in the local service area of the MHMRA; and
  - other interested persons; and

- consider:
  - criteria for assuring accountability for, cost-effectiveness of, and relative value of service delivery options;
  - goals to minimize the need for state hospital and community hospital care;
  - goals to ensure a client with mental retardation is placed in the least restrictive environment appropriate to the person’s care;
opportunities for innovation to ensure that the MHMRA is communicating to all potential and incoming consumers about the availability of services of state schools for persons with mental retardation in the local service area of the MHMRA;

- goals to divert consumers of services from the criminal justice system;
- goals to ensure that a child with mental illness remains with the child’s parent or guardian as appropriate to the child’s care; and
- opportunities for innovation in services and service delivery.

Requires MHMR and the local MHMRA by contract to enter into a performance agreement that specifies required standard outcomes for the programs administered by the local authority.

Requires performance related to the specified outcomes to be verifiable by MHMR.

Requires the performance agreement to include measures related to the outputs, costs, and units of service delivered.

Requires information regarding the outputs, costs, and units of service delivered to be recorded in the local MHMRA automated data systems, and reports regarding the outputs, costs, and units of service delivered to be submitted to MHMR at least annually as provided by MHMR rule.

Requires MHMR and the local MHMRA to provide an opportunity for community centers and advocacy groups to provide information or assistance in developing the specified performance outcomes.

Requires the Texas Health and Human Services Commission (HHSC), in order to ensure appropriate delivery of mental health and substance abuse services, to regularly evaluate program contractors and subcontractors that provide or arrange for the services for persons enrolled in the Medicaid managed care program and the state child health plan program.

Requires HHSC to monitor penetration rates and utilization rates as they relate to mental health and substance abuse services provided by or through contractors and subcontractors, and the networks used by contractors and subcontractors to provide such services.

Authorizes a judge or magistrate to permit a physician or a nonphysician mental health professional to testify at a hearing or proceeding via closed-circuit video teleconferencing only in a hearing or proceeding related to court-ordered mental health services. Authorizes a judge or magistrate to permit such testimony at a hearing or proceeding by closed-circuit video teleconferencing if:

- closed-circuit video teleconferencing is available to the judge or magistrate for that purpose;
- the proposed patient and the attorney representing the proposed patient do not file with the court a written objection to the use of closed-circuit video teleconferencing;
- the closed-circuit video teleconferencing system provides for a simultaneous, compressed, full-motion video and interactive communication of image and sound between all persons involved in the hearing; and
on request of the proposed patient, the proposed patient and the proposed patient’s attorney can communicate privately without being recorded or heard by the judge or magistrate or by the attorney representing the state.

Requires the judge or magistrate to provide written notice of the use of closed-circuit video teleconferencing to the proposed patient, the proposed patient’s attorney, and the attorney representing the state not later than the third day before the date of the hearing.

Requires the court on motion of the proposed patient or of the attorney representing the state the court, or, on the court’s discretion authorizes the court to terminate testimony by closed-circuit video teleconferencing at any time during the testimony and require the physician or nonphysician mental health professional to testify in person.

Requires a recording of the testimony to be made and preserved with the court’s record of the hearing.

**Organ Tissue Removal Under Circumstances Requiring an Inquest - S.B. 1225**


Under current law only the medical examiner is authorized to permit the removal of a body part or tissue from a decedent who died under circumstances requiring an inquest. This bill:

Authorizes the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge to permit the removal of organs from a decedent who died under circumstances requiring an inquest, on a request from a qualified organ procurement organization, if consent is obtained within four hours from the decedent’s spouse; the decedent's adult children, if there is no spouse; the decedent's parents, if there is no spouse or adult child; or the decedent's brothers or sisters, if there is no spouse, adult child, or parent.

Requires the organs to be transplanted to be released in a timely manner to the qualified organ procurement organization for removal and transplantation, if no autopsy is required.

Requires the organs to be released in a timely manner for removal and transplantation, if an autopsy is required and the medical examiner, justice of the peace, county judge, or designated physician determines that the removal of the organs will not interfere with the subsequent course of an investigation or autopsy.

Requires the autopsy to be performed in a timely manner following the removal of the organs.

Requires the medical examiner to be present during the removal of the organs if the medical examiner is considering withholding one or more organs of a potential donor for any reason.

Authorizes the medical examiner, in such case, to request a biopsy of those organs or deny removal of the anatomical gift.
Requires the medical examiner, if the medical examiner denies removal of the anatomical gift, to explain in writing the reasons for the denial and to provide the explanation to the qualified organ procurement organization and any authorized person who consented to the removal.

Requires the justice of the peace, county judge, or designated physician to be present during the removal of the organs and authorizes the official to request the biopsy or deny removal of the anatomical gift, if the autopsy is not being performed by a medical examiner and one or more organs may be withheld.

Requires the justice of the peace, county judge, or physician to provide the written explanation required by this Act if removal of the anatomical gift is denied.

Requires, in performing the duties required by this Act, the medical examiner or, in those cases in which an autopsy is not performed by a medical examiner, the justice of the peace, county judge, or designated physician to be present at the hospital to examine the decedent prior to removal of the organs or during the procedure to remove the organs, and authorizes the qualified organ procurement organization to on request reimburse the county or the entity designated by the county for the actual costs incurred in performing such duties, not to exceed $1,000.

Requires such reimbursements to be deposited in the general fund of the county.

Requires the payment to be applied to the additional costs incurred by the office of the medical examiner, justice of the peace, or county judge in performing such duties, including the cost of providing coverage beyond regular business hours, and the payment to be used to facilitate the timely procurement of organs in a manner consistent with the preservation of the organs for the purposes of transplantation.

Requires the health care professional removing organs from a decedent who died under circumstances requiring an inquest to file with the medical examiner, justice of the peace, or county judge a report detailing the condition of the organs removed and their relationship, if any, to the cause of death at the request of the medical examiner or the justice of the peace, county judge, or designated physician.

Authorizes the medical examiner, on a request from a qualified tissue procurement organization, to permit the removal of tissue believed to be clinically usable for transplants or other therapy or treatment from a decedent who died under circumstances requiring an inquest if consent is obtained pursuant to statute or, if consent is not required by statute, no objection by a person authorized to give consent is known by the medical examiner.

Requires the medical examiner to explain in writing the reasons for the denial, if the medical examiner denies removal of the tissue, to the qualified tissue procurement organization and the person who consented to the removal.

Authorizes the justice of the peace, county judge, or designated physician to permit the removal of tissue in the same manner as a medical examiner.
Requires the justice of the peace, county judge, or physician to provide the written explanation required by this Act if the autopsy is not being performed by a medical examiner and if removal of the anatomical gift is denied.

Exempts a medical examiner, justice of the peace, county judge, medical facility, physician acting on permission of a medical examiner, justice of the peace, or county judge, or person assisting a physician from liability for damages on a theory of civil recovery based on a contention that the plaintiff's consent was required before the body part or tissue could be removed, in a civil action brought by a person authorized by law to give consent who did not object before the removal of tissue or a body part.

**Kidney Transplant Allocation Pool - S.B. 1226**


Establishes, to the extent allowed by federal law, under the system for allocating kidneys available for transplant in Texas a statewide pool of 20 percent of the kidneys from deceased donors of each blood type recovered by each organ procurement organization for redistribution to patients who have been waiting the longest for transplantation in this state.

Authorizes medically-eligible patients with low panel reactive antibodies of less than 10 percent who, in terms of accumulated waiting time, comprise the top 20 percent of all patients waiting to be put in the pool.

Provides that as one of those patients receives a transplant, the patient will be replaced in the pool, in turn, by the next longest waiting patient.

Provides that only accumulated waiting time will be used to establish priority access to the pool.

Eliminates assigning points for human leukocyte antigen (HLA) match by organ procurement organizations that are participating in the pool, with the exception of assigning points for a six antigen match with zero antigen mismatch.

Provides that after a patient has qualified for entry into the pool, the order of distribution is based solely on the length of time each patient has waited.

Provides that use of the pools will be managed by the federal Organ Procurement and Transplantation Network (OPTN).

Requires a panel of appropriate physician specialists of Texas’ OPTN members to monitor the listing of patients and the appropriate use of the pools.

Requires organ procurement organizations that have a defined service area that includes all or part of Texas and that are members of the OPTN, and transplant centers in this state that are members of the OPTN, to submit to the OPTN a kidney sharing agreement not later than the 180th day after the effective date of this Act.
Pharmacy License Classifications - S.B. 1315  
by Senator Van de Putte  -  House Sponsor: Representative Capelo

Texas law does not permit the Texas State Board of Pharmacy (TSBP) the flexibility to establish new classes of pharmacy licenses if TSBP determines it necessary. This bill:

Allows the TSBP by rule to establish classifications of pharmacy licenses in addition to the classifications existing under current law if it determines that:
- the practice setting will provide pharmaceutical care services to the public;
- the existing classifications of pharmacy licenses are not appropriate for that practice setting; and
- establishment of a new classification of pharmacy license is necessary to protect the public health, safety, and welfare.

Require TSBP, for a pharmacy license classification established under this law, to adopt rules that provide for the supervision of the pharmacy by a pharmacist.

Requires under the board rules at least continuous supervision by a pharmacist according to the needs of the pharmacy.

Regulation of Tattooists and Body Piercing - S.B. 1317  

Current Texas law requires tattoo artists to have training in aseptic techniques, but does not set forth requirements for other training topics and does not establish a minimum standard to ensure that tattoo artists actually comply with the requirements. This bill:

Redefines "tattoo" to include the application of permanent cosmetics.

Prohibits a tattoo studio or a body piercing studio from employing a tattooist or a body piercer unless the person is registered with the Texas Department of Health (TDH).

Authorizes TDH to refuse to issue an original or renewal tattoo studio or body piercing studio license if it has reasonable grounds to believe and finds that any of the following circumstances exist:
- the applicant has been convicted of a violation of this Act during the two years immediately preceding the filing of the application;
- three years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for a conviction associated with tattooing or body piercing;
- the applicant violated or caused to be violated a provision of this Act or a TDH rule adopted under this Act involving moral turpitude during the six months immediately preceding the filing of the application;
- the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;
the applicant is indebted to the state for a fee or penalty imposed by this Act or by TDH rule
adopted under this Act;
- the applicant is a minor; or
- the applicant does not provide an adequate building available at the address for which the license
is sought before conducting any activity authorized by the license.

Authorizes TDH to refuse to issue or renew, for a period of one year from the date of application for the
initial or renewal license, a tattoo studio or body piercing studio license for a premises where a shooting,
stabbing, or other violent act or an offense involving drugs occurred that involved a license applicant,
license holder, or registrant under this Act or a patron or employee of the studio.

Authorizes TDH to suspend for not more than 60 days or revoke an original or renewal tattoo studio or body
piercing studio license if it is found, after notice and hearing, that any of the following is true:
- the license holder has been finally convicted of a violation of this Act;
- the license holder violated a provision of this Act or a TDH rule adopted under this Act;
- the license holder made a false or misleading statement in connection with the original or renewal
application, either in the formal application itself or in any other written instrument relating to the
application submitted to TDH;
- the license holder is indebted to the state for fees or payment of penalties imposed by this Act or
by a TDH rule adopted under this Act;
- the license holder knowingly misrepresented to a customer or the public any tattoo or body piercing
jewelry sold by the license holder; or
- the license holder was intoxicated on the licensed premises.

Authorizes TDH to refuse to renew or, after notice and hearing, suspend for not more than 60 days or
revoke a tattoo studio or body piercing studio license if TDH finds that the license holder is shown on the
records of the comptroller of public accounts as being subject to a final determination of taxes due and
payable under state tax law.

Requires TDH, if a license holder cannot be located for any notice required under this Act, to provide notice
by posting a copy of the order on the front door of the licensed premises.

Requires the Texas Board of Health to set license and registration fees and license and registration
renewal fees in amounts necessary to administer this Act.

Prohibits a tattooist from tattooing a person younger than 18 years of age or a person who the tattooist
suspects is under the influence of alcohol or drugs.

Authorizes a tattooist to tattoo a person younger than 18 years of age if:
- the tattoo will cover a tattoo that contains obscene or offensive language or symbols; gang-related
names, symbols, or markings; drug-related names, symbols, or pictures; or other words, symbols,
or markings that the person's parent or guardian considers would be in the best interest of the person to cover; and

- the person has obtained consent from the person's parent or guardian to cover the tattoo.

Provides that the required consent may be the individual's parent or guardian being physically present at the tattoo studio at the time the tattooing is performed; executing an affidavit stating that the person is the parent or guardian of the individual on whom the tattooing is to be performed; presenting evidence of the person's identity to the person who will perform the tattooing; and presenting evidence of the person's status as parent or guardian of the individual who will receive the tattoo.

Provides that a person younger than 18 years of age commits a Class B misdemeanor offense if the person falsely states that the person is 18 years of age or older or presents any document that indicates that the person is 18 years of age or older to a person engaged in the operation of a tattoo studio.

Prohibits a person from performing "tongue splitting" which means cutting a human tongue into two or more parts.

Authorizes the commissioner of health (commissioner), with or without notice or hearing, to issue an emergency order relating to regulation under this Act of a tattooist or body piercer, or to the operation of a tattoo studio or body piercing studio, if the commissioner finds that:

- the operation of the tattoo studio or body piercing studio or the performance of tattooing or body piercing by the tattooist or body piercer presents an immediate and serious threat to human health; or a shooting, stabbing, or other violent act or an offense involving drugs occurred at the tattoo studio or body piercing studio or involved the tattooist or body piercer; and

- other procedures available to TDH to remedy or prevent the threat will result in an unreasonable delay.

Requires TDH, if the commissioner issues an emergency order under this Act without a hearing, to set a hearing to affirm, modify, or set aside the emergency order.

Requires TDH, if the license or registration holder cannot be located for a notice required under this Act, to provide notice by posting a copy of the order on the front door of the premises of the license holder or the premises where the registration holder is employed.

Prohibits a person from performing tattooing or body piercing at a tattoo studio or a body piercing studio unless the person holds a registration issued by TDH as a tattooist or body piercer under this section.

Requires the registration holder to display the registration in a prominent place at each tattoo studio or body piercing studio or temporary location where the person is employed.

Requires a person, to receive a tattooist or body piercer registration, to submit:

- a signed registration application to TDH on a form prescribed by TDH;
- the application fee; and
proof of completion of a training course approved by TDH for tattooists and body piercers that includes not less than six hours related to bloodborne pathogens, infection control, and aseptic technique.

Provides that a tattooist or body piercer registration is valid for one year from the date of issuance.

Authorizes a tattooist or body piercer registration to be renewed annually on payment of the required renewal fee and submission of proof of completion of a training course approved by TDH that includes not less than four hours related to bloodborne pathogens, infection control, and aseptic technique.

Requires TDH to prepare or approve a course of instruction sufficient to meet the requirements for application for a registration or renewal of a registration.

Authorizes TDH to approve a course of instruction based on standards set by TDH to reasonably ensure that a tattooist or body piercer develops the job skills and knowledge necessary to protect public health and safety.

Requires a prospective course provider to submit to TDH for approval the course length and curriculum content for each course offered by the provider.

Authorizes a provider to implement a course length and curriculum content only after TDH approval.

Requires TDH by rule to set a fee in an amount reasonable and necessary to cover the cost of reviewing the course content and issuing the approval.

### Disclosure of Information for the Purpose of Marking a Grave - S.B. 1764

**by Senator Deuell - House Sponsor: Representative Farabee**

Many of the cemeteries operated by the Texas Department of Mental Health and Mental Retardation (MHMR) have been in existence for more than 100 years, and client records, including burial records, did not contain information needed to properly identify persons buried in the cemeteries. Most graves in MHMR cemeteries were traditionally marked with numbers rather than names, a practice that reinforced the stigma surrounding mental illness and mental retardation. This bill gives MHMR clear authority to place client names on grave markers in instances where clients die at state mental retardation or mental health facilities, and are buried at cemeteries operated at MHMR, unless the individual or the individual’s guardian has directed otherwise in writing and that document has been provided to the MHMR. This bill:

Authorizes the administrator of a mental health facility or the superintendent of a residential care facility to release the name, date of birth or date of death of a person who dies while a patient at the facility.

Restricts the release of such information to a representative of a funeral establishment or a cemetery organization for purposes of inscribing the name or date on a grave marker, upon proper request.

Prohibits release of such information if the patient or patient’s guardian provide written instructions to the contrary to the facility administrator or superintendent.
Texas Homeland Security - H.B. 9  
by Representative Flores, et al. - Senate Sponsor: Senator Shapiro

Requires the governor to develop a statewide homeland security strategy. 

Creates the Critical Infrastructure Protection Council to advise the governor on the development and coordination of a statewide critical infrastructure protection strategy; oversee the implementation of the governor’s homeland security strategy by state and local agencies and provide specific suggestions for helping those agencies implement the strategy; and undertake other matters related to the planning, development, coordination, and implementation of initiatives to promote the homeland security strategy. 

Requires the Office of the Governor to allocate available federal and state grants and other funding related to homeland security to state and local agencies that perform homeland security activities. 

Creates the Texas Infrastructure Protection Communications Center to serve as the primary point of planning, coordination, and integration of government communications capabilities to ensure effective response in the event of a homeland security emergency. 

Requires confidentiality of certain information relating to: emergency response providers, risk or vulnerability assessments, encryption codes and security keys for communications systems, and critical infrastructures.

Quarantines in the Event of Bioterrorism - H.B. 627  
by Representative Reyna, et al. - Senate Sponsor: Senator Deuell

Recent developments related to terrorist threats highlight the absence of authority of a public health official to establish a quarantine area in the event of a bioterrorist attack. This bill: 

Authorizes the commissioner of public health to temporarily designate quarantine areas where a toxic or environmental agent has been introduced and creates a penalty for the violation of the conditions imposed by the commissioner of public health on a quarantine.

Texas First Responders’ Day and Star of Texas Awards - H.B. 1937  
by Representative Gallego - Senate Sponsor: Senator Gallegos

Texas does not currently have a process to officially honor men and women who sustain serious or fatal injuries in the line of duty as first responders. This bill: 

Designates September 11 as Texas First Responders’ Day in honor of the Texas men and women who assist others in emergencies. 

Creates the Star of Texas Award to be awarded to an individual seriously injured in the line of duty or the next of kin of peace officers, fire fighters, or emergency medical first responders who sustain a fatal injury in the line of duty.
Housing Authority Regulations - H.B. 424  
by Representative Christian  - Senate Sponsor: Senator Staples

Currently, the Texas Local Government Code regarding the appointment of tenant representatives as commissioners of a municipal, county, or regional housing authority, is inconsistent with federal law. This bill:

Sets forth provisions to make the federal and state standards consistent.

Prohibits a housing authority from using any money under the control of the authority to pay:
- lobbying expenses incurred by the authority;
- a person that is required to register with the Texas Ethics Commission;
- any partner, employee, employer, relative, contractor, consultant, or related entity; or
- a person who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Manufactured Homes and Flood Hazard Areas - H.B. 543  
by Representative Jesse Jones  - Senate Sponsor: Senator Lindsay

Currently, manufactured homes may be purchased without regard to placement of homes, in particular those which may be placed in floodprone areas not protected by federal, state, and local regulations. This bill:

Prohibits manufactured homes from being delivered to or installed in a Federal Emergency Management Agency-designated flood hazard area.

Requires consumers to present as part of the acquisition closing arrangements satisfactory evidence that a manufactured home will not be located in a flood hazard area that violates applicable laws.

Powers of a Property Owners' Association - H.B. 1454  
by Representative Eiland  - Senate Sponsor: Senator Janek

Current law allows the powers of a property owners' association relating to restrictive covenants in certain subdivisions to apply only to residential real estate subdivisions, excluding condominium developments, in a county with a population of 2.8 million or more. This bill:

Provides that the powers of property owners’ associations relating to restrictive covenants be included in a county with a population of 250,000 or more adjacent to the Gulf of Mexico and that is adjacent to a county having a population of 2.8 million or more.
Manufactured Housing - S.B. 521


Makes numerous changes in the Texas Manufactured Housing Standards act (TMSA), including allowing the financing of a manufactured home either through a real estate or chattel mortgage.

Requires the Texas Department of Housing and Community Affairs (TDHCA) to recognize, prepare, or administer continuing education programs for persons regulated under TMSA.

Requires persons directly involved in the sale of manufactured housing to complete specified hours of certification.

Amends language required in the statement that a retailer must provide to a consumer, informing the consumer regarding ad valorem taxes, insurance, and that the acquisition of a manufactured home may be financed by a real estate mortgage or a chattel mortgage.

Provides that a person who acquires a manufactured home by purchase, exchange, or lease-purchase may, not later than the third day after the date the applicable contract is signed, rescind the contract without penalty or charge.

Requires TDHCA to adopt rules addressing consumer protection disclosures required in chattel mortgage transactions and setting forth what such a disclosure statement must include.

Authorizes an owner of a manufactured home to elect to treat the home as personal property or real property. An owner may elect to treat a manufactured home as real property only if the home is attached to real property that is owned by the owner or land leased to the owner under a long-term lease, as defined by TDHCA rule.

Substitutes a statement of ownership and location for a document of title and sets out procedures for applying and issuing such a statement under various circumstances.

Sets out procedures for converting a manufactured home from personal property to real property.

Provides for an administrative penalty of up to $4,000 for each violation against a retailer who fails to provide information to a consumer as required by TMSA.

Sets forth the treatment of a manufactured home for homestead exemption and tax purposes.
Currently, mold assessors and mold remediators are not regulated under state or federal law. This lack of regulation may have contributed to the incidence of costly mold assessment and remediation activities, as well as hazardous and inefficient extraction of mold by untrained and unlicensed mold remediators. This bill:

Enacts Chapter 1958 (Mold Assessors and Remediators) of the Occupations Code.

Provides that Chapter 1958 applies only to the regulation of mold-related activities that affect indoor air quality.

Requires the Texas Department of Health (TDH) to administer these provisions to protect the public from the adverse health effects of mold.

Requires TDH to conduct a statewide education and outreach program regarding air quality in buildings, including recognizing, preventing, controlling, and mitigating, mold occurrences and other indoor air quality factors that adversely affect human health.

Authorizes TDH to contract with governmental entities or other persons to provide the program.

Requires the Texas Board of Health (board) to adopt substantive and procedural rules as necessary or desirable for the board, TDH, and commissioner of public health (commissioner) to discharge their powers and duties under this Act.

Requires the board by rule to establish minimum performance standards and work practices for conducting a mold assessment or mold remediation in this state.

Requires the board to establish reasonable and necessary fees to administer this Act, including fees for licenses, registrations, and examinations.

Requires TDH to conduct inspections as necessary to ensure compliance with this Act.

Requires the board to adopt rules regarding compliance investigations.

Requires TDH to investigate any complaint regarding mold-related activities.

Sets forth provisions for the establishment of mold safety standards.

Requires the board, by rule, to adopt a code of ethics for license holders that promotes the education of mold assessors and mold remediators concerning the ethical, legal, and business principles that should govern their conduct.
Sets forth provisions for the licensing and registration of persons performing mold assessment and mold remediation, including provisions relating to exemptions, employee registration, license application, examination, training and continuing education, and reciprocity.

Sets forth guidelines for practice by a license holder, including provisions relating to a scope of work analysis, a remediation work plan, notice requirements, certification of mold remediation, conflicts of interest and disclosure, records requirements, and office location.

Sets forth provisions regarding disciplinary procedures, administrative penalties, hearings process, and the judicial review of a decision or order by the commissioner.

Sets forth provisions regarding civil penalties, including provisions relating to injunctive relief and exemption from civil liability for certain property owners and certain governmental entities.

Prohibits an insurer from making an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage, if certain conditions are met relating to a proper assessment and the remediation of mold damage.

**Small Employer Health Coalitions - H.B. 897**
by Representative Woolley, et al. - Senate Sponsor: Senator Nelson

Texas law permits small employers to join together in private nonprofit health insurance purchasing alliances or small employer health coalitions. However, some insurers have cancelled policies with small employer health coalitions because they do not consider the coalition to be a single employer. This bill:

Defines small employer health coalition and clarifies that a small employer health coalition is considered a single small employer for all purposes of the state Health Insurance Portability and Availability Act.

Sets out the percentage of participation by a small employer’s eligible employees in order for coverage to be available under a small employer health benefit plan.

Prohibits a small employer carrier or agent from encouraging or directing a small employer to join or not join a particular small employer health coalition because of the health status or claim experience of the eligible employees and dependents of that small employer.

**Noncredit Insurance Products Offered with Consumer Loans - H.B. 1380**
by Representative Thompson, et al. - Senate Sponsor: Senator Harris

Under current law, consumers may purchase credit insurance and other products from regulated loan licensees at the time they apply for a small loan. Credit insurance is purchased to insure the amount of the loan in the event of an unexpected occurrence. Current law also allows borrowers to finance the premiums for credit insurance, but financing for noncredit insurance or other products is not permitted. To obtain noncredit insurance, consumers must either pay cash or finance premiums with credit cards. This bill:
Authorizes an authorized lender to offer, contemporaneously with or subsequent to a loan made under provisions relating to non-real property loans, subject to all applicable insurance laws of this state, including agent licensing requirements, policy form requirements, and refunding methods, one or more of the following types of noncredit insurance and other products: life insurance; disability income insurance; accident insurance; loss of income insurance; mechanical breakdown insurance; home security plans and club memberships; automobile security plans and automobile club memberships; and service contracts.

Sets forth provisions regarding the method of collection of the cost of noncredit insurance and other products provided for under this Act.

Authorizes an authorized lender to include in the loan contract the cost for noncredit insurance and other products.

Sets forth provisions regarding payment for credit insurance, noncredit insurance, and other products as provided for in this Act, from loan proceeds.

Restitution for Insurance Fraud - H.B. 1838
by Representative Thompson - Senate Sponsor: Senator Averitt

Current law defines the penalties imposed for conviction of insurance fraud; however, it does not specify that a person convicted of insurance fraud must repay the insurer for any money or property fraudulently obtained. The courts may order restitution, but are not required to do so by law. This bill:

Requires a court to order a defendant convicted of insurance fraud to pay restitution to an affected insurer.

Limiting Noneconomic Damages - H.J.R. 3
by Representative Nixon, et al. - Senate Sponsor: Senator Nelson

In 1977 the Medical Liability and Insurance Improvement Act of Texas implemented a $500,000 cap on all damages, except for medical expenses, in health care liability claims. Subsequently, the Texas Supreme Court held that this limitation on damages was unconstitutional as applied to common law causes of action because it violated the "open courts provision" of the Texas Constitution, which grants every person a right to seek redress in the state courts for injuries to property or person. H.J.R. 3 requires the submission to the voters of a constitutional amendment authorizing the legislature, notwithstanding any other provision of the constitution, to determine limits for noneconomic damages in health care liability claims and other causes of actions. This bill:

Defines "economic damages" as compensatory damages for any pecuniary loss or damage, but excluding physical pain and suffering, mental anguish and suffering, loss of consortium, loss of companionship and society, disfigurement, or physical impairment.

Authorizes the legislature, notwithstanding any other provision of the constitution, to limit liability for all noneconomic damages of a health care provider regarding a liability claim concerning treatment or other
claimed departure from an accepted standard of medical or health care or safety. This applies whether the claim arises under common law, statute, or other law.

Authorizes the legislature, after January 1, 2005, to determine the limit of liability for all noneconomic damages in cause of actions other than health care liability claims. This applies whether the claim arises under common law, statute, or other law. Any exercise of this legislative authority requires a three-fifths vote of all the members elected to each house.

Provides that this provision applies to a law enacted by the 78th Legislature and to all subsequent regular or special sessions.

Sets September 13, 2003 as the date for the election on this proposed constitutional amendment.

(See H.B. 4, page 240)

Small Employers Authorized to Form Group Health Cooperatives - S.B. 10

by Senator Averitt, et al. - House Sponsor: Representative Smithee

Currently, many small businesses have difficulty obtaining health insurance for their employees due to the prohibitive cost of coverage. This bill:

Authorizes a person to form a health group cooperative for the purchase of employer health benefit plans.

Provides that a health group cooperative is not liable for failure to arrange for coverage of any particular illness, disease, or health condition.

Prohibits a health carrier from forming, or being a member of, a health group cooperative.

Authorizes a health carrier to associate with a sponsoring entity, such as a business association, chamber of commerce, or other organization representing employers, to assist the sponsoring entity in forming a health group cooperative.

Authorizes the membership of a health group cooperative to consist only of small employers or to, at the option of the health group cooperative, consist of both small and large employers.

Sets forth provisions regarding the function and operation of health group cooperatives and the issuance by health carriers of coverage to a health group cooperative.

Homeowners and Automobile Insurance Industry Reform - S.B. 14


Currently, the commissioner of insurance (commissioner) establishes benchmark rates for automobile and residential property insurance. Most homeowners and many automobile owners are insured by companies
not subject to benchmark rate regulation. Policy forms for automobile insurance are currently promulgated by the commissioner, and all insurers writing automobile insurance in the state are required to use the promulgated standard forms. Residential property insurers may use promulgated standard forms, or under certain conditions, forms of national insurers or national organizations of insurers that have been approved or adopted by the commissioner.

Many insurers are using credit scoring in determining whether to write a risk or for rating purposes. Insurers for all lines of insurance are currently required to file their underwriting guidelines with the Texas Department of Insurance (TDI) upon request by TDI. The filed guidelines are confidential.

Some insurers are exempt from the filing of a withdrawal plan upon withdrawing from writing insurance in the state or reducing the insurer’s total annual premium volume by 75 percent or more in any line. The commissioner is required to approve a withdrawal plan unless the commissioner holds a hearing before the 31st day after the date the plan is filed. This bill:

Brings all licensed auto and residential property insurers under TDI’s rate regulation authority.

Rating Systems in Effect Until December 1, 2004

Provides that, initially, residential property rates will be subject to prior approval by the commissioner, with a 30-day period after which without action by the commissioner rates are deemed approved.

Authorizes the commissioner to simplify filing requirements by rule for small insurers and new insurers.

Provides that currently rate-regulated private passenger auto carriers initially remain under the benchmark system.

Provides that commercial auto rates, currently under the benchmark system, are now regulated under a file-and-use system.

Rating Systems in Effect After December 1, 2004

Provides that private passenger auto and residential property insurance rates become regulated under a file-and-use system (commercial auto rates continue under file-and-use system).

Provides for special application of rate regulation to small and niche auto insurers.

Other Major Provisions

Authorizes the commissioner to require refunds when filings indicate excessive rates have been charged. Prohibits an insurer from using rating territories that subdivide a county unless the rate for any subdivision within that county is not more than 15 percent higher than the rate used in any other subdivision in the county by that insurer. Authorizes the commissioner to by rule allow a greater rate difference between rating territories for residential property insurance or personal automobile insurance.
Authorizes all insurance companies, rather than only national companies, to file alternative residential policy forms for TDI approval.

Authorizes auto insurers to file alternatives to the current standard auto policy forms on a prior approval basis.

Requires insurers who use credit scoring to file their credit scoring models with TDI, and provides that those models are public information, not subject to any exceptions to disclosure under Chapter 552 (Public Information), Government Code, and cannot be withheld from disclosure under any other law.

Sets forth prohibitions on certain uses of credit scoring in insurance.

Requires TDI to issue rules limiting how much an insurer’s rates may vary solely because of differences in credit scores.

Provides that upon request from a consumer, an insurer may grant exceptions for negative credit information arising from extraordinary events such as catastrophic illness, unemployment, and identity theft.

Requires all companies writing personal auto and residential property insurance to file their underwriting guidelines with TDI and update them each time they make a change. Provides that underwriting guidelines are subject to the Public Information act.

Requires all insurers to comply with provisions requiring plans of orderly withdrawal from the Texas' market.

Authorizes the commissioner to modify, restrict, or limit a withdrawal plan, if necessary, to protect consumers.

Provides for the issuance of up to $75 million in bonds, if necessary, to fund the Texas Fair Plan Association (association), the nonprofit association established to develop and administer a program to provide residential property insurance in designated underserved areas in this state.

Authorizes the commissioner to establish a service fee assessed against insurers and the association to pay debt service on the bonds.

Provides that a person commits a state jail felony offense if the person recklessly offers or collects race-based premiums.

Provides for the establishment of a Holocaust-era insurance registry at TDI for the purpose of securing the payment of benefits to Holocaust victims or their heirs from insurance policies sold in Germany, and other areas.

Sets forth provisions for the establishment of the property and casualty insurance legislative oversight committee to receive information about rules relating to property and casualty insurance proposed by TDI, and to monitor the progress of property and casualty insurance regulation reform, including the fairness of
rates, underwriting guidelines, and rating manuals, the availability of coverage, the effect of rate rollbacks, credit scoring, and regulation of homeowners and automobile insurance markets, among other functions.

Reduces the period in which an insurer may cancel a newly issued homeowners policy from 90 days to 60 days and specifies the circumstances that must be met to enable an insurer to cancel a policy within the first 60 days.

**Optional Homeowners Insurance Discount - S.B. 113**

*by Senator Van de Putte, et al.* - *House Sponsor: Representative Seaman*

Currently, there are no mandated or optional premium discounts for homeowners who have been continuously insured by the same insurer for at least three years and who have not filed any homeowners insurance claims during that period. This bill:

Authorizes an insurer that issues a residential property insurance policy in Texas to provide a discount of not less than three percent in the premiums that would otherwise be charged for the policy if the policyholder has continuously been a residential property insurance policyholder with that insurer or an affiliate of that insurer but has not filed a residential property insurance claim during the three years before the effective date of the policy.

Authorizes an insurer that issues a residential property insurance policy in Texas to increase the amount of the discount by one percent for each subsequent year in which the policyholder has been a residential property insurance policyholder with that insurer or an affiliate of that insurer but has not filed a residential property insurance claim.

Provides that an insurer that provides a discount under these provisions is not required to provide a discount under this article that exceeds 10 percent of the premiums that would otherwise be charged for the residential property insurance policy.

Requires the commissioner of insurance (commissioner) to adopt rules as necessary to implement this Act and to establish by rule guidelines under which an insurer that provides a discount shall determine the appropriate discount based on sound actuarial principles.

Authorizes the commissioner to approve a discount filed with the Texas Department of Insurance that is greater or less than the discount specified by this Act if the commissioner determines the discount is actuarially justified.

**Notice of Insurance Policy Form Changes Required - S.B. 115**

*by Senators Van de Putte and Barrientos* - *House Sponsor: Representative Seaman*

Many insurance companies have switched from the HO-B home insurance policy form to national policy forms, to the HO-A policy form which covers only losses resulting from specifically delineated perils, or to a modified HO-B form that reduces and limits the comprehensive coverage offered under the standard HO-B.
Many consumers were not informed when insurers made these changes. The commissioner of insurance (commissioner) issued a bulletin to remind insurers of their responsibility to fully explain any changes in types of coverage and premium costs to policy holders and applicants. However, insurers’ responsibilities in such situations remain unclear and current law only applies to regulated insurers. This bill:

Requires an insurer, including a farm mutual insurance company, county mutual insurance company, Lloyd’s plan, or reciprocal or interinsurance exchange, that renews a policy of homeowners insurance, fire and residential allied lines insurance, farm and ranch owners insurance, or farm and ranch insurance to provide the policy holder with written notice of any difference in each form of the policy offered to the policy holder on renewal and the form of the policy held immediately before renewal.

Requires a notice provided under these provisions to be written in plain language.

Requires the commissioner to promulgate, for certain policy form and endorsements approved by the commissioner, a comparison form for that policy.

Requires the comparison form to be developed with the assistance of the office of public insurance counsel and with input from the public, and to be designed to explain the features and limitations of the policy compared to other approved policies.

Provides that an insurer using a policy form may be required to develop the comparison form and submit it for approval by the commissioner.

Requires the comparison form to be made available by an insurer to anyone inquiring about the policy and to be made available by the Texas Department of Insurance via the Internet and other means as prescribed by the commissioner.

Requires the comparison form to be designed to be easily read and understood in order to facilitate comparison and understanding of the policy and to meet certain requirements.

**Claims Stigmatization and Other Residential Insurance Protections - S.B. 127**

by Senator Fraser, et al. - House Sponsor: Representative Seaman

Texas law currently allows a person who applies for a residential property insurance policy to be declined such insurance coverage on the sole basis of a single previous claim for water damage either on the covered property or by the applicant. Because residential property insurance is required for a home loan, the inability to obtain such insurance coverage may hinder persons from selling their property or purchasing other property.

Some concern has been raised regarding current claims handling procedures in the Texas Insurance Code, particularly in relation to the handling of a water damage claim that can lead to the development of mold. Public adjusters who act on behalf of or aid a homeowner in negotiating the settlement of a claim are not currently regulated. This bill:
Sets forth restrictions on the use of claims history for water damage to protect persons and property from being unfairly stigmatized in obtaining residential property insurance by the filing of a water damage claim or claims under a residential property insurance policy.

Prohibits an insurer from using a prior appliance-related water claim in rating or underwriting if the problem that caused the claim has been properly remediated.

Sets forth provisions for the regulation of water damage claims handling procedures and time frames to provide for the prompt, efficient, and effective handling and processing of water damage claims, reduce the confusion and inconvenience policyholders experience in filing and resolving water damage claims, and reduce claim costs and premiums for residential property insurance issued in this state.

Authorizes the commissioner of insurance (commissioner) by rule to regulate the following aspects of water damage claims: required notice; acceptance and rejection of a claim; claim handling and processing procedures and time frames; claim investigation requirements, procedures, and time frames; settlement of claims; and any other area of claim processing, handling, and response determined to be relevant and necessary by the commissioner.

Sets forth provisions for the licensure and practice of public insurance adjusters.

Requires public adjusters to be licensed by TDI and makes examination and continuing education a requirement of licensure.

Requires the commissioner to adopt a code of ethics for public adjusters.

Prohibits a public adjuster’s commission from exceeding 10 percent of the amount of the insurance settlement on a claim.

Prohibits a public adjuster from receiving a commission based on the amount of settlement when the insurer pays or agrees to pay policy limits within 72 hours after a loss is reported.

One-Time Call for Insurance Data - S.B. 310

Currently, 95 percent of homeowners insurance premiums are written by insurers that are not rate regulated. According to the Texas Department of Insurance (TDI), the industry has moved most of its homeowners business to unregulated Lloyds and reciprocal exchange companies that are not required to file rate information with the commissioner of insurance (commissioner).

In response to the designation of the homeowners insurance crisis as an emergency issue by Governor Perry, requires that, on a one-time basis, insurers writing residential property insurance in this state file rates and supporting data, including current rates and estimated rates to be charged in the six-month period following the effective date of the bill, February 25, 2003, with the commissioner for the purpose of preparing a summary report for submission to the 78th Legislature. This bill:
Requires the report to contain a review of the rates, presented in a manner that protects the identity of individual insurers: to inform the 78th Legislature as to whether the rates are just, adequate, and reasonable and not excessive or unfairly discriminatory; and to assist in the determination of the most effective and efficient regulatory system for residential property insurance in Texas.

Requires the commissioner to notify the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature of the names of the insurers which were asked to make the rate filings under this article and the names of the insurers who did not respond in whole or in part to the commissioner's request.

Provides that an insurer that fails to comply with any request for information issued by the commissioner under this Act is subject, after notice and opportunity for hearing, to certain sanctions.

The following are the key points of S.B. 310: Summary Report for the 78th Legislature, the final report to the legislature required by this Act, published by TDI on March 28, 2003, and available at TDI's website www.tdi.state.tx.us:

- Insurance rates are determined by the sum of expected property losses, expenses, and profit targets. The largest of these components is property losses. Reductions in investment income have not had a large impact on rates.

- Rates in 2003 appear to be leveling off. Barring any further destabilization of the market, [TDI] anticipates this trend to continue on a broad scale, if not improve. Individual company rates, however, may behave differently than the norm.

- Individual company rates could be reduced anywhere from 0 percent to 25 percent from their current rates. Our analysis suggests that the companies reviewed are evenly distributed within this range. External parties have not reviewed our findings; discussion with industry, consumer groups, and independent reviewers may provide differing actuarial analysis.

- Our determination of how much rates might be excessive is based primarily on three factors: 1) loss trend assumptions; 2) target net rate of return, or profit, when calculating the premiums; and 3) accounting for coverage differences and the corresponding reduction in risk exposure.

- Upon a more comprehensive review and additional information, our revised estimate is that homeowners rates have increased statewide an average of 45 percent since 2000. A portion of the increase would have occurred under a rate-regulated market due to deterioration in experience, even in the absence of mold claims. The increase would have been at least 65 percent over 2000 without [TDI’s] actions on increasing coverage options to allow flexibility in meeting consumers' needs.

- Rates for tenants (renters), condos, and dwelling fire (a policy similar to a homeowners policy without liability coverage) have gone up by 12 percent, 36 percent, and 54 percent respectively since 2000.

- Credit scoring has had a significant impact on the rates charged individual policyholders within a company. With credit scoring, some policyholders will experience rate increases while others will see their rates go down. Overall, the company should collect the same amount of premium when credit scoring is used.
Most companies did not include a provision for reinsurance costs in their calculation of rate level needs. For those that did, the provisions ranged from 2 percent to 9 percent which would increase rate levels by approximately the same amount.

Access to Certain Private Medical Information - S.B. 330
by Senator Nelson - House Sponsor: Representative Capelo

Texas law is more restrictive than federal law regarding the conduct of medical research in Texas. S.B. 11 enacted by the 77th Legislature contained verbatim the provisions of the Federal Health Insurance Portability and Accountability Act (HIPAA) regulation in existence at the time of its passage. Subsequent changes to HIPPA regulations made state law more restrictive. This bill:

Repeals Section 181.101 (Compliance with Federal Regulations), Health and Safety Code and Section 181.102 (Information with Research), Health and Safety Code in order to bring Texas back in concert with federal law.

Texas Medical Liability Insurance Underwriting Association - S.B. 339
by Senator Nelson - House Sponsor: Representative Smithee

The Texas Medical Liability Insurance Underwriting Association, also known as the Joint Underwriting Association (JUA), was created to provide a means for physicians and health care providers to obtain medical liability insurance when such coverage is not available in the admitted market. Some physicians need temporary coverage from the JUA while they attempt to secure insurance in the traditional or admitted voluntary insurance industry. This bill:

Allows the JUA to issue medical liability insurance policies for terms of less than one year in duration and to offer installment payment plans.

Regulation and Prompt Payment of Health Care Providers - S.B. 418

Issues related to the prompt payment of physicians' claims by insurers have confronted lawmakers for several sessions. Texas physicians contend that insurers are slow to pay or refuse to pay for services rendered to insured patients; insurers contend that providers do not provide complete and accurate billing information. This bill:

Defines:
- "preauthorization" as a determination by an insurer that medical care or health care services proposed to be provided to a patient are medically necessary and appropriate;
- "verification" as a reliable representation by an insurer to a physician or health care provider that the insurer will pay the physician or provider for proposed medical care or health care services if
the physician or provider renders those services to the patient for whom the services are proposed. The term includes precertification, certification, recertification, and any other term that would be a reliable representation by an insurer to a physician or provider; and

- "clean claim" as a claim that complies with Section 3C (as added by this Act) of Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997.

Sets forth procedures and requirements applicable to healthcare providers, insurers, and health maintenance organizations relating to the filing and processing of a claim for payment, timeframes for submission and payment of a claim, content requirements of a clean claim, and penalties, among other issues.

Requires the commissioner of insurance (commissioner), as soon as practicable, but not later than the 90th day after the effective date of this Act, to adopt rules necessary to implement this Act and authorizes the commissioner to use the procedures for adopting emergency rules under this subsection. Provides that the commissioner is not required to make the finding described by Subsection (a), Section 2001.034, Government Code, to adopt emergency rules under this Act.

**Texas Windstorm Insurance in Coastal Areas - S.B. 463**

*by Senator Janek, et al. - House Sponsor: Representative Eiland*

Current law allows a property owner with a structure built before 1991 and located inside a Federal Coastal Barrier Resource Zone to purchase wind insurance through the Texas Windstorm Insurance Association. This bill:

Amends provisions of the Texas Windstorm Insurance Association Act relating to the definition of insurable property to provide that if repair of damage to a structure is based on a direct loss and claim, the amount of which is equal to less than five percent of the amount of total property coverage on the structure, the repairs may be completed in a manner that returns the structure to its previous condition without affecting the eligibility of the structure to qualify as insurable property.

Deletes the expiration of a provision relating to certain rating under the Texas Windstorm Insurance Association Act.

**Updated Lists of Health Care Providers for Internet Sites - S.B. 494**

*by Senator Shapleigh - House Sponsor: Representative Uresti*

Requires a preferred provider benefit plan, a Lloyd’s plan, a reciprocal and interinsurance exchange plan, certain multiple employer welfare arrangements, a group hospital service corporation, and a health maintenance organization that maintain an Internet site to list the preferred providers including mental health and substance abuse providers.

Requires the listing to identify those preferred providers who are available for new patients or clients.

Requires that the Internet site be updated at a minimum on a quarterly basis.
Health Insurance Carriers and Mandates - S.B. 541
by Senator Williams, et al. - House Sponsor: Representative Taylor

Currently, health insurance carriers are required to include many state-mandated benefits in policy offerings. Some states have authorized “bare bones” policies that do not cover certain benefits in an effort to increase access to and affordability of health insurance coverage. This bill:

Provides alternatives to state-mandated health benefit plans.

Defines “health carrier,” “standard health benefit plan,” and “state-mandated health benefits.”

Provides exemptions to the definition of “state-mandated health benefits.”

Authorizes a health carrier or health maintenance organization to offer one or more standard health benefit plans, but requires the carrier to also offer at least one policy with state-mandated health benefits.

Requires a written application for participation in a standard health benefit plan to clearly state the plan does not provide state-mandated health benefits.

Requires a small employer carrier to offer a standard health benefit plan and authorizes such carriers to offer additional benefits.

Adverse Determinations and Health Maintenance Organizations - S.B. 879
by Senator Whitmire - House Sponsor: Representative Van Arsdale

Currently, an enrollee in a health maintenance organization (HMO) may appeal an adverse determination made by the HMO in accordance with provisions in Subchapter G, Chapter 843 (Dispute Resolution), Insurance Code. However, there is no provision that requires an HMO to abide by an appeal decision that favors the enrollee. This bill:

Provides that, when applicable, a resolution to a claim made in favor of an enrollee’s appeal of an adverse determination is binding.

Requires an HMO, after the binding decision in favor of an enrollee relating to a proposed health care service, to arrange appropriate treatment of the medical condition that was the subject of the appeal.

Provides that this Act applies only to plans not subject to the Employee Retirement Income Security Act.
Health Insurance Benefits and Surviving Spouses - S.B. 959
by Senator Duncan - House Sponsor: Representative Isett

Current statute allows eligible surviving spouses to continue health insurance benefits through a self-insured plan, but does not include a fully insured plan. A large number of small to mid-sized cities do not self-insure employees, but rather use the services of insurance carriers. This bill:

Provides that an eligible surviving spouse of a deceased individual who was employed by a political subdivision is entitled to purchase continued health insurance benefits from the political subdivision that employed the deceased individual, including health coverage provided by or through a political subdivision under a health insurance policy or health benefit plan written by a health insurer.

Exceptions for Open Meetings for Certain Health Plans - S.B. 984
by Senator Wentworth - House Sponsor: Representative Dukes

Provides that a benefits appeal committee for a public self-funded health plan or a governmental body that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate the medical records or psychiatric records of an individual applicant for a benefit from the plan; or a matter that includes a consideration of information in the medical or psychiatric records of an individual applicant.

Enforcement of Unlicensed Appraisers - S.B. 1013
by Senator Staples - House Sponsor: Representative Flores

Currently, the Texas Appraiser Licensing and Certification Board (TALCB) lacks authority over individuals who perform unlicensed appraisal services. This bill:

Authorizes TALCB to establish reasonable fees to administer this Act, including a fee for filing a request for a return to Active status.

Extends the time a licensee is allowed to complete the required continuing education.

Authorizes TALCB to place on inactive status the certificate or license of an appraiser.

Authorizes TALCB to file a formal complaint against a person who engages in an activity for which a certificate or license is required who does not hold a certificate or license.

Sets forth provisions establishing a civil penalty for engaging in appraisal activity without the required certificate or license.

Provides that a person commits a Class A misdemeanor if the person engages in appraisal activity for which a certificate or license is required without holding a certificate or license.
HIPAA Compliance - S.B. 1136

S.B. 11, passed in the 77th Texas Legislature, implemented medical records privacy in Texas. It contained verbatim the provisions of the Federal Health Insurance Portability and Accountability Act (HIPAA) regulation at the time of its passage; however, HIPAA regulations were subsequently altered on March 27, 2002. This bill:

Sets forth findings of the Texas Legislature relating to access to certain private medical information.

Requires the commissioner of health and human services (commissioner) to administer the provisions of this Act.

Authorizes the commissioner to adopt rules consistent with HIPAA and related privacy standards.

Requires the commissioner to review amendments to the definitions in 45 C.F.R., Parts 160 and 164, that occur after August 14, 2002, and determine whether it is in the best interest of the state to adopt the amended federal regulations.

Requires the amended regulations to apply in Texas if the commissioner determines that it is in the best interest of the state to adopt the amended federal regulations.

Requires the commissioner to consider, in addition to other factors affecting the public interest, the beneficial and adverse effects the amendments would have on the lives of individuals in this state and their expectations of privacy, and governmental entities, institutions of higher education, state-owned teaching hospitals, private businesses, and commerce in this state.

Requires the commissioner to prepare a report of the commissioner’s determination made, including an explanation of the reasons for the determination, and to file the report with the presiding officer of each house of the legislature before the 30th day after the date the determination is made.

Provides that the provisions of this Act do not prohibit the American Red Cross from accessing any information necessary to perform its duties to provide biomedical services, disaster relief, disaster communication, or emergency leave verification services for military personnel.

Requires a covered entity to obtain clear and unambiguous permission in written or electronic form to use or disclose protected health information for any marketing communication, except if the communication is in the form of a face-to-face communication made by a covered entity to an individual, a promotional gift of nominal value provided by the covered entity necessary for administration of a patient assistance program or other prescription drug savings or discount program, or is made at the oral request of the individual.

Requires the communication to be sent in an envelope showing only certain information, if a covered entity uses or discloses protected health information to send a written marketing communication through the mail.
Requires a person who receives a request to remove a person’s name from a mailing list to remove the person’s name not later than the 45th day after the date the person receives the request.

Authorizes a marketing communication made at the oral request of the individual to be made only if clear and unambiguous oral permission for the use or disclosure of the protected health information is obtained.

Requires the marketing communication to be limited to the scope of the oral permission and any further marketing communication to comply with the requirements of this Act.

Authorizes a covered entity to introduce, as mitigating factors, evidence of the entity’s good faith efforts to comply with certain laws in an action or proceeding to impose an administrative penalty or assess a civil penalty for actions related to the disclosure of individually identifiable health information.

Requires a court or state agency, on receipt of such evidence, to consider the evidence and mitigate imposition of an administrative penalty or assessment of a civil penalty accordingly.

Requires the Office of the Attorney General to perform an analysis of state law to determine which provisions of state law related to the privacy of individually identifiable health information are preempted by HIPAA and related privacy standards.

Authorizes the Office of the Attorney General to establish a task force to assist and advise the attorney general in performing the state law preemption analysis and sets forth procedures relating to the creation of the task force.

Requires a task force to include a public member, a member from the Texas State Board of Medical Examiners, a member employed by a hospital licensed in this state, and a member employed by a pharmaceutical manufacturer.

Prohibits two or more members of the task force from being employees or officers of the same company or organization.

Prohibits a person from being a public member of the task force, if the person is required to register as a lobbyist or is related to a registered lobbyist within the second degree of affinity or consanguinity.

Prohibits members of the task force from receiving compensation from the state for service on the task force.

Requires the attorney general, no later than November 1, 2004, to file a report with the presiding officer of each house of the legislature that identifies the laws the attorney general believes are preempted by HIPAA and related privacy standards and includes recommendations for legislation to make the state laws consistent with HIPAA and related privacy standards.
Prescription Drugs - S.B. 1173  
by Senator Janek - House Sponsor: Representative Delisi

Requires a health benefit plan (provided to state employees, school employees, and retired employees) that uses a drug formulary (a list of drugs preferred for use and eligible for coverage under a health benefit plan) in providing a prescription drug benefit to require prior authorization for the coverage of specified prescribed drugs, if the specific drug prescribed is not included in the formulary.

Requires the Employees Retirement System (ERS) Board to report any cost savings achieved through the prior authorization requirement to the comptroller of public accountants and the Legislative Budget Board every six months.

Authorizes a plan that provides coverage for prescription drugs related to smoking cessation at a reduced benefit level.

Prohibits ERS from requiring participants to purchase a prescription drug through a mail order program.

Requires participants who elect not to use the mail order program to cover any additional program costs.

Bankruptcy Protection for Certain Insurance Policyholders - S.B. 1192  
by Senator Carona - House Sponsor: Representative Seaman

When an insurance company fails, the Texas Property and Casualty Insurance Guaranty Association (association), a non-profit, unincorporated association of all Texas-licensed property and casualty insurers, is in existence in order to protect Texas insurance policyholders. This bill:

Adds to the definition of an insured or third-party liability claimant that a corporation or other entity that is not an individual is considered to be a resident of the state in which the entity’s principal place of business is located.

Provides that the association’s liability for shareholder derivative actions or other claims for economic loss incurred by a claimant under an insurance policy is limited to $300,000 for each policy, inclusive of defense costs, regardless of the number of claimants under each policy.

Includes in the definition of “impaired insurer” a member insurer in temporary or permanent liquidation or in temporary or permanent receivership.

Authorizes the association’s liability for the payment of covered claims that arise within 30 days after the date of the designation of the impairment or before the insured replaces the policy or causes its cancellation if the insured does so within 30 days after the date of the designation. Requires payment of workers’ compensation benefits or other liabilities or penalties.
ERS and TRS Group Benefits - S.B. 1370
by Senator Duncan - House Sponsor: Representative Delisi

Requires, on or after September 1, each year beginning 2005, the Teacher Retirement System (TRS) to deliver to each school district, including a school district that is ineligible for state aid under certain circumstances, each other education district that is a member of the TRS, each participating charter school, and each regional education service center, state funds in an amount, as determined by the trustee, equal to the product of the number of active employees employed by the district, school, or service center multiplied by $1,000 or a greater amount as provided by H.B. 1.

Redefines full-time and part-time employees for state insurance benefits.

Defines a part-time employee as one working less than 40 hours per week for the state or institutions of higher education.

Authorizes The Texas A&M University System, including the Texas Veterinary Medical Diagnostic Laboratory, to elect to participate in the Employees Retirement System (ERS) health benefit plan, on or before September 1, 2005.

Sets forth new eligibility requirements for state retirees to participate in the state health benefit plan. Requires a retiree to be at least 65 years of age or satisfy the rule of 80 to be eligible for participation in the state health benefit plan through the ERS.

Requires most individuals to have at least 10 years of service in ERS to be eligible for participation in the state health benefit plan.

Exempts current employees from new requirements for participation in the state health benefit plan.

Establishes a 90-day waiting period for health insurance coverage for new state and certain employees of institutions of higher education covered through ERS, effective September 1, 2003.

Authorizes ERS to assess a surcharge against the employing state agency or institution of higher education for any individuals added to the ERS health benefit plan whose salaries are not paid through the General Appropriations Act.

Authorizes individuals serving on state agency boards and boards of institutions of higher education to continue to participate in the state health benefit plan, at their own cost, effective August 31, 2003. Prohibits state board members and members of boards of institutions of higher education from participating in ERS health benefit plans, beginning September 1, 2003.

Authorizes the superintendents for the Texas School for the Deaf, and the Texas School for the Blind and Visually Impaired, and the executive director of the Windham School District to determine whether an educational professional is a full-time or part-time employee.

Amends the definition of “active employee” under TRS.
Amends the definition of “public school” to mean a school district, another educational district whose employees are member of TRS, a regional education service center established under certain provision, or an open-enrollment charter school established under certain provisions; and “trustee” to mean TRS.

Authorizes institutions of higher education to restore the state’s previous contribution amount for certain part-time employees.

Increases the active teacher contribution rate from 0.25 percent to 0.5 percent of the employee’s salary.

Redefines eligibility requirements for retiree health benefits for The Texas A&M and The University of Texas System insurance benefit plans. Authorizes current retirees to participate under current eligibility requirements.

Authorizes certain adjunct faculty to participate in the ERS health benefit plan, effective September 1, 2004. Sets forth the criteria for the contribution percentage paid by the respective institution of higher education.

Requires a 90-day waiting period for participation in The Texas A&M and University of Texas System health benefit plans for new employees.

Defines full and part-time employees for The Texas A&M and University of Texas Systems. Authorizes The Texas A&M and University of Texas Systems to pay additional premiums for part-time employees.
Filing Fees for Supreme Court and Court of Criminal Appeals Races - H.B. 296
by Representative Goodman - Senate Sponsor: Senator Harris

Current law allows a candidate for the Texas Supreme Court or the Court of Criminal Appeals to either pay a filing fee or file a petition with a minimum number of signatures. This bill:

Requires a candidate for the office of chief justice or justice, the supreme court, or presiding judge or judge of the court of criminal appeals who chooses to pay the filing fee, to also submit a petition that complies with the requirements prescribed for a petition, and contains at least 50 signatures from each court of appeals district.

Filing Fees for Lawsuits - H.B. 3167
by Representatives Goolsby and Todd Smith - Senate Sponsor: Senator Brimer

Based on the findings of a study conducted by the Office of Court Administration, costs have risen considerably for district clerks' offices, especially in multi-plaintiff cases. This bill:

Creates a sliding scale of fees for lawsuits involving more than 10 plaintiffs.

Acceptance of a Referral Fee or Gift by Judges - S.B. 532
by Senator Williams - House Sponsor: Representative Ritter

Makes it a Class B misdemeanor for a judge, after taking the oath of office, to accept a fee or gift in exchange for referring any legal business.

Requires an attorney or judge who has information concerning a violation to file a complaint with the State Commission on Judicial Conduct not later than the 30th day after the date the information is obtained.

Provides that it is an affirmative defense to prosecution if the judge:
- the judge solicited the gift or referral fee before taking the oath of office but accepted the gift or fee after taking the oath of office; or
- the judge solicited or accepted the gift or referral fee after taking the oath of office in exchange for referring to an attorney or law firm legal business that the judge was engaged in but was unable to complete before taking the oath of office.

Creates an exception for constitutional county court judges, a statutory county court judge who is authorized by law to engage in the private practice of law, a justice of the peace, or a municipal court judge, if that judge or justice of the peace solicits or accepts a gift or a referral fee in exchange for referring legal business that involves a matter over which that judge or justice of the peace will not preside in the court of that judge or justice of the peace.
Monitoring the Collection and Remittance of Certain Court Costs and Fees - S.B. 791
by Senator West - House Sponsor: Representative Alonzo

No centralized database exists on court costs, fees, and fines collected by local and county entities, nor is there a monitoring mechanism to determine compliance with statutory collection and reporting requirements. This bill:

Requires the comptroller of public accounts (comptroller) to develop and submit a proposal for a monitoring program under which the comptroller will periodically monitor the collection, remittance, and reporting of court costs and fees required to be collected from a party to a civil case or a defendant in a criminal case and remitted to the comptroller by the clerks of the district, county, statutory county, municipal, and justice courts.

Requires the monitoring program to be designed to assess whether:
- the comptroller is receiving complete information on the sources of the costs and fees collected;
- each court clerk is reporting the costs and fees collected as required by law; and
- the comptroller is crediting the costs and fees remitted to the appropriate fund or account.

Requires the comptroller to submit a cost estimate for implementing and operating the monitoring program to the governor, the lieutenant governor, and the speaker of the house of representatives by September 1, 2004.

Index of Court-Related Fees and Costs - S.B. 1180
by Senator West - House Sponsor: Representative Hughes

Currently, statues governing court costs, fees, and penalties are scattered throughout Texas statutes. This bill:

Creates a new subtitle in the Government Code indexing court costs, fees, and penalties.
Civil Justice Reform - H.B. 4

by Representative Nixon, et al. - Senate Sponsor: Senator Ratliff

Requires the Texas Supreme Court to adopt rules providing for the fair and efficient resolution of class actions on or before December 31, 2003, and sets forth what these rules must include.

Requires a trial court, before hearing or deciding a motion to certify a class action, to hear and rule on all pending pleas to the jurisdiction asserting that a state agency has exclusive or primary jurisdiction of the action or a part of the action, or asserting that a party has failed to exhaust administrative remedies.

Provides that if such a plea to the jurisdiction is denied and a class is subsequently certified, a person may, as part of an appeal of the order certifying the class action, obtain appellate review of the order denying the plea to the jurisdiction.

Authorizes certain interlocutory appeals and that such appeals concerning certain issues stay all trial proceedings pending resolution of the appeal.

Provides that a party in certain actions for monetary relief may make a settlement offer, and sets forth what must be included in such an offer. If the other party rejects the offer and the judgment is significantly less favorable to the rejecting party than the offer, the offering party is entitled to recover from the rejecting party litigation costs incurred by the offering party after the date the rejecting party rejected the settlement offer.

Provides that the litigation costs that may be awarded may not exceed the sum of 50 percent of the economic damages, 100 percent of the noneconomic damages, and 100 percent of the exemplary or additional damages to be awarded, less any statutory or contractual liens.

Provides that a defendant must first file a declaration that the settlement procedure allowed by this Act is available in the action before the offer of settlement procedures apply.

Requires the Texas Supreme Court to promulgate rules implementing these offers of settlement provisions no later than January 1, 2004, and sets forth what these rules must include.

Authorizes the supreme court to adopt rules relating to the transfer of related cases for consolidated or coordinated pretrial proceedings, and sets forth what these rules must include.

Creates the judicial panel on multidistrict litigation, with the authority to transfer civil actions involving one or more common questions of fact pending in the same or different courts to any district court for consolidated or coordinated pretrial proceedings.

Provides that a health care liability claim may be brought against certain hospital districts only in the county in which the hospital district is established.

Expands provisions regarding proportionate responsibility of defendants to include actions brought under the Texas Deceptive Trade Practices-Consumer Protection Act (DTPA).
Authorizes a defendant to designate a person as a responsible third party and sets out the procedure for designating such defendants. A responsible third party is any person who is alleged to have caused or contributed to the harm for which recovery of damages is sought. Designating a person as a responsible third party does not impose liability on the person.

Establishes the procedure for designating an unknown person as a responsible third party if the defendant alleges that an unknown person committed a criminal Act that was a cause of the loss or injury.

Establishes the procedure for reducing the amount of damages recovered by a claimant if that claimant has settled with one or more persons.

Provides that each defendant is jointly and severally liable for the damages if the defendant, with the specific intent to do harm to others, acted in concert with another person to engage in the conduct described in specific provisions of the Penal Code, proximately causing the damages.

Requires the supreme court to amend the Texas Rules of Civil Procedure to include disclosures of the name, address, and telephone number of persons designated as responsible third parties.

Requires a claimant to commence a products liability action against a manufacturer or seller of a product within 15 years after the date of the sale of the product by the defendant, unless the manufacturer or seller expressly warrants in writing that the product has a longer life. Exempts from this provision a products liability action seeking damages for personal injury or wrongful death in which the claimant alleges the claimant was exposed to a product, the exposure caused the claimant's disease, and the disease did not manifest itself before the end of 15 years.

Provides that a seller that did not manufacture a product is not liable for harm caused to the claimant by that product unless the claimant proves that:

- the seller participated in the product’s design, modified or installed the product, or took other specified action that resulted in the claimant’s harm; or
- the product’s manufacturer is insolvent or not subject to the court’s jurisdiction.

Provides that these provisions regarding the liability of nonmanufacturing sellers does not apply to the sale or lease of motor vehicles.

Creates a rebuttable presumption in certain products liability claims that the defendant is not liable if:

- in an action concerning the failure to provide adequate warnings or information with regard to a pharmaceutical product, the warnings or information were approved by the United States Food and Drug Administration; or
- in an action brought against a product manufacturer or seller, the formulation, labeling, or design of a product complied with federal mandatory safety standards or regulations or was subject to pre-market licensing or approval by the federal government.

Sets forth what the claimant must establish to rebut these presumptions.
Establishes the postjudgment interest rate and provides that prejudgment interest may not be assessed on an award of future damages.

Establishes the amount of security a defendant must post for an appeal in a monetary judgment, and requires the court, on a showing that the judgment debtor is likely to suffer substantial economic harm if required to post security in such an amount, to lower the amount of the security. The trial court may enjoin the judgment debtor from dissipating or transferring assets to avoid satisfaction of the judgment, provided the order does not interfere with the debtor's normal course of business.

Repeals statutes barring the introduction into evidence of the use of a seatbelt or child car seat.

Provides that DTPA does not apply to physicians or health care providers with respect to claims for personal injury or death alleging negligence.

Establishes the notice and filing requirements for asserting a health care liability claim.

Provides that all parties are entitled to obtain complete copies of the patient's medical records from any other party and establishes the procedures for authorizing the release and obtaining such records.

Establishes the standard of proof and jury instructions in suits involving a health care liability claim against a physician or health care provider for injury to or death arising out of the provision of emergency medical care in certain settings.

Provides that a claimant must bring a health care liability claim not later than 10 years after the date of the act or omission that gives rise to the claim.

Limits the civil liability for noneconomic damages:

- for a physician or health care provider to $250,000 for each claimant;
- for a single health care institution to $250,000 for each claimant; and
- where final judgment is rendered against more than one health care institution, $250,000 for each health care institution and, for all health care institutions, $500,000 for each claimant.

Provides that in the event these limits on noneconomic damages are invalidated, alternative limits on noneconomic damages become effective if the physician or health care provider meets certain financial responsibility requirements.

Limits damages in a wrongful death or survival action on a health care liability claim against a physician or health care provider to $500,000 for each claimant. This limit is adjusted for increases or decreases in the consumer price index.

Establishes the requirements and procedures regarding the provision of expert reports.

Establishes discovery procedures in health care liability claims.
Sets forth the qualifications of an expert witness in a health care liability claim.

Requires a court, when the award of future damages in a health care liability claim exceed $100,000, to order that award be paid in periodic payments at the request of a party. Sets out the procedures and requirements for periodic payments.

Limits the monetary damages in any civil action brought against a hospital or hospital system to $500,000 if the patient or person responsible for the patient signs a written statement acknowledging that the hospital is providing care without expectation of compensation and setting out limitations on damages from the hospital in exchange for receiving the health care services.

Sets out legislative findings concerning a medical malpractice insurance crisis in Texas.

Includes health care providers under laws limiting the liability of public servants.

Provides that a nonprofit municipal hospital management contractor or hospital district management contractor under contract with a municipality or hospital district is considered a governmental unit for purposes of liability.

Requires a claimant filing a claim under the Texas Tort Claims Act to elect to bring suit either against a governmental unit or an employee, barring claimants from bringing actions against both.

Expands the definition of "public servant" under statutes limiting liability to include a licensed physician who provides emergency or postemergency stabilization services to patients in a hospital owned or operated by local government unit.

Defines a number of terms relating to damages, including compensatory damages, exemplary damages, noneconomic damages, and gross negligence.

Requires an unanimous jury finding for exemplary damages.

Provides that the statutory limit on exemplary damages covers injury to a child, elderly individual, or disabled individual occurring while providing health care.

Establishes burden of proof for a claimant seeking recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, or loss of inheritance.

Amends existing law limiting the liability of professional employees of a school district, setting out notice and procedural requirements.

Limits the admission of evidence regarding certain actions by the Texas Department of Health (TDH) against a nursing home and related institutions in civil actions.
Limits the liability of certain successor corporations for the asbestos-related liabilities of a corporation acquired through merger or consolidation to the fair market value of the total gross assets of the acquired corporation, and establishes procedures for determining fair market value.

Sets out legislative findings concerning personal liability claims arising out of services rendered by volunteer fire fighters and limits the liability of volunteer fire fighters providing an emergency response.

Requires a plaintiff in any action for damages alleging the professional negligence by a registered architect or licensed professional engineer to file an affidavit by a registered architect or licensed professional engineer setting forth the negligent act, error, or omission.

Provides that an owner, lessee, or occupant of real property is liable for trespass as a result of migration or transport of any air contaminant, other than odor, only upon a showing of actual and substantial damages.

Authorizes TDH to certify nonprofit hospitals or hospital systems that meet certain criteria for providing charity care, and provides that such certification limits the liability of the hospital or hospital system for noneconomic damages.

Provides for the accelerated appeal of any constitutional challenge to the provisions of this Act regarding medical liability.

Provides that if any provision of this Act is held invalid, the invalidity does not affect other provisions of this Act that can be given effect without the invalid provision.

(In See H.J.R. 3, page 221)

Involuntary Commitment of a Minor - H.B. 21
by Representatives Corte and Laubenberg - Senate Sponsor: Senator Nelson

Under Texas law a parent or guardian of a minor between 16 and 18 years of age may not request admission of the minor to an inpatient mental health facility without the minor’s consent. This bill:

Makes 18 years of age the maximum age of a minor for whom a parent, managing conservator, or guardian may request the admission of the minor to an inpatient mental health facility.

Changes to 18 years of age the maximum age of a minor for whom a person or agency appointed as guardian or a managing conservator of a minor acting as an agent of the state may request admission of the person without the person’s consent.

Provides that a person voluntarily admitted to an inpatient mental health facility has a right to be evaluated by a physician at regular intervals to determine the person’s need for continued treatment, as established by rule by Texas Department of Mental Health and Mental Retardation.
Requires a facility, on receipt of a written request for discharge from a patient admitted under this law, to notify the patient's parent, managing conservator, or guardian of the request.

**Writ of Habeas Corpus Based on a Time-Served Credit Error - H.B. 32**

*by Representative Hodge - Senate Sponsor: Senator Deuell*

Prohibits a court, if a subsequent application for writ of habeas corpus regarding a conviction, other than an application based solely on a claim of a time-served credit error, is filed after final disposition of an initial application challenging the same conviction, from considering the merits of or grant relief based on the subsequent application unless the application contains sufficient specific facts establishing that:

- the current claims and issues have not been and could not have been presented previously in an original application or in a previously considered application because the factual or legal basis for the claim was unavailable on the date the applicant filed the previous application; or
- by a preponderance of the evidence, but for a violation of the United States Constitution, no rational juror could have found the applicant guilty beyond a reasonable doubt.

Clarifies that Section 501.0081(b) (relating to when an inmate may claim a time-served credit error in an application for writ of habeas corpus), Government Code, does not apply to an inmate who is within 180 days of the inmate's presumptive parole date, date of release on mandatory supervision, or date of discharge.

Authorizes an inmate to raise a claim of time-served credit error by filing a complaint or by raising the claim in an application for a writ of habeas corpus.

**Petition to Change the Name of an Adult - H.B. 162**

*by Representatives Flores and Isett - Senate Sponsor: Senator Averitt*

Requires a petition to change the name of an adult to include a legible, complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

**Expunction of Criminal Records - H.B. 171**

*by Representative Keel - Senate Sponsor: Senator Whitmire*

Current Texas law gives district courts exclusive jurisdiction to grant expunction of criminal records, however there is some confusion over the jurisdiction of trial courts in the expunction of records. This bill:

Requires the trial court presiding over the case in which the defendant was acquitted, if the trial court is a district court, or a district court in the county in which the trial court is located, to enter an order of expunction for a person so entitled.
Requires the defendant to provide to the district court information necessary for expunction of records.

Requires the requisite attorney to prepare the order for the court’s signature.

**Confinement for Contempt of Court - H.B. 346**  
*by Representatives Dutton and Rodriguez - Senate Sponsor: Senator Whitmire*

Currently, Texas does not have a statute limiting the amount of time a person can be confined for contempt of court. This bill:

Bars a person from being confined:
- for more than a cumulative total of 18 months for criminal contempt; or
- for more than 18 months for civil contempt.

**Enforcement of Restrictive Covenants - H.B. 645**  
*by Representative Puente - Senate Sponsor: Senator Armbrister*

Many property owners’ associations have deed restrictions, covenants, or regulations that address landscaping practices that often undermine water conservation goals by mandating certain amounts and types of turf grass coverage or excessive maintenance standards and irrigation systems, while at the same time prohibiting native or climatically appropriate landscapes and rainwater harvesting systems. This bill:

Prohibits deed restrictions, covenants, or property association rules that discourage water conservation and voids any existing provisions that do so.

**Fewer Jurors Required in a District Court Misdemeanor Criminal Trial - H.B. 830**  
*by Representatives Hughes and Pena - Senate Sponsor: Senator Ratliff*

Changes the number of jurors required in district courts for misdemeanor criminal cases from 12 to six persons.

(See H.J.R. 44, page 250)

**Rights of Spouses in Relation to Separate and Community Property - H.B. 885**  
*by Representative Dutton - Senate Sponsor: Senator West*

Adjusts the formula for determining the amount of a claim a marital estate has for economic contribution with respect to the benefited estate.
Provides that when spouses partition or exchange community property, future earnings and income arising from the property is the separate property of the owning spouse, unless the spouses agree that such earnings and income will be community property.

Requires a court, in a decree of divorce or annulment, to award to a spouse the following real and personal property, wherever situated, as the separate property of the spouse:

- property acquired by the spouse while domiciled in another state and that would have been the spouse’s separate property if the spouse had been domiciled in this state at the time of acquisition; or
- property that was acquired by the spouse in exchange for real or personal property and that would have been the spouse’s separate property if the spouse had been domiciled in this state at the time of acquisition.

Requires a court, in a decree of divorce or annulment, to confirm certain property as the separate property of a spouse if partitioned or exchanged by written agreement of the spouses.

**Adoption of an Adult - H.B. 1497**

*by Representative Dutton - Senate Sponsor: Senator Gallegos*

Under Texas law, both spouses must join in a petition for adoption of an adult. However, in some cases, only one spouse may have a reason for adopting the adult, such as the adoption of an adult stepchild from a previous marriage. This bill:

Authorizes a court to grant the adoption of an adult to one spouse even though both spouses have joined in the adoption petition.

**Writ of Habeas Corpus Related to Community Supervision - H.B. 1713**

*by Representative Hodge - Senate Sponsor: Senator Whitmire*

Under current law, an application for a writ of habeas corpus can only be processed if the applicant is incarcerated. This bill:

Establishes procedures for applying for a writ of habeas corpus in a felony or misdemeanor case in which the applicant seeks relief from an order or a judgment of conviction ordering community supervision.

**Temporary Guardianship - H.B. 2189**

*by Representative Rodriguez - Senate Sponsor: Senator Wentworth*

A temporary guardianship concerns emergency situations involving a minor or incapacitated adult. Current law allows probate courts to create temporary guardianships without notice or hearing. This bill:
Requires that a sworn, written application for the appointment of a temporary guardian be filed before a court may appoint a temporary guardian.

Requires a court, on the filing of an application for temporary guardianship, to appoint an attorney to represent the proposed ward in all guardianship proceedings in which independent counsel has not been retained by or on behalf of the ward.

Requires a court to immediately issue an order setting a date for a hearing on the application for temporary guardianship.

Requires the court, upon appointing a temporary guardian, to set bond for the guardian and set out the reasons for the temporary guardianship in the order of appointment.

**Uniform Prudent Investor Act - H.B. 2240**

*by Representative Paxton - Senate Sponsor: Senator Harris*

Creates the "Uniform Prudent Investor Act."

Requires a trustee who invests and manages trust assets to invest and manage trust assets as a prudent investor.

Sets out the trustee’s duties and authority.

**Uniform Principal and Income Act - H.B. 2241**

*by Representative Paxton - Senate Sponsor: Senator Harris*

Creates the “Uniform Principal and Income Act.”

Sets out the duties of a fiduciary in administering a trust or estate.

Authorizes a trustee to adjust between principal and income if certain conditions are met.

Prohibits a court from ordering a trustee to change a decision regarding the power to adjust, unless the court determines that the decision was an abuse of the trustee's discretion. If the court determines that a trustee has abused the trustee's discretion, the court may place the beneficiaries in the positions they would have occupied if the discretion had not been abused.

Sets out rules regarding noncharitable unitrusts (trusts which require distribution by the terms of a trust in an amount equal to a certain fixed percentage).

Sets out the rules for distribution and allocation by the fiduciary of a trust or estate.
Homestead Liens - H.B. 2252  
by Representative Flores - Senate Sponsor: Senator Hinojosa

Current law allows the Texas Commission on Environmental Quality (TCEQ) to place a lien against certain landowners without considering an individual's ability to satisfy the lien. This bill:

Authorizes the executive director (director) of TCEQ to determine whether to prepare an affidavit for purposes of cost recovery or whether a lien is satisfied.

Requires the director to proceed in the manner determined to result in the least overall cost to the state after any cost recovery action.

Authorizes the director to consider a landowner’s financial ability to satisfy a lien.

Provides that TCEQ not file a cost recovery action against an individual if the individual’s only significant asset is a homestead that includes the facility subject to or affected by the remedial action; is occupied by the individual as a home; and has a fair market value of $250,000 or less.

Requires TCEQ to determine whether a potentially responsible party is financially capable of conducting any necessary remediation studies or remedial action if the responsible party is an individual whose homestead includes the facility subject to or affected by the remedial action.

Requires TCEQ to adopt criteria for determining the financial capability of an individual.

Prohibits the value of an individual's homestead from being included in the total amount of the individual's asset if the individual is occupying the homestead as a home, and the fair market value of the homestead is $250,000 or less.

Authority of a Guardian in the Mental Health Treatment of a Ward - H.B. 2679  
by Representative Hartnett - Senate Sponsor: Senator Harris

Texas law does not authorize a guardian to voluntarily admit an adult ward for inpatient mental health services. Hospitals generally do not allow a ward who may lack the capacity to make such decisions to voluntarily admit him or herself and may not force the individual, once admitted, to take medication or accept treatment without following certain procedures. During the intervening time period, a ward’s health may deteriorate but guardians may be unable to resolve the situation without intervention by law enforcement personnel. This bill:

Requires the guardian of a person to submit to the court an annual report by sworn affidavit that contains certain information, including whether the guardian has filed for emergency detention of the ward and, if applicable, the number of times the guardian has filed and the dates of the applications.

Provides that a guardian of the person of a ward has the power to transport the ward to an inpatient mental health facility for a preliminary examination and subsequent treatment without the necessity of law
enforcement intervention if the guardian has reason to believe and does believe that the ward is mentally ill and because of that mental illness there is a substantial risk of serious harm to the ward or to others unless the ward is immediately restrained.

Provides that if a person under a protective custody order as provided by Subchapter B (Protective Custody), Chapter 574, Health and Safety Code, is a ward who is not a minor, the guardian of the person of the ward may consent to the administration of psychoactive medication as prescribed by the ward’s treating physician regardless of the ward’s expressed preferences regarding treatment with psychoactive medication.

Authorizes a person to administer a psychoactive medication to a patient who refuses to take the medication voluntarily if the patient is a ward who is 18 years of age or older and the guardian of the person of the ward consents to the administration of psychoactive medication regardless of the ward’s expressed preferences regarding treatment with psychoactive medication.

Requires a guardian, after transporting a ward to a facility, to immediately file an application for detention with the facility and to immediately provide written notice of the filing of an application to the court that granted the guardianship.

Requires a physician to examine the person as soon as possible within 24 hours after the time the person is apprehended by the peace officer or transported for emergency detention by the person’s guardian.

Requires a person apprehended by a peace officer or transported for emergency detention to be released on completion of the preliminary examination unless the person is admitted to a facility under an emergency detention.

Provides that a person apprehended, detained, or transported for emergency detention under this Act has certain rights as specified in the bill.

Changing the Number of Jurors in Misdemeanor Trial - H.J.R. 44
by Representatives Hughes and Pena - Senate Sponsor: Senator Ratliff

Proposes a constitutional amendment changing the number of jurors required in district courts for misdemeanor criminal cases from 12 to six persons.

Provides that this proposed constitutional amendment will be submitted to the voters at an election to be held September 13, 2003.

(See H.B. 830, page 246)
No Recording of Jury Deliberations in Civil and Criminal Trials - S.B. 164
by Senators Lindsay and West - House Sponsor: Representative Talton

The Public Broadcasting Station network television program “Frontline” had sought permission to record jury deliberations in a criminal case. On February 12, 2003, the Texas Court of Criminal Appeals held that the Texas Code of Criminal Procedure prohibits the recording or televising of jury deliberations. This bill codifies this ruling and expands the prohibition to civil courts. This bill:

Prohibits the use any device to produce or make an audio, visual, or audio-visual broadcast, recording, or photograph of a jury while the jury is deliberating in civil and criminal trials.

Exempting Certain Endowments from the Collection of Civil Damages - S.B. 313
by Senators Harris and Deuell - House Sponsor: Representatives King

Under current law, endowments for certain nonprofit institutions can be subject to collection for civil judgments against those institutions. Donors therefore have no guarantee that their donations will be used for the purpose for which the endowment was created. This bill:

Provides that the Act applies only to damages awarded against certain nonprofit nursing homes, assisted living, and continuing care institutions or facilities.

Bars a claimant from collecting damages awarded against such an institution or facility from an endowment fund or a similar fund or account, or the income derived from the corpus of the fund, if:
- the fund is exempt from federal taxation;
- the fund is used to assist in funding care provided by certain nonprofit nursing institutions;
- the corpus of the fund is derived from donations or grants from third parties or public sources; and
- the use of the fund is temporarily or permanently restricted by the donor, grantor, or the board governing the fund.

Death of or Injury to an Unborn Child - S.B. 319
by Senator Armbrister, et al. - House Sponsor: Representative Allen

Defines "individual" as regards civil wrongful death actions and criminal prosecutions to include an unborn child at every stage of gestation from fertilization until birth.

Defines "death" for an individual who is an unborn child as the failure to be born alive.

Exempts from this Act:
- conduct committed by the mother;
- a lawful medical procedure performed by a licensed health care provider with the requisite consent when the death of the unborn child was the intended result;
- a lawful medical procedure performed by a licensed health care provider with the requisite consent as part of an assisted reproduction; or
- the dispensation or administration of a drug in accordance with law.

Requires, in a case involving the death of or injury to an unborn child, presentation of medical or other evidence that the mother of the individual was pregnant at the time of the death or offense.

**Legislative Continuance - S.B. 430**

*by Senator Hinojosa - House Sponsors: Representative Luna, et al.*

Current law allows a continuance in a case in which a member of the legislature is either a party to the case or an attorney for a party at any time within 30 days of a date when the legislature is to be in session. The granting of this continuance is discretionary only if a legislator is employed as an attorney for a party within 10 days before the date the case is set for trial. This bill:

- Extends current law to include when a member-elect of the legislature is a party or the attorney for a party and will be or is attending a legislative session.

- Provides that the granting of the continuance is discretionary in a civil action if a member or member-elect was employed as an attorney on or after the 30th day before the date on which the suit is set for trial. In a criminal action, the continuance is discretionary if the member or member-elect was employed as an attorney on or after the 15th day before the date on which the suit is set for trial.

**Liability Limitations During Disasters - S.B. 513**

*by Senator Lindsay - House Sponsors: Representatives Seaman and Elizabeth Jones*

Provides that, except in a case of reckless conduct or intentional misconduct, a person is immune from civil liability for an Act or omission that occurs in giving care, assistance, or advice with respect to the management of a man-made or natural disaster.

- Precludes immunity from being extended to a person giving care, assistance, or advice for compensation in excess of reimbursement for expenses incurred in the carrying out of these actions.

**Presumptions for State Land Records - S.B. 641**

*by Senator West - House Sponsor: Representative Turner*

In Kenedy Memorial Foundation, et al. v. State of Texas, et al, the Texas Supreme Court ruled that the boundaries of original civil law grants must be determined by civil law and not by subsequent surveys. This bill:
Creates a presumption that documents, including maps and surveys of record in the archives of the General Land Office, accurately depict boundaries of patents, grants, sales, and titles emanating from the state.

**Charitable Immunity and Liability Act and Private Schools - S.B. 833**

*by Senator Williams - House Sponsor: Representative Nixon*

Employees and volunteers of a charitable organization are protected from liability for grievances arising from their actions under the Charitable Immunity and Liability Act. This bill:

Adds to the definition of charitable organization private primary or secondary schools accredited by a member association of the Texas Private School Accreditation Commission but excluding fraternities, sororities, and secret societies.

**Public and Common Nuisances - S.B. 1010**

*by Senator West - House Sponsors: Representative Giddings, et al.*

Clarifies existing law regarding public nuisances and common nuisances.

Authorizes a person bringing a suit to enjoin and abate a common nuisance to bring the suit against any person who maintains, owns, uses, or is a party to the use of a place and to bring an action against the place itself.

Provides that a person who violates a temporary or permanent injunctive order regarding a common nuisance is subject to a fine of not less than $1,000 or more than $10,000; jail for a term of not less than 10 or more than 30 days, or both.

Authorizes a court to include in an order enjoining a public nuisance reasonable requirements to prevent the use or maintenance of the place as a nuisance.

Provides that a certified copy of the court order may be filed in the office of the county clerk and is binding on subsequent purchasers and lienholders.

Provides that evidence that persons have been arrested for certain offenses in the place is admissible to show knowledge on the part of the defendant that the acts occurred.

Authorizes the district, county, or city attorney, or the attorney general to sue on the bond if a condition of a bond or an injunctive order regarding a common nuisance is violated. The whole sum of the bond will be forfeited as a penalty to the state or other entity originating the action.

Creates a nuisance abatement fund in a municipality with a population of 1.5 million or more. The fund consists of money awarded or fines for common or public nuisances and may be used only for the purpose of ongoing nuisance abatement.
Authorizes a court, if it finds that a combination or criminal street gang constitutes a public nuisance, to enter an order imposing reasonable requirements to prevent the combination or gang from engaging in future gang activities.

**Criminal Competency - S.B. 1057**  
*by Senator Duncan - House Sponsor: Representative Keel*

The 77th Legislature created a task force to review Texas law with respect to determining whether a criminal defendant is competent to stand trial. The task force developed a number of recommendations to ensure appropriate and consistent application of criminal competency laws. This Act creates a new criminal competency statute. This bill:

Sets forth applicable definitions.

Provides that this Act applies to a defendant charged with a felony or with a misdemeanor punishable by confinement.

Sets forth when a person is incompetent to stand trial.

Creates a presumption that a defendant is competent to stand trial unless proven incompetent by a preponderance of the evidence.

Establishes procedures for raising the issue that a defendant may be incompetent to stand trial and for determining whether a defendant is incompetent to stand trial.

Requires the court to order an examination of the defendant by one or more experts, and sets out the qualifications and compensation of these experts.

Establishes factors an expert must consider in examining the defendant, the contents of the expert's report to the court, and the deadline for such report.

Sets out when a court is to determine the issue of the defendant's competency if the issue is raised after the trial begins.

Provides that a defendant is entitled to representation by counsel during any competency proceeding. If the defendant is indigent, the court must appoint counsel.

Limits the admission into evidence at any criminal proceeding of certain statements, testimony, or evidence made or obtained during an examination or hearing on the defendant's incompetency.

Bars both the state and the defendant from filing an interlocutory appeal relating to a determination of incompetency.
Provides that if a court holds a hearing to determine whether the defendant is incompetent to stand trial, on the request of either party or the motion of the court, a jury shall make the determination.

Provides that if the court or jury determines that the defendant is competent to stand trial, the trial on the merits will continue.

Sets out the procedures following the determination that the defendant is found incompetent to stand trial. Following such determination, the court must either:

- release the defendant on bail if the court determines that the defendant is not a danger to others and may be safely treated on an outpatient basis for the purpose of attaining competency to stand trial; or
- commit the defendant to a mental health facility or residential care facility for a period not to exceed 120 days for further examination and treatment toward the specific objective of attaining competency to stand trial.

Requires the facility to which the defendant is committed to develop an individual treatment program, determine whether the defendant will obtain competency in the foreseeable future, and report to the court and to the local mental health authority or to mental retardation authority on the defendant's progress toward achieving competency.

Requires a defendant committed to a facility to be returned to the committing court as soon as practicable after the earliest of the following:

- the date on which the facility determines that the defendant has attained competency;
- the date on which the facility determines that the defendant will not attain competency in the foreseeable future; or
- the date on which the term of commitment expires.

Sets out the procedure and requirements for the extension of the commitment order by the court.

Sets out the proceedings on the return of a defendant to the committing court regarding to the defendant's competency to stand trial. If the defendant is found competent to stand trial, criminal proceedings against the defendant may be resumed.

Requires the court to determine whether there is evidence to support a finding that the defendant is either a person with mental illness or mental retardation if the court determines that the defendant is incompetent to stand trial and all charges are dismissed against the defendant. If it appears to the court there is such evidence, the court must enter an order transferring the defendant to the appropriate court for civil commitment proceedings.

Establishes the procedure for compelling certain defendants who have subsequently been determined to be competent to continue to take prescribed psychoactive medications.

Requires the court to hold a hearing on extended commitment to determine whether the defendant should be committed to a mental health or residential care facility pursuant to the Health and Safety Code if: the
defendant is found incompetent to stand trial; charges are still pending against the defendant; and it appears to the court that the defendant may be a person with mental illness or with mental retardation.

Establishes procedures for committing a defendant against whom charges are still pending to the maximum security unit of a facility if the defendant has been found incompetent to stand trial and is charged with certain violent offenses.

Creates a five-member review board appointed by the commissioner of mental health and mental retardation to determine whether the defendant is manifestly dangerous and requires continued placement in a maximum security unit.

Establishes procedures for the release of a defendant following extended commitment.

Requires a court which commits a defendant charged with a misdemeanor punishable by confinement to dismiss the charge on the motion of the state if the defendant is not tried before the second anniversary of the date of the commitment order.

Establishes procedures for determining whether the defendant has been restored to competency if criminal charges against a defendant found incompetent to stand trial have not been dismissed.

**Deceptive Trade Practices-Consumer Protection Act - S.B. 1212**

*by Senator Van de Putte - House Sponsor: Representative Kolkhorst*

Increases the civil penalty to be paid to the state for a violation of the Deceptive Trade Practices-Consumer Protection Act (DTPA) from not more than $2,000 to not more than $20,000 per violation, and removes the cap on such awards. If the deceptive act or practice involves a consumer who is 65 years of age or older, an additional amount of not more than $250,000 may be awarded.

Sets out the factors that a trier of fact must consider in determining the amount of this penalty.

Requires a consumer filing a DTPA class action to notify the consumer protection division (division) of the Office of the Attorney General. The court must abate the action for 60 days if the court finds that the requisite notice was not provided to the division.

Authorizes the court, on a showing of good cause, to allow the division to intervene in the action.

**Bail Bond Sureties - S.B. 1336**

*by Senator Hinojosa - House Sponsor: Representative Talton*

Exonerates the defendant and his sureties from liability upon the forfeiture taken if the principal is incarcerated in any jurisdiction in the United States:

- in the case of a misdemeanor, at the time of or not later than the 180th day after the date of the principal's failure to appear in court; or
in the case of a felony, at the time of or not later than the 270th day after the date of the principal's failure to appear in court.

Provides that an exonerated surety remains obligated to pay costs of court, any reasonable and necessary costs incurred by a county to secure the return of the principal, and interest accrued on the bond amount from the date of the judgment nisi (taking effect at a specified date unless cause is shown for modification or nullification) to the date of the principal's incarceration.

Authorizes the court for good cause shown and before the entry of a final judgment against the bond, to remit to the surety all or part of the amount of the bond after deducting the costs of court and any reasonable and necessary costs to the county for the return of the principal, and the interest accrued on the bond amount.

Requires that if a forfeiture of bail is declared or a surety surrenders a defendant, a warrant for arrest shall be immediately issued for the arrest of the defendant, and when arrested, in its discretion, the court may require the defendant, in order to be released from custody, to deposit with the custodian of funds of the court in which the prosecution is pending, current money of the United States in the amount of the new bond as set by the court, in lieu of a surety bond, unless a forfeiture is taken and set aside, in which case the defendant and his sureties shall remain bound under the same bail.

Redefines "bonding business" to mean the solicitation, negotiation, or execution of a bail bond by a bail bond surety and defines "final judgment" to mean a judgment that disposes of all issues and parties in a case.

Authorizes a county bail bond board to regulate solicitations or advertisements by or on behalf of bail bond sureties to protect the public from threats to public safety or to protect the safety of law enforcement officers.

Requires a person to pay a final judgment on a forfeiture of a bail bond executed by the person not later than the 31st day after the date of the final judgment unless a timely motion for a new trial has been filed.

Requires a person, if a timely motion for a new trial or a notice of appeal has been filed, to:
- pay the judgment not later than the 31st day after the date the motion is overruled, if the motion is overruled; or
- deposit with the court cash or a supersedeas bond in the amount of the final judgment, if an appeal is filed.

Clarifies that a person executing a bail bond may surrender the principal for whom the bond is executed by:
- if the principal is represented by an attorney, notifying the principal's attorney of the person's intention to surrender the principal; and
- filing an affidavit with the court or magistrate before which the prosecution is pending that states the:
  - person's intention to surrender the principal;
court and cause number of the case;
• name of the defendant;
• offense with which the defendant is charged;
• date of the bond;
• reason for the intended surrender; and
• notice of the person’s intention to surrender the principal has been provided.

Requires the county bail bond board or its authorized representative to immediately notify the sheriff if a bail bond surety fails to pay a final judgment of forfeiture.

Prohibits a bail bond surety from holding security for the payment of a bail bond fee or to assure the principal’s appearance in court for more than 30 days after the date on which the owner of the security requests return of the security in writing and submits to the bail bond surety written evidence of the conclusion of the payment agreement or all of the criminal cases for which the security was given.

**Unclaimed Class action Settlement Funds for Indigent Legal Services - S.B. 1601**

by Senator Ellis - House Sponsor: Representative Hartnett

Currently, when class action lawsuits end in settlement or judgment for the plaintiff class, there are often residual funds after distribution of the award to the identified members of the class. Typically, the judge in the suit awards the money to be used for a closely related purpose or to a charity. This bill:

Designates unclaimed funds to a trust fund administered by the Texas Supreme Court for use in funding civil legal services for the poor.
Conforming the Houston Police Officers’ Pension System - H.B. 752
by Representatives Woolley and Seaman - Senate Sponsor: Senator Williams

Private pension plans are regulated by the federal Employee Retirement Income Security Act, but the Houston Police Officers’ Pension System (HPOPS) is a public employee retirement system governed by state statute. The City of Houston and HPOPS Board of Trustees entered into an agreement to enhance Houston police officers’ and retirees’ benefits, enhancements that have been implemented in accordance with the agreement. This bill:

Provides that the changes agreed to by the city and board of trustees of the pension system are reflected herein.

Requires the pension system to operate regardless of whether the city’s population falls below 1.5 million.

Emergency Services Districts - H.B. 1108
by Representative Lewis - Senate Sponsor: Senator Madla

Sets forth the following provisions relating to emergency services districts (ESDs).

Requires a municipality to send written notice to the secretary of the ESD board by certified mail of intent to provide emergency services to a territory by the use of municipal personnel or other personnel in lieu of ESD.

Requires the ESD board, upon receipt of the notice, to change its records to show that the territory has been disannexed from the ESD.

Requires a municipality to compensate an ESD immediately after disannexation of a territory in an amount equal to the annexed territory’s pro rata share of the district’s bonded and other indebtedness.

Allows an ESD to contract with the state or a political subdivision for law enforcement services or for enforcement of the district’s fire code.

Allows an ESD to commission a peace officer or employ a person who holds a permanent peace officer license as a peace officer.

Municipalities and Extraterritorial Jurisdiction - H.B. 1197
by Representative Krusee - Senate Sponsor: Senator Wentworth

Currently, there is no specific statutory authorization for a municipality to enter into an agreement with an owner of land in the municipality’s extraterritorial jurisdiction (ETJ) to govern the future development of the land. This bill:
Authorizes the governing body of all municipalities, except the City of Houston, to make a written contract with an owner of land that is located in the ETJ of the municipality to:

- guarantee the continuation of the extraterritorial status of the land and its immunity from annexation for a period not to exceed 15 years;
- extend the municipality’s planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality;
- authorize enforcement by the municipality of certain municipal land use and development regulations;
- provide infrastructure for the land;
- authorize enforcement of environmental regulations;
- provide for the annexation of the land if annexation is agreed to by the parties; and
- specify the uses and development of the land before and after annexation.

Local Option Elections for the Sale of Alcoholic Beverages - H.B. 1199
by Representative Krusee, et al. - Senate Sponsor: Senator Whitmire

Provides that once an alcoholic beverage permit or license is issued, the certification that the location or address is in a wet area may not be changed until after a subsequent local option election to prohibit the sale of alcoholic beverages.

Amends the procedure for seeking a local option election regarding the sale of alcoholic beverages.

Makes it a Class B misdemeanor for a person to misrepresent the purpose or effect of a petition seeking a local option election regarding the sale of alcoholic beverages.

Amends the procedures for verifying signatures on such a petition and sets out the percentages of registered voters necessary for a local option election regarding the legal sale of various types of alcoholic beverages.

Expands existing law to authorize an election to permit or prohibit the legal sale of one or more various types of alcoholic beverages in an incorporated city or town located in more than one county.

Regulation of Subdivisions and Developments in ETJs - H.B. 1204
by Representative Baxter - Senate Sponsor: Senator Wentworth

Current law provides subdivisions in the extraterritorial jurisdiction (ETJ) of a municipality subject to both municipal and county development regulations to consolidate development regulations. This bill:

Requires a municipality and a county to enter into arbitration, if a certified agreement between a county and municipality is not in effect on or before the applicable date.
Establishes that if a regulation or agreement relating to plats and subdivisions of land or subdivision development establishes a plan for future roads that conflicts with a proposal or plan for future roads adopted by a metropolitan planning organization (MPO), the proposal or plan of the MPO prevails.

Prohibits a plat from being filed with the county clerk without the approval of both the municipality and the county.

Establishes that if a municipal regulation and county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails.

Establishes that property subject to pending approval of a preliminary or final plat application filed after September 1, 2002, released from the ETJ of a municipality shall be subject only to county approval.

Requires that the parties arbitrate disputed issues if a certified agreement between a county and a municipality with an ETJ that extends 3.5 miles or more from the corporate boundaries of the municipality is not in effect on or before January 1, 2004.

Requires that the parties arbitrate disputed issues, if a certified agreement between a county and a municipality with an ETJ that extends less than 3.5 miles from the corporate boundaries of the municipality is not in effect on or before January 1, 2006.

**Zoning Ordinances Relating to Exterior Appearance and Landscaping - H.B. 1207**

*by Representative Kuempel - Senate Sponsor: Senator Armbrister*

Current law authorizes cities to adopt zoning ordinances to control land and building use. A city may also regulate aesthetics such as landscaping and the types of building materials or architectural styles that must be used. This bill:

Allows that a zoning ordinance relating to the exterior appearance or landscaping of a home that is passed after a residential subdivision plat is approved will not apply to the subdivision for two years after the plat is approved or the public improvements are accepted by the municipality.

Provides that a municipality is not prevented from applying building codes or prohibiting the use of materials that have been found to be inherently dangerous.

**Texas Counties and Local Emergencies - H.B. 1512**

*by Representative West - Senate Sponsor: Senator Armbrister*

Each of the 254 counties in Texas has a local emergency planning committee in order to coordinate plans relating to pipeline safety in the event of an emergency, yet they are not required to meet. This bill:

Requires each local or interjurisdictional agency to conduct at least one public meeting each calendar year.
Requires each agency to provide written notice of details of the meeting no later than the fifth day before
the meeting to the pipeline safety section of the gas services division of the Railroad Commission of Texas.

**Texas County and District Retirement System - H.B. 1984**
_ by Representatives Kuempel - Senate Sponsor: Senator Armbrister_

Amends the laws governing the Texas County and District Retirement System (TCDRS), including to:
- authorize a member who has withdrawn contributions from TCDRS and who subsequently
  resumes employment with a subdivision to apply to TCDRS at any time before retirement to
  reestablish forfeited prior and current credited service;
- provide generally that a beneficiary designation naming a former spouse is invalid;
- authorize the board of trustees to adopt rules to require consent of a member's spouse to the
  designation of a beneficiary who is not the member's spouse or certain other acts by the member;
- authorize the governing body of a subdivision to provide additional contributions by adopting a
  supplemental contribution rate if it is determined that the obligations of the participating subdivision
  to the subdivision accumulation fund cannot be amortized within a period of 30, rather than 40,
  years;
- provide that the supplemental contribution rate is the rate of contribution by a subdivision to its
  account in the accumulation fund that is required, in addition to certain contributions, to amortize
  the obligations of the subdivision to the accumulation fund within a period of 20, rather than 25,
  years;
- provide that a supplemental contribution rate adopted by the governing body of a subdivision
  expires at the end of the 20th, rather than the 25th, calendar year after its effective date;
- authorize TCDRS to reduce future payments of benefits based on the account of a member, a
  retiree, or other former member to recoup an amount overpaid to or on the behalf of the member,
  retiree, or other former member;
- authorize TCDRS, if no future payments are due, to recover the overpayment in any manner that is
  permitted for the collection of any other debt; and
- prohibit TCDRS from recovering any overpayment made more than three years before the date the
  overpayment is discovered.

**Property Development Exemptions - H.B. 2130**
_ by Representative Kuempel - Senate Sponsor: Senator Wentworth_

Current law allows landowners who have filed permit applications to develop their property and complete
their projects under the city ordinances and other standards in place at the time the application is filed.
Exceptions for items such as changes in the health and safety or fire code that protect the public include
allowing cities to apply new ordinances retroactively that “prevent the imminent destruction of property or
injury to persons,” like a flood. This bill:
Exempts from requirements applicable to local permits certain regulations to prevent the imminent destruction of property or injury to persons if the regulations do not:
- affect lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project; or
- change development permitted by a restrictive covenant required by a municipality.

**Legal Land Use in Newly Incorporated Areas - H.B. 2212**
*by Representative Mowery - Senate Sponsor: Senator Madla*

Current law prohibits a municipality that annexes land from changing the land use of the area as it existed prior to annexation, but no similar provision exists that applies to newly-incorporated areas. This bill:

Extends to newly-incorporated areas the same protections afforded to newly-annexed areas.

Provides that a municipality incorporated after September 1, 2003, may not prohibit a person from:
- continuing to use land in the area in the manner in which the land was being used on the date of incorporation if the land use was legal at that time; or
- beginning to use land in the area in the manner that was planned for the land before the 90th day before the effective date of the incorporation.

Allows a municipality to continue imposing certain regulations that relate to:
- the location of sexually oriented businesses;
- colonias;
- preventing imminent destruction of property or injury to persons;
- public nuisances;
- flood control;
- the storage and use of hazardous substances;
- the sale and use of fireworks; or
- the discharge of firearms.

Voids any current municipal ordinances or rules that conflict with these regulations.

**Municipal Public Improvements - H.B. 2295**
*by Representative Thompson - Senate Sponsor: Senator Ellis*

Under current law, a city with a population of 5,000 or more may contract with developers for public improvements (excluding buildings) without a need to comply with bidding procedures. Participation by the city in these contracts is prohibited from exceeding 30 percent of the total price, and the developer is responsible for construction. This bill:
Requires a contract to establish the level of participation so as not to exceed 30 percent of the total price in municipalities with a population less than 1.8 million and authorizes participation not to exceed 70 percent in municipalities with populations of 1.8 million or more.

Allows a municipality to consider the impact on the ability of the municipality to comply programs relating to contracting with minority-owned and women-owned businesses in determining the best value for the municipality.

Local Bidder Advantage - H.B. 2493  
by Representative Isett - Senate Sponsor: Senator Duncan

Expands the number of municipal governments that can accept a local bidder whose proposal exceeds the best bid by five percent by increasing the population limit to 225,000 residents.

Deletes the prohibition for a school district to consider the place of business when evaluating a bid proposal.

Adds the purchase of nonprofessional services to those for which local governments can consider the bidder’s principal location in evaluating bids.

Increases from three percent to five percent the cost differential that a local governmental entity can accept when evaluating a local bidder’s proposal.

Urban Land Bank Demonstration Programs - H.B. 2801  
by Representative Giddings - Senate Sponsor: Senator West

The proposed Urban Land Bank Demonstration (ULBD) Program Act would enable cities to more effectively pursue tax foreclosure on unproductive vacant properties in return for utilizing such property in the development of affordable housing. This bill:

Creates and defines the Urban Land Bank Demonstration Program Act.

Authorizes the governing body of a municipality to adopt a ULBD program.

Authorizes the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien to sell certain eligible real property by private sale for purposes of affordable housing development.

Requires the governing body of a municipality that adopts a ULBD program to establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property.

Sets forth qualifications for developers to participate in a ULBD program.
Requires a municipality that adopts a ULBD program to operate the program in conformance with a ULBD plan.

Requires a ULBD plan to include:

- a list of community housing development organizations eligible to participate in the right of first refusal;
- a list of parcels of real property that may become eligible for sale to the land bank during the upcoming year;
- the municipality’s plan for affordable housing development on those parcels of real property; and
- the sources and amounts of funding anticipated to be available from the municipality for subsidies for development of affordable housing.

Authorizes the ULBD to impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low-income households.

**Public Improvement Districts - H.B. 2924**
*by Representative Geren - Senate Sponsor: Senator Brimer*

Currently, municipalities and counties are authorized, after several procedural requirements are satisfied, to establish public improvement districts (PID). The law authorizes the creation and dissolution of a PID, but does not expressly authorize amending the boundaries. This bill:

Allows a municipality or a county to add territory if requested by a petition signed by owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment in the area to be added.

**Remedying Substandard Conditions on a Property - H.B. 3232**
*by Representative Todd Smith - Senate Sponsor: Senator Brimer*

Currently, municipalities are allowed to assess clean-up expenses on property found to be in violation of sanitation ordinances, following notice to the property owner, and to file a lien statement with the county clerk. This bill:

Allows a tax collector to include on the property tax bill the expenses due a city under Chapter 342 of the Health and Safety Code.

**Property Right to Pension Payments of Local Government Retirees - H.J.R. 54**
*by Representative King, et al. - Senate Sponsor: Senator Brimer*

Amends the state constitution to provide a property right to pension payments upon retirement for local government employees who contributed to a retirement system, with some exclusions.
Prohibits reduction of benefits in effect, or that could be claimed by a current employee eligible for benefits, on or after the effective date of this amendment, or an employee who did or could have ended employment before the date, and provides that the local governments and retirement systems bear a joint responsibility to ensure benefits are not reduced.

Provides that a retirement system may be exempt from this amendment if it is approved by a majority of voters in the May, 2004, election held to elect local government officials, but only if it is the only retirement issue on the ballot.

Requires this proposed constitutional amendment to be submitted to the voters on September 13, 2003.

**Donation of Firefighting Equipment to Rural Volunteer Fire Departments - H.J.R. 61**  
*by Representative McReynolds, et al. - Senate Sponsor: Senator Armbrister*

The Texas Constitution currently prohibits the legislature from authorizing municipalities to donate surplus firefighting equipment or supplies for the benefit of rural volunteer fire departments. This bill:

Requires a vote on a constitutional amendment authorizing municipalities to donate surplus firefighting equipment or supplies to rural volunteer fire departments.

Requires this proposed constitutional amendment to be submitted to the voters on September 13, 2003.

**Liability for Fire and Emergency Services - S.B. 407**  
*by Senator Deuell - House Sponsor: Representative Harper-Brown*

Under current Texas law, governmental units may enter interlocal agreements, and if a governmental unit contracts to furnish or obtain fire protection from another unit, that unit would be responsible for any civil liability that would arise from the service furnished. This bill:

Provides that, in the absence of a contract, the unit requesting services is responsible for any potential civil liability.

Provides that nothing in Section 791.006 (Liability in Fire Protection Contract or Provision of Law Enforcement Services) affects school districts or employer-employee provisions of the governmental units.
Exemptions for Emergency Medical Services Personnel - S.B. 529

Some emergency medical services (EMS) personnel in rural areas are qualified to perform certain services, but are not certified to perform those services due to the cost of certification training with the Texas Department of Health (TDH). This bill:

Allows temporary exemptions from certification requirements for EMS personnel practicing in a county with a population of 50,000 or less, or in a relatively large, isolated, and sparsely populated area in a county with a population of more than 50,000.

Authorizes TDH to require the affected EMS personnel to adopt a written plan under which the applicable requirement for certification will be met.

Purchases from Local Vendors - S.B. 733
by Senator Ratliff - House Sponsor: Representative Farabee

Currently, local governments may purchase items under competitive bidding procedures primarily in three ways: (1) posting an invitation to bid; (2) purchasing through the state from approved vendors; and (3) purchasing from a local government cooperative. This bill:

Allows local governments located in a county with a population of 50,000 or less to purchase an item from a local vendor without following competitive purchasing procedures if the vendor’s price is equal to or less than the price provided by the state or cooperative.

Emergency Services District - S.B. 1022
by Senator Madla - House Sponsor: Representative Lewis

The Health and Safety Code provides an emergency services district (district) tools to fulfill its purpose, which is to protect the life and health of the citizens living within the district’s boundaries, to protect life and property from fire, and to conserve natural and human resources. This bill:

Allows a district to contract with the state or a political subdivision for law enforcement services or for enforcement of the district’s fire code.

Allows a district to commission a peace officer or employ a person who holds a permanent peace officer license.

Allows the district to adopt procedures to order the owner or occupant of a property that fails an inspection to correct the hazardous situation.

Allows a district to borrow money and make other financial arrangements to purchase real property or emergency services equipment or construct emergency services facilities.
Internet Services Provided by Counties and Municipalities - S.B. 1161
by Senator Barrientos · House Sponsor: Representative Lewis

Currently, counties have limited authority to charge for online services, and statutory language limits the type of services offered to information access and collections. This bill:

- Allows a county or municipality to charge a reasonable fee for providing access, collecting payments, or providing services through the Internet.
- Allows a county or municipality to contract with a vendor to provide access, collect payments, or provide services through the Internet.

County Fire Marshals and County Fire Protection - S.B. 1460
by Senator Lindsay · House Sponsor: Representative Wayne Smith

Current law governing the powers and duties of county fire marshals was first established in 1987. Over the past 16 years a number of counties and their fire marshals have identified areas for improvement in the law that would enhance efficiency, effectiveness, and flexibility of the administration of fire safety by Texas counties. This bill:

- Requires the county commissioners court to adopt rules and procedures for determining which fires warrant investigation by county fire marshal.
- Allows the county fire marshal, in the absence of a county fire code, to conduct an inspection using any nationally recognized code or standard adopted by the state.
- Allows the county commissioners court to authorize the fire marshal to provide training programs and operate a training facility for the various fire-fighting and fire prevention units in the county, and to collect a reasonable fee for the programs and use of facilities and services.

Sale of Used Fire-Fighting Equipment - S.B. 1461
by Senator Lindsay · House Sponsor: Representative Wayne Smith

Allows a county commissioners court to declare fire apparatus and equipment purchased by the county as surplus or salvage after 15 years of use and allows a volunteer fire department to purchase that equipment for eight percent of the original purchase value.
Endangerment of Livestock by Coyotes and Dogs - H.B. 151
by Representatives Farabee and Seaman - Senate Sponsor: Senator Estes

Certain dogs and coyotes are prohibited from running at large if they are known to run, worry, or kill livestock, domestic animals, or fowls. This bill:

Defines “dog or coyote” to include a crossbreed between a dog and a coyote.

Allows any person witnessing an attack by a dog or coyote or the attacked animal’s owner or a person acting on behalf of the owner to kill the dog or coyote without acquiring a hunting license.

by Representative Hardcastle - Senate Sponsor: Senator Estes

Currently, the Texas Department of Agriculture (TDA) is accredited as an organic certification agent under the United States Department of Agriculture National Organic program. TDA must now make some additional modifications to its regulations to be in full compliance with federal regulations. This bill:

Requires any program created by TDA to be consistent with the provisions of the national organic production program.

Authorizes TDA to adopt standards related to organic agricultural products.

Authorizes TDA to enter into an agreement with the United States Department of Agriculture (USDA) to act as an organic certifying agent or to provide primary enforcement of state and national standards relating to organic agricultural products.

Authorizes TDA to certify each person who produces, processes, distributes, or handles an organic agricultural product. A person certified as an organic producer, distributor, or handler to submit a plan for production, processing, distribution, or handling of organic agricultural products, a fee, and an annual report.

Issues and Authority of the Texas Department of Agriculture - H.B. 2133
by Representative Campbell - Senate Sponsor: Senator Estes

Amends the Agriculture Code to address statutory issues of concern to the Texas Department of Agriculture (TDA), including fees charged by TDA regulatory programs, insurance provisions, and the establishment of a voluntary certification program.

Authorizes TDA to provide full or partial refund or a waiver of a fee collected by the department.
Requires that an applicant for a public grain warehouse operator license to insure depositor to file or have on file with TDA a certificate of insurance evidencing that the applicant has an appropriate and effective policy of insurance issued.

Requires that the applicant’s insurance policy insures all depositor grain that is or may be in the public grain warehouse for its full market value against loss.

Authorizes TDA to establish certification programs relating to the protection, sale, advertising, marketing, or related production processes for grain in the state.

Prohibits a person from shipping a nursery product or florist item into the state without first obtaining a certificate of inspection issued by the proper authority of the state from which the shipment originates, except as otherwise provided by TDA rule.

Requires that each car, box, bale, or package of a nursery product or florist item shipped into the state bear a tag printed with a copy of the certificate of inspection from the originating state, except as otherwise provided by TDA rule.

Texas Animal Health Commission and the Poultry Industry - H.B. 2328
by Representative McReynolds, et al. - Senate Sponsor: Senator Staples

The Texas Animal Health Commission (TAHC) is responsible for protecting all livestock, domestic animals, and domestic fowl from communicable diseases recognized by the veterinary profession. This bill:

Requires a seller, distributor, or transporter of live domestic or exotic fowl to register with TAHC.

Allows TAHC to exempt from registration a person participating in a disease surveillance program recognized by TAHC.

Requires TAHC to adopt rules relating to the testing, identification, transportation, inspection, sanitation, and disinfection of domestic and exotic fowl.
Emissions Reduction Incentives - H.B. 638  
by Representative Chisum - Senate Sponsor: Senator Armbrister

Under current law, the Texas Commission on Environmental Quality (TCEQ) is allowed 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 the hourly emissions rate of nitrogen oxides by at least 50 percent. This bill:

Makes mandatory the previously permissive development of the emissions reduction program and the inclusion of incentives as developed by TCEQ for nitrogen oxides emissions reduction projects for reciprocating internal combustion engines.

Vehicles Using Alternative Fuels - H.B. 1192  
by Representative West - Senate Sponsor: Senator Armbrister

Current law prohibits a state agency operating a fleet of more than 15 vehicles, excluding law enforcement and emergency vehicles, from purchasing or leasing a motor vehicle unless that vehicle is capable of using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, or electricity. This bill:

Exempts purchases or leases of motor vehicles by the Railroad Commission of Texas, except for the purchases or leases of motor vehicles for use in nonattainment areas of the federal Clean Air Act.

Texas Emissions Reduction Plan - H.B. 1365  
by Representative Bonnen, et al. - Senate Sponsor: Senator Harris

The Federal Clean Air Act authorizes the United States Environmental Protection Agency (EPA) to establish the maximum allowable concentrations of pollutants that have been shown to endanger human health, harm the environment, and cause property damage. The Texas Emissions Reduction Plan (TERP), as established by S.B. 5, 77th Texas Legislature, created incentive programs to assist in reaching the requisite federal level of attainment for clean air by 2007. This bill:

Includes with “affected counties” any county designated as an affected county by the Texas Commission on Environmental Quality (TCEQ) due to deteriorating air quality.

Allows TCEQ to propose revisions to the guidelines and criteria to improve the ability of TERP to achieve its goals; allows revisions to include adding stationary engines or engines used in stationary applications, as well as adding vehicles and equipment that use fuels other than diesel.

Defines “repower” as replacing an old engine powering an on-road or non-road diesel with a new engine, a used engine, a remanufactured engine, or electric motors, drives, or fuel cells.
Allows TCEQ to include in consideration for a grant under the diesel emissions reduction incentive program the replacement of on-road or non-road diesels with newer on-road or non-road diesels.

Allows TCEQ to adopt guidelines to allow a person other than the owner of an on-road or non-road diesel to apply for and receive a grant in order to improve the ability of the emissions reduction incentive program to achieve its goal.

Allows TCEQ, after evaluating the availability of vehicles meeting the emissions standards, to expand the program to include other on-road vehicles, regardless of fuel type used, that meet the emissions standards, have a gross vehicle weight rating of greater than 8,500 pounds, and are purchased or leased in lieu of a new on-road diesel.

Requires TCEQ to develop a method of providing fast and simple access to grants for small businesses and to publicize and promote the availability of grants to encourage the use of vehicles that produce fewer emissions.

Requires TCEQ to provide grants to be used to support development of emissions-reducing technologies, including advanced technologies such as fuel cells, catalysts, and fuel additives.

Allows the General Land Office to develop an energy-efficient building accreditation program for buildings that exceed the building energy performance standards by 15 percent or more.

Requires TCEQ to conduct outreach to near-nonattainment areas and affected counties on the benefits of implementing energy efficiency initiatives, including the promotion of energy-efficient building programs and urban heat island mitigation techniques, as a way to meet air quality attainment goals under the federal Clean Air Act.

Requires TCEQ to develop a method to use in computing emissions reductions obtained through energy efficiency initiatives.

Allows TCEQ and state agencies to give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

Requires vendor compliance or above average air quality of state or federal environmental standards, including those that are voluntary.

Requires that an applicant for a certification of title, other than the state or political subdivision of the state, pay the county assessor-collector a fee.
Cacti Harvesting - S.B. 970  
*by Senator Shapleigh - House Sponsor: Representative Puente*

Currently, the West Texas desert area is a prime target for the illegal harvesting of cacti and other succulents frequently used in xeriscaping, which may damage the desert ecosystem. This bill:

Directs the Texas Department of Agriculture to adopt and administer rules necessary to enforce a system of inspections, registration, and documentation for growing, harvesting, selling, and transporting of certain desert plants to ensure that each desert plant sold in or leaving Texas has been legally harvested.

Vehicle Emissions Programs - S.B. 1159  
*by Senator Barrientos - House Sponsor: Representative Krusee*

In 2002, five counties and seven cities in the Austin-San Antonio Metropolitan Statistical Area entered into an agreement to reduce emissions in compliance with the federal one-hour ozone standard, and later an early action compact with the United States Environmental Protection Agency. An early action compact is a legal voluntary reduction agreement to attain the federal eight-hour ozone standard by 2007. This bill:

Allows a participating county to request that the Texas Commission on Environmental Quality (TCEQ) adopt motor vehicle inspection and maintenance programs for that county.

Authorizes TCEQ to work with the Public Safety Commission to develop the program requirements.

Allows TCEQ to charge a fee to cover the costs of administering the program while providing a reasonable profit to private entities carrying out the program.

Allows flexibility for local jurisdictions in designing testing programs.

Prosecution of Violations of the Texas Clean Air Act - S.B. 1265  
*by Senator Armbrister - House Sponsor: Representative Capelo*

Currently, there is no process required under any state environmental provisions for the criminal prosecution of violations of the Texas Clean Air Act. This bill:

Requires a peace officer to notify the Texas Commission on Environmental Quality (TCEQ) in writing of an alleged violation of the Clean Air Act by someone who holds a permit by TCEQ or is employed by a person holding such a permit.

Requires TCEQ to evaluate the report, determine if an environmental violation exists, and determine an adequate remedy.


**Agricultural Policy for Bison - H.B. 641**  
*by Representative Kolkhorst - Senate Sponsor: Senator Armbrister*

Recognizes that bison are wild animals indigenous to this state and are distinct from cattle, livestock, exotic livestock, and game animals.

Allows for bison to be raised and used for commercial purposes or for preserving the bison species.

**Access to Public Beaches - H.B. 1457**  
*by Representatives Eiland and Seaman - Senate Sponsor: Senator Janek*

Some believe that a temporary moratorium on enforcing the Open Beaches Acts would allow the vegetation to recover and beachfront owners to repair structures following a storm. This bill:

Requires the commissioner of the General Land Office (GLO) to temporarily suspend enforcement of the prohibition against encroachments on and interference with the public beach easement and the ability of a property owner to make repairs to a house while a suspension is in effect.

Allows the GLO commissioner to establish a moratorium of two years to request the removal of a dwelling or other improvement from a beach subject to public access based on the best available information concerning the establishment of a stable beach vegetation line following a tropical storm or hurricane.

Sets forth provisions regarding the enforcement of laws governing dune protection and access to public beaches.

**Financial Assurance for Recycling Facilities - H.B. 1823**  
*by Representative Hamric - Senate Sponsor: Senator Lindsay*

Under current law, recycling facilities may operate without a permit, must meet only minimal standards set by the Texas Commission on Environmental Quality (TCEQ), and are not required to post any type of financial assurance. This bill:

Requires TCEQ to adopt rules to ensure that the owner or operator of a recycling facility has sufficient financial assurance in place conditioned on satisfactorily operating and closing the facility.

Applies only to recycling facilities that store combustible material outdoors and pose a significant risk to public health and safety as determined by TCEQ.
Currently, the Texas Department of Agriculture (TDA) operates the Go Texan program to promote only state agriculture products. This bill:

Authorizes TDA to encourage the proper development and promotion of agriculture, horticulture, and other industries that grow, process, or produce products in this state with programs that promote and market agricultural products and other products grown, processed, or produced in the state, including for example, Toyotas and other manufactured non-agricultural products.

Establishes the Texas shrimp marketing assistance program in TDA to promote and market Texas-produced shrimp and educate the public about the Texas shrimp industry and Texas-produced shrimp.

Freshwater Fishing Stamps - H.B. 1989
by Representatives Dan Ellis and Byron Cook - Senate Sponsor: Senator Staples

Authorizes the Texas Parks and Wildlife Department to issue a freshwater fishing stamp for $5 to be valid for fishing only during the yearly period for which it is issued, beginning on September 1 of each year.

Kickapoo Hunting of White-tailed Deer - H.B. 2159
by Representatives Garza and Pena - Senate Sponsor: Senator Madla

The Kickapoo Indian reservation located in Eagle Pass, Texas, is the primary Kickapoo reservation in the United States. The Kickapoo have primarily lived by hunting, gathering, farming, and migrant farm labor, and the Kickapoo religion incorporates the Texas white-tailed deer, utilizing the meat and carcass of the deer to conduct daily traditional ceremonies. Current law prevents the Kickapoo from conducting religious and ceremonial rites, as prescribed by Kickapoo religion and tribal custom because they are not able to hunt all year long. This bill:

Allows a documented member of the Kickapoo Traditional Tribe of Texas to hunt antlerless white-tailed deer for religious ceremonial purposes on any day of the year between one-half hour before sunrise and one-half hour after sunset.

Quarantine Administration by the Texas Department of Agriculture - H.B. 2320
by Representative Flores - Senate Sponsor: Senator Lucio

Under current law, when a quarantine is established for an exotic pest, and eradication efforts are implemented, inspectors will provide notification that fruit is at risk for pests and provide methods to remedy the situation. If a person, such as a vendor, chooses not to address the potential problem, the Texas Department of Agriculture (TDA) has no recourse and the risk of pests spreading beyond the quarantine area increases. This bill:
Requires TDA to notify the division of emergency management (division) in the governor’s office of each quarantine it adopts and to cooperate with the division in implementing any necessary safeguards to protect the state’s agricultural resources from potential economic, health, or ecological disaster that may result from the quarantined pest of disease.

Allows TDA to establish treatment and handling requirements for a quarantined article designed to:
- prevent dissemination of a dangerous insect, pest, or plant disease;
- prevent infestation of a quarantined article by a dangerous insect, pest, or plant disease;
- decrease the occurrence of a dangerous insect, pest, or plant disease; and
- facilitate the eradication of a dangerous insect, pest, or plant disease.

Requires the Department of Public to Safety or local law enforcement to cooperate with TDA and provide necessary assistance.

Establishes that the owner of a quarantined article that is treated, isolated, or destroyed by TDA is liable to TDA for the costs of treatment, isolation, and destruction.

**Shrimp and Oyster Industry Programs - H.B. 2470**
*by Representative Kuempel - Senate Sponsor: Senator Jackson*

Current law allows the Texas Department of Agriculture (TDA) to implement a license buyback program as part of the finfish license management program designed to reduce commercial shrimping in Texas bays. TDA is required to set aside at least 20 percent of the fees from licenses issued and license transfers approved under this program to be used only for the purpose of buying back those licenses from a willing license holder. This bill:

Authorizes TDA, if funds are available, to increase the allocations of the license buyback programs.

Establishes the Texas shrimp marketing assistance program in TDA to promote and market Texas-produced shrimp and educating the public about the Texas shrimp industry and Texas-produced shrimp.

**Sale, Distribution, or Importation of Noxious Plants - S.B. 854**
*by Senator Madla - House Sponsor: Representative Hardcastle*

Noxious plants are defined as plants that have a serious potential to cause economic harm or ecological damage. This bill:

Authorizes the Texas Department of Agriculture (TDA) to publish a list of noxious species.

Sets forth the offense of selling, distributing, or importing a noxious plant as a Class C misdemeanor punishable by a fine not to exceed $500.
Natural Gas and Energy Emergency - S.B. 985  
by Senator Wentworth - House Sponsor: Representative Goolsby

The governor has emergency management powers to protect the state from natural or man-made disasters, riots, or hostile military or “paramilitary action.” Additionally, the governor’s responsibilities include planning for and responding to energy emergencies. This bill:

Adds temporary statewide or local shortages of natural gas to the definition of energy emergency.

Livestock Branding and Identification - S.B. 1389  
by Senator Duncan - House Sponsor: Representative Hardcastle

Recognizes technological advances in animal ownership identification, including the use of electronic devices and tattoos.

Updates the Agriculture Code by repealing various obsolete provisions relating to county brands, road brands, and other archaic provisions.

Includes electronic devices and tattoos as acceptable methods of branding livestock.

Powers, Duties, and Programs of the Department of Agriculture - S.B. 1413  
by Senator Deuell - House Sponsor: Representative Hardcastle

Currently, the Agriculture Code has several duplicative and outdated provisions relating to the Texas Department of Agriculture (TDA). This bill:

Requires TDA to notify the Department of Public of Safety (DPS) of emergency management of each quarantine TDA adopts and to cooperate with the division of emergency management in implementing any necessary safeguards to protect the state’s agriculture resources form potential economic, health, or ecological disaster that may result from the quarantined pest or disease.

Defines “quarantined article” to include a plant, plant product, substance, or other item capable of hosting or facilitating the dissemination of an insect pest or plant disease, and to include a motor vehicle, railcar, or other conveyance, or equipment used for, or intended for use in, the transportation or production of those plants or plant products.

Authorizes TDA to establish treatment and handling requirements for a quarantined article found within a quarantined area.

Allows TDA to receive and hold for processing animals and animal products transported in international trade and to establish and collect reasonable fees for yardage, maintenance, feed, medical care, facility use, and other necessary expenses incurred in the course of processing those animals.
Trapping and Transporting of White-tailed Deer - S.B. 1582  
by Senator Wentworth - House Sponsor: Representative Keel

Currently, there is an overpopulation of white-tailed deer in urban areas in Texas that represent a public safety and public health problem. Deer relocation under the Trapping, Transporting, and Transplanting Program (TTT) is an available option for a solution, but the TTT permit requirement for ranchers and other potential recipients of relocated deer to develop and maintain approved wildlife management plans places restrictions on the relocation of deer from urban areas. This bill:

Authorizes the Texas Parks and Wildlife Department (TPWD) to issue a permit to a political subdivision or a property owners’ association authorizing the trapping and transporting of surplus white-tailed deer found within the boundaries of the political subdivision or the jurisdiction of the property owners’ association.

Requires a political subdivision or a property owners’ association, no later than the 30th day before the date of the first planned trapping and transporting of white-tailed deer, to file with TPWD an application showing that an overpopulation of white-tailed deer exists within the political subdivision or the geographic area in which property subject to the property owners’ association is located.

Authorizes TPWD to deny a political subdivision or property owners’ association a permit if no suitable destination for the trapped white-tailed deer exists.

Requires a political subdivision or property owners’ association trapping and transporting white-tailed deer to make reasonable efforts to ensure safe and humane handling of trapped white-tailed deer and minimization of human health and safety hazards in every phase of the trapping and transporting of white-tailed deer.

Provides that a permit issued does not entitle a person to take, trap, or possess white-tailed deer found on any privately owned land without the landowner’s written permission.

Provides that the state is not liable and prohibits the state from incurring any expense for the trapping and transporting of white-tailed.
by Representative Geren - Senate Sponsor: Senator Duncan

Requires a political subdivision filing a condemnation petition for the purpose of acquiring rights to groundwater or surface water to prove that the political subdivision has:
- prepared a drought contingency plan;
- implemented a water conservation plan;
- made a bona fide good faith effort to obtain practicable alternative water supplies or to acquire the rights to the water the political subdivision proposes to condemn; and
- made a showing that the political subdivision needs the water rights to provide for the domestic needs of the political subdivision within the next 10-year period.

Requires the special commissioners or a court in a condemnation proceeding by a political subdivision to acquire water rights to admit evidence relating to the market value of groundwater rights if:
- the political subdivision proposes to condemn the fee title of real property; and
- the special commissioners or the court finds that the real property may be used by the political subdivision to develop or use the rights to groundwater for a public purpose.

Requires that evidence submitted on the market value of the groundwater rights must be based on generally accepted appraisal methods and techniques.

Authorizes the special commissioners or a court, upon a finding that the real property may be used by the political subdivision to develop or use the rights to groundwater for a public purpose, to assess damages to the property owner for the market value of the groundwater rights.

Sets out what the special commissioners or court must consider in assessing damages based on the market value of groundwater rights.

Prohibits groundwater rights from being appraised separately from the real property for tax purposes.

Creation of Special Utility Districts - H.B. 1014
by Representative Robert “Robby” Cook - Senate Sponsor: Senator Armbrister

Currently, water supply companies (WSC) apply to the Texas Commission on Environmental Quality (TCEQ) for authorization to convert into districts. This bill:

Authorizes a district to be created for acquiring sources of water; building and operating facilities for water transportation; and selling water.

Authorizes a district to be created for establishing and operating a firefighting facility.
Authorizes a district to be created for the protection, preservation, and restoration of the purity and sanitary condition of water within the district.

Requires that the purpose of the district be specified prior to creation.

Nonprofit Water Supply Corporations Conservation Measures - H.B. 1152
by Representative Puente - Senate Sponsor: Senator Estes

Allows nonprofit water supply and sewer service corporations in all counties except Harris County to establish and enforce reasonable customer water conservation practices and prohibit excessive or wasteful uses of potable water.

Allows these corporations to enforce customer water conservation practices by assessing reasonable penalties as provided in the corporation’s tariff.

Seawater Desalination - H.B. 1370
by Representative Luna - Senate Sponsor: Senator Lucio

Seawater desalination is a drought-proof water supply option seen as one alternative to address the growing demand on water resources in the state. This bill:

Requires the Texas Water Development Board (TWDB) to undertake and participate in research, feasibility, and facility planning studies, investigations, and surveys necessary to further the development of cost-effective water supplies.

Requires TWDB to prepare a biennial progress report on the implementation of seawater desalination activities in the state and to actively pursue federal sources of funding for desalination projects in the state.

Water Planning - H.B. 1378
by Representative Geren - Senate Sponsor: Senator Duncan

Establishes the purpose of the Texas Water Advisory Council (council) to provide the governor, lieutenant governor, speaker of the house of representatives, and legislature with the resources of a select council with expertise on state water issues.

Requires that a representative of the coastal region serve on the council.

Allows the council to create a list of state water issues and provide recommendations if the governor, lieutenant governor, or speaker of the house of representatives does not issue charges to the council.

Requires the council to encourage public participation and input at council meetings regarding the council’s purpose.
Prohibits information collected through field investigations on a landowner’s property from being disclosed to any person outside the Texas Water Development Board, if the landowner has requested in writing that such information be deemed confidential.

**Groundwater Conservation Districts - H.B. 1534**

*by Representative Robert “Robby” Cook - Senate Sponsor: Senator Armbrister*

Current law allows local groundwater conservation districts (district) to choose from an array of management tools appropriate for the districts aquifers and the needs of citizens. Local district boards decide, with public participation, which tools will be used by that district. This bill:

- Allows a district to provide necessary facilities for water conservation purposes.
- Allows a district to exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property if that property interest is within the boundaries of the district and necessary for conservation purposes, including recharge and reuse.
- Prohibits a district from exercising the power of eminent domain for the condemnation of land for production, sale, or distribution of groundwater or surface water.

**Power and Authority of Water Districts - H.B. 1541**

*by Representative Callegari - Senate Sponsor: Senator Lindsay*

The Texas Constitution provides for the establishment of various general law water districts governed by the Water Code. This bill:

- Defines a “strategic partnership agreement” as a written agreement between a municipality and a water district (district).
- Allows a strategic partnership agreement to provide:
  - limited-purpose annexation of the district on terms acceptable to the municipality and the district;
  - limited-purpose annexation of a district located in a county with a population of more than 3.3 million; and
  - full-purpose annexation provision on terms acceptable to the municipality and the district.
- Exempts from certain deadlines areas that meet certain criteria, including areas that are:
  - owned by the United States, Texas, or a political subdivision;
  - located outside the boundaries of a water or municipal utility district; or
  - annexed for limited purposes.
Allows a director to serve on a water district board regardless of the municipality in which the director resides.

Requires that a contract for technical, scientific, legal, fiscal, or other professional services be approved by the district board unless specifically delegated by board action.

Allows a municipality to contract with a district for unlimited duration for the purchase of property.

Requires the district board to post appropriate and timely notice if an election is not to be held.

Allows the district board to impose restrictions on the development and use of land in connection with the sale of surplus land.

Requires the district board to give notice of each meeting of the board at which the adoption of a tax rate will be considered and provides a form for such notice.

Allows a district contract for construction work to include economic incentives for early completion of the work or economic disincentives for late completion of the work.

Provides that the district board is not required to advertise or seek competitive bids for security or surveillance systems used for the prevention of terrorist or criminal acts and incidents or acts of war, if the board finds that doing so would compromise the safety and security of district facilities or residents.

Allows a district to exclude land or other property from the district if the district has no outstanding bonds payable in whole or in part from taxes.

Provides that a district may not exclude land or other property from the district if the district has issued bonds payable in whole or in part from taxes and those bonds are outstanding.

Allows a district that has adopted the rights, authority, privileges, and functions of a road district to reimburse expenditures.

Provides that a district is not required to adopt a plumbing code, but allows a district to adopt and enforce plumbing codes that meet the standards and requirements of the state. Municipal regulations prevail if in conflict with district regulations.

Provides that bonds payable solely from revenues may be issued by resolution or order of the district board without an election, now is an election required to pledge revenues to the payment of bonds.

Requires that a district board of a district of more than 5,000 acres call a hearing on the exclusion of land from the district, on a written petition by a landowner whose land has been included in and taxable by the district for more than 28 years, if any bonds issued by the district payable in whole or in part from the taxes of the district are outstanding and the petition meets certain criteria.
Requires that the district continue to levy and collect taxes on excluded land at the same rate levied on land remaining in the district until the amount of taxes collected from the excluded land equals the land’s pro rata share of the district’s debt outstanding at the time the land was excluded from the district.

Allows the district to enter into all necessary and proper contracts to fully accomplish the purposes of the district, including the reclamation of land within the district.

Allows, instead of requires, the district to construct all improvements necessary or convenient to accomplish the purposes of the district.

**Untreated Wastewater Due to Grease Blockage - H.B. 1979**
*by Representative Puente - Senate Sponsor: Senator Armbrister*

In 2002, there were 6,173 sanitary sewer overflows in the State of Texas, discharging 190 million gallons of wastewater. The Environmental Protection Agency (EPA) estimates that 42 percent of sanitary sewer overflows are a result of grease blocking pipes, and that the proper use of grease traps by food service facilities and restaurants can eliminate many of these overflows. This bill:

Requires the Texas Commission on Environmental Quality (TCEQ) to establish criteria for evaluating whether to initiate an enforcement action related to the sanitary sewer overflows that occur as the result of a blockage due to grease.

Requires TCEQ to adopt model standards for use by an operator of a separate sanitary sewer system that are designed to prevent the discharge of untreated wastewater from a separate sanitary sewer system as a result of blockage due to grease.

**Water Conservation - H.B. 2660**
*by Representative Puente - Senate Sponsor: Senator Lucio*

Eighty-eight percent of municipal water suppliers who completed a 2002 survey by the Texas Commission on Environmental Quality (TCEQ) regarding the effectiveness of required water conservation plans reported that they did not have quantifiable water conservation goals or time frames for reaching them. This bill:

Requires that all water conservation plans include specific, quantified 5-year and 10-year targets for water savings and goals for water loss programs and municipal use in gallons per capita per day.

Requires TCEQ and the Texas Water Development Board to identify quantified target goals for water conservation that water suppliers and other entities may use as guidelines in preparing water conservation plans.
Use of Graywater - H.B. 2661
by Representative Puente - Senate Sponsor: Senator Armbrister

Household wastewater from washing machines, showers, bathtubs, lavatories, and sinks, can produce approximately 100 gallons of “graywater” per day in the typical Texas household. This water could be used to replace potable water for irrigation purposes and presents a tremendous potential for water conservation; however, graywater generated by commercial/industrial users may have characteristics that necessitate more stringent regulations than those created for domestic graywater. This bill:

Clarifies that “graywater” does not include wastewater that has come in contact with toilet waste; from the washing of material that has been soiled by human excreta; or from sinks used for food preparation or disposal.

Requires the Texas Commission on Environmental Quality (TCEQ) to adopt and implement minimum standards for the use of graywater for irrigation and other agricultural purposes, domestic use, and commercial purposes.

Requires that the standards adopted by TCEQ to assure that the use of graywater is not a nuisance and does not damage the quality of surface water and groundwater.

Prohibits TCEQ from requiring a permit for the domestic use of less than 400 gallons of graywater each, if the graywater:
- originates from a private residence;
- is used by the occupants of that residence for gardening, composting, or landscaping at the residence;
- is collected using a system that overflows into a sewage collection or on-site wastewater treatment and disposal system;
- is stored in appropriate tanks;
- uses piping clearly identified as a nonpotable water conduit;
- is generated without the formation of ponds or pools of graywater;
- does not create runoff across the property lines or onto any paved surface; and
- is distributed by a surface or subsurface system that does not spray into the air.

Encourages builders to:
- install plumbing in new housing in a manner that provides the capacity to collect graywater from all allowable sources; and
- design and install a subsurface graywater system around the foundation of new housing in a way that minimizes foundation movement or cracking.
Drought Contingency Plans - H.B. 2663
by Representative Puente - Senate Sponsor: Senator Lucio

Under current law, each wholesale and retail public water supplier irrigation district is required to develop a regional water plan and to implement the plan during droughts and periods of water shortage. This bill:

Requires drought contingency plans to include specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought.

Requires TCEQ and the Texas Water Development Board (TWDB) to identify quantified target goals for drought contingency plans that wholesale and retail public water suppliers, irrigation districts, and other entities may use as guidelines in preparing drought contingency plans.

Requires TCEQ and TWDB to develop model drought contingency programs for different types of water suppliers that suggest best management practices for accomplishing the highest practicable levels of water use reductions achievable during periods of water shortages and drought for each specific type of water supplier.

Groundwater Contamination - H.B. 3030
by Representatives Van Arsdale and Baxter - Senate Sponsor: Senator Lindsay

Current law requires a public facility to notify those using the facility or its water resources of contamination when the contamination is discovered, but no provision exists to provide notice to owners of nearby private water wells, who may also be affected by the same groundwater contamination. This bill:

Requires any state agency, including the Texas Water Development Board, the Texas Railroad Commission, the Texas Department of Health, and the Texas Department of Agriculture, to notify the Texas Commission on Environmental Quality (TCEQ) of groundwater contamination that may affect a drinking water well no later than the 30th day after the date the TCEQ receives notice or obtains independent knowledge of groundwater contamination.

Requires TCEQ to make every effort to give notice of the contamination by first class mail to each owner of a private drinking water well that may be affected by the contamination and to each applicable groundwater conservation district.

Removal of Contaminants from Groundwater - H.B. 3152
by Representative Bonnen - Senate Sponsor: Senator Jackson

Current law requires the landowner or the facility owner/operator of commercial and industrial properties in municipal areas responsible for the contamination of groundwater by historical on-site or off-site sources to define the extent of the contamination and to develop an approach to correct the problem through response actions. Ordinances restricting the installation and use of wells are not currently allowed as a response action. This bill:
Sets forth provisions relating to the potability of and requirements for removing contaminants from groundwater, which includes authorizing a city to restrict potable use of groundwater in designated areas where public drinking water is available.

**Retail Public Utility Water Audit - H.B. 3338**  
*by Representative Puente - Senate Sponsor: Senator Armbrister*

Water conservation results in reduced energy use thus contributing to improving Texas’ air quality as well as preserving the state’s limited water resources. This bill:

- Requires a retail public utility providing potable water to perform and file a water audit computing the utility’s most recent annual system water loss with the Texas Water Development Board (TWDB).
- Authorizes TWDB to compile the information included in the water audits according to category of retail public utility and according to a regional water planning area.
- Authorizes the regional planning group for a regional planning area to use the information to identify appropriate water management strategies in the development of a regional water plan.

**Ranch at Clear Fork Creek Municipal Utility District No. 1 - S.B. 24**  
*by Senator Armbrister - House Sponsor: Representative Rose*

Creates the administration, powers, duties, operation, and financing of the Ranch at Clear Fork Creek Municipal Utility District No. 1 (MUD). The MUD is wholly located within Caldwell County and in the extraterritorial jurisdiction of the City of Uhland and is subject to a confirmation election.

**Protection of Public Freshwater Areas - S.B. 155**  

According to the Texas Parks and Wildlife Department (TPWD), the number of recreational motor vehicles entering Texas rivers has reached a critical mass, and the frequently traveled areas of Texas rivers have shown signs of erosion and decreased fish and vegetation.

While the 78th Legislature recognizes that the beds, bottoms, and banks of navigable rivers and navigable streams are precious and irreplaceable state resources that deserve protection, it also recognizes that public access to navigable rivers is a right granted to individuals under the Texas Constitution, and rivers are an important economic and recreational resource for the people of the state. This bill:

- Prohibits a person from operating a motor vehicle in or on a protected freshwater area on or after January 1, 2004, with certain exceptions.
- Includes the following enumerated exemptions:
- a private road crossing established on or before December 31, 2003;
- federal, state, or local government employees conducting official business;
- motor vehicle use necessary for agricultural activities, mineral leases,
- crossing easements, or production and provision of electric power, telecommunications systems, and oil and gas products; and
- camps and retreat facilities.

Excludes any river with headwaters in a state other than Texas and a mouth or confluence in a state other than Texas.

Allows a county, municipality, or river authority to adopt a written local plan to provide access to a protected freshwater area located within the county’s geographical boundaries or the river authority’s or municipality’s jurisdiction.

Prohibits the creation of a prescriptive easement over private property by recreational use of a protected freshwater area.

Prohibits the restriction, obstruction, interference with, or limitation of public recreational use of a protected freshwater area, except as otherwise allowed by law.

Prohibits public use of private property to gain access to a protected freshwater area without permission of the landowner.

Authorizes the TPWD to establish a program to identify and to facilitate the development of motor vehicle recreation sites that are not located in or on a protected freshwater area.

**Oil Spill Prevention and Response - S.B. 619**

*by Senator Armbrister - House Sponsor: Representative West*

The Oil Spill Prevention and Response Act of 1991 (“OSPRA”) established the General Land Office (GLO) as the lead agency for prevention of and response to oil spills in Texas coastal waters. OSPRA’s policy statement includes that OSPRA is to support and complement the Oil Pollution Act of 1990 and other federal law, specifically those provisions relating to the national contingency plan for cleanup of oil and hazardous substance spills and discharges. In implementing the Oil Pollution Act of 1990, the United States Coast Guard, in conjunction with the GLO, has used area contingency plans, which are developed regionally and cover the entire Texas coast, to guide its oil spill response planning. This bill:

Provides for the consolidation of all oil spill clean-up duties.

Allows the GLO to assume the responsibilities, including the Railroad Commission’s jurisdiction over coastal spills from exploration and production facilities of 240 barrels or less.
Water Conservation Implementation Task Force - S.B. 1094
by Senator Duncan - House Sponsor: Representative Puente

The Interim Report of the Texas Joint Committee on Water Resources to the 78th Legislature suggests the Texas Water Development Board (TWDB) and the regional water planning groups work together to develop recommendations on how to define and evaluate water-use efficiency measures needed for regional planning. This bill:

Establishes the Water Conservation Implementation Task Force (WCITF) in order to review, evaluate, and recommend optimum levels of water use efficiency and conservation for all of Texas.

Requires that WCITF:
- identify, evaluate, and select best management practices for municipal, industrial, and agricultural water uses;
- consider the need to establish and maintain a statewide public awareness program for water conservation;
- evaluate the proper role, if any, for state funding of incentive programs that may facilitate water conservation strategies; and
- advise TWDB and the Texas Commission on Environmental Quality on methodology for reporting water use and establishing other water use targets and goals.

Regulations for Groundwater Production - S.B. 1639
by Senator Staples - House Sponsor: Representative Hope

Current law allows a groundwater conservation district to regulate the production of groundwater located within its boundaries. Many groundwater conservation districts in Texas have multiple aquifers or subdivisions of aquifers that are situated within the districts’ boundaries which contain different and unique hydrogeological features. Other districts may contain a singular aquifer with widely differing characteristics from one side of the district to the other. This bill:

Allows groundwater conservation districts to adopt different well spacing or production limitations for distinct aquifers or subdivisions of aquifers within their boundaries, or for different geographic areas that exist within their boundaries if conditions in or use of an aquifer differ substantially from one geographic area of the district to another.
Texas Residential Construction Commission Act - H.B. 730
by Representative Ritter, et al. - Senate Sponsor: Senator Fraser

In 1989, the Residential Construction Liability Act (RCLA) became effective and, along with its subsequent amendments, provided remedies applicable to residential construction defect lawsuits. However, the lack of state performance standards for residential construction in Texas creates difficulty for some homeowners and homebuilders working to resolve construction issues without costly and time-consuming litigation. This bill:

Enacts Title 16, Property Code, the Texas Residential Construction Commission Act.

Sets forth provisions regarding the establishment of the Texas Residential Construction Commission (commission), including provisions relating to appointment of the nine members of the commission by the governor, terms of office, requirements for membership and employment, grounds for removal, training, and meetings.

Sets forth provisions regarding the executive director and other personnel of the commission’s agency.

Sets forth provisions regarding the powers and duties of the commission, including provisions relating to rulemaking authority, fees, and reporting.

Sets forth guidelines for the commission’s public interest information service and complaint procedures.

Sets forth provisions regarding builder registration, including provisions relating to application for certificate of registration, provisional registration, fees, eligibility requirements, denial of registration, expiration of certificate, office location, and designation as a “Texas Star Builder,” whereby a builder may represent to the public that it meets all of the requirements and qualifications set forth by the commission.

Sets forth provisions regarding the certification of residential construction arbitrators, including provisions relating to application, fees, notice and public comment periods, denial of certification, expiration of certification, and the maintenance of a list of certified arbitrators.

Sets forth guidelines for prohibited practices and disciplinary proceedings, including provisions relating to grounds for disciplinary action, disciplinary powers of the commission, hearings, and appeal.

Sets forth provisions regarding the imposition of an administrative penalty not to exceed $5,000 for each violation.

Requires a builder to register new homes and home transactions.

Requires a homeowner to comply with the Act’s provisions regarding a state-sponsored inspection and dispute resolution process, a statutory warranty, and building and performance standards before initiating an action for damages or other relief arising from an alleged construction defect.

Sets forth provisions regarding qualifications, functions, and duties of third-party and state inspectors.
Sets forth provisions regarding a state-sponsored inspection and dispute resolution process, including provisions relating to a request for resolution, a builder’s right of inspection, inspection by a third-party inspector, inspector’s recommendation, and threats to health or safety.

Sets forth guidelines for the appeal of a third-party inspector’s recommendation.

Sets forth provisions regarding warranties and building and performance standards.

Requires the commission by rule to adopt limited statutory warranties and building and performance standards for residential construction.

Sets forth guidelines for the limited statutory warranties and building and performance standards for residential construction established by the commission.

Sets forth provisions regarding alternative standards for certain construction, such as unincorporated areas of counties that are considered economically distressed areas.

Provides that the warranties established under these provisions supersede all implied warranties and that the only warranties that exist for residential construction or residential improvements are warranties created by these provisions or by other statutes expressly referring to residential construction or residential improvements, or any express, written warranty acknowledged by the homeowner and the builder.

Sets forth provisions for the approval and use of a third-party warranty company.

Sets forth provisions regarding arbitration of a dispute between a homeowner and a builder that involves an alleged construction defect.

Requires the commission to appoint a task force to study residential arbitrators and arbitration and advise the commission with respect to residential arbitrators and arbitration.

Sets forth provisions regarding residential construction liability and offers of settlement.

**Insurer Owned Repair Facilities Prohibited - H.B. 1131**

*by Representative Flores, et al. - Senate Sponsor: Senator Carona*

Under current law an insurer’s interest in auto repair facilities is not regulated. Insurer-owned auto repair facilities may eliminate checks and balances, thereby compromising consumer protections. This bill:

Prohibits an insurer, except as provided by this Act, from owning or acquiring an interest in a repair facility.

Authorizes an insurer that owns an interest in a repair facility that was open for business, or on which construction had commenced, on April 15, 2003, to maintain that ownership interest and to operate that facility.
Authorizes an insurer to relocate a tied repair facility, a repair facility in which an insurer owns an interest, but prohibits an insurer from obtaining an ownership interest in any additional facility.

Sets forth provisions regarding the regulation and utilization of a favored facility agreement, an agreement between an insurer and a repair facility under which the insurer agrees to recommend to its policyholders that the policyholder obtain repairs at that repair facility or in any other way agrees to influence its policyholders under the insurer’s policies to obtain repairs at that repair facility.

Requires an insurer that owns an interest in a repair facility to post notice of its ownership relation in each of its tied repair facilities.

Sets forth prohibitions on insurers relating to the operation of tied repair facilities.

Authorizes a person, including a repair facility, aggrieved by a violation of this Act by an insurer to bring an action for injunctive or other appropriate relief to compel the insurer to comply with this Act.

Authorizes the court to impose a civil penalty in an action brought under this Act in addition to other appropriate relief.

The Business Organizations Code - H.B. 1156
by Representative Giddings, et al. - Senate Sponsor: Senator Fraser

The Business Organizations Code (BOC), which has been under development since 1995, is a joint project of the Business Law Section of the State Bar of Texas and the Office of the Texas Secretary of State, with drafting assistance from the Texas Legislative Council. This bill:

Creates the BOC to codify an integrated statute addressing both general provisions that are common to most for-profit and nonprofit, private-sector entities and provisions that are specific to entity type, including corporations, limited liability companies, partnerships, real estate investment trusts, associations, and professional entities.

Contains primarily nonsubstantive revisions of comparable provisions found in the Texas Business Corporation Act, Texas Non-Profit Corporation Act, Texas Miscellaneous Corporation Laws Act, Texas Limited Liability Company Act, Texas Revised Limited Partnership Act, Texas Real Estate Investment Trust Act, Texas Uniform Unincorporated Nonprofit Associations Act, Texas Professional Corporation Act, Texas Professional Associations Act, the Texas Revised Partnership Act, the Cooperative Associations Act, and other existing provisions of Texas statutes governing domestic entities. While the BOC represents, for the most part, a nonsubstantive codification of existing statutes, substantive improvements have also been made to effect the additional goals of modernizing, simplifying, and standardizing provisions, procedures, and filings.

Takes effect January 1, 2006, and generally does not apply to an existing entity prior to January 1, 2010, unless the entity expressly elects to adopt the BOC as its governing statute.
Recourse for Unsolicited Commercial Electronic Mail - H.B. 1282
by Representative McCall, et al. - Senate Sponsor: Senator Duncan

Unsolicited commercial electronic mail is a growing concern among Internet users. Recent studies indicate an increase in e-mail traffic and a corresponding increase in unsolicited commercial electronic mail. This bill:

Enacts Chapter 46 of the Business and Commerce Code, relating to electronic mail solicitation.

Prohibits a person from intentionally transmitting a commercial electronic mail message that falsifies electronic mail transmission information or other routing information for an unsolicited commercial electronic mail message, or contains false, deceptive, or misleading information in the subject line.

Prohibits a person from intentionally sending a commercial electronic mail message that uses another person's Internet domain name without the other person’s consent.

Prohibits a person from intentionally taking any action to send an unsolicited commercial electronic mail message unless:
- "ADV:" is used as the first four characters in the subject line of the message or, if the message contains any obscene material or material depicting sexual conduct;
- "ADV: ADULT ADVERTISEMENT" is used as the first word in the subject line of the message; and
- the sender of the message or a person acting on behalf of the sender provides a functioning return electronic mail address to which a recipient may, at no cost to the recipient, send a reply requesting the removal of the recipient's electronic mail address from the sender’s electronic mail list.

Requires a sender to remove a person’s electronic mail address from the sender’s electronic mail list not later than the third day after the date on which the sender receives a request for removal of that address.

Prohibits a sender or a person acting on behalf of the sender from selling or otherwise providing the electronic mail address of a person who requests the removal of that address from the sender’s electronic mail list, except as required by other law.

Provides that a person commits a Class B misdemeanor offense if the person intentionally takes any action to send a message containing obscene material or material depicting sexual conduct in violation of this Act.

Provides that a person who violates this Act, with certain exceptions, is liable to the state for a civil penalty in an amount not to exceed the lesser of $10 for each unlawful message or action, or $25,000 for each day an unlawful message is received or an action is taken.

Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring suit to recover the civil penalty imposed under this Act, and seek an injunction to prevent or restrain a violation of this Act.
Authorizes a person injured by a violation of this Act to bring an action to recover actual damages, including lost profits.

Prohibits a court from certifying an action brought under this Act as a class action.

Authorizes an electronic mail service provider to on its own initiative block the receipt or transmission through its service of any commercial electronic mail message that the provider reasonably believes is or will be sent in violation of this Act if the provider provides a process for the prompt, good faith resolution of disputes related to the blocking with senders of commercial electronic mail messages, and makes contact information publicly accessible on its Internet website for the purpose of dispute resolution.

Sets forth provisions for qualified immunities for telecommunications utilities and electronic mail service providers under certain conditions.

Prohibits a person from being held liable under this Act for a commercial electronic mail message that is sent as a result of an error or accidental transmission.

Prohibits a sender from being held liable for the transmission of an electronic mail message that violates this Act if the sender contracts in good faith with an electronic mail service provider to transmit electronic mail messages for the sender, and has no reason to believe the electronic mail service provider will transmit any of the sender’s messages in a manner that violates this Act.

**Uniform Commercial Code Revisions - H.B. 1394**
*by Representative Elkins, et al. - Senate Sponsor: Senator Williams*

Title 1 of the Texas Business and Commerce Code is the Uniform Commercial Code (UCC), which includes general provisions and statutory definitions. In the last decade, most of the chapters of the UCC have been substantially revised and revision of Chapter 1 is needed to bring those general provisions and definitions of the UCC in line with the previous revisions and additions to the other substantive chapters. This bill:

Sets forth revisions to the UCC within the Texas Business and Commerce Code to conform the UCC’s general provisions and definitions with its remaining substantive articles.

**Regulation of Electrical Work - H.B. 1487**
*by Representatives Driver, et al. - Senate Sponsor: Senator Armbrister*

Under current law, municipalities and regions have certain licensing and regulatory programs for electrical work, but there is no statewide regulation. This bill:

Adds in the Occupations Code the Texas Electrical Safety and Licensing Act and defines “electrical code” and “electrical contracting,” among certain definitions.
Exempts from application certain installations, including electrical equipment in a ship, watercraft, electrical equipment under the exclusive control of an electric utility, electric cooperative, among certain locations; electrical maintenance work if performed by a person regularly employed as a maintenance person at the building or premises; certain installation, maintenance, alteration, or repair of electrical equipment or associate writing under the exclusive control of a gas utility and used for communications or metering or for the control, transmission, or distribution of natural gas, among certain provisions.

Provides for the appointment of an Electrical Safety and Licensing Advisory Board (advisory board) consisting of nine members to include three master electrician members; three journeyman electrician members; and three public members.

Includes as members of the advisory board two members who are affiliated with a statewide association of electrical contractors not affiliated with a labor organization; three members who are affiliated with a labor organization; one member not affiliated with either a statewide association of electrical contractors or a labor organization; a member of a historically underutilized business.

Requires the executive director of the Texas Department of Licensing and Regulation (TDLR) or the Texas Commission of Licensing and Regulation (commission), as appropriate, to establish certain requirements for financial responsibility for electrical contractors.

Provides that reciprocity agreements with other states be established by the executive director of the TDLR or the commission.

Requires the executive director of TDLR or the commission, as appropriate, to adopt certain rules for electricians as prescribed.

Prohibits persons who are not appropriately licensed from performing electrical work.

Requires certain demonstrations of compliance before issuance of an application for a license to perform electrical work.

Requires certain performance measures before issuance of an application for a master sign electrician.

Requires certain performance measures before issuance of application for a journeyman electrician.

Requires certain conditions to be met before issuance of a license as an electrical contractor.

Requires display and other conditions of licensure to be met.

Requires the completion of continuing education courses in the field annually that satisfy requirements of the National Electrical Code and relevant state laws and rules.

Requires local governments to regulate electricians by enacting an ordinance requiring inspections.
Requires that electrical work performed in an unincorporated area of the state be installed in accordance with standards at least as stringent as the requirements of the state electrical code.

Provides that a license to perform electrical work issued by a municipality or region is valid in multiple areas only if agreed to by a reciprocal agreement.

Provides grounds for certain disciplinary actions and remedies.

Provides administrative penalties for certain violations, and the opportunity for a hearing.

Provides criminal penalties for certain violations, including that of employing an individual who does not hold an appropriate license.

**Regulation of Junked Vehicles - H.B. 1773**

*by Representative Wayne Smith - Senate Sponsor: Senator Brimer*

Current law establishes that junked vehicles are detrimental to the safety and welfare of the public, tend to lower the value of private property, invite vandalism, create fire hazards, create a hazard to the health and safety of minors, and cause urban blight. The Transportation Code contains provisions regarding junked vehicles, but current law does not allow municipalities to adopt ordinances to impose additional requirements regarding such vehicles. This bill:

Authorizes local governments to adopt ordinances to impose additional requirements regarding junked vehicles, and modifies the provision designating a junked vehicle a nuisance to specify that the vehicle be visible at any time of year from a public place or public right-of-way.

**State Securities Board Funding Mechanism Changed - H.B. 1840**

*by Representative Solomons, et al. - Senate Sponsor: Senator Janek*

The State Securities Board (board) was created in 1957 under the Securities Act passed by the 55th Texas Legislature. The mission of the board is to protect Texas investors. The board is funded through a direct appropriation from the General Revenue Fund, unlike similar state agencies which regulate financial institutions and are funded through fees. This bill:

Deletes previously existing provisions relating to certain Securities Act filing fees.

Requires the board to establish, in amounts so that the aggregate amount that exceeds the amount of the fees on September 1, 2002, produces sufficient revenue to cover the costs of administering and enforcing this Act, the following fees:

- for the filing of any original, amended, or renewal application to sell or dispose of securities, an amount not to exceed $100;
- for the filing of any original application of a dealer or investment adviser or for the submission of a notice filing for a federal covered investment adviser, an amount not to exceed $100;
for the filing of any renewal application of a dealer or investment adviser or for the submission of a renewal notice filing for a federal covered investment adviser, an amount not to exceed $100;

for the filing of any original application for each agent, officer, or investment adviser representative or for the submission of a notice filing for each representative of a federal covered investment adviser, an amount not to exceed $100; and

for the filing of any renewal application for each agent, officer, or investment adviser representative or for the submission of a renewal notice filing for each representative of a federal covered investment adviser, an amount not to exceed $100.

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**Regulation of Bingo - H.B. 2519**  
*by Representatives Flores and Raymond - Senate Sponsor: Senator Lucio*

Clarifies that bingo balls are bingo equipment and subject to the Texas Lottery Commission’s (TLC) approval and regulation.

Authorizes individuals to request advisory opinions from TLC regarding laws governing bingo.

Increases from six to 12 the number of temporary licenses each charity may obtain each year. Streamlines the process for obtaining the licenses by allowing a charity to apply for all of them at once and then inform TLC when a license is being used.

Authorizes a two-year bingo license if the licensee pays twice the annual amount plus a “convenience fee.”

Allows a bingo hall owner and charities to apply to TLC for a license to conduct bingo in the bingo hall’s schedule when one of the charities abandons its licensed time.

Places a two-year moratorium on the issuance of new lessor licenses to for-profit entities.

Clarifies that charities that do not pay their bills must be put on a cash-only basis whether they are leasing or buying bingo equipment.

Allows an individual who has been approved to work in a bingo hall after a criminal background check to work in any bingo hall.

Establishes a registry listing all approved workers that can be checked by Internet, phone, or fax.

Sets forth circumstances that removes and bars bingo employees from the registry for one year.

Allows TLC to require all bingo workers to wear an identification card.

Clarifies that an individual who serves as the operator in charge of a bingo occasion may also serve as the number caller as long as the person remains available to TLC staff and players.
Allows two or more charities to jointly employ a bingo worker.

Allows charities to promote charitable bingo using gift certificates.

Allows a lessor to spend the lessor’s money to advertise bingo.

Allows charities operating at the same location to share revenue and expenses through a single account and maintain one inventory.

Allows bingo players to use debit cards and provides that charities have additional time to deposit the money from debit card transactions.

Allows charities to spend bingo money for any purpose allowed under the federal tax-exempt status.

Extends the due date for taxes and reports from the 15th to the 25th of the month.

Makes conforming changes that clarify that the director of the bingo division and not the director of TLC is responsible for various tasks related to bingo regulation.

Eliminates the sales tax paid by charities on bingo equipment, paper, and pull-tabs.

Commmercial Nonhazardous Industrial Solid Waste Landfill Facilities - H.B. 2554

by Representative Wayne Smith, et al. - Senate Sponsor: Senator Williams

The Texas Commission on Environmental Quality (TCEQ) is currently developing rules regarding nonhazardous industrial solid waste facilities. This bill:

Requires TCEQ to adopt rules governing all aspects of the management and operation of a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste.

Requires TCEQ to suspend the permitting process for any pending application for a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste until the rules are adopted.

Requires that the rules apply to every application for a permit for a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste that is filed on or after September 1, 2003.

Texas Wineries Receive New Authorizations to Dispense Wine - H.B. 2593

by Representative Homer - Senate Sponsor: Senator Estes

Currently, wineries permitted to operate in Texas are not authorized to manufacture and sell wine for consumption on or off winery premises or to dispense wine without charge, for tasting purposes.

Authorizes the holder of a winery permit to:
- sell wine in this state to, or buy wine from permit holders authorized to purchase and sell wine; and
- sell wine to ultimate consumers for consumption on the winery premises, or in unbroken packages for off-premises consumption in an amount not to exceed 35,000, rather than 25,000, gallons annually.

Deletes text prohibiting a wine sampling from being held in a location where a wine sampling is otherwise prohibited by law.

Authorizes a winery permit to be issued for premises in an area in which the sale of wine has not been authorized by a local option election.

Authorizes a holder of a permit under this Act to engage in any activity authorized under provisions relating to authorized activities of winery permit holders, except that the permit holder is authorized to sell or dispense wine under those provisions only if the wine is manufactured in this state, and is at least 75 percent by volume fermented juice of grapes or other fruit grown in this state.

(See H.J.R. 85, page 299)

**Disposal of Animal Remains - H.B. 3061**  
*by Representative Flores* - *Senate Sponsor: Senator Hinojosa*

Current law does not address the transportation and disposal of animal remains across county lines. This bill:

Prohibits the Texas Commission on Environmental Quality from adopting a rule that relates to the disposal of animal remains unless the rule is developed in cooperation with and is approved by the Texas Animal Health Commission.

**Statewide Training for Municipal Building Inspectors - H.B. 3235**  
*by Representative Todd Smith* - *Senate Sponsor: Senator Madla*

Current law requires that all municipal building inspectors be certified in building energy efficiency performance standards. No training program was provided in order to enable municipal building inspectors to comply with this requirement. This bill:

Directs Texas A&M University to develop and administer a statewide training program in the Energy Systems Laboratory at the Texas Engineering Experiment Station of Texas A&M University System for municipal building inspectors seeking to become code-certified inspectors.
Extended Authority for the Governance of Texas Wineries - H.J.R. 85

by Representatives Homer and Pena - Senate Sponsor: Senator Estes

Currently, wineries permitted to operate in Texas are not authorized to manufacture and sell wine for consumption on or off winery premises or to dispense wine without charge, for tasting purposes. This bill:

Authorizes the legislature to enact laws and direct the Alcoholic Beverage Commission or its successor to set policies for all wineries in this state, regardless of whether the winery is located in an area in which the sale of wine has or has not been authorized by local option election, for the manufacturing of wine, including the on-premises selling of wine to the ultimate consumer for consumption on or off the winery premises, the buying of wine from or the selling of wine to any other person authorized under general law to purchase and sell wine in this state, and the dispensing of wine without charge, for tasting purposes, for consumption on the winery premises, and for any purpose to promote the wine industry in this state.

Requires the submission to the voters on September 13, 2003, of a constitutional amendment authorizing the legislature to enact laws authorizing and governing the operation of wineries in this state.

(See H.B. 2593, page 297)

Registration of Mortgage Bankers - S.B. 252

by Senator Staples - House Sponsor: Representative Flynn

Texas law requires mortgage brokers in this state to hold a mortgage broker license. However, mortgage bankers are currently exempt from this requirement. This bill:

Requires mortgage bankers to register with the Texas Savings and Loan Commissioner (commissioner), and sets out what that filing must contain.

Sets forth exemptions from the registration requirements.

Authorizes the commissioner to charge a reasonable fee, not to exceed $500 annually, to cover the costs of administering this Act.

Sets forth what a mortgage banker must disclose to a mortgage loan applicant.

Provides a complaint procedure concerning mortgage bankers.

Establishes a procedure for revoking the registration of a mortgage banker if the mortgage banker fails to pay requisite fees, fails or refuses to comply with the complaint procedure, or has engaged in certain wrongful conduct.

Authorizes the Finance Commission of Texas to adopt rules necessary to implement this Act and to adopt standard forms for use by certain mortgage bankers.
Recycling Facilities - S.B. 585  
*by Senator Duncan - House Sponsor: Representative Isett*

Currently, certain recycling facilities may not meet the new recycling center regulations set by the Texas Commission on Environmental Quality (TCEQ), and will have to be cleaned up or closed. There is no funding available at the local or federal level to assist a local government in these types of actions. This bill:

Provides revenue to pay for TCEQ activities that will enhance Texas’ solid waste management program, including remediation, cleanup, and proper closure of unauthorized recycling sites for which a responsible party is not immediately financially able to perform the remediation, cleanup, and closure.

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Resident and Nonresident Fishing Guide Licenses - S.B. 608  
*by Senator Janek - House Sponsor: Representative Ritter*

Currently, states bordering Texas have a higher fee for nonresident fishing guide licenses than does Texas. This bill:

Authorizes the Texas Parks and Wildlife Commission to create a nonresident fishing guide license and separate coastal and inland resident or nonresident guide licenses, making out-of-state fishing guide licenses in Texas comparable to those of surrounding states.

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Securities Fraud Enforcement Enhanced - S.B. 1060  
*by Senator Ellis, et al. - House Sponsor: Representative Marchant*

Investors witnessed several cases of alleged corporate malfeasance and securities violations during the last several years. To protect investors from future bad acts and allow for better enforcement of the Securities Act (Act), the State Securities Board and the Office of the Attorney General (OAG) believe certain sections of the Act need to be strengthened. This bill:

Adds to the definition of “security” or “securities” that the terms apply regardless of whether the "security" or "securities" are evidenced by a written instrument.

Authorizes the Securities Commissioner (commissioner) to provide assistance to a securities regulator of another state or a foreign jurisdiction who requests assistance in conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to a securities matter the securities regulator is authorized to administer or enforce.

Authorizes the commissioner to provide assistance by using the authority to investigate and any other power conferred by relevant provisions as the commissioner determines necessary and appropriate.

Requires any person who renders services as an investment adviser or an investment adviser representative without being registered to be deemed guilty of a felony.
Authorizes OAG to seek equitable relief, including restitution, for a victim of fraudulent practices.

Authorizes the court to grant any equitable relief that the court considers appropriate and to order the defendant to deliver to the person defrauded the amount of money or the property that the defendant obtained from the person by the fraudulent practices.

Authorizes OAG, in an action brought for fraud or a fraudulent practice in connection with the sale of a security, to seek, for an aggrieved person, the disgorgement of any economic benefit gained by the defendant through the violation.

Authorizes OAG to recover from an order of disgorgement obtained under these provisions reasonable costs and expenses incurred by OAG in bringing the action.

**Regulation of the Private Security Industry - S.B. 1252**

*by Senator Armbrister · House Sponsor: Representative Driver*

The provisions that regulate the alarm system industry have not kept pace with advances in alarm security technology. This bill:

Prohibits the Texas Commission on Private Security (commission) from adopting rules or from establishing unduly restrictive experience or education requirements that limit a person’s ability to be licensed as an electronic access control device company or be registered as an electronic access control device installer.

Requires an individual to register with the commission as provided by commission rule if the individual is employed as an electronic access control device installer or locksmith.

Requires the commission to require an individual who applies for registration as an electronic access control device installer to pass an examination given by the commission or a person approved by the commission.

Requires the commission, before September 1, 2005, to allow an electronic access control device installer to obtain or renew a certificate of registration by fulfilling the requirements of a commission-approved, industry-based educational training program.

Authorizes the commission, on and after September 1, 2005, by rule to allow an electronic access control device installer to obtain or renew a certificate of registration by fulfilling the requirements of a commission-approved, industry-based educational training program.

Authorizes an alarm systems installer to install, maintain, or repair an electronic access control device.

Authorizes the commission to approve only nationally recognized training programs that consist of at least 16 hours, rather than 20 hours, of classroom study in the areas of work allowed by the registration.
Provides that the provisions of this Act do not apply to a manufacturer or a manufacturer’s authorized distributor who sells equipment to a license holder or registrant that is used in the operations for which the person is required to be licensed or registered.

Provides that the provisions of this Act do not apply to a person who is a licensed engineer practicing engineering.

Provides that the provisions of this Act do not apply to a locksmith or a person who on the person’s own property or on property owned or managed by the individual’s employer installs, changes, or repairs a mechanical security device, repairs an electronic security device, or cuts or makes a key for a security device.

**Regulation of Motor Vehicle Sales - S.B. 1504**

by Senator Harris - House Sponsor: Representative Krusee

Clarifies that a vehicle does not have to be “titled,” but only “titleable” under the rules of the Motor Vehicle Board (board) of the Texas Department of Transportation.

Creates a method by which a dealer may operate a business temporarily, prior to the issuance of a license.

Provides that information contained in an application for a license under Chapter 2301 (Sale or Lease of Motor Vehicles), Occupations Code, and other information relating to a license holder or license applicant that is on file with the board is confidential and not open to public inspection. Allows information made confidential by this provision to be disclosed in a judicial or administrative proceeding in accordance with a lawful subpoena.

Provides clear statutory demarcation between and among ambulance manufacturers, fire-fighting vehicle manufacturers, and converters.
Leave for Organ, Bone Marrow, or Blood Donors - H.B. 89
by Representative McClendon, et al. - Senate Sponsor: Senator Barrientos

Entitles a state employee to a leave of absence without a deduction in salary for the time necessary to serve as a bone marrow or organ donor.

Allows five working days in a fiscal year to serve as a bone marrow donor or 30 working days in a fiscal year to serve as an organ donor.

Requires a state agency to allow each agency employee, with approval from the employee’s supervisor and proof the employee donated blood, sufficient time off without a deduction in salary or accrued leave to donate blood up to four times in a fiscal year.

Establishing Legislative Intent - H.B. 425
by Representative Christian, et al. - Senate Sponsor: Senator West

State agencies engaged in rulemaking at times do not consider legislative intent when proposing rules and many state agencies do not inform legislative authors and sponsors about rules relating to their bills. Current law requires only that the agencies publish proposed rules related to legislation in the Texas Register. Under current law, agency rulemaking authority may interpret legislation in a way that could conflict with the intent of the legislature. This bill:

Authorizes the Legislative Budget Board (LBB) to issue a letter to a state governmental entity clarifying or explaining the meaning or legislative intent on matters relating to the General Appropriations Act or another legislative enactment that makes an appropriation or qualifies, details, limits, or restricts an appropriation.

Authorizes a state governmental entity, in interpreting a provision of law relating to the General Appropriations Act or another legislative enactment that makes an appropriation or qualifies, details, limits, or restricts an appropriation to rely on a letter of legislative intent issued by LBB.

Requires a state agency, in the process of developing new rules and before giving notice of its intention of adopting a rule, to research the legislative history of the law and prepare a legislative history document on the bill or amendment that authorizes a state agency to adopt the rule.

Requires a state agency in researching the legislative history of a law to:
- confirm the names of the primary author and sponsor of the legislation or amendment that authorizes the state agency to adopt the rule with the chief clerk of the house of representatives, the secretary of the senate, an automated information system operated by the Texas Legislative Council, or some other reliable information service;
- determine whether a statement or discussion of legislative intent was entered into the journals of the senate or house of representatives in connection with legislation that became law and that added, amended, or clearly affected the law under which the rule would be adopted;
• verify the standing of each legislative author or sponsor as to their current membership in the
  legislature; and
• assemble the information gathered into a legislative history document to be used by the state
  agency during the deliberative process of developing new rules.

Requires a state agency, before it gives notice of its intent to adopt a rule, to establish an internal review
process to ensure that the proposed rule is consistent with the legislative history in enacting or otherwise
affecting the law under which the rule would be adopted.

Requires a state agency before it gives notice of its intent to adopt a rule to inform the primary author and
sponsor of legislation that became law and that added, amended, or clearly affected the law under which
the rule would be adopted, if the primary author or sponsor is still a member of the legislature, that the
adoption of a rule related to the member’s legislation is being considered and when the hearing on the rule
is being held.

Adds a requirement that the notice of a proposed rule must include a copy of the legislative history
developed and used by the agency during the proposal process.

Sets forth notification provisions relating to the adoption of emergency rules.

Requires a state agency order finally adopting a rule to include, among other items:
• any written comments received from members of the legislature interested in the rule that shows
  the names of interested groups or associations offering comment on the rule and of members of
  the legislature offering written comment on the rule and whether they were for or against its
  adoption;
• the reasons why the agency disagrees with party submissions and proposals and with any written
  comments or proposals offered by a member of the legislature; and
• a certification that the rule, as adopted, has been reviewed by legal counsel and found to be a valid
  exercise of the agency’s legal authority and consistent with the intent of the legislature in enacting
  or otherwise affecting the law under which the rule is adopted.

Savings Incentive Program for State Agencies - H.B. 651
by Representative Pitts, et al. - Senate Sponsor: Senator Williams

Allows an agency to retain one-fourth of the amount of savings derived from spending less of the
undedicated general revenue appropriated to the agency. The savings are verified by the comptroller of
public accounts and are not to exceed one percent of the amount of undedicated general revenue derived
from nonfederal sources appropriated to the agency for the fiscal year in which the savings are realized.
Political Advertising Rules for Governmental Agencies - H.B. 736
by Representatives Denny and Grusendorf - Senate Sponsor: Senator Shapiro

Currently, internal mail systems of state agencies and political subdivisions can be used to distribute political advertising, and some public schools have taken advantage of this to distribute political advertising to students and parents. This bill:

Prohibits an officer or employee of a state agency or political subdivision from knowingly using or authorizing the use of an internal mail system for the distribution of political advertising.

Reduced Travel Rates for Municipal Employees - H.B. 1061
by Representative Griggs - Senate Sponsor: Senator Brimer

Currently, the Central Travel Office of the Texas Building and Procurement Commission is authorized to negotiate with private travel agents and transportation providers to develop reduced travel rates for certain public employees traveling on official business. This bill:

Extends the benefit of negotiated travel service contracts to municipal employees who are required to travel on official business.

Alcoholic Beverage Licenses and Permits - H.B. 1232
by Representative Geren - Senate Sponsor: Senator Brimer

Currently, there is some concern that the Texas Alcoholic Beverage Commission (TABC) cannot examine applications and requests for alcoholic beverage licenses and permits with the necessary attention and focus each application or request should receive, and in a timely manner. This bill:

Requires TABC by rule to provide an expiration date for a class of renewed permits and licenses that is two years after the date on which the permits would otherwise expire under this code if the fee for the permits is increased proportionately.

Limits on Indemnification of State Employees and Officials - H.B. 1297
by Representative Allen - Senate Sponsor: Senator Armbrister

State liability for indemnification for personal injuries and violations of rights of officers and employees acting in the course and scope of employment is limited to $100,000 to a single person and $300,000 for a single occurrence. This bill:

Clarifies that a claim arises out of a single occurrence, if the claim arises from a common nucleus or operative facts, regardless of the number of claimants or the number of separate acts of omissions.

Makes the liability limits applicable to members of the Texas Board of Criminal Justice.
Telecommunications Planning and Oversight Council - H.B. 1576
by Representative Gallego - Senate Sponsor: Senator Shapleigh

Adds to the membership of the Telecommunications Planning and Oversight Council (council) a representative of the Health and Human Services Commission, who serves at the discretion of the commissioner of health and human services.

Provides that the deadline for the submission of an annual report by the council is November 1.

Remedy for Nonpayment under Government Contracts - H.B. 2397
by Representatives Corte and Seaman - Senate Sponsor: Senator Williams

Authorizes a vendor or subcontractor to suspend performance under a contract with a governmental entity if the vendor or subcontractor is not paid an undisputed amount within the statutory time limits. The vendor or subcontractor must give written notice that payment has not been received and the vendor or subcontractor intends to suspend performance.

Provides that a vendor or subcontractor who suspends performance under this Act is not:
- required to supply further labor, services, or materials until paid, plus costs for demobilization and remobilization; or
- responsible for damages resulting from suspending work if the governmental entity has not given written notice before performance is suspended that payment has been made or there is a bona fide dispute.

Requires any notification by a governmental entity stating that a bona fide dispute for payment exists to include specific reasons for nonpayment.

Sets out special notice provisions regarding highway-related contracts.

Internal Auditing of State Agencies - H.B. 2485
by Representative Hochberg - Senate Sponsor: Senator Ratliff

H.B. 609, 77th Legislature, extended the internal audit requirement to all state agencies that receive an appropriation. Conducting audits when the situation necessitates, rather than annually, will more judiciously use state funds. This bill:

Requires a state agency that has an annual operating budget that exceeds $10 million; has more than 100 full-time equivalent employees; and receives and processes more than $10 million in cash in a fiscal year to conduct annual formal risk assessments consisting of an executive management review of agency functions, activities, and processes.
Aggregate Quarry and Pit Safety Act Functions Transferred - H.B. 2847
by Representative Farabee - Senate Sponsor: Senator Jackson

Provides that all powers, duties, functions, and activities performed by the Railroad Commission of Texas in relation to the Texas Aggregate Quarry and Pit Safety Act, are transferred to the Texas Department of Transportation, including employees, rules, forms, orders, permits, complaints, and references.

Abolition of the Commission on Human Rights - H.B. 2933
by Representative Flores - Senate Sponsor: Senator Barrientos

Abolishes the Commission on Human Rights and transfers its powers and duties to the newly created civil rights division within the Texas Workforce Commission.

Decentralization of State Agency Services - H.B. 2947
by Representative Casteel - Senate Sponsor: Senator Armbrister

Current law requires state agencies to coordinate their planning and program development with regional planning commissions. This bill:

Requires a state agency, in planning for decentralization of a service in a region, to consider using a regional planning commission for that service to:
- achieve efficiencies through shared costs;
- improve the planning, coordination, and delivery of services by coordinating the location of services;
- increase accountability and local control by placing a service under the oversight of the commission; and
- improve financial oversight through the required auditing and reporting.

Reduction of Duplicative Reporting and Auditing Requirements - H.B. 3024
by Representative Casteel - Senate Sponsor: Senator Armbrister

Local governments must comply with numerous state reporting and auditing requirements which over time have become duplicative. This bill:

Requires a state agency that requires reports from local governments to conduct, during the second year of each biennium, a zero-based review of those reporting requirements and determine and eliminate unnecessary, duplicative, or overly burdensome reporting requirements.

Requires a state agency, based on the results of these reviews, to recommend to the legislature statutory changes to minimize cost, duplication, and paperwork and to maximize the efficient and effective use of public funds.
Prohibits a state agency from requiring local governments to submit reports on items not required by law, rule, or performance measures.

Requires a state agency to report the results of the review to the state auditor and recommend to the legislature statutory changes to minimize cost and duplication and to maximize the efficient, effective use of public funds.

Requires a state agency, in order to achieve greater efficiency in the use of governmental funds expended on governmental audits, except as necessary to further protect public funds, to:

- accept the independent audit of a local government if it was performed by a certified public accountant in accordance with generally accepted governmental auditing practices and the standards of the Governmental Accounting Standards Board (GASB);
- specify any special or unique auditing requirements that must be performed by the local government’s independent auditors at the time of approval of a contract with or a grant to a local government; and
- provide in the contract or grant award, as may be allowed by law or rule, for the payment of costs incurred by the local government in complying with any special or unique auditing requirements not required by generally accepted governmental auditing standards or the standards of GASB.

Provides that this Act does not limit the authority of a state agency to monitor or audit a local government’s expenditure of state or federal funds received via contract or grant.

Authorizes the state auditor to audit for compliance with these provisions.

**Texas Building and Procurement Commission Update - H.B. 3042**

*by Representative Robert “Robby” Cook - Senate Sponsor: Senator Ellis*

**Facilities Management**

Requires the Texas Building and Procurement Commission (TBPC) to provide facilities management services to all state agency facilities located in Travis County and adjacent counties.

Provides that TBPC’s duty to provide management services does not apply to:

- facilities owned or operated by institutions of higher education, the Texas Department of Criminal Justice, the Texas Youth Commission, or the Texas Department of Transportation;
- military facilities;
- the Capitol, including the Capitol Extension, the General Land Office building, the Bob Bullock Texas State History Museum, and any museum located on the Capitol grounds;
- a completely residential facility;
- a regional or field office; and
- a facility located within or on state park property.
Requires the state energy conservation office to provide utility management services for state agency facilities for which TBPC provides facilities management services.

Provides for the transfer to TBPC of all current powers, duties, obligations, contracts, records, funds, and other property in the custody of a state agency relating to the transferred management services.

Requires TBPC to develop a program for private, commercial uses, outside of regular business hours, for state-owned parking lots and garages located in Austin. Requires any money generated under the program to be deposited in the general revenue fund.

Reduces from 153 to 135 square feet the amount of usable office space to be allocated per agency employee. Provides that this limitation does not apply to an agency site, as determined by TBPC, at which it is not practical to apply the limitation:

- because the site has so few employees; or
- because of the site’s type of space or use of space.

**Contract Management**

Shifts from the Office of the Attorney General (OAG) to TBPC the responsibility and associated funding for:

- developing and updating a contract management guide for use by state agencies and adoption of rules relating to the guide;
- assisting a state agency not complying with the contract management guide to reach compliance; and
- establishing procedures by which agencies are required to invite public comment by publishing proposed technical specifications for major contracts on the Internet.

Shifts from the State Auditor’s Office (SAO) to TBPC responsibility and associated funding for developing or administering a training program for contract managers.

**Outside Legal Services**

Authorizes a state agency to contract for outside legal services, subject to approval by the OAG.

Authorizes the OAG to require state agencies to obtain outside legal services through a competitive procurement process.

**Miscellaneous**

Provides that the fire fighters’ pension commissioner is delegated all purchasing functions relating to the purchase of goods or services from funds other than general revenue funds for a purpose the state board of trustees of the Texas statewide emergency services personnel retirement fund determines relates to the fiduciary duties of the retirement fund.
Authorizes TBPC to determine the best method of disposal for certain surplus and salvage property of the state. Requires profits from a sale made by a state agency or TBPC to be deposited in the general revenue fund. Requires proceeds from the sale of surplus and salvage property of the State Aircraft Pooling Board to be deposited to the credit of TBPC.

Prohibits a state agency from spending more than the amount authorized for the cost of a construction project unless the governor and the Legislative Budget Board approve the expenditure.

Dedicates the natural resources center located at Texas A&M University at Corpus Christi as the Carlos Truan Natural Resources Center.

**Early Retirement Incentive for State Employees - H.B. 3208**
*by Representative Heflin - Senate Sponsor: Senator Averitt*

Provides for an early retirement incentive in the form of a lump sum bonus equal to 25 percent of the employee’s total regular salary, for those state employees eligible to retire on or after August 31, 2003, and before September 1, 2005.

To receive this lump sum payment, a state employee who is eligible to retire as of August 31, 2003, must retire on that date and a state employee who is first eligible to retire after August 31, 2003, and before September 1, 2005, must retire in the month that the employee first becomes eligible.

Provides that the retirement incentive program expires January 1, 2006.

**Reverse Auction and the Texas Building and Procurement Commission - H.B. 3242**
*by Representative Pitts - Senate Sponsor: Senator Estes*

Reverse auctions utilize the Internet to allow multiple suppliers to bid on projects with the ability to see other bids and offer lower amounts. This bill:

Requires the Texas Building and Procurement Commission to use reverse auctions for 10 percent of the dollar value open market purchases, other than purchases of certain professional services.

Requires that a state agency submit written justification to state leadership in September of each year for failure to meet the 10 percent goal.

**Changes to the Commission on Human Rights, the OAG, Management of Funds, and Election Forms - H.B. 3441**
*by Representative Pickett - Senate Sponsor: Senator Staples*

Abolishes the Commission on Human Rights (commission) and transfers the duties and powers of the commission to the Texas Workforce Commission Civil Rights Division.
Sets forth definitions for and general provisions of the Texas Workforce Commission Civil Rights Division.

Transfers the oversight of the Crime Victim’s Institute (institute) from the Office of the Attorney General to Sam Houston State University, and places the supervision and direction of the institute under the president of Sam Houston State University.

Provides for institute funding to follow with the transfer of the institute, and requires that money allocated to the institute to be used only for certain purposes.

Requires that money and securities donated to the State Preservation Board and income from the Capitol gift shops, cafeteria, and Visitors Parking Garage be held in the Capitol Trust Fund, with the comptroller of public accounts as trustee.

Requires that money other than donated funds and income from the Capitol gift shops, cafeteria, and Visitors Parking Garage be deposited in the general revenue fund in an account known as the capitol account.

Requires all interest, dividends, and other income of the capitol account to be credited to the account.

Creates the Capitol Renewal Account as a dedicated account in the general revenue fund and restricts use of the money in the account to maintenance and preservation of the Capitol, the General Land Office Building, their contents, and their grounds.

Repeals certain sections of the Election Code requiring the Texas Ethics Commission to mail certain forms to each party’s state executive committee and the county chair of each county executive committee and removes the requirement of mailing and printing of certain forms pertaining to the Code of Fair Campaign Practices and financial statements.

Functions of the State Auditor and Other State Entities - S.B. 19

by Senator Ratliff - House Sponsor: Representative Farabee

Subjects the undertaking of work by the State Auditor’s Office (SAO) to the approval of the legislative audit committee (committee) primarily through the development of an audit plan.

- Provides that the committee must approve the SAO’s appropriation request and audit plan.
- Provides that the audit plan is the outline of work approved by the committee for the SAO, including technical assistance, data analysis, consulting and oversight functions, investigations, and the preparation of audit reports and other types of communications.
- Requires the SAO, in devising the audit plan, to perform risk assessments as required by law.
- Provides that the process of assessing risks to the state is the first stage of auditing, and all records of risk assessment are part of the working papers of the SAO and, as such, all documentation of risk assessments by the SAO is exempt from disclosure under the Public Information Act.
Conforms statutory provisions relating to the following agencies and matters to changes in the role of SAO: Sunset Advisory Commission, the comptroller of public accounts, Texas State Libraries and Archives Commission, Texas State History Museum, Department of Information Resources, Texas Building and Procurement Commission (TBPC), State Aircraft Pooling Board, Texas Department of Housing and Community Affairs, Texas Water Development Board, Texas Commission on Environmental Quality, water development authorities, groundwater conservation districts, river authorities, certain school districts, State Board of Education, Commission on Human Rights, Texas Department of Health, metropolitan transit authorities, regional transportation authorities, agricultural finance authorities, Texas Parks and Wildlife Department, as well as general agency provisions relating to exit interviews, salary studies and recommendations, the position classification system, travel expenses, reports, internal auditors, conservatorship by an agency, public fund investment, state contracting, unemployment benefits, workers’ compensation, regional planning commissions, long-term care facilities performance reports, and the criminal justice information system.

Requires each state agency, with assistance from the SAO, to include in each of its contracts a term that provides that:

- SAO may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract; and
- acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

Limits the scope of SAO’s audit reports relating to operations or program effectiveness to financial operations or program effectiveness.

Requires the questionnaire used when a state employee leaves employment to state that the employee has the option of having the employee’s questionnaire furnished to the head of the agency or the governor’s office. Prohibits the state agency from having access to the questionnaire unless the employee provides it.

Requires the classification officer of the SAO to conduct, analyze the results of, and report to the legislature the findings of a survey of local law enforcement departments that employ more than 1,000 commissioned law enforcement officers to gather information about the total compensation provided by the departments to law enforcement officers.

- Requires the report to identify the five local law enforcement departments that provide the highest average total compensation to local law enforcement officers who have been employed by the local law enforcement departments at the maximum salary level.
- Authorizes the legislature, in order to improve the ability of the state to recruit and retain qualified law enforcement officers, to consider the report in determining the salaries of state law enforcement officers.

Deletes provisions requiring the advisory board of the Office of State-Federal Relations (OSFR) to review and approve any interagency contract with other state agencies to locate staff of the other state agency in Washington, D.C. and relating to salaries under the contract.
Deletes a provision requiring SAO to review biennially the standards for determining eligibility for service credit as a custodial officer, based on the need to encourage early retirement of persons whose duties are hazardous and require them to have routine contact with inmates of or defendants confined in the state jail division of the Texas Department of Criminal Justice on a regular basis.

Deletes a provision requiring the SAO and the State Council on Competitive Government to assist the agencies represented on the Title IV-D (child support) work group to identify the child support services that are within the agency’s core function.

**Compensatory Time for Persons Governing State Agencies - S.B. 89**

*by Senator Wentworth - House Sponsor: Representative John Davis*

Current law does not clearly address whether a member of the governing body of a single state agency or state officer who governs a state agency may receive compensatory time. This bill:

- Prohibits a member of the governing body of a state agency or a single state officer who governs a state agency from accruing compensatory time.

- Provides that this does not apply to an employee who acts as the administrative head of a state agency, including an executive director.

**State Agency Risk Management Plans - S.B. 147**

*by Senator Barrientos - House Sponsor: Representative Elkins*

Requires the governing body of each state agency to adopt a risk management plan.

- Requires the risk management plan to include: a risk assessment, risk control strategies; and certain additional information.

- Requires the risk management plan to also include a business continuity strategy designed to keep business operational in the face of potential disruptions, including disruptions of production, finance, administration, and other essential operations.

- Requires each state agency to implement its risk management plan, and to report to the governing body of the agency at least twice each year on implementation of the plan.

- Requires the agency to promptly notify the governing body if it identifies a significant risk, including corrective measures taken to address the risk.

- Delegates certain responsibilities to the State Office of Risk Management, including coordinating with the Legislative Budget Board, assisting state agencies in the preparation of risk management plans, and providing a report to the legislature.
Board Membership Compliance with the Texas Constitution - S.B. 287
by Senator Ellis - House Sponsor: Representative Chisum

Brings the following state agency governing boards into compliance with the Texas constitutional requirement that boards consist of an odd number of members by, in most cases, adding or subtracting one board member:


Intellectual Property Rights and State Agencies - S.B. 349
by Senator Armbrister - House Sponsor: Representative Pitts

The Texas Department of Information Resources (DIR) does not have the authority to acquire or hold intellectual property rights through patents, copyrights, trademarks, and other property rights. This bill:

Authorizes the DIR to acquire, apply for, register, secure, hold, protect, and renew under the laws of the State of Texas, the United States, any state in the United States, or any nation these rights, among certain provisions.

Provides that except for repayment of money to finance development of software, money paid to the DIR shall be deposited to the credit of the general revenue fund.
State Records Management - S.B. 394  
by Senator Shapleigh - House Sponsor: Representative Hochberg

Provides “permanent status” for current ex-officio members of the Records Management Interagency Coordinating Council (council) and adds three appointed auxiliary voting members, serving two year terms, to include a university faculty member in information management and two state agency information-resources managers.

Authorizes the council’s presiding officer to nominate qualified auxiliary candidates and that a nominee must be approved by a majority of the permanent members.

Provides two-year terms for auxiliary members unless the member ceases to possess the qualifications of employment and, when a vacancy occurs, requires the presiding officer to nominate a qualified candidate to finish the term.

Requires the position of presiding officer to be rotated among the permanent members of the council and that state agencies cooperate with the council.

Legal Service Contracts - S.B. 597  
by Senator Duncan - House Sponsors: Representative Pitts, et al.

Currently, legal service contracts are regulated by the Texas Department of Insurance (TDI), but are not considered traditional insurance products. This bill:

Transfers the regulation of legal service contracts from TDI to the Department of Licensing and Regulation.

Work Assignments for Pregnant Department of Public Safety Officers - S.B. 804  
by Senator Zaffirini - House Sponsor: Representative Yvonne Davis

Requires the director of the Department of Public Safety to make reasonable accommodations for a pregnant peace officer by allowing her to work in a temporary assignment with duties she is able to perform.

Surplus State Computers - S.B. 912  
by Senator Ratliff - House Sponsor: Representative Naishtat

Currently, organizations like Computers for Learning (CFL), a Texas Department of Human Services program, develop community partnerships with businesses and state agencies to effect the donation of surplus computer equipment that is reconditioned and provided to low-income public school students. This bill:
Authorizes state agencies to transfer, under certain circumstances, surplus or salvage data processing equipment to an assistance organization specified by a school district.

Authorizes health, human services, and education agencies to give preference to transferring surplus state computers to public schools, school districts, or assistance organizations as specified by a school district.

Texas Online Expansion - S.B. 1152
by Senator Shapleigh - House Sponsor: Representative Solomons

Allows state agencies and local governments participating in Texas Online to use electronic payment methods and to charge fees for cost reimbursement, excluding employee pay.

Requires the State Board of Public Accountancy, State Board for Educator Certification, State Board of Professional Engineers, State Board of Architectural Examiners, Department of Health, Texas Racing Commission, Commission on Law Enforcement Standards and Education, and Commission on Private Security to use Texas Online for certain licensing and regulatory services.

Transfers functions from the comptroller of public accounts (comptroller) to the Texas Online Authority (authority) and from the authority to licensing entities.

Requires an education Internet portal (portal) to be created by Department of Information Resources (DIR), the Texas Higher Education Coordinating Board (THECB), the commissioner of education (commissioner), school districts, and others as a single education source offering on-line courses and textbooks, tutorial and instructional materials, student assessment data, and administrative software to districts, teachers, parents, and students.

Prohibits the use of general revenue for any part of the portal but encourages the commissioner and DIR to use textbook funds and technology allotments to develop, support, and ease access.

Permits DIR to charge a reasonable fee to districts, teachers, parents, students, and other users and limits the fee to the cost of purchasing the information from a commercial or other source.

Requires DIR to provide free access to the extent possible, and to provide outreach and training for users.

Permits DIR to request proposals from private vendors to provide approved courses and services on-line, require a vendor to pay all costs of on-line materials and services and pay an access fee to DIR, and award statewide contracts.

Archival Requirements of State Agencies - S.B. 1154
by Senator Shapleigh - House Sponsors: Representatives Hilderbran and Solomons

Requires the Texas State Library and Archives Commission (commission) to establish and maintain a system, named the "Texas Records and Information Locator," or "TRAIL," to allow electronic access,
including access through the Internet, at the Texas State Library (TSL) and other depository libraries to state publications in an electronic format that have been made available to the public by or on behalf of a state agency.

Requires a state agency to make its printed state publications accessible from the state agency’s website in an electronic format or, if the state agency does not have a website, to deposit the electronic source file for each printed state publication in the manner prescribed by commission rules.

Requires a state agency, if an electronic state publication is not printed or available from the state agency’s website, to furnish the TSL copies in a manner prescribed by commission rules.

Provides for the creation of library districts in a municipality that does not have a municipal public library accredited for membership in the state library system. Authorizes an election for an increase in the sales and use tax. Sets forth parameters for the tax rate.

**Governance of the Crime Victims' Institute - S.B. 1245**  
*by Senators Armbrister and Ogden - House Sponsor: Representative Kolkhorst*

Currently, the Office of the Attorney General (OAG) houses the Crime Victims' Institute (CVI) and Sam Houston State University houses the National Institute of Victim Studies. This bill:

Transfers the CVI from OAG to Sam Houston State University.

**Texas Peace Officers' Memorial - S.B. 1567**  
*by Senator Madla, et al. - House Sponsor: Representative Hamric*

The Texas Peace Officers' Memorial is a monument erected on the grounds of the Capitol Complex to recognize and honor the sacrifice made by law enforcement and corrections officers in Texas who were killed in the line of duty. This bill:

Provides that the State Preservation Board (SPB), rather than the Commission on Law Enforcement Officer Standards and Education, is responsible for the maintenance of memorial.

Requires SPB to establish a schedule for the maintenance of the memorial and to select persons to maintain the memorial.

Requires money contributed for a purpose related to the memorial to be deposited by SPB in the Capitol fund, rather than the state treasury.
Information Resource Requirements and State Data Center - S.B. 1701
by Senator Wentworth - House Sponsor: Representative Pitts

Transfers from the Legislative Budget Board (LBB) to Department of Information Resources (DIR) the responsibility to improve state agencies’ information technology (IT) systems and information resources (IR) projects.

Requires DIR, the state auditor, and LBB to establish a quality assurance team (QAT) authorized to:
- review agencies’ strategic plans;
- require agencies to provide information on such projects;
- report agencies whose plans do not comply with the state plan;
- address deficiencies in agency management of its IR projects with authority to establish a management plan or, subject to LBB approval, discontinue the project;
- evaluate a project’s risk in determining its approval;
- require review of IR projects by the auditor or the comptroller of public accounts;
- report on efficiency of an agency’s IR project when completed; and
- report to leadership on the status of IR projects.

Directs DIR’s executive director to expand the state strategic plan and report to include return-on-investment guidelines for major IT projects, best practices for IR projects, reporting guidelines for state agencies’ strategic plans, and other issues with IT and IR systems.

Requires agencies to submit strategic plans to QAT and yearly operating plans to DIR, QAT, and the governor, which must include the benefit to the public and state, use of IT owned by another agency, and, before spending initial appropriated money on IR projects, to quantify expected outcomes and outputs for QAT review, and other efficiency measures.

Requires LBB to review and approve or disapprove each agency’s plan within 60 days or approval is automatic.

Directs DIR, in response to the governor and QAT recommendations, to execute extensive oversight on agencies’ major IT or IR projects, paid for by the agency whose project receives the oversight.

Revises authority of the program management office in DIR.

Requires the State Library and Archives Commission with DIR to set up an electronically searchable central data base available on the library Website and enables a person to gather information on all state agency grant opportunities linked to the granting agency’s Website.

Requires the governor to appoint an advisory board.
State Soil and Water Conservation Board - S.B. 1828
by Senator Averitt - House Sponsor: Representative Swinford

Expands the number of State Soil and Water Conservation Board (board) members from five to seven
members, adding two appointed by the governor.

Requires the board to report annually to the governor, lieutenant governor, and the speaker of the house of
representatives on budget, grants, outreach programs, and other issues.

Requires that the Legislative Budget Board (LBB) and the state auditor complete a management audit of
the board, including an evaluation of the administrative budget, and by March 1, 2004 deliver a report to the
governor, lieutenant governor, and the speaker of the house of representatives.

Requires the board to consult with local districts on the State Brush Control Program, the Texas Water

Reduces the state share of any single brush control project from 80 percent to 70 percent.

Provides for ranking brush control areas by water produced and severity of water shortage; includes
development of water sources, benefits to stream flows and groundwater levels in program goals; caps
state and federal assistance an individual may receive at 80 percent of total project cost; and allows a
political subdivision to receive state aid of no more than 50 percent of total cost of a project.
Fraud Prevention When Voting by Mail - H.B. 54
by Representative Wolens, et al. - Senate Sponsor: Senator Shapiro

Early voting by mail creates some potential for voting fraud, and this bill provides criminal penalties for violations of voting fraud. This bill:

Provides that it is no defense to prosecution that a person who receives an official ballot is ineligible to vote in the election for which the ballot is received.

Provides that Title 4 of the Penal Code relating to preparatory offenses, criminal instruments, interception of wire or oral communication, and installation of a tracking device apply to offenses under the Election Code, apply to this Act.

Provides that a party to an offense may be required to furnish evidence or testimony about the offense. Prohibits evidence or testimony required to be furnished, or information directly or indirectly derived from that evidence or testimony, from being used in a criminal case except for a prosecution of aggravated perjury or contempt.

Provides that it is an offense to knowingly mark or attempt to mark another person’s ballot without consent.

Defines conduct relating to assistance provided to a voter to include reading the ballot to the voter; directing the voter to read the ballot; marking the voter’s ballot; or directing the voter to mark the ballot.

Provides that it is an offense to knowingly assist a voter who has not requested assistance or who has not selected the person to assist the voter.

Sets forth provisions relating to the use of common or contract carriers in early voting procedures.

Creates criminal offenses and penalties for acts related to improperly witnessing an application for an early voting ballot.

Requires balloting materials for voting by mail to be mailed not later than the seventh calendar day after the later of the date the clerk accepts the voter’s application for a ballot to be voted by mail or the date the ballots become available for mailing, except that if the mailing date is earlier than the 45th day before election day, the balloting materials shall be mailed not later than the 38th day before election day.

Provides that a person other than the voter who deposits the carrier envelope in the mail or with a common or contract carrier must provide the person’s signature, printed name, and residence address on the reverse side of the envelope.

Creates criminal penalties related to unlawful possession of official ballots or official carrier envelopes.

Provides an exception if the person is a close relative of the applicant or registered to vote at the same address.
Requires that a marked ballot voted under this chapter be returned to the early voting clerk in the official carrier envelope, which may be delivered in another envelope and transported and delivered only by mail or by common or contract carrier.

Requires that each carrier envelope delivered by a common or contract carrier to be accompanied by an individual delivery receipt for that particular carrier envelope that indicates the name and residence address of the individual who delivered the envelope to the carrier and the date, hour, and address at which the envelope was received by the carrier.

Prohibits delivery of carrier envelopes by a common or contract carrier if the delivery originates from the address of:

- an office of a political party or candidate in the election;
- a candidate in the election unless the address is the residence of the early voter;
- a specific-purpose or general-purpose political committee involved in the election; or
- an entity that requested that the election be held unless the delivery is a forwarding to the early voting clerk.

Prohibits carrier envelopes to be collected and stored at other locations for subsequent delivery to the early voting clerk.

Requires the secretary of state to prescribe appropriate procedures for providing accountability for carrying out these procedures.

Creates an offense if a person knowingly possesses an official ballot or official carrier envelope provided under this code to another. Provides that it is an affirmative defense to prosecution of this offense unless the person possessed the ballot or carrier envelope with intent to defraud the voter or the election authority, and if the person is:

- related to the voter;
- registered to vote at the same address as the voter;
- an early voting clerk or deputy early voting clerk;
- a person who possesses the carrier envelope in order to deposit the envelope in the mail or with a common or contract carrier;
- an employee of the United States Postal Service; or
- a common or contract carrier working in the normal course of business and the official ballot conforms to all prior conditions.

Authorizes a voting clerk to make a determination that if the terms and conditions of returning a ballot were violated, a ballot may not be counted.

Provides for notification to a voter that a ballot will not be counted and provides for an eligible voting place.
Requires a person assisting a voter to sign a written oath that is part of the certificate on the official carrier envelope.

Requires the secretary of state to notify voters of the telephone number of the secretary’s toll-free number, and that the purpose of the telephone number be printed on:
  - the official carrier envelope; or
  - an insert enclosed with the balloting materials for voting by mail sent to the voter.

Requires that information on the roster for a person who votes an early voting ballot by mail be made available for public inspection no later than the day following the day the early voting clerk receives a ballot voted by mail.

Provides that it is an offense to buy, offer to buy, sell, or offer to sell an official ballot, official ballot envelope, official carrier envelope, signed application for an early voting mail ballot, or any other original election record.

Provides an exception to a person who executes a written contract for the procurement of election supplies necessary to conduct an election.

Provides that it is an offense to steal property that is an official ballot or official carrier envelope for an election.

Defines governmental record to include an official ballot or other election record.

**Jury Duty on Election Day - H.B. 146**

*by Representative Solomons - Senate Sponsor: Senator Estes*

Prohibits prospective jurors from being summoned to appear for jury service on the date of the general election for state and county officers.

**Political Signs and Private Property - H.B. 212**

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

Currently, a municipality may regulate placement of signs of a political nature placed on private property. This bill:

Prohibits a municipal charter provision or ordinance from regulating certain political signs placed on private real property with the owner’s consent.
Voter Registration Certification Cards and Technological Upgrades - H.B. 402
by Representative Madden - Senate Sponsor: Senator Shapiro

Currently, a voter must present a voter registration certificate at the polling place on election day before casting a ballot. This bill:

Requires the secretary of state to implement a pilot program to evaluate the use of an electronic registration system on election day and during the period for early voting by personal appearance.

 Requires the program to be limited to a single county that chooses to participate and has a population of approximately 500,000.

Provides that a card with a magnetic stripe be issued to the voter to confirm the voter’s registration instead of the registration certificate when voting in an appropriate election as determined by the secretary of state.

Requires the secretary of state to file, at the conclusion of the pilot program as established under this Act, a report with the governor, the lieutenant governor, and the speaker of the house of representatives on the pilot program and the use of an electronic registration card.

Electronic Reporting of Political Contributions and Expenditures - H.B. 999
by Representatives Madden and Wong - Senate Sponsor: Senator Ellis

Under current provisions of the Election Code, candidates, officeholders, or political committees must file reports of campaign contributions or expenditures with the Texas Ethics Commission (TEC). These reports generally must be filed by computer diskette or other means of electronic transfer. However, if the party required to make such a report files an affidavit with TEC stating that the party does not use computers to keep records of political contributions and expenditures, then the filing may be done on paper. This bill:

Repeals the provision of the Election Code authorizing candidates, officeholders, or political committees who do not use computers to record political contributions and expenditures to file paper reports of contributions or expenditures with TEC.

Candidates’ Petitions and Placements on Ballots - H.B. 1274
by Representatives Geren and Denny - Senate Sponsor: Senator Nelson

Current law requires that a person circulating a petition for a candidate’s place on a ballot point out and read portions to those signing the petition as part of signing an affidavit that this was done.

Requires a person circulating a petition to witness each signature and ascertain that each date of signing is correct and to verify that each signer’s registration status and registration number entered on the petition is correct.
Uncontested Candidates and Ballots - H.B. 1344
by Representative Uresti - Senate Sponsor: Senator Van de Putte

Uncontested candidates appear on general election ballots under current law. This bill:

Allows certain political subdivisions to declare uncontested candidates “elected” without appearing on the ballot, under certain circumstances outlined in the bill.

(See H.J.R. 59, page 331)

Elections of Unopposed Candidates - H.B. 1476
by Representative Truitt - Senate Sponsor: Senator Nelson

Current law allows certain unopposed candidates, including those in local races and special elections, to fill vacancies in the legislature and be declared elected. This bill:

Creates an exception for filling certain statewide and county government offices in elections where a candidate is unopposed.

Provides that this Act applies only to the general election for state and county officers.

Authorizes a certifying authority to declare a candidate elected to an office of the state or county government if the candidate is the only person whose name appears on the ballot and no other name is placed on a list of write-in candidates.

Requires the offices and names of any candidates declared elected to be listed separately after the contested races, and to be grouped according to their respective political party affiliations or status as independents in the same relative order prescribed for the ballot generally.

Authorizes the secretary of state to prescribe any additional procedures to accommodate a particular voting system or ballot style.

Requires the certifying authority to issue a certificate of election to a candidate declared elected in the same manner as provided for a candidate elected at the election.

(See H.J.R. 62, page 331)

Information About Voters’ Rights - H.B. 1517
by Representative Jesse Jones - Senate Sponsor: Senator West

The secretary of state currently operates a telephone hotline concerning voters’ rights, however, voters may be unaware of the hotline’s existence. This bill:
Requires a notice informing voters of the voting rights hotline telephone number and the purpose for the number to be included in the notice of voters' rights.

Requires the secretary of state to prescribe the form and content of the notice in accordance with this Act, and to revise the content of the notice as necessary to conform to current law.

**Implementation of the Federal Help America Vote Act of 2002 - H.B. 1549**

*by Representative Denny, et al. - Senate Sponsor: Senator Nelson*

In 2002, the federal government passed the Help America Vote Act (Act), which sets standards for election policy in the states. This bill:

Requires a voter registration application to include certain information, including the applicant's Texas driver's license number or the number of a personal identification card issued by the Department of Public Safety.

Requires the secretary of state (SOS) to prescribe procedures to inform an applicant of the requirements for registration by mail.

Requires the SOS to implement and maintain a statewide computerized voter registration list that serves as the single system for storing and managing the official list of registered voters in the state, contains certain information, and performs certain functions; and to maintain certain information for a registration list that can be electronically submitted.

Requires the SOS to determine whether federal matching funds are available under the Act and to certify to the comptroller of public accounts (comptroller) the amount of state funds required to qualify for the maximum amount of federal matching funds.

Requires the comptroller to deposit from funds otherwise available an amount equal to the certified amount in the election improvement fund.

Requires the SOS to adopt rules establishing state-based administrative compliant procedures to remedy grievances that meet the requirements of the Act.

Provides that an election improvement fund is created in the general revenue funds consisting of federal funds designated for election improvement, among certain conditions.

Requires that a general or special election be held on the third, rather than first, Saturday in May.

Authorizes the governing body of a political subdivision to change the date on which it holds its general election for officers to another authorized uniform election date.

Provides that the runoff primary election date is the third, rather than second, Tuesday in April following the general primary election.
Requires the authority responsible for procuring the election supplies to have a supply of sample ballots printed.

Requires the authority responsible to prepare a provisional ballot.

Requires the early voting ballot board (board) to verify and count provisional ballots no later than the seventh date after the date of an election.

Requires the SOS to prescribe procedures for provisional ballots.

Authorizes the board to make determinations as to eligibility of persons who voted on a provisional ballot, and to enter a voter’s name if accepted, and to indicate the rejection, if rejected, on the envelope containing the provisional ballot.

Requires the board to open the accepted provisional ballots without defacing the affidavit located on the outside of the envelope and to remove the ballot.

Requires the board to place the ballot in a ballot box containing all provisional ballots accepted for voting in the election, and to deliver these envelopes to the custodian of election records.

Requires the voting registrar to enable a person who holds a rejected provisional ballot to register under certain conditions.

Requires the board to follow certain conditions for disposition of rejected provisional ballots.

Requires the results of counting accepted provisional ballots to be reported to the local canvassing authority.

Requires the preservation of provisional voting records to be preserved after the election in the same manner as corresponding precinct election returns.

Requires the SOS to allow a provisional voter access to information of the disposition of the person’s ballot.

Requires the county executive committee to conduct the local canvass at the county seat not earlier than 6 p.m. on the second Thursday or no later than 1 p.m. on the second Friday after election day.
Requires the governor to conduct the state canvass not later than the 14th day after election day.

**Federal Write-in Absentee Ballots for Elections for Federal Office - H.B. 1597**

*by Representative Madden - Senate Sponsor: Senator Staples*

Military personnel and personnel serving abroad must be provided the opportunity to vote in the general federal election by using the federal write-in absentee ballot. The United States Department of Defense
filed suit to prompt the states to expand the applicability of the federal write-in absentee ballot process. This bill:

Requires the secretary of state to prescribe procedures to allow a voter who qualifies to vote by a federal write-in absentee ballot in any general, special, primary, or runoff election for federal office.

**Electronic Reports of Political Contributions and the Internet - H.B. 1602**  
_by Representative Madden - Senate Sponsor: Senator Ellis_

Under current law, the Texas Ethics Commission (TEC) is prohibited from posting any candidate’s or specific-purpose committee’s campaign contribution and expenditure report on the Internet until the reports of all candidates or the committees associated with a particular ballot decision have been received or a certain amount of time has passed since the filing deadlines. This bill:

Requires TEC to make a report filed with TEC for a reporting deadline by any candidate for a particular office or by a specific-purpose committee for supporting or opposing only one candidate for a particular office available to the public on the Internet if each candidate for that office that is nominated by or seeking the nomination of a political party required to nominate candidates by primary election, and each specific-purpose committee for supporting or opposing only one candidate for that office that is nominated by or seeking the nomination of a political party required to nominate candidates by primary election, has filed a report for that reporting deadline.

Requires TEC to clearly state on the Internet website that reports filed by an independent candidate, a third-party candidate, or a specific-purpose committee for supporting or opposing these candidates will not be available if the candidate or committee has not filed a report.

**Direct Recording Electronic Voting Machines - H.B. 1697**  
_by Representative Denny - Senate Sponsor: Senator Staples_

An increasing number of political subdivisions are using direct recording electronic (DRE) voting devices for their elections. Because these voting systems are relatively new, current law does not provide for a procedure for a candidate’s presence during the printing of ballot images for recount purposes or for the amount of the recount deposit required for recounts in precincts using DRE machines. This bill:

Requires the amount of the recount deposit to be determined by the number of precincts for which a recount is requested.

Authorizes the full recount committee not to be present for purposes of a recount of ballots cast using DREs. Requires the recount committee chair to determine how many committee members must be present during the printing of the images.

Provides that each candidate is entitled to be present and to have representatives present for a recount.
Limits on County Election Precincts - H.B. 1701
by Representatives Taylor and Eissler - Senate Sponsor: Senator Jackson

County election precincts currently must contain at least 100 but not more than 2,000 registered voters. This bill:

Increases the maximum population for county election precinct to not more than 5,000 registered voters.

Uniform General Election Dates - H.B. 1777
by Representative Dawson - Senate Sponsor: Senator Jackson

The deadline for political subdivisions to change the date for the general election of officers to another authorized uniform election date has expired. This bill:

Authorizes the governing body of a political subdivision other than a county to change the date, not later than December 31, 2003, to another authorized uniform date, which may not be held before the uniform election date in May 2004.

Physical Address for Early Voting - H.B. 1975
by Representative Deshotel - Senate Sponsor: Senator Ellis

Mailing addresses for early voting clerks is occasionally different from a physical address, and when the mailing address is that of a post office box, the application for early voting by mail cannot be delivered by many common or contract carriers. This bill:

Requires the early voting clerk to include with the balloting materials a notice of the clerk’s physical address for purposes of return by common or contract carrier.

Return of Early Voting Ballots - H.B. 2064
by Representative Bohac - Senate Sponsor: Senator Lindsay

Current law provides no directive to forward an application for an early voting ballot to the correct official in the event the application is sent to the wrong county official. The result can be a voter losing the opportunity to vote early. This bill:

Requires an application to be submitted by mail to the early voting clerk who serves the election precinct of the applicant’s residence.

Deletes text that prohibits an applicant from using a form that is furnished to the applicant unless the application form is printed or stamped with the name or office or official title of the early voting clerk as addressee and the clerk’s official mailing address.
Requires a timely application that is addressed to the wrong early voting clerk to be forwarded to the proper early voting clerk not later than the day after the date it is received by the wrong clerk.

**Bilingual Clerks for Elections - H.B. 2085**  
*by Representative Campbell - Senate Sponsor: Senator Duncan*

Despite current law stipulating that a presiding election judge is required to make a reasonable effort to appoint Spanish-speaking bilingual election clerks for each precinct, the number of clerks is inadequate for the needs of the voting population in certain areas. This bill:

Requires the authority holding the election to appoint at least one clerk fluent in both English and Spanish to serve at a central location to provide assistance for Spanish-speaking voters, if the number of election clerks is insufficient to serve the needs of the Spanish-speaking voters in the election.

Requires the county chairs of each party holding a primary to each appoint one clerk on a primary election day.

**Internet Posting of Candidates’ Names - H.B. 2089**  
*by Representative Geren - Senate Sponsor: Senator Nelson*

Internet use has become widespread, and citizens look to reliable websites for information on elections and candidates such as that maintained by the secretary of state (SOS). However, there is no law that requires the posting of candidates’ names publicly on the Internet. This bill:

Requires the SOS to make the name, address, and occupation of each candidate who is nominated for statewide or district office in the general election for state and county officers available to the public by posting the name on the SOS’s website.

**Early Voting Regulations - H.B. 2093**  
*by Representative Harper-Brown - Senate Sponsor: Senator Staples*

Current law prescribes different electioneering and distance markers for the general election day and the early voting period. Polling places and campaign workers are required to know specific rules for certain elections. This bill:

Prohibits a person from electioneering for or against any candidate, measure, or political party within 100 feet of an outside door through which a voter may enter.
Criminal Conduct in Connection with Elections - H.B. 2149  
by Representative Denny - Senate Sponsor: Senator Staples

Under current law, a county or district attorney is required to investigate alleged criminal conduct in an election if two or more registered voters who conducted the election request an investigation. This bill:

Requires the county or district attorney, not later than the 30th day after the date on which the county or district attorney begins an investigation under this section, to deliver notice of the investigation to the secretary of state.

Requires the statement to include that a criminal investigation is being conducted and the date of the election that is the subject of the investigation.

Sets forth provisions relating to the confidentiality of investigation information.

Automatic Recounts in Majority Vote Elections - H.B. 2152  
by Representative Denny - Senate Sponsor: Senator Staples

Provisions relating to automatic recounts apply only to plurality vote elections under current law, not majority vote elections, and casting lots often decide tie races in the latter case. This bill:

Requires an automatic recount in majority vote elections where a tie vote results.

Election Judges and Appeals - H.B. 2154  
by Representative Denny - Senate Sponsor: Senator Staples

Currently, presiding judges of polling places and election precincts, in performing their election-related duties, have powers equivalent to those of district judge. A suit against an election judge would be filed in the court of appeals, however, many plaintiffs erroneously file the action in a district court. This bill:

Provides that an appeal of an order or other action of the presiding judge is made in the same manner as the appeal of an order or other action of a district court judge in the county in which the polling place is located.

Political Contributions to Judicial Candidates and Officeholders - H.B. 2158  
by Representative Hartnett - Senate Sponsor: Senator West

Currently, an unopposed candidate for a judicial election may raise campaign contributions for both the primary and general elections. This bill:
Provides that the general primary election and general election for state and county judicial offices are considered to be a single election in which a judicial candidate is involved if the candidate is unopposed in the primary election and does not have an opponent on the general election ballot.

Provides that in these cases, certain amounts of the applicable contribution limit may be increased by 25 percent. These contributions may be used only for officeholder expenditures.

**Primary Election Dates - H.B. 2496**

*by Representative Branch, et al. - Senate Sponsor: Senator Janek*

Primary elections are held on the second Tuesday of March and runoff primary elections are held on the second Tuesday in April under current law. This bill:

Changes the general primary election date to the first Tuesday in March in each even-numbered year; the runoff primary election date to the first Tuesday in April following the general primary election; and the presidential primary election date to the first Tuesday in March in each presidential election year.

**Solo Candidates Assuming Office - H.J.R. 59**

*by Representative Uresti - Senate Sponsor: Senator Van de Putte*

Requires the submission to the voters of a constitutional amendment to authorize the legislature to permit a person to assume an office of a political subdivision without an election if the person is the only candidate to qualify in an election for that office.

Requires the proposed constitutional amendment to be submitted to the voters on September 13, 2003.

(See H.B. 1344, page 324)

**Elections and Unopposed Candidates - H.J.R. 62**

*by Representative Truitt - Senate Sponsor: Senator Nelson*

Authorizes the legislature in an election required by the constitution to provide that a person may take office without an election if that person is the only qualified candidate in an election for that office.

Requires the amendment to be submitted to the voters at an election to be held September 3, 2003.

(See H.B. 1476, page 324)
Placement on the General Primary Ballot - S.B. 757
by Senator Brimer - House Sponsor: Representative Denny

Currently, candidates for judicial office are required to file a petition for a place on the primary ballot. Additionally, a separate petition must be filed for those judicial candidates who do not wish to pay a filing fee. This bill:

Clarifies that a judicial candidate who does not wish to pay a filing fee must file a petition in lieu of the filing fee, with the application for a place on the ballot.

Provides that all candidates for judicial office, regardless of whether a filing fee is paid, must file a petition with an application for a place on the ballot.
**Regulation and Civil Penalty for Certain Matchmaking Organizations - H.B. 177**

*by Representatives McCall and Castro - Senate Sponsor: Senator West*

International matchmaking organizations (IMOs) broker marriages between citizens of other countries and citizens of the United States. Concerns have arisen about the exploitation and abuse of foreign women in conjunction with the rapid growth of the industry. This bill:

- Requires IMOs practicing in Texas to provide information to foreign candidates for marriage (recruits) on the marital and criminal histories of the persons seeking spouses (clients).

- Prohibits the IMO from providing further services to the recruit or client until the IMO has obtained the requested criminal history and marital history record, and provided the history to the recruit.

- Provides that a violation of this law is subject to a civil penalty up to $20,000 for each violation and, any collected penalties are to be deposited in the state treasury to the credit of the compensation to the Victims of Crime Fund.

**Small Public Retirement and Independent Pension Error Correction - H.B. 258**

*by Representative Pickett, et al. - Senate Sponsor: Senator Madla*

Currently, large retirement systems such as the Employees Retirement System of Texas have adequate procedures in place to verify annuity payments are correct. Smaller public retirement systems and independent pension funds of firefighters and police officers do not. This bill sets a three-year limit on reimbursement sought from recipients of public retirement systems and firefighter and police officer pension funds, with the exclusion of cases of fraud and prior agreements. This bill:

- Requires the governing body of the retirement system, with certain exceptions, if an error in the records of a public retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, to correct the error and so far as practicable adjust any future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

- Authorizes the governing body of the system, if no future payments are due, to recover the overpayment in any manner that would be permitted for the collection of any other debt.

- Authorizes a public retirement system to correct the overpayment of benefits to a person entitled to receive payments from the system by a certain method only for an overpayment made during the three years preceding the date the governing body of the system discovers or discovered the overpayment and prohibits a public retirement system from recovering from the recipient any overpayment made more than three years before the discovery of the overpayment. Provides that these provisions do not apply to an overpayment a reasonable person should know the person is not entitled to receive.

- Provides that this Act applies to an underpayment or overpayment of benefits by a public retirement system made by the governing body of the system regardless of whether the underpayment or overpayment was made before the effective date of this Act, except that it does not apply to an overpayment that has been
resolved by agreement made before the effective date of this Act between the governing body of a public retirement system and the recipient of the overpayment.

**Texas History Month - H.B. 294**  
*by Representative John Davis - Senate Sponsor: Senator Barrientos*

Establishes March as Texas History Month.

Requires Texas History Month to be regularly observed by appropriate celebrations and activities in public schools and other places to promote interest in and knowledge of Texas history.

**Regulating Cremations - H.B. 587**  
*by Representative Marchant - Senate Sponsor: Senator Carona*

Requires all crematories operating in Texas to be licensed by the Texas Funeral Service Commission and provides a comprehensive regulation of the cremation process.

Authorizes TFSC to adopt rules to govern the cremation of human remains and to establish minimum standards for crematory establishments related to sanitation and fire protection equipment essential to the health and safety of crematory personnel and the public.

restricts the establishment and construction of crematories to property on or adjacent to a perpetual care cemetery or a funeral establishment.

Prohibits the cremation of human remains within 48 hours of the time of death indicated on the death certificate unless the waiting period is waived in writing by a justice of the peace or medical examiner of the county in which the death occurred or a court order.

Establishes procedures for handling cremated human remains and for handling and identifying of cremated human remains, requirements for the training of crematory operators and employees, and provisions for oversight of and disciplinary action against licensed crematory operators, including the imposition of criminal penalties.

**Rural Issues Discussed by Interagency Work Group - H.B. 649**  
*by Representative Jim Keffer and Christian - Senate Sponsor: Senator Estes*

The 77th Legislature enacted H.B. 7 to create an Office of Rural Community Affairs and to require annual meetings of agency heads to discuss rural issues. This bill:

Expands the list of additional agency heads or their designees required to meet in Austin to discuss rural issues and provide information showing the impact each agency has on rural communities in an effort to develop rural policy.
Creates an Interagency workgroup composed of certain agencies to:
- develop a process to allow agencies to work together on issues that face rural communities;
- discuss and coordinate programs and services offered to rural communities and residents of rural communities; and
- develop regulatory and legislative recommendations that would eliminate duplication and combine program services.

**Liability of In-Home Service and Delivery Companies for Negligent Hiring - H.B. 705**

*by Representatives Solomons and Allen - Senate Sponsor: Senator Nelson*

Requires an in-home service company or residential delivery company as defined by the Act to obtain from the Department of Public Safety (DPS), or a private vendor approved by DPS, criminal history record information relating to an officer, employee, or prospective employee of the company whose job duties include entry into another person's residence.

Creates a rebuttable presumption that an in-home service company or residential delivery company has not acted negligently in an action arising out of a criminal act or omission by an officer or employee brought by a person whose home the officer or employee entered while performing his or her job duties if:
- the company obtained criminal history record information regarding the officer or employee; and
- the criminal history record information shows, over a set period, that the officer or employee has not been convicted of certain offenses.

Creates a rebuttable presumption that a person who contracts with a residential delivery company or an in-home service company has not acted negligently in doing so if:
- the company is in compliance with this Act; or
- the person requests that the company obtain such a criminal history background.

Authorizes an in-home service company or residential delivery company to obtain certain criminal history record information regarding an officer or employee whose job duties require entry into another person's residence.

Sets out confidentiality requirements for criminal history record information obtained by an in-home service company or residential delivery company.

**Purchasing Preferences for Texas Services and Products - H.B. 845**

*by Representative Howard - Senate Sponsor: Senator Carona*

Currently, the state gives purchasing preference to Texas-based companies if the price and quality of their products are equal to those of an out-of-state bidder. This bill:
Requires that the Texas Building and Procurement Commission and all state agencies procuring services give preference to services offered by a Texas bidder if certain conditions are met.

Adds “recycled product” to include recycled steel products under the list of products covered in the bill.

**Lost or Stolen Lottery Tickets - H.B. 1241**

*by Representative Homer - Senate Sponsor: Senator Janek*

Currently a retailer bears the risk of loss for all lottery tickets received. In the case of stolen tickets, lost tickets, or bankruptcy, the retailer is charged the full amount of the pack of tickets, less the commission on the tickets. This bill:

Requires lottery ticket sales agents to post a cash bond, surety bond, letter of credit, certificate of deposit and/or other security approved by the executive director of the Texas Lottery Commission for losses incurred due to bankruptcy, theft, or loss of lottery tickets, supplies, or equipment. Authorizes the executive director to require a sales agent to maintain insurance in some cases.

Requires all losses to the state resulting from the agent’s loss to be paid by the bond fund and prohibits the executive director from charging an agent for a loss reimbursed from the bond fund.

**Wine Selling and Tasting in Texas - H.B. 1264**

*by Representative Robert “Robby” Cook - Senate Sponsor: Senator Ogden*

Currently Texas wineries are prohibited from selling wine for consumption on or off premises and dispensing free wine for consumption on or off premises unless the winery is located in specific areas. This bill:

Authorizes the holder of a winery permit to sell wine to ultimate consumers on or off winery premises and dispense free wine for consumption on or off the winery premises, regardless of the location of the winery.

**Environmental Regulation and Remediation of Dry Cleaning Facilities - H.B. 1366**

*by Representative Elkins - Senate Sponsor: Senator Jackson*

Authorizes the Texas Commission on Environmental Quality (TCEQ) to adopt, administer, and enforce rules for dry cleaning facilities to preserve, protect, and maintain the water and other natural resources of this state and to provide for prompt corrective action of releases from dry cleaning facilities.

Allows TCEQ to exempt from requirements businesses with annual gross receipts of $200,000 or less on the basis of financial hardship until January 1, 2007.

Authorizes TCEQ to adopt performance standards for new dry cleaning facilities.
Establishes the dry cleaning release fund in the general revenue fund consisting from proceeds from charges and fees.

Requires each owner of an operating dry cleaning facility or dry cleaning drop station to register with TCEQ.

Requires all dry cleaning facilities, except carbon dioxide facilities, to pay a $250 fee with their registration for a facility with gross annual receipts of $100,000 or less and a fee of $2,500 for a facility with gross annual receipts of more than $100,000.

**Amber Alert - H.B. 1401**  
*by Representative Goolsby - Senate Sponsor: Senator Carona*

Requires the Texas Lottery Commission to disseminate Amber Alert information at its retail locations through the lottery operator system, upon notice by the Department of Public Safety that the Statewide Texas Amber Alert Network has been activated.

**Low-level Radioactive Waste Disposal - H.B. 1567**  
*by Representative West, et al. - Senate Sponsor: Senator Bivins*

Requires a transporter of low-level radioactive waste to carry liability insurance in an amount that the Radiation Advisory Board determines is sufficient to cover damages likely to be caused by a shipping accident in accordance with regulations imposed by the United States Department of Transportation and the United States Nuclear Regulatory Commission.

Authorizes the Texas Commission on Environmental Quality (TCEQ) to conduct, request, and participate in studies and investigations relating to disposal sites for and disposal of low-level radioactive waste.

Authorizes TCEQ to advise, consult, and cooperate with the federal government, the state, interstate agencies, local governmental entities, and private entities on matters involving the disposal of low-level radioactive waste.

Requires the Texas Department of Health (TDH) or TCEQ to deposit a security to the credit of the radiation and perpetual care account.

Requires TDH or TCEQ to require a holder of a license that authorizes the disposal of low-level radioactive waste to provide security acceptable to the Texas Radiation Control Agency to assure performance of the license holder’s obligations.

Defines “compact waste” as low-level radioactive waste that is generated in a “host” or “party” state, with Texas as the host state and Maine and Vermont the party states of this compact.
Defines “federal facility waste” as low-level radioactive waste that is the responsibility of the federal government under the Low-Level Radioactive Waste Policy Act.

Authorizes TCEQ to receive applications for and issue not more than one license for a single compact waste disposal facility.

Sets forth requirements and responsibilities of persons licensed to dispose of low-level radioactive waste.

Establishes that the acceptance, storage, or disposal of federal facility waste by the compact waste disposal facility license holder at a federal facility waste disposal facility does not create any liability for the state, or on the part of any officer or agency of the state, for damages, removal, or remedial action.

Requires the compact waste disposal facility to accept for disposal all compact waste that is presented to it and that is properly processed and packaged.

Authorizes TCEQ to license federal facility waste disposal only at a separate and distinct facility that is operated exclusively for the disposal of federal facility waste and that is adjacent to the compact waste disposal facility.

Authorizes TCEQ to limit the overall capacity of the federal facility waste disposal facility to not more than three million cubic yards for the first five years.

Prohibits commingling of compact waste and federal facility waste.

Prohibits the licensing of a compact or federal waste disposal facility from being located:
- in a county located 62 miles or less from an international boundary;
- in a county in which the average annual rainfall is greater than 20 inches;
- in certain specified counties;
- in a 100-year flood plain; or
- less than 20 miles upstream of or up-drainage from the maximum elevation of the surface of a reservoir project.

Distinguishes between and sets forth requirements for the storage and/or disposal of Class A, B, and C low-level radioactive waste.

Directs that the design of the facility should incorporate safeguards against hazards resulting from local meteorological conditions, including phenomena such as hurricanes, tornados, earthquakes, earth tremors, violent storms, and flooding.

Authorizes TDH to adopt rules relating to the packaging of radioactive waste.

Sets forth the natural characteristics of a disposal facility site to include:
- certain geological characteristics;
- certain topography;
- compatibility of disposal activities with any uses of land near the site;
- adequacy of plans for the collection of prelicense monitoring data and background monitoring plans for the disposal facility site;
- possible side effects of disposal activities on flora and fauna at or near the site; and
- ease of access to the site.

Sets forth considerations for the amount of security required of a compact waste disposal facility license holder, including financial security to address and prevent unplanned events that pose a risk to public health and safety.

Requires that the initial payment of $12.5 million due from each nonhost party state of the compact be due not later than November 1, 2003.

**Weekend and Holiday Effects on Legislation; Elections - H.B. 1695**

*by Representative Denny, et al. - Senate Sponsor: Senator Nelson*

Provides that if the last day for performance of an act is extended to the next regular business day due to a Saturday, Sunday, or legal state or national holiday, the extended date is used to determine any other dates and deadlines, and the dates or times of any related procedures will be determined in relation to the last day for performance of the act.

Provides that a declaration of ineligibility of a candidate is considered to be the performance of an act for purposes of causing a candidate’s name to be omitted from the ballot.

Provides that the filing of a document, including a withdrawal request or resignation, is considered to be the performance of an act for purposes of creating a vacancy to be filled at a subsequent election.

Provides that the death of a person is not considered to be the performance of an act.

Requires a runoff election to be held not earlier than the 20th or later than the 45th day after the date the final canvass of the main election is completed.

Requires the early voting ballot board (board) to deliver to the central counting station the container for the early voting electronic system ballots that are to be counted by automatic tabulating equipment; and requires the board to make the delivery without opening the container and in accordance with the procedure applicable to electronic system ballots cast at a precinct polling place.
Regulation of Electric Personal Assistive Mobility Devices - H.B. 1997
by Representatives Gutierrez and West - Senate Sponsor: Senator Armbrister

Currently, an Electric Personal Assistance Mobility Device (EPAMD) is not authorized to travel on certain thoroughfares and walkways. This bill:

Provides that the owner of an EPAMD is not required to register the device.

Authorizes a person to operate an EPAMD on a residential street, roadway, or public highway with a speed limit of 30 miles per hour or less, while making a direct crossing of a highway in a marked or unmarked crosswalk where no sidewalk is available or when so directed by a traffic control device or by a law enforcement officer.

Authorizes a person to operate an EPAMD on a path set aside for the exclusive operation of bicycles and on a sidewalk.

Requires any person operating an EPAMD on a residential street, roadway, or public highway to ride as close as practicable to the right-hand edge.

Provides that, except as otherwise provided this Act, provisions of the law applicable to the operation of bicycles apply to the operation of EPAMD.

Investigation of a Firefighter or Police Officer - H.B. 2361
by Representative Bailey - Senate Sponsor: Senator Gallegos

Currently, the Texas Local Government Code establishes civil service requirements for fire fighters and police officers in cities with a population of 10,000 or more that have adopted the Fire Fighter and Police Officer Civil Service Act. However, when someone files a complaint against a fire fighter or police officer in Houston, the only notice that is required to be given to that person is 48 hours prior to having to appear to defend the action. This bill:

Requires the investigator to inform the fire fighter or police officer in writing of the nature of the complaint and the name of each person making the complaint within 30 days of receiving the complaint and provides an exception to notification for criminal investigations.

Burial in the State Cemetery - H.B. 2562
by Representative Rose - Senate Sponsor: Senator Barrientos

The Texas State Cemetery allots spaces for graves for those persons deemed eligible, including former members of the legislature, former elected state officials, and certain former appointed officials. Current law does not allow those who hold office to be allotted spaces for burial while they hold office. This bill:
Allows grave spaces to be allotted for a person who will be eligible for burial and the person’s spouse and unmarried child, if the child, on September 1, 1979, or at the time of the child’s death, was a resident in a state-operated or state-licensed eleemosynary institution.

Creation of the Public Safety Radio Communications Council - H.B. 2650
by Representative Kuempel - Senate Sponsor: Senator Armbrister

Texas’ public safety and emergency response teams are equipped with radio communication systems that operate on different frequencies, which can hinder communications during an emergency. This bill:

Creates a Public Safety Radio Communications Council (council) to research and develop a program to integrate statewide public safety communications and to advise the Department of Public Safety during program implementation.

Establishes that no later than September 1 of each year, the council shall provide to the legislature a report on the status of its duties.

Conflicts of Interest and Lobbyists - H.B. 3149
by Representative Wilson - Senate Sponsor: Senator Harris

The Lobby Act as enacted by the legislature in 2001 attempted to govern conflicts of interest for registrants, and was patterned after the Texas State Bar’s Disciplinary Rule of Professional Conduct, which governs conflicts of interest for attorneys. However, certain provisions that represent conflicts of interest lack clarity and have been difficult to enforce. This bill:

Defines “client,” “matter,” and “person associated with the registrant” or “other associated person.”

Prohibits a registrant from representing a client in communicating directly with a member of the legislative or executive branch to influence legislative subject matter, except under specific conditions.

Authorizes a registrant to represent a client if, among other conditions, the registrant within 10 days of becoming aware of a conflict indicates to the Texas Ethics Commission that there is a conflict, that the affected parties have been notified, and the name and address of each affected client.

Requires an affirmation, under oath, that a registrant, to the best of the registrant’s knowledge, has complied with this Act.

Same-Sex Marriages and Civil Unions - S.B. 7
by Senator Wentworth, et al. - House Sponsor: Representative Chisum

Prohibits the state or an agency or political subdivision of the state from giving effect to a right or claim to any legal protection, benefit, or responsibility asserted as a result of a same-sex marriage or a civil union in
this state or in any other jurisdiction; and from giving effect to a public Act, record or judicial proceeding that creates, recognizes, or validates a same-sex marriage or a civil union.

**Passing Stationary Emergency Vehicles - S.B. 193**
*by Senator Barrientos, et al. - House Sponsor: Representative Bonnen*

Requires that a driver, unless otherwise directed by a police officer:
- vacate the lane closest to the emergency vehicle when driving on a highway with two or more lanes traveling in the direction of the emergency vehicle; or
- slow to a speed not to exceed:
  - 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or more; or
  - five miles per hour when the posted speed limit is less than 25 miles per hour.

Makes the offense a misdemeanor, the degree to which is dependent on the severity of the offense.

**Feral Hogs - S.B. 236**
*by Senator Fraser - House Sponsor: Representative Hupp*

Current law does not allow landowners to hunt depredating animals, such as feral hogs, or to protect their land from such animals without first purchasing a hunting license from the State of Texas. Feral hogs can cause physical damage to crops and create large divots in the land, which in turn depletes the monetary value of the property. This bill:

Allows a resident or nonresident landowner or the landowner’s agent or lessee to take feral hogs causing depredation on the resident landowner’s land without having acquired a hunting license.

**Benefits for Police and Fire Chaplains Killed in the Line of Duty - S.B. 482**

Currently, survivors of certain law enforcement officers, firefighters, and others killed in the line of duty are eligible for financial assistance. The 107th United States Congress passed a law providing benefits to the survivors of police and fire chaplains. This bill:

Adds to the list of those eligible for financial assistance under the Employees Retirement System the eligible survivors of chaplains of certain fire fighting units, law enforcement agencies, or the Texas Department of Criminal Justice.
Parks and Recreational Facilities - S.B. 624
by Senator Lindsay - House Sponsor: Representative Callegari

Currently, the Texas Constitution prevents the use of water district tax receipts for the development of parks and recreational facilities. Consequently, districts are limited in their ability to pay for the construction of facilities. This bill:

Requires voter approval before tax-backed bonds may be issued for the development of recreational facilities.

(See S.J.R. 30, page 397)

Pyrotechnic Protections - S.B. 693
by Senator Gallegos, et al. - House Sponsor: Representative Eiland

Texas has no uniform standards for the use of flame effects or pyrotechnics. This bill:

Requires that if an assembly of 50 people or more are gathered, certain National Fire Protection Association standards must be met.

Requires a person to be a licensed flame effects operator under certain conditions.

Authorizes the commissioner of insurance to set and collect certain fees.

Requires applicants for permits to submit to certain conditions in order to carry insurance.

Surcharge for the Texas Wine Marketing Assistance Program - S.B. 855
by Senators Madla and Nelson - House Sponsor: Representative Swinford

The 77th Legislature established the Texas Wine Marketing Assistance Program within the Department of Agriculture to assist the Texas wine industry in promoting and marketing Texas wines and educating the public about the Texas wine industry.

To facilitate the implementation and operation of the program, a funding mechanism was created which generates $250,000 per year from a surcharge imposed on certain licenses and permits issued by the Texas Alcoholic Beverage Commission. That mechanism was only authorized for use through August 31, 2003. This bill:

Continues the funding mechanism for the Texas Wine Marketing Assistance Program on a permanent basis.
Emergency Services Districts and Rural Fire Prevention Districts - S.B. 1021  
*by Senator Madla - House Sponsor: Representative Lewis*

Currently, there are two types of special districts: rural fire prevention districts and emergency services districts. While these districts provide similar services, their ability to fund the districts’ operations differ.

Provides for the conversion of rural fire prevention districts to emergency services districts.

(See S.J.R. 45, page 347)

Authority and Permissible Actions of State and Local Officers - S.B. 1047  
*by Senator Ellis - House Sponsor: Representative Goodman*

Current law does not protect a state or local officer who is acting in a legislative capacity from being subject to disciplinary action or a sanction, penalty, disability, or liability. This bill:

Provides that a state or local officer, whether elected or appointed, including a member of the governing body of a school district or other political subdivision, shall not be subject to disciplinary action or sanction, penalty, disability, or liability for:

- an action permitted by law that the officer takes in the officer’s official capacity regarding a legislative measure;
- proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
- the effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
- a breach of duty, in connection with the member’s practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person regarding an officer’s actions relating to or the effects of a legislative measure.

Corporate Ethics and Integrity - S.B. 1059  
*by Senator Ellis, et al. - House Sponsor: Representative Marchant*

Creates a corporate integrity unit within the Office of the Attorney General (OAG) to assist in the enforcement of the laws relating to corporate fraud or similar illegal activities.

Requires state or local law enforcement agencies to cooperate with the corporate integrity unit by providing information requested by the unit. This information is confidential and not subject to public disclosure.

Requires the governing body of a state governmental entity to adopt standards of conduct applicable to certain financial advisors or service providers who are not employees of the entity and provide financial
services or advice to the entity in connection with the management or investment of state funds. This does not apply to state funds that are managed or invested only by the comptroller of public accounts.

Requires a contract between a financial advisor or service provider and a governmental entity to be voidable by the entity if the financial advisor or service provider violates a standard of conduct adopted under this Act.

Sets out disclosure requirements for such financial advisors or service providers.

Provides that OAG is not required to implement this Act unless a specific appropriation for the implementation is provided in the General Appropriations Act of the 78th Legislature.

**Administering Notary Public Oaths - S.B. 1087**
*by Senator Staples - House Sponsor: Representative Marchant*

Currently, an applicant for the position of notary public is required by the Texas Constitution to execute the “Statement of Officer” before a notary public or other person so authorized. This bill:

Removes the requirement that an applicant execute the form in the presence of an authorized person.

**Regulation of Elevator Safety and Inspection - S.B. 1090**
*by Senator Carona - House Sponsor: Representative Geren*

Currently, the state's authority, through the Texas Department of Licensing and Regulation, to regulate and enforce elevator safety and inspection requirements, is limited. This bill:

Creates a mechanism to regulate the registration of professionals who work on elevators.

Sets forth requirements for the inspection of elevators, including provisions relating to standards, inspection reports, and equipment application.

Authorizes the commissioner of licensing and regulation (commissioner) to shut down equipment operations through an emergency order.

Increases the number of members on the elevator advisory board from nine to 13, and provides that the members be appointed by the governor rather than the commissioner.

**Technology Access Clause Exemption for Certain Emergency Personnel - S.B. 1155**
*by Senator Shapleigh - House Sponsor: Representative Dukes*

The technology access clause requiring both visual and nonvisual access to automated information systems (AIS) is included in all documents and contracts relating to the procurement of AIS products
entered into by the state or state agencies. Due to the nature and requirement of the work of emergency response personnel, police, and firefighters, which precludes persons with visual impairments from performing certain jobs, it is not practical for wireless communications devices used by these emergency response personnel to meet the requirements of the technology access clause. This bill:

Exempts peace officers, firefighters, and other emergency response personnel from purchasing wireless communication devices to be used when responding to a public safety emergency.

**Industry Public Entertainment Facilities Act - S.B. 1380**

*by Senator Armbrister - House Sponsor: Representatives Driver and Flores*

Currently, Texas Alcoholic Beverage Commission rules permit public entertainment facilities to allow manufacturers and wholesalers of the alcoholic beverage industry to advertise, promote, and sponsor entertainment events, if unlawful relations with retailers operating in those facilities are not established. This bill:

Enacts the Industry Public Entertainment Facilities Act (Act).

Sets forth provisions governing the statutory duties, rights, and relations among licensees and permittees operating under this Act, including their relations with the owners and operators of public entertainment facilities.

Sets forth provisions to expressly authorize alcoholic beverage distillers, manufacturers, distributors, and wholesalers, with certain exceptions, to promote and sponsor events and advertise alcoholic beverage brands and products at public entertainment facilities without establishing unlawful relations, including with retail permittees operating at those facilities.

Sets forth provisions for the application of this Act to distillers, manufacturers, distributors, wholesalers, retailers, concessionaires, and public entertainment facility owners or operators.

Sets forth provisions for an optional process for preapproval of advertising, promotional, sponsorship, or concessionaire agreements relating to a public entertainment facility.

Sets forth provisions for judicial review of the process and rights provided by this Act.

Sets forth provisions regarding the hours of sale and consumption at a sports venue.

**Ex Officio Appointments of Senators to Texas Boards and Commissions - S.B. 1418**

*by Senator Ratliff - House Sponsor: Representative Marchant*

Removes the requirement that the lieutenant governor appoint the chair of a specific senate standing committee to certain boards and instead authorizes the lieutenant governor to appoint any member of the Texas Senate to the:
Agriculture Policy Board;
Texas Judicial Council;
Task Force on Indigent Defense;
Legislative Audit Committee;
Texas Legislative Council;
Legislative Library Board;
Texas Strategic Military Planning Commission;
Texas Emissions Reduction Plan Advisory Board;
Oil-Field Cleanup Fund Advisory Committee; and
Electric Utility Restructuring Legislative Oversight Committee.

**Eminent Domain Reclaimed - S.B. 1708**
*by Senator Wentworth - House Sponsor: Representative Baxter*

Currently there is no mechanism to allow a person whose property was acquired by the government through eminent domain for a specific project when such project is cancelled, to reacquire the property, other than through a bidding process. This bill:

Requires a governmental entity to disclose, at the time of acquisition, that the owner, the owner’s heirs, successors, or assigns, of property obtained through eminent domain, are entitled to repurchase the property if the public use for which the property was acquired is cancelled before the tenth anniversary of the date of acquisition.

Requires that the repurchase price be the fair market value of the property at the time the public use was cancelled.

Requires that the governmental entity notify the property owner or the owner’s heirs, successors, or assigns notice of the above. Sets forth a timeframe for the property owner, owner’s heirs, successors, or assigns to notify the governmental entity of the person’s intent to repurchase the property.

**Rural Fire Prevention Districts and EMS Districts - S.J.R. 45**
*by Senator Madla - House Sponsor: Representative Lewis*

Currently, there are two types of special districts: rural fire prevention districts and emergency services districts. While the districts provide similar services, their ability to fund operations differs. This bill:

Requires a vote on a constitutional amendment to repeal the legislature’s authority to provide for the creation of rural fire prevention districts. Requires this proposed constitutional amendment to be submitted to the voters on September 13, 2003.

(See S.B. 1021, page 344)
Disclosure of Personal Customer Information - H.B. 298
by Representative Miller - Senate Sponsor: Senator Nelson

Under current law, the Texas Parks and Wildlife Department (TPWD) is allowed to develop a policy for the release of information relating to persons who hold a license issued by TPWD. This bill:

Directs Texas Parks and Wildlife Commission to adopt policies that prohibit the sale of a mailing list that contains the name, address, e-mail address, telephone number, social security number, driver’s license number, bank account number, credit card number, or charge card number of a person who purchases customer products, licenses, or services from the TPWD.

Directs that the policies adopted may not be construed to restrict access to customer information by a person who is entitled to receive the information or other applicable law.

Privacy and Personal Information - H.B. 500
by Representative Goolsby - Senate Sponsor: Senator Carona

State law requires an appraisal agency to collect either a driver’s license or social security number from applicants for exemptions, and provides that this information is open to the public. This bill:

Prohibits a driver’s license number, personal identification certificate number, or social security number provided in an application for an exemption filed with a chief appraiser from being disclosed to another person other than an employee of the appraisal office who appraises property.

Provides certain penalties if these conditions are not maintained.

Confidentiality of Social Security Numbers - H.B. 1053
by Representative Rodriguez, et al. - Senate Sponsor: Senator Ellis

Protects the confidentiality of social security numbers by prohibiting certain Acts, including: publicly displaying an individual’s social security number; requiring an individual to transmit a social security number over the Internet, unless the connection is secure or the social security number is encrypted; or printing an individual's social security number on any card required for the individual to access products or services.

Authorizes a person to collect, use, or release a social security number for internal verification or administrative purposes.

Authorizes a person who, before January 1, 2005, has used an individual's social security number in a manner prohibited by this Act to continue using that individual's social security number in the same manner if the person provides an annual disclosure, beginning January 1, 2006, informing the individual of the right to stop the use of the social security number in such a manner.
Requires a person who receives a written request from an individual directing the person to stop using the individual's social security number in a manner prohibited by this Act to comply with the request not later than the 30th day after the date the request is received.

Prohibits a person from denying products or services to an individual because the individual makes such a written request.

Exempts governmental bodies, certain state or federal documents, and persons acting under state or federal law from this Act.

**Release of E-Mail Addresses by Governmental Entities - H.B. 2032**

*by Representative Hochberg - Senate Sponsor: Senator Wentworth*

Governmental entities release of e-mail addresses raises concerns about confidentiality for some. This bill:

Provides that an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure.

Provides that this does not apply to a person who has a contractual relationship with a governmental body or to the contractor’s agent or a vendor who seeks to contract with the governmental body or to the vendor’s agent.

**Sharing State Agency Information for Investigative Purposes - H.B. 2040**

*by Representative Marchant - Senate Sponsor: Senator Ellis*

Authorizes the Texas Office of the Attorney General, the Texas Department of Insurance, the Texas State Board of Public Accountancy, the Public Utility Commission of Texas, or the State Securities Board to share confidential information for investigative purposes relating to corporate fraud by a person licensed or regulated by any of those state agencies.

Provides that such information remains confidential under law and legal restrictions on access to the information remain in effect.

Requires the state agency that receives shared information to keep the information secure and limit access to agency personnel who need access for investigative purposes.

Limits disclosure of such information: to those agencies listed in this Act; to an appropriate law enforcement agency or prosecutor, if the state agency determines that the information may be evidence of an offense; or under a court order or subpoena obtained after a showing to a court that disclosure of the information is necessary to protect the public health, safety, or welfare.
Confidentiality and Tax Appraisal Districts - H.B. 2819
by Representatives Driver and Reyna - Senate Sponsor: Senator Deuell

Current law requires tax appraisal district records to include the name and address of the property owner. In the case of the victim of a serious crime of family violence, disclosure of the home addresses of such individuals is potentially dangerous to the individual, the individual’s family, and the individual’s property. This bill:

Includes with those entitled to confidentiality of home address information, a victim of family violence as defined by Section 71.004 (Family Violence) of the Family Code.

HMOs Excepted from Open Meetings Law - S.B. 121
by Senator Lindsay - House Sponsor: Representative Marchant

Exempts the governing board of a health maintenance organization (HMO) from conducting an open meeting if the deliberations include:

- pricing or financial information relating to a bid or negotiation if such negotiations would give an advantage to competitors of the HMO; or
- information relating to a proposed new service product line of the HMO if not yet publicly announced.

Privacy and Marriage Licenses - S.B. 174
by Senator Nelson - House Sponsor: Representative Madden

Marriage license applications currently are considered open records and thus available to the public. This information includes an applicant’s name, social security number, and address. This bill:

Authorizes applicants to request that their personal information remain confidential.

Provides that access to certain information be restricted according to individual applicant’s requests.

Access to Criminal History Records of Volunteers - S.B. 443
by Senators Wentworth and Hinojosa - House Sponsor: Representative Keel

Currently, volunteer centers are entitled to obtain criminal history record information; however, the manner in which volunteer centers is defined precludes certain nonprofit programs, including the YMCA and youth soccer leagues, from obtaining certain criminal history records from the Department of Public Safety. This bill:

Allows nonprofit organizations which provide activities for children to perform background checks on a person who is a volunteer or is applying to be a volunteer of the activity provider.
Interagency Exchange of Information Regarding Offenders - S.B. 519
by Senator Duncan - House Sponsor: Representative Allen

The federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 grants to patients considerable control over their health care records. The regulations account for situations where privacy issues may conflict with confinement requisites, but once an inmate is released from custody, their full rights under HIPAA come into play. There are three state statutes that permit, but do not require, information sharing on offenders. This bill:

Makes mandatory three state statutes that currently provide for permissive information sharing with regard to special needs offenders, parolees, in general, and sex offenders, in particular but restricts the release of such information to specified criminal justice, law enforcement, and government entities for certain purposes.

Misused Identity and Expunction of Identifying Information - S.B. 566
by Senator West - House Sponsor: Representative Driver

Requires the local law enforcement agency responsible for collecting identifying information on receipt of information to the effect that a person's identifying information was falsely given by a person arrested to:
- notify the person that:
  - the person's identifying information was misused by another person arrested in the county;
  - the person may file a declaration with the Department of Public Safety (DPS); and
  - the person is entitled to expunction of information contained in criminal records and files;
- notify DPS regarding:
  - the misuse of the identifying information;
  - the actual identity of the person arrested, if known by the agency; and
  - whether the agency was able to notify the person whose identifying information was misused.

Authorizes a person who is entitled to expunction of information contained in records and files to file an application for expunction with the attorney representing the state in the prosecution of felonies in the county in which the person resides.

Requires verification of the application including authentication of fingerprint records of the applicant, and the following or an explanation for why one or more of the following is not included:
- the applicant's full name, sex, race, date of birth, driver's license number, social security number, and address at the time the person who falsely identified himself or herself as the applicant was arrested;
- the following information regarding the arrest:
  - the date of arrest;
the offense charged against the person arrested;  
the name of the county or municipality in which the arrest occurred; and  
the name of the arresting agency; and  
a statement that:  
the applicant is not the person arrested and for whom the arrest records and files were  
created; and  
the applicant did not give the person arrested consent to falsely identify himself or herself  
as the applicant.

Requires the attorney representing the state after verifying the allegations in an application to:  
include on the application information regarding the arrest that was requested of the applicant but  
was unknown by the applicant;  
forward a copy of the application to the district court for the county;  
attach to the copy a list of all law enforcement agencies, jails or other detention facilities,  
magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of  
criminal records, and other officials or agencies or other entities of this state or of any political  
subdivision of this state and of all central federal depositories of criminal records that are  
reasonably likely to have records or files containing information that is subject to expunction; and  
request the court to enter an order directing expunction based on an entitlement to expunction.

Requires the court on receipt of a request by the attorney representing the state, without holding a hearing  
on the matter, to enter a final order directing expunction.

Requires DPS on receipt of information from a local law enforcement agency to:  
provide the notice described to the person whose identity was misused, if the local law  
enforcement agency was unable to notify the person;  
take action to ensure that the information maintained in the computerized criminal history system  
reflects the use of the person’s identity as a stolen alias; and  
notify the Texas Department of Criminal Justice that the person’s identifying information may have  
been falsely used by an inmate in custody.

Display of Social Security Number Restricted - S.B. 611  
by Senators Nelson and Ellis - House Sponsors: Representatives McCall and Hopson

According to the United States Department of Justice, as many as 700,000 people a year may be victims of  
identity theft, and Federal Trade Commission data indicates nearly 86,000 individuals filed identity theft  
complaints in 2001. Research predicts that identity theft will cost the financial institution sector $8 billion by  
2006. This bill:
Prohibits a person from printing an individual’s social security number on a card or other device required to access a product or service provided by the person unless the individual has requested in writing such printing.

Prohibits a person from requiring a request for such printing as a condition to receipt of or access to a product or service provided by the person.

Provides that a person who violates these provisions is liable to the state for a civil penalty in an amount not to exceed $500 for each violation.

Authorizes the Office of the Attorney General (OAG) or the prosecuting attorney in the county in which the violation occurs to bring suit to recover the civil penalty.

Authorizes the OAG to bring an action in the name of the state to restrain or enjoin a person from violating this Act.

Provides that these provisions take effect March 1, 2005.

**Right to Public Information - S.B. 653**

*by Senator Wentworth - House Sponsor: Representative Baxter*

Current law does not clearly specify the method of charging for copies of information requested under the Public Information Act, nor does it set out how to resolve complaints for overcharging. This bill:

Clarifies that the cost for requests for 50 or fewer pages of the paper record will be the charge for each page of the paper record, not including costs for materials, labor, or overhead.

Provides a protocol for alleged overcharge fees for requesting public information.

Clarifies the timeline for response time for the Texas Building and Procurement Commission concerning complaints for overcharging.

**Victim Impact Statement - S.B. 1015**

*by Senator Wentworth - House Sponsor: Representative Elkins*

Currently, under the Public Information Act, information that is held by a law enforcement agency, prosecutor, or filed with a court, and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement, is not confidential. This bill:

Provides that certain identifying information that is held by a governmental body or filed with a court and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement is confidential. This provision would apply to a crime victim’s name, social security number, address, and telephone number, and any other information which could be used to identify a crime victim.
Restrictions on the Disclosure of Criminal Records - S.B. 1477
by Senator West - House Sponsors: Representatives Talton and Hodge

Provides that a person who has been placed under a custodial or noncustodial arrest for the commission of either a felony or misdemeanor is entitled to have all records and files relating to arrest expunged under certain conditions.

Provides that when the order of expunction is final, the release, dissemination, or use of the expunged records and files for any purpose other than for use by criminal justice agencies, non criminal justice agencies authorized by federal or state law, or the person who is the subject of the information, is prohibited.

Provides that if a person is placed on deferred adjudication community supervision and subsequently receives a discharge and dismissal and has not been convicted of certain offenses, the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure.

Allows a person who is the subject of information that is excepted from the requirements of public availability of information to deny the occurrence of the arrest and prosecution to which the information relates and the exception of the information, unless the information is being used against the person in a subsequent criminal proceeding.

Prohibits a private entity that compiles and disseminates for compensation criminal history record information from compiling or from disseminating information with respect to which an order of nondisclosure has been issued and sets forth penalties for entities that fail to comply.

Motor Vehicle Sales Finance License Information Confidentiality - S.B. 1526
by Senator Brimer - House Sponsor: Representative McCall

Currently, information contained in an application for a motor vehicle sales finance license issued by the consumer credit commissioner (commissioner) is not confidential and could be subject to open records requests. The commissioner is permitted to require, as part of a license application, that auto dealerships provide fingerprints of persons not involved in the direct sale or finance of vehicles. This bill:

Provides that information contained in an application for a license or other application information relating to a license holder or license applicant that is on file with the commissioner is confidential and not open to public inspection, with a certain exception.

Authorizes information made confidential by this Act to be disclosed in a judicial or administrative proceeding pursuant to a lawful subpoena.

Prohibits the commissioner from requiring a person to provide the person’s fingerprints if the person is not regularly engaged in a business of an applicant or license holder, or suspending or revoking a license or denying an application for a license because the applicant or license holder did not provide the fingerprints of a person who is not regularly engaged in a business of the applicant or license holder.
Confidentiality and Access to Certain Personal Information - S.B. 1559
by Senator Madla - House Sponsor: Representative Lewis

Prohibits a deed, mortgage, or deed of trust transferring an interest in real property to or from an individual from being recorded unless a certain notice appears on the first page of the instrument that notifies the person filing the instrument that it is permissible to strike certain information from the instrument before it is filed in the public records.

Prohibits the county clerk from rejecting an instrument presented for recording because the instrument contains or fails to contain a social security number or driver’s license number.

Requires the county clerk to post a notice in the county clerk’s office stating that instruments recorded in the real property or official public records or the equivalent of the real property or official public records of the county and executed on or after January 1, 2004, are not required to contain a social security number or driver’s license number, and are public records available for review by the public.

Requires an instrument filed to comply with federal law in the event that there is a conflict between this Act and federal law.

Provides that such instruments are subject to inspection by the public.

Penalty for Disclosing Genetic Information - S.B. 1614
by Senators Ellis and Van de Putte - House Sponsor: Representative Homer

State law already bars discrimination based on genetic information, but does not provide for a penalty for the unauthorized disclosure of such information. This bill:

Provides that person who discloses genetic information in violation of state law is liable for a civil penalty of not more than $10,000.

Authorizes the Texas attorney general to bring an action in the name of the state to recover the penalty, plus reasonable attorney's fees and court costs.
State Bar of Texas, Sunset - H.B. 599
by Representative Chisum, et al. - Senate Sponsor: Senator Jackson

Continues the State Bar of Texas (state bar) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to board membership, board training, removal of board members, conflicts of interest, equal opportunity policy, complaints, the state employee incentive program, and the use of technology.

Elections

Deletes the provision stating that an election is valid only if a least 51 percent of the registered members of the state bar vote in the election.

Authorizes the state bar, with the approval of the supreme court to electronically distribute ballots and information, and to receive completed ballots in state bar elections. Requires, before implementing electronic balloting, that the supreme court be satisfied that the state bar has implemented procedures to ensure each member of the state bar will have secure access to election ballots and information. Sets forth provisions relating to promoting, monitoring, and reporting on participation in state bar election.

Legal Services Fee

Requires the supreme court to set a legal services fee at $65 for each active member of the state bar to be used only to provide basic civil legal services to the indigent and other defense services for the indigent. Attorneys not required to pay the fee include an attorney who is:

- 70 years or older;
- a sitting judge;
- a federal or state employee;
- a city, county, or district attorney’s office employee who does not have a private practice that accounts for more than 50 percent of the attorney’s time;
- a nonprofit corporation employee and is prohibited from the outside practice of law;
- exempt from minimum continuing legal education (MCLE) requirements because of nonpracticing status; or
- not residing in Texas and does not practice law in Texas.

Requires the comptroller of public accounts (comptroller) to credit the collected fee as follows:

- 50 percent to the judicial fund for programs approved by the supreme court that provide basic legal services to the indigent; and
- 50 percent to the fair defense account for demonstration and pilot projects that develop and promote best practices for the effective delivery of quality representation to indigent defendants in criminal cases, at trial, on appeal, and in postconviction proceedings.
Complaint and Grievance Procedure

Requires the chief disciplinary counsel’s office to classify each grievance on receipt as:
- a complaint, if the grievance alleges conduct that, if true, constitutes professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct; or
- an inquiry, if:
  - the grievance alleges conduct that, even if true, does not constitute professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct; or
  - the respondent attorney is deceased, has relinquished the attorney’s license to practice law in this state, or is not licensed to practice law in this state.

Sets forth provisions relating to the disposition of inquiries and complaints. Requires the supreme court to promulgate rules regarding the classification and disposition of grievances, including rules specifying time limits for each state of the grievance resolution process.

Authorizes the Commission for Lawyer Discipline or a respondent’s attorney to appeal a:
- finding of a panel of a district grievance committee after a hearing has been conducted to the Board of Disciplinary Appeals;
- finding of the Board of Disciplinary Appeals to the supreme court; and
- judgment of a district court as in civil cases generally.

Provides that all types of information, proceedings, hearing transcripts and statements presented to a panel of a district grievance committee are confidential and may not be disclosed to any person other than the chief disciplinary counsel unless:
- disclosure is ordered by a court; or
- the panel finds that professional misconduct occurred and a sanction other than a private reprimand is imposed against the respondent attorney.

Requires the state bar to recognize, prepare, or administer continuing education programs for its members. Requires members to participate in the programs to the extent required by the supreme court to maintain the person’s state bar membership.

Executive Committee of the State Bar

Creates an executive committee the duties of which to:
- approve the creation of additional standing and special committees of the state bar on the recommendation of the president of the state bar;
- conduct a comprehensive review of standing and special committees of the state bar at least biennially and more frequently as the executive committee determines necessary to assess whether there is a continued need for each committee and unnecessary overlap of the committees' activities; and
perform other duties as delegated by the board of directors.

Practice of Law

Sets forth parameters under which a county judge or county commissioner engaged in the private practice of law may practice law in the courts located in the county where the county judge or commissioner serves.

Texas State Board of Public Accountancy, Sunset - H.B. 1218
by Representative Chisum, et al. - Senate Sponsor: Senator Nelson

Continues the Texas State Board of Public Accountancy (TSBPA) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to conflicts of interest, removal of board members, board member training, staff training, separation of TSBPA board and staff functions, equal employment opportunity policy, the state employee incentive program, information on complaints, renewal of licenses, the full range of administrative penalties, negotiated rulemaking and alternative dispute resolution, and use of technology.

Authorizes TSBPA to appoint policy-making and working committees to assist TSBPA in establishing policies, drafting rules, setting budgets, performing other oversight duties, and reviewing enforcement cases and other licensing matters. Sets forth provisions relating to committee membership, powers, and duties.

Requires TSBPA to adopt rules relating to consequences of criminal conviction including specifying misdemeanor offenses.

Provides that an offense in violation of the Public Accountancy Act (Act) involving intentional fraud is a:
- state jail felony if the violation resulted in no monetary loss or a monetary loss of less than $10,000;
- third degree felony if the violation resulted in a monetary loss of at least $10,000 but less than $100,000; and
- second degree felony if the violation resulted in a monetary loss of at least $100,000.

Provides immunity from civil and criminal liability for a person acting in good faith who voluntarily reports or assists in the investigation of a violation of the Act or otherwise participates in proceedings relating to the violation. Prohibits this immunity from extending to a person who reports his or her own violation or who is acting in bad faith or with malicious purpose.

Sets forth provisions relating to TSBPA’s authority to issue subpoenas, administer oaths, and receive evidence.

Requires TSBPA to report to the governor, lieutenant governor, and the speaker of the house of representatives, by December 31, 2004, regarding:
- federal requirements resulting from the Sarbanes-Oxley Act (relating to protecting investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws), including any restrictions on public interest entities, and any legislation or other action need to conform state law to the requirements of the federal Act;
- the federal General Accounting Office study on audit firm rotation and any legislation or other action needed to conform state law to the findings of the study; and
- rules adopted by TSBPA that are intended to comply with federal standards and the board’s actions in implementing and enforcing such rules.

Location of Correctional or Rehabilitation Facilities, Sunset - H.B. 1331
by Representative Solomons, et al. - Senate Sponsor: Senator Lucio

Requires a state agency, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state that proposes to construct or operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area operated by the state or political subdivision of the state, or a church, synagogue, or other place of worship to provide written notice to commissioners courts and the governing bodies of municipalities in locations where a facility is proposed to be located or operated.

Requires that this notice include a statement of the entity’s intent to construct or operate a facility and the proposed location of the facility.

Authorizes the commissioners court of a county or governing body of a municipality to adopt a resolution without holding a public hearing if the commissioners court allows a public meeting held by the Texas Department of Criminal Justice to determine whether operating the facility in the proposed location would be in the best interest of the county or municipality to fulfill the public hearing requirement.

Provides that the commissioners court or governing body retains the discretion to hold a separate public hearing as it considers necessary or appropriate.

Texas Funeral Services Commission, Sunset - H.B. 1538
by Representative Chisum, et al. - Senate Sponsor: Senator Shapleigh

Continues the Texas Funeral Services Commission (TFSC) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to board appointments, public testimony at board meetings, use of technology, negotiated rulemaking and alternative dispute resolution procedures, complaints, license renewal, and full range of penalties.
Transfers to TFSC from the Texas Department of Health the regulation of cemetery and crematory services. Prohibits TFSC from regulating cemetery and crematory services that occur after burial or inurnment unless the services relate to the care and treatment of the remains in an urn, casket, or outer enclosure. Provides for licensing, rather than registration, of crematories.

Sets forth the circumstances under which TFSC may inspect cemeteries. Requires TFSC to give priority to the inspection of crematories or funeral establishments over inspection of cemeteries.

Sets forth provisions allowing mortuary college credit for provisional licensing of funeral directors and embalmers and defining work hour limits for provisional licensees.

Prohibits a cemetery from conducting a cemetery business unless licensed by TFSC and sets forth licensing requirements. Provides that the requirement to be licensed does not apply to:
- a family, fraternal, or community cemetery that is not larger than 10 acres;
- an unincorporated association of plot owners not operated for profit;
- a church, a religious society or denomination, or an entity solely administering the property and/or finances of a church or religious society or denomination; or
- a public cemetery owned by this state, a county, or a municipality.

Includes the sale of funeral-related goods and services in the list of activities for which a person could be held as in violation of the laws regulating cemetery and crematory services, funeral directing, and embalming.

Adds to the list of unethical conduct regarding the custody of a dead human body, the violation of any state law governing the transportation, storage, refrigeration, inurnment, interment, or disinterment of a dead human body.

Authorizes TFSC to bring suit in relation to certain historical cemeteries.

**Perpetual Care Cemeteries**

Sets forth the scope of rulemaking and enforcement authority for the State Finance Commission relating to perpetual care cemeteries and for the TFSC relating to cemeteries that are not perpetual care cemeteries.

Provides that TFSC’s authority to regulate cemetery and crematory services does not affect the authority of the Texas Department of Banking to regulate perpetual care cemeteries.

Prohibits TFSC from charging a fee to a perpetual care cemetery, including a fee for issuing or renewing a license issued. Requires a cemetery to submit a license renewal for a perpetual care cemetery to be submitted on a form prescribed by TFSC.

Limits the use of a perpetual care trust fund to providing for the perpetual care described in the instrument that established the fund. Deletes the discretion of the directors of a perpetual care trust fund to determine the use of the fund. Increases the amount required to be deposited in the fund.
The Texas Ethics Commission, Sunset - H.B. 1606
by Representative Wolens - Senate Sponsor: Senator Ellis

Continues the Texas Ethics Commission (TEC) for 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to board membership, board membership restrictions, grounds for removal, board member training, separation of board and staff functions, equal opportunity policy, unbiased appointments, information on complaints, standards of conduct, negotiated rulemaking and alternative dispute resolution procedures, proposed technology solutions, and the state employee incentive program.

Campaign Finance Provisions

Increases the civil penalty for filing a late campaign finance report, in most cases, to $500.

Requires all filers to report the total amount of political contributions maintained on the last day of each reporting period.

Requires statewide officeholders and legislators, candidates for those offices and their political committees to report the contributor’s principal occupation or job title, and the full name of the employer of each contributor contributing more than $500 in the reporting period.

Provides that for campaign finance reports filed on or after September 1, 2003, a filer may claim an exemption from electronic filing only if the filer does not use a computer to keep current records of contributions, expenditures, and donors, and the filer does not exceed $20,000 in political contributions or expenditures in a calendar year.

Requires campaign finance reports that are due on or after September 1, 2003, to be electronically filed. In addition, district judges and multi-county district attorneys will be required to file pre-election “telegram reports.”

Requires candidates for district judge, State Board of Education, and multi-county district offices, beginning September 1, 2003, to file pre-election “telegram” reports.” Requires the same reporting threshold, reporting period, and filing deadline to apply to all filers. Requires that beginning September 1, 2003, pre-election “telegram reports” be filed if the filer accepts political contributions from a person that in the aggregate exceed $1,000 during the period beginning the ninth day before Election Day and ending at noon on the day before Election Day. Requires the report to be filed on the first business day after the contribution is accepted.

Requires general-purpose committees to report corporate or labor organization expenditures in order to establish or administer the committee or to finance the solicitation of permissible political contributions to the committee.

Requires that out-of-state political committees to file copies of their reports with TEC beginning September 1, 2003.
Provides that in counties with a population of 350,000 or more, candidates for county chair of a political party with a nominee on the ballot in the most recent gubernatorial general election must file campaign finance reports and are subject to campaign finance provisions.

Requires that political advertising that contains express advocacy and that is published, distributed, or broadcast on or after September 1, 2003, state that it is political advertising and disclose the full name of: the person who paid for the advertising; the political committee authorizing the advertising; or the candidate or specific-purpose committee supporting the candidate if the political advertising is authorized by the candidate.

Provides that political advertising authorized by a candidate, an agent of a candidate, or a political committee filing reports under the Texas campaign finance laws is deemed to contain express advocacy.

Requires candidates and officeholders to keep political contributions in one or more accounts that are separate from any other account maintained by the person.

**Lobby Law**

Increases the civil penalty for filing a late lobby activity report to $500.

Requires detailed reports of expenditures for transportation, lodging, food and beverage, or entertainment, exceeding $75 a day, made on or after September 1, 2003.

Requires TEC to implement an electronic filing system for lobby registrations and reports by December 1, 2004, and authorizes it to raise registration fees to cover the costs.

Requires certain changes relating to conflicts of interest to take effect September 1, 2003.

**Personal Financial Statement Reporting Requirements for State Officers**

Requires that the following new personal financial statement reporting requirements take effect in 2005 unless otherwise indicated:

Expands reports relating to interests in corporations and partnerships to include firms, joint ventures, and other business associations.

Requires filers to report interests in mutual funds and/or blind trusts.

Requires a state officer who is an attorney to report making or receiving any referral for compensation for legal services and the category of the amount of the legal fee.

Requires legislators licensed to practice law in Texas to report legislative continuances on their personal financial statements.

Increases the civil penalty for late filing to $500, effective September 1, 2003.
Legislators Appearing Before State Agencies

Provides that legislators hired on or after September 1, 2003, may not, for compensation, represent another person before a state agency in the executive branch. Provides that the prohibition does not apply if the representation is pursuant to an attorney/client relationship in a criminal law matter; the representation involves the filing of documents that involve only ministerial acts on the part of the agency; or the legislator was hired before September 1, 2003.

Provides that the prohibition does not apply to representation before a state agency for which the legislator was hired before September 1, 2003, but requires a legislator to continue to report that representation on the legislator’s personal financial statement.

Legislative Continuances

Requires a legislator who is an attorney for a party seeking a legislative continuance to file a copy of the application with TEC within three business days after the date the application is filed with the court.

Requires that beginning in 2005, a legislator licensed to practice law in Texas report legislative continuances on the legislator’s personal financial statement.

Notice Before Introducing or Voting on Legislation

Requires a legislator to file notices before introducing, sponsoring, or voting on a measure or bill if the legislator’s spouse or relative within the first degree by consanguinity is registered as a lobbyist with respect to the subject matter of the measure or bill.

Requires the notice to be filed with TEC and the chief clerk of the house or the secretary of the senate. Requires, additionally, that the spouse or relative file notice with TEC.

Personal Financial Statement Reporting Requirements for Local Officers

Requires the mayor, members of the governing body, the municipal attorney, and the city manager of a municipality with a population of 100,000 or more to file personal financial statements with the clerk or secretary of the municipality. Provides that this requirement does not apply until January 1, 2005, and TEC does not have jurisdiction.

Requires trustees of an independent school district with an enrollment of at least 5,000 students to file personal financial statements with the board of trustees and with TEC, beginning January 1, 2005.

Requires directors of sports and community venue districts to file personal financial statements with the board of directors of the district and with TEC, beginning January 1, 2005.

Requires members of the governing body of a port authority or navigation district to file personal financial statements with the authority or district and TEC, beginning January 1, 2005.
Speaker of the House of Representatives Election

Requires speaker candidates to file declarations of candidacy and reports of unexpended campaign funds after the candidacy ends. Requires contribution and expenditure statements to be filed electronically, and TEC to implement the system by September 1, 2004. Prohibits the use of political contributions to aid or defeat a speaker candidate.

Sworn Complaint Proceedings

Authorizes the executive director to accept jurisdiction of a sworn complaint and to refer a matter to a prosecuting attorney if the executive director reasonably believes a person who is the subject of a sworn complaint has violated penal code provisions regarding abuse of office, bribery, or corrupt influence.

Requires specific deadlines for a respondent to respond to a complaint and for agreed resolutions, and requires the Texas Ethics Commission (TEC) to adopt procedures regarding the extension of deadlines.

Authorizes TEC, on a vote of at least six TEC members, to subpoena documents and witnesses in connection with a preliminary review.

Allows a TEC employee, for the purpose of investigating a sworn complaint or motion, to disclose to the complainant, the respondent, or witness information that is otherwise confidential and relates to the sworn complaint under certain circumstances.

Schedule of Agencies Subject to Sunset Review - H.B. 2455

by Representative Chisum, et al. - Senate Sponsor: Senator Nelson

Provides that a working paper, including all documentary or other information, received, prepared or maintained by Sunset Advisory Commission (SAC) staff in performing its duties under this Act or other law to conduct an evaluation and prepare a report is excepted from the requirement that public information is available to the public at a minimum during the normal business hours of the governmental body.

Delays the abolition, pending review by SAC, of the State Board of Educator Certification (SBEC), the Texas Lottery Commission (TLC) and the lottery division of TLC from September 1, 2003 to September 1, 2005.

Requires SBEC and the Texas Education Agency to enter into a memorandum of understanding to consolidate administrative functions.

Requires SAC to do a special purpose review of the Windham School District.

Sets the following entities for SAC review in 2007: Texas Veterans Commission; Texas Department of Insurance; Office of Public Insurance Counsel; Prescribed Burning Board; and Veterans’ Land Board.
Requires the comptroller of public accounts to conduct a review of the regional education service centers and report the results to SAC and the presiding officers of the legislative standing committees responsible for public education.

Sets the following entities for SAC review in 2009: Equine Research Account Advisory Committee; Texas Online Division of the Department of Information Resources; Electronic Government Program management in the Office of the Department of Information Services; State Board of Examiners for Speech-Language Pathology and Audiology; State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments; Executive Council of Physical Therapy and Occupational Therapy Examiners; Texas Board of Physical Therapy Examiners; Texas Board of Occupational Therapy Examiners; and Texas Racing Commission.

Sets the Correctional Managed Health Care Committee for SAC review in 2011.

Sets the On-site Wastewater Treatment Research Council for SAC review in 2013.

**Board of Tax Professional Examiners, Sunset - S.B. 260**


Continues the Texas Board of Professional Land Surveying (TBPLS) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to number of board members, unbiased board appointments, conflicts of interest, staggered board terms, removal of board members, board member training, equal employment opportunity policy, the state employee incentive program, full range of penalties, rules on consequences of criminal conviction, negotiated rulemaking and alternative dispute resolution policy, technology policy, complaints, timely notice of examination results, and renewal of fees.

Sets forth provisions relating to the establishment of an examination advisory committee to assist TBPLS in developing each examination administered by the board.

Requires TBPLS to set fees in amounts reasonable and necessary to cover the costs of administering its duties.

**Texas Council on Purchasing from People with Disabilities, Sunset - S.B. 261**

*by Senator Shapleigh - House Sponsor: Representative Dunnam*

Continues the Texas Council on Purchasing from People with Disabilities (TCPDD) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to board membership, standards of conduct, board member training, separation of agency and staff functions, complaints, negotiated rulemaking and alternative dispute resolution procedures, and technology policy.
Requires TCPPD to adopt rules establishing and governing a formal certification procedure for recognizing and approving community rehabilitation programs.

- Requires the procedure to include a committee composed of three council members appointed by the presiding officer to review certification applications of community rehabilitation programs and issue recommendations to TCPPD.
- Authorizes TCPPD to delegate the administration of the procedure, although not the authority to certify, to a central nonprofit agency.
- Authorizes TCPPD or the central nonprofit agency to inspect a community rehabilitation program for certification compliance. Requires the committee to review the inspection results and recommend appropriate action to TCPPD.
- Sets forth provisions relating to the management fee rate and the review process of the central nonprofit agency’s functions under the purchasing program.

Requires TCPPD, with the assistance of the Texas Rehabilitation Commission, to review, analyze, and report on state agency compliance with statutory and administrative specifications of purchasing products from people with disabilities.

Requires the state auditor to audit agency compliance with statutory and administrative specifications of purchasing products from people with disabilities. Requires TCPPD to assist any agency not in compliance to attain compliance.

**State Board of Dental Examiners, Sunset - S.B. 263**

*by Senator Nelson - House Sponsor: Representative Gallego*

Continues the Texas State Board of Dental Examiners (TSBDE) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to conflicts of interest, removal of board members, board member training, staff training, use of technology, alternative rulemaking, dispute resolution procedures, tracking, investigating, and resolving complaints, the full range of penalties for licensee misconduct (including cease and desist orders), provisional licensing, renewal of licenses, conflicts of interests, and grounds for removal of board members.

Requires the governor to designate a member of TSBDE who is a dentist as the presiding officer.

Increases the time an out-of-state license applicant must have practiced dentistry or dental hygiene from at least three years to at least five years. Authorizes TSBDE to specify by rule the circumstances under which this requirement may be waived to three years of practice.

Authorizes the Dental Hygiene Advisory Committee to make recommendations, including proposed rules, to TSBDE relating to the regulation of the practice of dental hygiene. Authorizes TSBDE to adopt or reject
a rule in accordance with the recommendation. Requires TSBDE to adopt the rule if it has failed to take action on the recommended rule within 90 days.

Prohibits a dental assistant from making dental x-rays unless the assistant holds a certificate of registration issued by TSBDE. Sets forth requirements relating to the certificate.

Prohibits a person from serving as a faculty member of a dental school unless the person holds a dental school faculty member license. Prohibits a person from serving as a faculty member of a dental hygiene school unless the person holds a dental school faculty member license or a dental hygiene school faculty member license. Sets forth requirements relating to the licensing of faculty members of dental or dental hygiene schools.

Requires TSBDE to enter into an agreement with the Health and Human Services Commission (HHSC) to improve coordination on issues related to the state Medicaid program. Sets forth requirements of the agreement, which relate primarily to investigation of fraud, abuse, and insufficient quality of care.

Requires TSBDE to include in its annual financial report information relating to cases involving fraud, abuse, or insufficient quality of care under the state Medicaid program.

Requires a state agency, if before implementing the agreement between TSBDE and HHSC relating to Medicaid it determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and authorizes the agency to delay implementing that provision until the waiver or authorization is granted.

Texas Department of Housing and Community Affairs, Sunset - S.B. 264


Continues the Texas Department of Housing and Community Affairs (TDHCA) for eight years until September 1, 2011.

Includes standard Sunset Advisory Commission language relating to negotiated rulemaking and alternative dispute resolution.

Requires the Bond Review Board (BRB), with respect to the amount of the state ceiling for issuing private activity bonds, to grant reservations at the direction of TDHCA (rather than by lot) subject to the approval of BRB. Sets forth provisions relating to housing projects to be given priority by BRB for bond issuance.

Adds to the list of items required to be in TDHCA’s low income housing plan a biennial action plan for colonias that addresses current policy goals for colonia programs, strategies to meet the policy goals, and the projected outcomes with respect to the policy goals.

Sets forth the entities that are eligible to apply for set-aside funds under the Cranston-Gonzalez National Affordable Housing Act. Prohibits TDHCA from giving preference to nonprofit providers of affordable housing, except as required by federal law and sets forth exceptions to the regional allocation formula.
Sets forth provisions relating to allowable communication between TDHCA staff, applicants, and vendors in the housing industry.

Sets forth provisions relating to:
- requirement to notify neighborhood organizations, school district officials, officers of local governing bodies, the state senator and the state representative of certain housing fund applications;
- notice of receipt of an application or proposed application; and
- mandatory deposits to fund necessary repairs to certain multifamily rental housing developments.

Deletes a number of duties the Resource Housing Center performs for TDHCA.

Requires TDHCA to score and rank the application for an issuance of private activity bonds using a point system based on criteria that are adopted by TDHCA and to make the details of the scoring system on its website.

Provides that an application is ineligible for consideration under the low income housing tax credit program if, among other things, the applicant proposes to construct:
- certain new developments that are located one linear mile or less from a similar development that has received such a credit within the last three years; or
- a new development located in a municipality or a county that has more than twice the state average of units per capital supported by housing tax credits or private activity bonds under certain circumstances.

Requires the Senate Committee on Intergovernmental Relations and the House Urban Affairs Committee jointly to investigate and report on whether subdividing uniform state service regions into urban/exurban areas and rural areas would impact the provision of state and federal financial assistance to meet the housing needs in rural areas.

**Board of Law Examiners, Sunset - S.B. 266**

*by Senator Lucio - House Sponsors: Representatives Gallego and Hartnett*

Continues the Board of Law Examiners (BLE) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to staggered board member appointments, unbiased board appointments, conflicts of interest, removal of board members, equal employment opportunity policy, standards of conduct, separation of board and staff functions, board member training, state employee incentive program, and use of technology.

Requires BLE deliberations, hearings, and determinations relating to moral character and fitness of an applicant to be closed to the public and records relating to such matters to be confidential, except that the applicant is entitled to the information.
Until September 1, 2004, authorizes a law student, who has 12 hours or less of course work left to graduate, to take the bar examination. Prohibits the person from being licensed to practice law prior to graduation. Provides that the law examination scores are void if the person does not complete course work within two years from the date of satisfactorily completing the exam.

Authorizes an applicant who has a physical, mental, or developmental disability to request that BLE provide testing accommodations on the bar examination. Provides that information relating to the request is confidential.

Authorizes BLE to release examination results to law schools for research purposes.

Requires BLE to compile a report for the legislature on the 2004 bar failure rate by gender, ethnicity, and race.

Deletes the definition of “chemical dependency” and requires the Texas Supreme Court, by rule, to define “chemical dependency.”

**Deregulation of Riding Stables, Sunset - S.B. 271**
*by Senator Jackson - House Sponsor: Representative Dunnam*

Deletes Chapter 2053, Occupations Code, the regulation of riding stables by the Department of Licensing and Regulations, in response to the agency’s Sunset Review.

Prohibits the Texas Animal Health Commission or a court from pursuing a proceeding pending under Chapter 2053, Occupations Code.

**Court Reporters Certification Board, Sunset - S.B. 273**
*by Senator Shapleigh - House Sponsors: Representatives Dunnam and Hartnett*

Continues the Court Reporters Certification Board (CRCB) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to advertising and competitive bidding, unbiased appointments to the board, conflicts of interest, board member training, removal of board members, public testimony at board meetings, complaints, code of ethics, use of technology, alternative dispute resolution procedures, equal employment opportunity policy, standards of conduct, state employee incentive program, rules on consequences of criminal conviction, timely notice of examination results, certification renewal, and full range of penalties.

Provides that CRCB is administratively attached to the Office of Court Administration (OCA) of the Texas Judicial System. Sets forth the responsibilities of OCA in relation to CRCB.
Sets forth provisions relating to CRCB’s authority relating to reciprocal certification and certification by endorsement.

Provides that CRCB’s authority to assess reasonable fees for enforcement purposes against a court reporting firm does not apply to court reporting services performed outside of this state by a foreign shorthand reporter who is not certified in this state for use in a court proceeding in this state, provided that the work resulting from those services is produced and billed wholly outside of this state.

**Texas Department of Economic Development Abolished, Sunset - S.B. 275**


**General Provisions**

Abolishes the Texas Department of Economic Development (TDED) and transfers its functions, rules, money, contracts, leases, rights, obligations, records, property, and funds to the newly created Texas Economic Development and Tourism Office (TEDTO) within the Office of the Governor. Provides that neither the executive director of TDED nor its employees automatically become employees of TEDTO. Continues TEDTO for the standard 12 years until September 1, 2015.

Requires the executive director of TEDTO to designate an individual as a small business advocate to serve as the principal focal point in this state for assisting small and historically underutilized businesses. Includes standard Sunset Advisory Commission language for TEDTO relating to conflicts of interest, negotiated rulemaking and alternative dispute resolution policy, the state employee incentive program, complaints, and technological solutions.

**Tourism and Sports Events**

Establishes TEDTO as the primary state governmental entity responsible for out-of-state tourism marketing and promotion. Requires TEDTO to enter into a memorandum of understanding with the Texas Parks and Wildlife Department, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Commission on the Arts to direct the efforts of those agencies in all matters relating to tourism.

Adds promoting the sports industry and related industries to the list of TEDTO’s duties, including promoting this state as a host for national and international amateur athletic competition and promoting sports or fitness programs for the residents of this state, if funds are appropriated for this purpose. Authorizes the governor to establish a Texas Sports Commission composed of volunteers who are knowledgeable about or active in amateur sports.

Expands the list of major sports events and related activities for which the state competes to be selected as a site to include the Super Bowl, the National Collegiate Athletic Association Final Four, the National Basketball Association All-Star Game, the National Hockey League All-Star Game, the Major League Baseball All-Star Game, the National Collegiate Athletic Association Bowl Championship Series Games, the World Cup Soccer Games, or the World Games (games).
Provides for financing the costs of bidding for selection, preparing for the games including construction or renovation of facilities, and conducting the games.

**Aerospace and Aviation**

Transfers the functions and funds of the Texas Aerospace Commission (TAC) to the newly created aerospace and aviation office within TEDTO. Provides that the executive director of TAC becomes the director of the aerospace and aviation office. Requires the governor to determine the manner in which employees of TAC, if any, are transferred to the aerospace and aviation office. Specifies that money collected from the sale of Texas aerospace and aviation license plates be deposited to general revenue to the credit of TEDTO, rather than to general revenue.

Creates the spaceport trust fund as a trust fund outside the treasury with the comptroller of public accounts and requires the trust fund to be administered by TEDTO. Provides that money in the trust fund may be used only to pay expenditures for the development of infrastructure necessary or useful for establishing a spaceport.

**General Economic Development and the Texas Economic Development Bank**

Requires TEDTO to work with industry associations and organizations and key state agencies to identify regional and statewide industry clusters, which are concentrations of businesses and industries in a geographic region that are interconnected by the markets they serve, the products they produce, their suppliers, the trade associations to which their employees belong, and the educational institutions from which their employees or prospective employees receive training. Requires TEDTO to work with targeted sectors, private sector organizations, key state agencies, local governments, local economic development organizations, and higher education and training institutions to develop strategies to strengthen the competitiveness of industry clusters.

Requires TEDTO to coordinate state efforts to attract, develop, or retain technology industries in this state in certain sectors, including the semiconductor industry, information and computer technology, microelectromechanical systems, manufactured energy systems, nanotechnology, and biotechnology.

Adds to the list of those eligible to participate in the business development-linked deposit program, medium-sized businesses, which are a corporations, partnerships, sole proprietorships, or other legal entities that are domiciled in this state or have at least 51 percent of their employees located in this state, are formed to make a profit, and employ between 100 and 500 fulltime employees.

Requires TEDTO to establish the Texas Economic Development Bank (bank) for the purposes of providing globally competitive, cost-effective state incentives to expanding businesses operating in this state and businesses relocating to this state, and ensuring that communities and businesses in this state have access to capital for economic development purposes. Requires the bank's effectiveness to be measured on the basis of the number of jobs created and retained and the total amount of nonstate funds leveraged as a result of the bank's efforts.
Transfers to TEDTO or the bank from the comptroller all functions, activities, money, contracts, leases, rights, obligations, funds, property and records relating to the small business incubator program, the Texas small business incubator fund, and the Texas product development fund.

Sets forth the powers, duties, and funding of the bank which include administering for TEDTO the:
- Texas Small Business Industrial Development Corporation;
- capital access program;
- Texas leverage fund;
- linked deposit program;
- enterprise zone program;
- industrial revenue bond program;
- the defense economic readjustment zone program;
- Empowerment Zone and Enterprise Community grant program; and
- the renewal community program.

Reestablishes the Product Development and Small Business Incubator Board (PDSBIB) within TEDTO to be administered by the bank. Sets forth membership provisions, powers, and duties of the PDSBIB and powers and duties of the bank in relation to PDSBIB programs and funds, including the Texas product development fund, and the small business incubator fund.

Updates provisions relating to the designation of an enterprise zone, project, or activity.

Updates the schedules used to determine tax refunds for job creation or retention in relation to capital investments in enterprise projects.

Provides that an enterprise project approved by the bank after September 1, 2003, may not receive a tax refund before September 1, 2005.

Creates the Ethanol and Biodiesel Production Incentive Program to be administered by TEDTO. Requires the comptroller to transfer from the undedicated portion of the general revenue fund an amount of money equal to 5.25 times the amount of the fees collected on fuel ethanol and biodiesel production, but prohibits the transfers from being made during the 2004-2005 biennium.

Board of Tax Professional Examiners, Sunset - S.B. 276
by Senator Lucio - House Sponsors: Representative Flores, et al.

Continues the Board of Tax Professional Examiners (BTPE) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to public membership on the board, unbiased board appointments, conflicts of interest, governor’s appointment of board chair, board member
training, removal of board members, separation of board and staff functions, standards of conduct, the state employee incentive program, equal employment opportunity policy, negotiated rulemaking and alternative dispute resolution policy, use of technology, public testimony at board meetings, complaints, continuing education of licensees, compliance with the Americans with Disabilities Act, timely notification of examination results, license by endorsement, and full range of penalties.

Requires BTPE and the comptroller of public accounts (comptroller) to enter an interagency contract under which the comptroller provides certain administrative support to BTPE for a fee.

Requires BTPE and the comptroller to study the feasibility of relocating BTPE offices to the comptroller’s office and to report the findings to the lieutenant governor and the speaker of the house of representatives by December 1, 2004.

**Texas Board of Professional Engineers, Sunset - S.B. 277**

*by Senator Ellis - House Sponsors: Representative Chisum, et al.*

Continues the Texas Board of Professional Engineers (TBPE) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to unbiased board appointments, eligibility for board appointments, conflicts of interest, removal of board members, governor designation of chair, board member training, separation of board and staff functions, standards of conduct, equal employment opportunity policy, state employee incentive program, prohibition on rules that limit advertising and competitive bidding, rules on consequences of criminal conviction, use of technology, negotiated rulemaking and alternative dispute resolution policy, complaints, public testimony at board meetings, timely notification of examination results, reciprocal licensing, license renewal, and full range of penalties.

Exempts from licensing requirements activities of private corporation employees under direct control of the corporation to make reasonable modifications to existing buildings and facilities not accessible to the general public and to design, fabricate, and produce services or products. Provides that this exemption does not prohibit:

- a professional engineer who intends to incorporate manufactured products from the exempt corporation (computer software, firmware, hardware, semiconductor devices, and the production, exploration, and transportation of oil and gas and related products) into a fixed work, system, or facility from requiring the product to be signed and sealed by a professional engineer; or
- TBPE from issuing rules that certain products be designed and sealed by a professional engineer as necessary to protect public health, safety, and welfare.

Exempts aerospace companies working for NASA from regulation and permits the title of “engineer” in job classifications and on business cards. The wording may not imply licensing nor may services be offered to the public without being licensed.
Authorizes a person working in an exempt organization to use the term “engineer” on cards and correspondence. Prohibits the person from offering services to the public or using the term outside the exemption.

Authorizes TBPE to set reasonable fees necessary to administer the Act. Adds a new category for an inactive license.

Requires licensees to participate in no more than 15 hours of continuing education annually; no more than 5 hours of which may be self-study.

Establishes the Joint Advisory Committee on the Practice of Engineering and Architecture an advisory committee to TBPE and to the Texas Board of Architectural Examiners (TBAE). Requires as the advisory committee to:
- work to resolve issues that result from the overlap between activities that constitute the practice of engineering and those that constitute the practice of architecture; and
- issue advisory opinions to TBPE and to TBAE on matters relating to the practice of engineering and the practice of architecture.

Authorizes a graduate engineer in a licensed firm working under a professional engineer to use the term “engineer” on business cards and stationery.

Requires TBPE, on its own initiative or at the request of any interested person, to prepare a written advisory opinion about an interpretation of the Texas Engineers Practice Act (Act) or the application of the Act to a person in regard to a specified existing or hypothetical factual situation.

Provides that the authority of TBPE to issue an advisory opinion does not affect the authority of the Office of the Attorney General to issue an opinion as authorized by law.

Makes reliance on a TBPE advisory opinion an affirmative defense to prosecution.

Texas Department of Licensing and Regulation, Sunset - S.B. 279

Continues the Texas Department of Licensing and Regulation (TDLR) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to conflicts of interest, board member training, governor appointment of presiding officer, removal of board members, separation of agency and staff functions, standards of conduct, equal employment opportunity policy, state employee incentive program, use of technology, negotiated rulemaking and alternative dispute resolution, full range of penalties, license renewal, licensing reciprocity, continuing education for board members, and complaints.
Transfers rulemaking authority from the executive director of TDLR to the commission governing TDLR (commission).

Requires TDLR to assist state licensing agencies to use Texas Online in their licensing activities by September 1, 2004.

Clarifies the duties of the executive director and of the commission in relation to:
- the advisory committee for the architectural barriers program, auctioneer licensing, the auctioneer education advisory board, the board of boilers, court interpreters, licensed court interpreters advisory board, elevator advisory board, personnel employment services, combative sports, elevator safety, industrialized housing and buildings, property tax consultants, service contract providers, service contract providers advisory board, staff leasing services, talent agencies, temporary common worker employers, vehicle protection product warrantors, the vehicle protection product warrantor advisory board, water well drillers, the Texas water well drillers advisory council, water well pump installers, and weather modification matters.

Transfers all functions, activities, powers, duties, and funds relating to transportation service providers from TDLR to the Department of Public Safety.

Transfers all powers, duties, contracts, and funds relating to the weather modification and control grant program from the Texas Department of Agriculture to TDLR.

Establishes a system of regulation for valet parking services. Requires TDLR to analyze the financial impact on prices paid by consumers who use valet parking services to determine whether implementation of the regulation would result in an increase of more than 25 percent in the average price paid by a consumer for valet parking services. Provides that if TDLR determines that the price would increase more than 25 percent on average, the provisions establishing valet parking regulation have no effect.

Combative Sports

Authorizes the presiding officer of the commission to appoint a medical advisory committee to advise TDLR concerning health issues for boxing event contestants.

Expands TDLR’s rulemaking authority to include rules:
- recognizing certain sanctions, medical suspensions, or disqualifications of license holders by a combative sports authority in any state;
- establishing practice requirements or specialty certifications that a person licensed to practice medicine in this state must meet to register as a ringside physician;
- providing that to participate in any event a contestant must be free of hepatitis B virus, hepatitis C virus, human immunodeficiency virus, and any other communicable disease designated by rule; and
- requiring that a contestant undergo a physical examination, including an ophthalmologic examination, at or near the time of weigh-in and providing for disqualification of a contestant who is determined by an examining physician to be unfit.
Establishes licensing and registration for ringside physicians.

Sets forth the responsibilities of promoters of combative sports events.

Authorizes the withholding of a purse for a combative sports event if it appears likely a licensee violated provisions or rules governing combative sports.

Elevator Safety

Expands the role of the executive director of TDLR to enable the person to more effectively administer the inspections and registration programs associated with the installation, repair, maintenance, and inspection of an elevator, escalator, chairlift, platform lift, automated people mover operated by cables, moving sidewalk, or related equipment (equipment).

Authorizes the executive director to appoint a chief elevator inspector to administer the equipment inspection and registration program.

Prohibits a person from installing, repairing, or maintaining equipment unless the person is registered as a contractor with TDLR.

Sets forth standards for equipment in single-family dwellings.

Industrialized Housing and Buildings

Sets forth provisions relating to the means by which compliance with mandatory building codes that are amended is indicated.

Requires single-family or duplex industrialized housing to have all local permits and licenses that are applicable to other single-family or duplex dwellings.

Groundwater and Wells

Empowers groundwater conservation districts to enforce compliance with provisions relating to plugging water wells located within the boundary of the district.

Requires the Texas Commission on Environmental Quality (TCEQ) and TDLR to adopt or revise a joint memorandum of understanding to coordinate the efforts of TDLR, groundwater conservation districts, and the field offices of TCEQ relating to investigative procedures for referrals of complaints regarding abandoned and deteriorated wells. Requires each groundwater conservation district in which an abandoned or deteriorated well is located to join the memorandum of understanding.
Rental-Purchase Agreements

Authorizes a consumer to contract for a loss damage waiver in rental-purchase agreements. Provides that a loss damage waiver is not insurance and may exclude loss or damage to the merchandise that is caused by an unexplained disappearance or abandonment of the merchandise, or any other damage that is intentionally caused by the consumer.

Gives TDLR the powers and duties to effectively enforce provisions relating to loss damage waivers.

The Texas Workforce Commission, Sunset - S.B. 280
by Senator Nelson - House Sponsors: Representatives Solomons and Jim Ketter

The Texas Workforce Commission (TWC) was created in 1995 by the 74th Texas Legislature to merge employment and training programs from 10 agencies into a single, locally-controlled workforce system. TWC's two key functions are overseeing employment and job training services provided through local workforce development boards, and operating the state's unemployment insurance system. This bill:

Continues TWC for six years until September 1, 2009.

Includes standard Sunset Advisory Commission (SAC) language relating to board membership, board member restrictions, conflicts of interest, governor designation of board chair, grounds for removal of board members, board member training, complaints against the commission, equal opportunity policy, standards of conduct, separation of board and staff functions, state employee incentive program, and public testimony at board meetings.

Requires TWC to develop, by rule, criteria to assess local workforce development boards' overall capacity to administer and oversee local funds and services and to develop a set of performance measures to evaluate how well local workforce development boards and individual local workforce centers are performing.

Requires TWC annually to compile information provided to TWC by local workforce development boards that aggregates existing performance measure data on each local career development center in a consistent format demonstrating overall performance across multiple programs.

Requires local workforce development boards to streamline the delivery of services in local career development centers by integrating the operation of the following block grant programs and caseworker functions associated with those programs: Temporary Assistance for Needy Families (TANF) within the Choices training and employment programs; child care programs; employment and training programs under Title I of the Workforce Investment Act (WIA); and the food stamp employment and training program.

Requires each local career development center to provide integrated eligibility determination and case management services through a single contact for a customer receiving workforce services under more than one program.
Requires the Texas Education Agency (TEA) and TWC to improve coordination and implementation of adult education and literacy services. Requires TWC, under contract with TEA, to develop a workplace literacy and basic skills curriculum. Requires TWC to develop and implement a plan to encourage participants who successfully complete the curriculum to pursue postsecondary education opportunities leading to certificates and degrees. Requires TWC to develop a demand-driven workplace literacy and basic skills curriculum aimed at assisting local workforce boards to equip workers and job seekers with skills necessary to compete for current emerging jobs in the state.

Requires the Texas Workforce Investment Council (TWIC) to evaluate adult education and literacy programs administered by TEA and TWC and annually report to the governor and the legislature a list of the specific problems identified by TWIC and the results of any measures taken by TWIC to address the identified problems.

Provides that the obligation trust fund, rather than the advance trust fund, is a dedicated trust fund outside of the state treasury in the custody of the comptroller of public accounts. Provides that TWC and the governor may use money in the obligation trust fund, without legislative appropriation, to pay bond obligations and bond administrative expenses; and principal and interest incurred on advances from the federal trust fund.

Provides appropriate methods through which the state may continue the unemployment compensation program at the lowest possible cost to the state and employers in the state.

Abolishes the advanced interest fund and transfers the balance currently in the fund to the obligation fund created by this Act.

Authorizes TWC to deny a transfer of compensation experience if it determines that the acquisition was done primarily to qualify for a reduced unemployment insurance tax rate by circumventing the experience rating system or manipulating the experience rating system by minimizing the impact of chargebacks to the predecessor employer’s tax account.

Adds family violence or stalking to the list of reasons for which an employer or former employer may not be charged for benefits computed on wage credits if an employee leaves the employer’s workplace to protect the employee due to family violence or stalking.

Provides that an individual is not disqualified for benefits if the individual leaves the workplace to protect the individual from family violence or stalking.

Clarifies that references to proprietary school mean a career school or college.

**Council on Workforce and Economic Competitiveness Renamed, Sunset - S.B. 281**

*by Senator Nelson - House Sponsor: Representative Solomons*

Renames the Council on Workforce and Economic Competitiveness as the Texas Workforce Investment Council (TWIC) and continues TWIC for the standard 12-years until September 1, 2015.
Includes standard Sunset Advisory Commission language relating to unbiased council appointments, council terms of appointment, grounds for removal, council training, standards of conduct, separation of council and staff functions, complaints, policy on technology solutions, and state employee incentive program.

Changes TWIC membership to include, among others:
- one, rather than two, voting members representing community based-organizations;
- the commissioner of education, rather than the chair of the State Board of Education;
- the commissioner of higher education, rather than the chair of the Texas Higher Education Coordinating Board (THECB);
- the commissioner of human services, rather than the presiding officer of the Texas Board of Human Services;
- the executive director, rather than the presiding officer, of the policy advisory board of the Texas Department of Economic Development; and
- the executive director, rather than the chair, of the Texas Workforce Commission (TWC).

Requires TWIC, in order to facilitate the seamless delivery of integrated workforce services, to:
- evaluate programs administered by agencies represented on TWIC to identify any duplication of or gaps in the services provided by those programs and any other problems that adversely affect the seamless delivery of those services; and
- develop and implement immediate and long-range strategies to address problems identified by the council in its evaluation of programs.

Transfers maintenance and operation of the Workforce Development Evaluation System (system) from TWIC to TWC.

Requires agencies represented on TWIC to:
- fund the maintenance and operation of the system from funds available to the agencies for evaluation of each agency’s workforce development programs; and
- provide relevant occupation, wage, education, and training information to support the system.

Requires TWC to at least annually issue an analysis, by occupation and by the provider of the job placement performance, of each workforce development program for the previous one-year, three-year, and five-year periods to:
- each provider of workforce education or workforce training and services;
- THECB for each provider of workforce education approved and administered by the coordinating board;
- each local workforce development board for each provider of workforce training and services in the workforce development area; and
- the division of workforce development of TWC.
Provides that the follow-up and evaluation system must be used to assist TWC, TWIC, local workforce development boards, institutions of higher education boards, THECB, Texas Education Agency, and other agencies in evaluating the labor market success and effectiveness of workforce development in this state and in some cases whether to continue funding the programs.

Texas State Board of Plumbing Examiners, Sunset - S.B. 282  
*by Senator Jackson - House Sponsors: Representatives Bailey and Dunnam*

Continues the Texas State Board of Plumbing Examiners (TSBPE) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to unbiased appointments to the board, conflicts of interest, removal from the board, board member training, equal employment opportunity policy, employee incentive program, standards of conduct, technology solutions policy, negotiated rulemaking and alternative dispute resolution, code of conduct, public testimony at board meetings, complaints, provisional licenses for out-of-state licensees, license renewal, full range of penalties, consequences of criminal conviction, cease and desist orders, informal settlement conferences, and restitution.

Authorizes TSBPE to create committees to assist TSBPE in exercising its powers and duties.

Requires TSBPE to employ an executive director as the executive head of the agency.

**Examination for License**

Authorizes examination fees to be refunded if TSBPE is notified of the applicant’s inability to take the exam.

Requires TSBPE to develop a review course in English and Spanish to assist license applicants to prepare for the exam.

Authorizes TSBPE to adopt registration requirements for plumber’s apprentices, including training and education requirements.

**Practice of Plumbing**

Expands the places in which a person is not required to be a licensed plumber to perform plumbing, other than plumbing performed in conjunction with new construction, to include property that is:

- located outside a municipality and connected to a public water system that does not require a license to perform plumbing; or
- inside a municipality with fewer than 5,000 inhabitants, unless an ordinance of the municipality requires the person to be licensed.

Authorizes a field representative (a person hired to assist TSBPE in enforcing Texas plumbing laws) or an employee of the Texas Department of Licensing and Regulation (TDLR) to check the license, registration,
or endorsement of a plumber regulated by TDLR under its memorandum of understanding (MOU) with TSBPE. The MOU's goal is to improve services and coordination of functions between TSBPE and TDLR.

Requires TSBPE to adopt guidelines regarding circumstances under which a field representative may issue a citation. Requires the guidelines to encourage the use of other enforcement measures, including imposition of administrative penalties, before the issuance of a citation.

Authorizes TDLR to conduct joint investigations with TSBPE as circumstances require.

Requires a license holder who is supervising and controlling the work of an unlicensed person engaged in the business of plumbing in the construction of a new one-family or two-family dwelling in an unincorporated area of the state to have training and management responsibility for, and to review and inspect, the person's work. The license holder is not required to provide continuous or uninterrupted on-the-job oversight of the person's work.

Interagency Cooperation and Regulation

Requires TSBPE and the Texas Workforce Commission (TWC), through the local work force development boards (LWDB) to coordinate efforts to educate the public about the plumbing profession and the resources available to employers for the recruitment and training of plumbers.

Provides that these coordinated efforts apply to the extent that the plumbing profession is designated as an occupation in demand by a LWDB.

Sets forth provisions authorizing TSBPE to impose administrative penalties on a person who violates regulations relating to these coordinated efforts, including hearings, TSBPE decisions, and appeals.

Texas Board of Architectural Examiners, Sunset - S.B. 283


Continues the Texas Board of Architectural Examiners (TBAE) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to conflicts of interest, removal of board members, board member training, separation of board and staff functions, the state employee incentive program, rules prohibiting the limitation of advertising and competitive bidding, rules on consequences of criminal conviction, standards of conduct, technology policy, negotiated rulemaking and alternative dispute resolution, complaints, examination compliance with the Americans with Disabilities Act, timely notification of examination results, reciprocal licensing, license renewal, and full range of penalties.

Streamlines TBAE's administration of registration by standardizing the registration of architects, interior designers, and landscape architects.
Requires TBAE to maintain records or an official roster showing the name and address of each registrant and the date and registration number of each certificate of registration.

Requires the Office of the Attorney General to act as the legal advisor to TBAE and provide legal assistance to enforce the provisions of this Act.

Establishes the Joint Advisory Committee on the Practice of Engineering and Architecture an advisory committee to TBAE and the Texas Board of Professional Engineers (TBPE). Requires the advisory committee to:
- work to resolve issues that result from the overlap between activities that constitute the practice of engineering and those that constitute the practice of architecture; and
- issue advisory opinions to TBAE and the Texas Board of Professional Engineers. Examiners on matters relating to the practice of engineering and the practice of architecture.

Establishes general disciplinary procedures including the right to hearing and appeal, publications of orders and sanction, and reinstatement of registration.

Authorizes a public official of this state or of a political subdivision of this state who is responsible for enforcing laws that affect the practice of architecture to accept an architectural plan, specification, or other related document only if the plan, specification, or document is prepared by an architect or by a person acting under the supervision of an architect, as evidenced by the architect's seal.

Increases fees for registration and renewal of architectural licenses and certificates by $200. Requires $50 of the fee increase to be deposited in the foundation school fund and $150 to be deposited in the general revenue fund.

Establishes an examination fee scholarship program.

Provides that a person, whether acting independently or on behalf of the person's firm, commits an offense if, in violation of the Act, the person:
- engages in the practice of architecture, or offers or attempts to engage in the practice of architecture;
- prepares architectural plans or specifications for and observes or supervises the construction, enlargement, or alteration of a building for another person; or
- advertises or puts out a sign, card, or drawing designating the person as an architect or architectural designer or uses another business or professional title that uses a form of the word "architect."

Makes such an offense a misdemeanor punishable by a fine of not less than $250 and not more than $1,000 and provides that each day of violation is a separate offense.

Authorizes TBAE to recommend to municipalities a rehabilitation code and certain specifications relating to rehabilitation.
Requires a municipality that adopts a building code, other than the International Residential Code, to adopt certain codes or specifications.

**Texas State Affordable Housing Corporation, Sunset - S.B. 284**  

Continues the Texas State Affordable Housing Corporation (TSAHC) for six years until September 1, 2009.

Includes standard Sunset Advisory Commission language relating to unbiased board appointments, board member terms, board member removal, board member training, conflicts of interest, standards of conduct, separation of board and staff functions, equal employment opportunity policy, complaints, and use of technology.

Broadens the Teachers Home Loan Program to be a program for professional educators. Deletes the five-year residency and three-year teaching requirements from program eligibility criteria. Deletes language giving eligibility priority to teachers who reside or teach in an area of the state with a teacher shortage.

Decreases from one-fourth to one-fifth the portion of the state ceiling available exclusively for reservations by issuers of qualified residential rental projects. Redistributes the percentage of the state ceiling to make 10 percent available exclusively to the TSAHC to respond to certain local housing development needs.

Requires Texas Department of Housing and Community Affairs’ (TDHCA) in assessing project compliance, developing its resource allocation plan, and estimating and analyzing the housing supply in regions of the state to include information provided and plans developed by TSAHC.

Requires TSAHC to implement a requirement that a community housing development organization that receives an issuance of qualified 501(c)(3) bonds from TSAHC to develop property must invest at least one dollar in projects and services that benefit income-eligible person for each dollar of taxes that is not imposed on the property as a result of certain tax exemptions available. Sets forth specific provisions relating to the administration of the requirement and projects and services that must benefit.

Requires TSAHC to:
- review the needs assessment information provided by TDHCA relating to housing needs and resources;
- develop a plan to meet the state’s most pressing housing needs identified in the needs assessment information; and
- provide the plan to TDHCA for incorporation into the state low income housing plan.
Texas Department of Human Services, Sunset - S.B. 285

by Senator Nelson - House Sponsor: Representative Chisum

The Texas Department of Human Services (DHS) is subject to the Sunset Act. In 2001, the 77th Texas Legislature continued the agency until 2011, and required the Sunset Advisory Commission (SAC) to conduct a limited review of DHS. This bill:

Includes standard SAC language relating to governor designation of board chairs, conflicts of interest, removal of board members, separation of board and staff functions, equal employment opportunity policy, state employee incentive program, complaints, public testimony at board meetings, policy on technology solutions, alternative rulemaking and dispute resolution procedures, timely notice of examination results, staggered renewal of licenses, and full range of penalties.

Requires DHS to:

- develop a business plan for each service region that addresses DHS’s statewide goals and states the region’s specific objectives and strategies to meet the goals; includes region-specific targets for client-centered outcome measures; and requires regional administrators to report at least annually to the state office on the region’s progress in achieving the goals and objectives contained in the region's business plan;
- develop standard client-centered outcome measures and use the standard measures in all regional business plans; and
- seek public input in the development of regional business plans and regional strategies.

Requires DHS to develop and implement a plan to assist elderly persons or persons with disabilities requesting community care services in receiving those services as quickly as possible when those services become available.

Provides that the plan must require DHS to:

- forecast participant openings that will become available in a community care program serving the elderly person or person with a disability during the next fiscal quarter because of program expansion or case closures;
- contact an individual on an interest list and begin the program eligibility determination process at least 30 days before an opening is forecast to become available in the program; and
- ensure that an individual determined to be eligible for services does not begin receiving services until after the opening actually becomes available.

Requires DHS, the Texas Workforce Commission, and representatives of local workforce development boards to conduct a survey of best practices used to transition clients between local department offices and workforce centers. Requires DHS to use the survey data to improve the practices used to transition clients between local DHS offices and workforce centers.

Requires DHS, to the extent practicable under existing revenue, to develop and implement a plan to identify recipients of financial assistance that are at risk of exhausting certain benefits and provide referrals for the
recipient and the recipient's family to appropriate preventive and support services, including faith-based services.

**Texas Higher Education Coordinating Board, Sunset - S.B. 286**

*by Senator Shapleigh - House Sponsors: Representatives Morrison and Gallego*

Continues the Texas Higher Education Coordinating Board (THECB) for the standard 12 years until September 1, 2015.

Includes standard Sunset Advisory Commission language relating to staggered board member terms, conflicts of interest, removal of board members, unbiased board member appointment, training of board members, the state employee incentive program, public interest information and complaints, negotiated rulemaking, alternative dispute resolution, and use of technology.

Reduces the number of THECB members from 18 to 9.

Requires the internal auditor to report directly to THECB, rather than the commissioner of higher education (commissioner), on all matters other than administrative matters.

Requires the commissioner to advise THECB regarding the termination or discipline of the internal auditor and the transfer or reclassification of, or other changes in, the powers or duties of the internal auditor.

Sets forth provisions relating to the five-year master plan (*Closing the Gaps*) for higher education in the state developed by THECB, including updating and monitoring implementation of the plan.

Requires THECB to conduct a study and make findings and recommendations regarding methods for reducing administrative burdens and increasing participation in student financial aid programs to maximize the value of those programs to the state. Requires THECB, by November 1, 2004, to report to the standing committee of each house of the legislature with primary jurisdiction over higher education the THECB’s findings and recommendations for legislative action necessary to consolidate, expand, or otherwise modify existing student financial aid programs.

Renames and changes membership on the joint advisory committee that advises THECB and the State Board of Education as the P-16 Council (council).

Adds coordination of recruitment and retention of teachers and adult education programs to the council’s list of duties.

Adds examining and making recommendations regarding the alignment of secondary and postsecondary education curricula, testing, and assessment to the council’s purposes.

Requires THECB to collect and make available to the public certain information regarding higher education authorities and nonprofit corporations serving as secondary markets for student loans.
Requires THECB to administer a program to publish performance data provided to the board by general academic teaching institutions. Delineates the data to be provided to THECB.

Requires THECB to:
- approve a common course numbering system for lower-division courses to facilitate the transfer of those courses among institutions of higher education by promoting consistency in course designation and identification; and
- cooperate with institutions of higher education in any additional development or alteration of the common course numbering system.

Adds confidentiality provisions regarding information submitted as part of a pre-proposal or proposal related to the evaluation and selection of research projects funded by the Advanced Research Program and the Advanced Technology Program.

Establishes the Success Initiative regarding student assessment and developmental education. Sets forth provisions for the administration of the initiative.

Requires an institution of higher education to assess the academic skills of each entering undergraduate student to determine the student's readiness to enroll in freshman-level academic coursework. Prohibits an institution from using the assessment or the results of the assessment as a condition of admission to the institution.

Requires each institution of higher education to:
- establish a program to advise students regarding coursework and other means by which students can develop the academic skills required to successfully complete college-level work;
- work with a student who fails to meet the assessment standards to develop a plan to assist the student in becoming ready to perform freshman-level academic coursework; and
- determine when a student is ready to perform freshman-level academic coursework.

Allows a student to retake an assessment instrument at any time to determine readiness to perform freshman-level academic coursework.

Requires the legislature to appropriate money for approved non-degree-credit developmental courses, except that legislative appropriations may not be used for developmental coursework taken by a student in excess of 18 semester credit hours, for a general academic teaching institution, and 27 semester credit hours, for a public junior college, public technical institute, or public state college.

Authorizes the governing boards of a public community/junior college and another institution of higher education, rather than an upper-level university or center, that are located in the same state uniform service region as adopted by the coordinating board may enter into a partnership agreement designed to coordinate the management and operations of the institutions. Authorizes community/junior college to be eligible for state funding for baccalaureate degrees.
Requires the THECB to establish and administer the doctoral incentive loan repayment program, the purpose of which is to provide education loan repayment assistance to individuals from groups that are underrepresented among the faculty and administration of public and independent institutions of higher education in this state.

Changes the Teach for Texas program from a loan forgiveness program to a loan repayment program.

Restructures eligibility and other requirements for the Teach for Texas, the Early Childhood Care Provider Loan Program, and the Conditional Loan for Attorneys Employed by the Office of the Attorney General programs.

Requires the THECB to establish a pilot project for three two-year institutions to offer baccalaureate degree programs in the fields of applied science and applied technology.

Requires the THECB, by January 1, 2009, to prepare a progress report on the pilot project and by January 1, 2011, to prepare a report on the effectiveness of the pilot project, including any recommendations for legislative action regarding the offering of baccalaureate degree programs by public junior colleges.

Requires the governing board of a junior college district with a substantial and growing Mexican American population to evaluate the demand for and feasibility of establishing a Mexican American studies program or other course work in Mexican American studies at one or more junior colleges in the district.

State Office of Administrative Hearings, Sunset - S.B. 1147
by Senator Shapleigh - House Sponsors: Representatives Wise and Dunnam

Continues the State Office of Administrative Hearings (SOAH) for the standard 12 years until 2015.

Includes standard Sunset Advisory Commission language relating to unbiased chief administrative law judge appointments, removal of chief administrative law judge, conflicts of interest, standards of conduct, complaints, equal employment opportunity policy, state employee incentive program, use of technology, and alternative dispute resolution policy.

Exempts from the public information requirement that such information be available at a minimum during the normal business hours of the governmental body certain working papers of administrative law judges, including the judge’s notes, draft decisions, and draft orders.

Transfers the Texas Department of Licensing and Regulation (TDLR) functions, activities, records, funding, and two full-time equivalent employee positions relating to administrative hearings in contested cases of TDLR licensees to SOAH.

Sets forth provisions relating to contracts between SOAH and other state agencies relating to SOAH’s provision of hearings and alternative dispute resolution services.
- Requires SOAH to estimate for each fiscal year of the biennium the anticipated hourly usage for each state agency that referred matters to SOAH during any of the three most recent state fiscal years.
- If insufficient historical information is available from the agency, requires the agency to pay SOAH an hourly rate determined by SOAH based on certain guidelines.
Regulating Customs Brokers and Currency Transmissions - H.B. 109
by Representative Chavez, et al. - Senate Sponsor: Senator Shapleigh

Exports are exempted from state taxation and current statutes provide a means for obtaining a refund of state sales tax paid on exports. The means addressed in this bill is the procedure by which a licensed customs broker issues documentation certifying that merchandise is an export.

Additionally, current law does not comprehensively regulate the transmission of currency. This bill:

Sets forth provisions requiring the comptroller of public accounts (comptroller) to maintain a password-protected website that a customs broker must use to prepare documentation to show the tax exemption for exported tangible personal property.

Sets a customs broker’s annual license fee at $300 for each place of business from which the customs broker intends to issue a certificate of export. Increases the bond or security required for a customs broker from $500 to $5,000 plus $1,000 for each place of business.

Sets forth provisions on specific requirements relating to issuing documentation showing exportations of property, including providing that a broker or the authorized employee of a broker may issue documentation to certify the delivery of tangible personal property outside the United States only if the broker verifies the delivery according to specified procedures.

Requires the customs broker to submit quarterly reports to the comptroller on the total value of the tangible personal property and the total amount of the corresponding tax for which the customs broker issued certificates of export and the total amount of tax refunded in accordance with certificates of export.

Authorizes the comptroller to collect erroneously refunded taxes as well as to monetarily penalize customs brokers in violation of rules and statutes relating to the tax exemption.

Requires the comptroller to revoke a license if the broker violates provisions relating to documentation to certify exports. Prohibits a person whose customs broker’s license is revoked for this reason from applying for a new license for one year after revocation.

Increases the amount the comptroller charges for each export stamp from $.05 to $1.60, which is to be used to administer the export stamp program. Requires any unspent money to be deposited in the general revenue fund.

Establishes and sets forth provisions relating to the regulation of businesses that transmit currency for profit in Title 3 (Financial Institutions and Business) of the Finance Code.

Establishes civil penalties in an amount not to exceed $1,000 per violation for persons who knowingly violate provisions of this Act.
Freeze on Ad Valorem Taxes for Certain Qualified Homeowners - H.B. 136

Currently a tax ceiling applies only to ad valorem taxes paid to an independent school district by homeowners age 65 or older and surviving spouses. This bill:

Authorizes, through local option by the governing body or voters, an ad valorem tax freeze limiting the amount of property taxes a county, municipality, or junior college district may impose on the residence homestead of the disabled and the elderly and their surviving spouses.

(See H.J.R. 16, page 393).

Municipal Sales and Use Tax for Street Maintenance - H.B. 164
by Representative Truitt - Senate Sponsor: Senator Nelson

H.B. 445, 77th Legislature, allows a municipality to adopt a locally approved one-fourth of one percent municipal sales and use tax for the purpose of generating revenue for street maintenance, but does not give municipalities the option to choose a lower tax rate. This bill:

Allows a municipality to seek voter approval on sales tax for street maintenance in increments less than one-fourth of one percent.

Limitation of School Tax on Homesteads of Elderly or Disabled - H.B. 217
by Representative Hamric, et al. - Senate Sponsor: Senator Van de Putte

Currently, the amount of ad valorem school taxes that can be imposed on the homestead residence of an over-65 homeowner is frozen at the amount paid in the first year the homeowner qualifies for the over-65 exemption. This bill:

Extends the limitation on the amount of ad valorem school taxes that can be imposed on the homestead residence to disabled homeowners.

(See H.J.R. 21, page 393)

Redemption of a Mineral Interest Sold - H.B. 1125
by Representative Flores - Senate Sponsor: Senator Staples

Establishes a two-year period for the redemption of a mineral interest sold for unpaid ad valorem taxes at a tax sale.

Effective date is January 1, 2004, contingent upon the passage of a constitutional amendment.

(See H.J.R. 51, page 393)
Continuation of a Residence Homestead Tax Exemption - H.B. 1223
by Representative Madden - Senate Sponsor: Senator Estes

Authorizes a residential structure to remain a residence homestead if the owner does not establish a different principal residence and plans to return to the homestead in fewer than two years, or if the absence is caused by military service or a health-related institutionalization.

Taxation for Property Owned by a Religious Organization - H.B. 1278
by Representative Zedler, et al. - Senate Sponsor: Senator Janek

Exempts from property taxation, property owned by a church or religious society that owned an actual place of worship, if the property was owned for the purpose of expanding an existing place of worship, or constructing a new place of worship, or was leased for use as a school, and the property yielded no revenue.

Imposes an additional tax, with certain exceptions, if the land is sold or otherwise transferred to another person in the year in which the land receives an exemption at a rate equal to the tax that would have been imposed on the land had the land been taxed for each of the five years preceding the year in which the sale or transfer occurs in which the land received an exemption, plus interest at an annual rate of seven percent, calculated from the dates on which the taxes would have become due.

Takes effect January 1, 2004, subject to passage of a constitutional amendment.

(See H.J.R. 55, page 394)

Tax Exemptions for Public Property Used by a Religious Organization - H.B. 2383
by Representative Hegar - Senate Sponsor: Senator Janek

Property owned by the State of Texas or a political subdivision of the state is exempt from ad valorem taxation if the property is used for public purposes. The use of such property by a religious organization does not fall within the definition of use for public purpose. This bill:

Provides that property owned by this state or a subdivision thereof that is held or occupied by a qualified religious organization is entitled to an exemption from ad valorem taxation as if the property were used for a public purpose.

Moving the Imposition and Collection of Certain Motor Fuel Taxes - H.B. 2458
by Representative Krusee, et al. - Senate Sponsor: Senator Bivins

Moves the imposition and collection of the motor fuel tax on gasoline and diesel fuel to the point where fuel is removed from the terminal rack. Under current law, the tax is imposed at the distributor level.
Eliminates the refund on taxes paid by the end user on clear diesel fuel used in off-road equipment after December 31, 2004, except for the federal government and independent school districts.

Requires terminal operators to obtain a license. Under current law, these operators do not have to be permitted or licensed.

Institutes a new filing allowance schedule for the remittance of motor fuel taxes on gasoline and diesel fuel. The new collection allowance are 1.75 percent of the tax remitted for distributor and 0.25 percent of the tax remitted for licensed suppliers.

Eliminates the provision for a refund of tax paid on clear diesel fuel used by specified categories of auxiliary power units or power take-off equipment on any motor vehicle.

Makes changes effective as of January 1, 2004.

**Cigarette Transport Label Requirements - H.B. 3141**

*by Representative Wilson - Senate Sponsor: Senator Armbrister*

In 1997, Texas, along with a few other states, agreed to individual state tobacco settlements. By 1998 the remaining states had joined a Master Settlement Agreement (MSA) that calculated the tobacco settlement payments to the states. These payments were based on the total nationwide sales by cigarette manufacturers that are parties to the agreement. However, sales by manufacturers that are not parties to the agreement, or nonparticipating manufacturers (NPM), do not result in payments to the states.

Since 1998 the MSA states have required those NPMs that refused to sign the MSA to instead escrow funds that could be used to satisfy the judgments that might be entered against them in lawsuits brought by the states. Some NPMs attempt to evade making these escrow payments by using the four non-escrow states, Mississippi, Florida, Minnesota and Texas as a first point of shipment. They will then ship the product to other states and as they do not make escrow payments, they are able to sell the product at a substantially lower price. Companies that comply with the state requirements often have reduced sales due to these illegal practices. This in turn costs Texas settlement money. This bill:

Prohibits a person from transporting or causing to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold.

Prohibits a person from affixing to cigarettes the stamp required by another state or paying any other excise tax on the cigarettes imposed by another state if the other state prohibits stamps from being affixed to the cigarettes, prohibits the payment of any other excise tax on the cigarettes, or prohibits the sale of the cigarettes.

Requires a person who transports or causes to be transported from this state cigarettes for sale in another state, not later than the 15th day after the end of each calendar quarter, to submit to the Office of the
Attorney General a report identifying the quantity of cigarettes, by brand style, transported or caused to be transported in the preceding calendar quarter and the name and address of each recipient of the cigarettes.

**Tax Freeze for Homesteads of the Disabled, Elderly, & Surviving Spouses - H.J.R. 16**  
*by Representative Fred Brown, et al. - Senate Sponsor: Senator Nelson*

Proposes a constitutional amendment to authorize a county, a city, or town, or a junior college district to establish an ad valorem tax freeze on residence homesteads of the disabled and for persons 65 or older and their surviving spouses.

Requires the proposed constitutional amendment to be submitted to the voters at an election to be held on September 13, 2003.

(See H.B. 136, page 390).

**Tax Freeze by School Districts on the Homestead of a Disabled Person - H.J.R. 21**  
*by Representative Hamric, et al. - Senate Sponsor: Senator Van de Putte*

Proposes a constitutional amendment to prohibit an increase in the total amount of school district ad valorem taxes that may be imposed on the residence homestead of a disabled person. Requires the proposed constitutional amendment to be submitted to the voters at an election to be held September 13, 2003.

(See H.B. 217, page 390)

**Two Year Period for Redemption of Mineral Interest Sold for Unpaid Taxes - H.J.R. 51**  
*by Representative Flores - Senate Sponsor: Senator Staples*

Under current law, the redemption period concerning mineral tax rolls gives the foreclosed owner only six months to reclaim lost property.

Proposes a constitutional amendment to increase the redemption period of a mineral interest from a six-month period to a two-year period. Requires the proposed constitutional amendment shall be submitted to the voters at an election to be held September 13, 2003.

(See H.B. 1125, page 390)
by Representative Zedler, et al. - Senate Sponsor: Senator Janek

Proposes a constitutional amendment to authorize the legislature to exempt from ad valorem taxation property owned by a religious organization that is leased for use as a school or that is owned with the intent of expanding or constructing a religious facility. Requires the proposed constitutional amendment to be submitted to the voters at an election to be held September 13, 2003.

(See H.B. 1278, page 391)

Exemption for Travel Trailers from Taxation - S.B. 510
by Senator Staples - House Sponsor: Representative Chisum

During the 77th Legislative Session, the legislature created an exemption for travel trailer from ad valorem taxes, except at the school district level. Upon the adoption of the constitutional amendment in November, 2001, it became apparent that what was thought to be an exemption instead added individuals to the tax roles. This bill:

Repeals the changes enacted by the 77th Legislature on this issue. Authorizes the legislature to exempt from ad valorem taxation certain travel trailers not held or used for the production of income, if the accompanying constitutional amendment is approved by voters.

(See S.J.R. 25, page 397)

Effect of Tax Increment Financing on Ad Valorem Tax Rates - S.B. 657
by Senator Brimer - Sponsor: Representative Lewis

Currently, the calculation of the tax rate for a taxing entity includes the total appraised value and all taxes imposed for a real property within the jurisdiction of that entity, even property that the entity has agreed to pay into the tax increment fund for a reinvestment zone.

The 77th Legislature enacted legislation to exclude “captured appraised value” and the resulting “tax increment” for property in reinvestment zones from tax rate calculations, but the exclusion was limited taxing units in counties with a population of less than 500,000. This bill:

Removes the population restriction and would allow these steps for any taxing unit.

Provides that Section 26.03, Tax Code, does not apply to school districts which have a similar provision for tax increment financing in a separate law. Provides that the portion of the tax increment of a taxing unit that the unit has agreed to pay into the tax increment fund for a certain reinvestment zone is not excluded from certain taxes imposed or collected if in the same tax rate calculation there is not portion of captured appraised value excluded from the value of the property taxable by the unit for the same reinvestment zone.
Permanent Exemption from Taxes on Leased Personal Vehicles - S.B. 658  
by Senator Brimer - House Sponsor: Representative Woolley

The 77th Legislature eliminated ad valorem taxation for vehicles leased primarily for personal use. The exemption did not apply in a municipality if the municipality’s governing body adopted an ordinance before January 1, 2002, providing for the continued taxation of leased motor vehicles. However, the legislation included a provision that if the exemption was not continued by the legislature, it would expire December 31, 2003. This bill:

Makes permanent the exemption from ad valorem taxes on motor vehicles leased for personal use.

Requiring Disclosure for Property Tax Refund Services - S.B. 853  
by Senator Madla - House Sponsor: Representative Martinez Fischer

A Texas CPA firm was contacting homeowners stating that they may be eligible for a refund, but not revealing the source of the information until after the homeowners signed a contract, which granted the firm 50 percent of any refund collected. After signing the contract, homeowners learned that the refund concerned homestead and over-65 property tax exemptions and this information was available for free to the public. This bill:

Requires a person who solicits solely by telephone or mail a homeowner to pay a fee for the service of applying for a property tax refund from a tax appraisal district or other governmental body to disclose to the homeowner the name of that governmental body before accepting money from the homeowner or signing a contract with the homeowner.

Provides that failure to provide such disclosure is a deceptive trade practice.

Self-Directed and Semi-Independent Agencies, Sunset - S.B. 1382  
by Senator Armbrister - House Sponsor: Representative Heflin

The Self-Directed, Semi-Independent Agency Project Act (Article 8930, Revised Statutes), passed by the 76th Legislature in 1999, allows the Texas State Board of Public Accountancy, the Texas Board of Professional Engineers, and the Texas Board of Architectural Examiners to operate with increased autonomy and to manage their budgets outside of the appropriations process. The three agencies have successfully performed their functions under this pilot program, and the purpose of S.B. 1382 is to continue the pilot program, with certain modifications, until September 1, 2009. This bill:

Provides that this Act is subject to Chapter 325 (Texas Sunset Act), Government Code, and unless continued in existence as provided by that chapter, this Act expires September 1, 2009.

Provides that any Act of the 78th Legislature that relates to an agency included in this Act and that is inconsistent with being self-directed and semi-independent may be implemented on authorization by the
governing board of the agency in order to allow the pilot project the opportunity to test the effectiveness of operating under the provisions of this Act.

Requires the following agencies to annually remit to the general revenue fund the following amounts:
- Texas State Board of Public Accountancy – $703,344;
- Texas Board of Professional Engineers – $373,900; and
- Texas Board of Architectural Examiners – $510,000.

Authorizes a project agency to retain each fiscal year an amount of fines and other revenue the project agency receives during the fiscal year as a result of enforcement actions that is equal to 20 percent of the total amount expended by the project agency during the previous fiscal year, not to exceed $1 million.

Requires a project agency, at the end of each fiscal year, to deposit to the credit of the general revenue fund 50 percent of the unexpended balance of the amount retained from fines and other revenue as a result of enforcement actions.

Prohibits a project agency from accepting a gift, grant, or donation from a party to an enforcement action, or to pursue a specific investigation or enforcement action.

Requires a project agency to report each gift, grant, or donation that the agency receives as a separate item in the agency’s detailed report required by this Act, and to include with the report a statement indicating the purpose for which each gift, grant, or donation was used.

Provides that if a conflict exists between this Act and another Act of the 78th Legislature that amends the Self-Directed Semi-Independent Agency Project Act, including an Act that continues a project agency in accordance with the Texas Sunset Act, this Act controls without regard to the relative dates of enactment.

Ad Valorem Tax Exemptions, Payments, and Refunds - S.B. 1659
by Senator Madla - House Sponsor: Representative Mercer

Adds “tax refunds” to a list of items which a property owner may direct an appraisal district, appraisal review board, and each taxing unit participating in the appraisal district to deliver to a specified person other than the property owner.

Prohibits an individual 65 years of age or older, who establishes a subsequent residence homestead during the same tax year from qualifying for a homestead from ad valorem taxes, on the subsequent residence homestead before January 1 of the following tax year.

Requires the chief appraiser to accept and approve or deny an application for a residence homestead exemption after the deadline for filing has passed if it is filed not later than one year after the delinquency date for the taxes on the homestead.
Requires a tax refund to be made to the person who was the owner of the property on January 1 of the tax year in which the taxes were assessed unless otherwise specified by that person.

Requires the taxing unit to make a refund without requiring additional action by or documentation from the property owner, the property owners’ agent, or the party who paid the taxes.

Prohibits a taxing unit from requiring a property owner or the property owner’s agent to provide a receipt issued as evidence that a tax has been paid.

**Electronic Information Exchange by Taxpayers - S.B. 1833**  
_by Senator Staples - House Sponsor: Representative Christian_

Although technological advances have made electronic exchange of information between governmental entities and taxpayers more advanced and secure, state law does not specify that electronic communications can be made between taxpayers and appraisal districts, taxing units, or other tax officials. This bill:

Allows for the electronic exchange of information between certain governmental agencies and taxpayers.

Requires the comptroller of public accounts to prescribe acceptable media, formats, and methods for exchange of electronic information for notices, renditions, and applications.

**Exemption for Travel Trailer from Ad Valorem Taxation - S.J.R. 25**  
_by Senators Staples and Lucio - House Sponsor: Representative Chisum_

During the 77th Legislative Session, the legislature created an exemption for travel trailer from ad valorem taxes, except at the school district level. Upon adoption of the constitutional amendment in November 2001, it become apparent that what was thought to be an exemption in fact added individuals to the tax rolls. This bill:

Requires the submission to the voters of a constitutional amendment authorizing the legislature to exempt from ad valorem taxation certain travel trailers not held or used for the production of income.

(See S.B. 510, page 394)

**Conservation and Reclamation Districts - S.J.R. 30**  
_by Senator Lindsay - House Sponsor: Representative Callegari_

The Texas Constitution currently states that water district tax receipts may not be used for the development of parks and recreational facilities. This bill:
Requires a vote on a constitutional amendment authorizing conservation and reclamation districts to develop parks and recreational facilities.

Requires this proposed constitutional amendment to be submitted to the voters on September 13, 2003.

(See S.B. 624, page 343)
Regional Mobility Authorities and Property Acquisition - H.B. 156
by Representative Krusee, et al. - Senate Sponsor: Senator Ogden

Under current Texas law, a regional mobility authority may not acquire property through condemnation proceedings. This bill:

Authorizes the governing body of a regional mobility authority to acquire real property through condemnation only if:
- the real property is located in a county that is part of the regional mobility authority;
- the real property is not located within a county that is part of the regional mobility authority and the county commissioners court of the county in which the real property is located concurs with the condemnation; and
- the property to be condemned is needed for a transportation project that is in an approved applicable metropolitan planning organization’s plan.

Provides that the governing body of a regional mobility authority may not condemn or purchase real property of certain rapid transit authorities.

Prohibits condemnation by a regional mobility authority of a bridge that is owned by a municipality or county that connects the State of Texas with the United Mexican States.

Regional Mobility Authorities and Financing Turnpike Projects - H.B. 157
by Representative Krusee, et al. - Senate Sponsor: Senator Ogden

Currently, a regional mobility authority (RMA) is authorized to construct, maintain, and operate a regional turnpike project, in conjunction with other counties, designed in order to provide alternatives to transportation funding needs when traditional funding sources are not available. This bill:

Provides that an RMA has the same powers and duties that the Texas Transportation Commission and the Texas Department of Transportation have relating to financing turnpike projects, including the issuance of bonds or the imposition of tolls.

Prohibits RMAs from entering into certain projects with other governmental entities have entered unto unless the other governmental entity enters into a written agreement with the RMA.

Financing Roads Through the Texas Transportation Commission - H.B. 471
by Representative Pickett, et al. - Senate Sponsor: Senator Lucio

In January, 2001, the comptroller of public accounts recommended that the Texas Department of Transportation (TxDOT) be given the authority to borrow funds on a short-term basis from either the state treasury or from capital markets in order to leverage its cash position.
Authorizes the TTC to borrow money from any source to carry out the functions of TxDOT.

Authorizes a loan to be in the form of an agreement, note, contract, or other form as determined by TTC, but not to exceed a period of two years, among certain conditions.

Provides that money in the State Highway Fund, (Fund 6) may be used to repay a loan under this Act if appropriate by the legislature for that purpose.

Authorizes TTC to issue, sell, and deliver tax and revenue anticipation notes on behalf of the state, under specific conditions.

Requires that TTC submit a Fund 6 cash flow shortfall forecast with details of estimated revenue and expenditures.

Authorizes that the Cash Management Committee (Section 404.122, Subchapter H, Tax and Revenue Anticipation Notes, Government Code) to issue, sell, and deliver tax and revenue anticipation notes on behalf of the state in anticipation of a temporary cash flow shortfall in the Fund 6 during any fiscal year.

(See H.J.R. 28, page 412)

Vehicles Left Unattended at Certain Parking Facilities - H.B. 560

by Representative Pickett - Senate Sponsor: Senator Madla

Authorizes the removal of a parked vehicle at an apartment complex that constitutes an obstruction, is parked in a tow-away zone, or is leaking dangerous fluids.

Regulation of Tow Trucks - H.B. 849

by Representative Talton - Senate Sponsor: Senator Jackson

Adjusts fees an operator of a vehicle storage facility may charge the owner of a stored vehicle.

Adjusts the ordinance authority granted to local governments in relation to the tow truck industry.

Adjusts fees assessed for the registration of a tow truck vehicle.

Sets forth insurance requirements for tow truck owners.

Sets forth provisions regarding offenses and penalties for the violation of a tow truck ordinance, resolution, order, rule, or regulation.
Recreational Vehicles on the Roads - H.B. 946
by Representative Fred Brown - Senate Sponsor: Senator Wentworth

Current Texas law prohibits the width of a vehicle from exceeding 102 inches, not including safety equipment. This bill:

Authorizes a recreational vehicle to exceed a width limitation if the excess width is attributable to an appurtenance, including an awning, a grab handle, lighting equipment, or a vent, that extends six inches or less beyond a fender on one or both sides of the vehicle.

Truck Traffic and Texas Highways - H.B. 1208
by Representative Lewis - Senate Sponsor: Senator Shapiro

Mobility problems are most apparent in areas with a high volume of truck traffic. Limiting some lanes in these areas to truck traffic could minimize truck-related congestion. High occupancy vehicle and toll lanes would also ease congestion and maximize limited funding. This bill:

Authorizes the Texas Department of Transportation (TxDOT) to finance, designate, design, construct, operate, or maintain one or more lanes on a multi-lane highway facility as dedicated high occupancy vehicle lanes (HOV) on the state highway system.

Allows motorcycles or low-emissions vehicles to use HOV lanes, if this would not impair the receipt of federal transit funds.

Authorizes the Texas Transportation Commission (TTC) to authorize TxDOT to charge tolls on existing free public highways. If tolls are charged, authorizes TxDOT to enter into an agreement with a regional tollway authority, a transit authority, a regional mobility authority, a county, or a transportation corporation to design, construct, operate, or maintain a toll lane.

Authorizes TTC to authorize TxDOT or the entity operating said toll lane to set the fee for toll charges.

Authorizes that revenue generated from toll lanes to be assessed by TxDOT and deposited in the state highway fund to be used only for projects for the improvement of the state highway system.

Exempts police and emergency vehicles from any restrictions on the use of restricted lanes.

Authorizes TxDOT to erect and maintain traffic control devices as part of the operation of toll lanes.

Provides certain penalties for nonpayment of tolls.

Provides that toll lane entities may offer motor vehicle operators the use of transponders to pay tolls.

Requires TTC, if lanes to be restricted by TTC are within a municipality, to consult with the municipality before adopting the restrictions.
Medical Information on Driver’s Licenses - H.B. 1330

by Representative McReynolds and Christian - Senate Sponsor: Senator Staples

Currently, Texas law requires the Texas Department of Public safety (DPS) to include certain medical and emergency information on a Texas driver’s license. However, a license holder does not have the opportunity to voluntarily place significant medical information on the license. This bill:

Authorizes DPS to print on the reverse side of a driver’s license, any medical information provided by the license holder, if space allows.

Requires the application to voluntarily list any health condition that may impede communication with a peace officer as evidenced by a written statement from a licensed physician.

Liability Limitation for Highway Contractors - H.B. 1699

by Representative Kuempel - Senate Sponsor: Senator Averitt

Renames Chapter 97, Civil Practice and Remedies Code, as Liability Protection for Persons Providing Services to a Governmental Unit, rather than Liability of Correctional Facilities and Officers Barred for Certain Acts of Inmates.

Removes liability for damages from a contractor constructing or repairing a highway, street, or road for the Texas Department of Transportation who is compliance with the contract specifications that result in injury, death, or property damage, in Section 97.002, Civil Practice and Remedies Code.

Penalties for Blocking Access Aisles - H.B. 1784

by Representative McReynolds - Senate Sponsor: Senator West

Clarifies that it is an offense if a person parks a vehicle so that the vehicle blocks an architectural improvement designed to aid persons with disabilities, including an access aisle.

Makes the offense a misdemeanor punishable by a fine of not less than $250 or more than $500.

Use of the Internet for Certain Bidding Proposals - H.B. 2091

by Representative Harper-Brown - Senate Sponsor: Senator Deuell

Under current Texas law, transportation authorities may not use the Internet for the electronic transmission of bids and proposals due to the requirement that the bids be sealed. The same prohibition applies to reverse auction for transportation authorities, a form of competitive bidding whereby the buyer announces the product it wants to buy and prospective sellers bid against each other for the lowest offering price. This bill:
Authorizes regional transportation authorities to use electronic transmission of bids and proposals and the reserve auction procedure.

Requires certain measures to be taken to ensure the security and confidentiality of the transmissions.

**State Highway Maintenance Contracts - H.B. 2092**  
*by Representative Harper-Brown - Senate Sponsor: Senator Wentworth*

Highway improvement contracts are under the authority of the Texas Department of Transportation (TxDOT), and must follow formal advertisement and contracting procedures that include maintenance contracts regardless of the size of the contract. TxDOT also must spend at least half of its maintenance project funds on controlled maintenance. This process can result in higher costs to the state. This bill:

Authorizes TxDOT to award a contract if TxDOT:
- estimates that the contract will involve an amount less than $15,000; and
- determines that the competitive bidding procedure is not practical.

**Transfer or Sale of Highway Property - H.B. 2377**  
*by Representative Hill - Senate Sponsor: Senator Ogden*

Requires the Texas Transportation Commission (TTC) to designate as part of the state highway system a highway that it determines is necessary for the proper development and operation of the system. Authorizes TTC to remove a segment of the state highway system that it determines is not needed for the system.

Authorizes TTC to recommend to the governor the sale or transfer of any interest in real property, including a highway right-of-way that meets certain conditions.

Authorizes TTC to transfer ownership of a historic bridge scheduled for replacement to a governmental entity or a responsible private entity. Provides that the entity that accepts ownership of the bridge assumes all legal and financial responsibility for the bridge and requires the entity to maintain and preserve the bridge and its historic features.

Prohibits TTC from transferring a bridge unless it reviews the proposed recipient’s intended use of the bridge and determines that the bridge can be safely used for that purpose.

**Statutory Changes in Transportation Regulation - H.B. 3184**  
*by Representative Hill - Senate Sponsor: Senator Barrientos*

The 77th Legislature transferred certain powers and duties of the Turnpike Authority Division of the Texas Department of Transportation (TxDOT) to the Texas Transportation Commission (TTC). This bill:
Transfers rulemaking authority from the Texas Turnpike Authority (Authority) to TTC.

Grants rulemaking authority to TxDOT.

Clarifies that the Authority is responsible for promoting and coordinating the development of turnpike projects.

Clarifies that TxDOT may:
- construct, maintain, repair, and operate turnpike projects;
- enter into contracts or operating agreements with similar authorities or agencies of another state, including a state of the United Mexican States, with the approval of the governor and TTC;
- receive grants for the construction of a turnpike project and receive contributions of money, property, labor, or other things of value from any source to be used for the purposes for which the grants or contributions are made; and
- engage in marketing, advertising, and other activities to promote the development and use of turnpike projects and may enter into contracts or agreements necessary to procure marketing, advertising, or other promotional services from outside service providers.

Requires TxDOT to designate the location of and establish, limit, and control the entrances and exits of a turnpike project.

Authorizes TxDOT to acquire property in the name of the state, including public or private real property necessary or convenient for turnpike projects, and other property necessary as determined by TxDOT.

Authorizes TxDOT to dispose of surplus property.

Authorizes the governing body of a political subdivision or public agency to convey title, rights, or easements in real property TxDOT needs in connection with the construction or operation of a turnpike project without advertising.

Authorizes TTC may approve the acquisition of public or private real property by the exercise of the power of condemnation for public use if TxDOT and the owner cannot agree on a reasonable price for the property; or the owner is legally incapacitated, absent, unknown, or unable to convey title.

Requires TxDOT to pay the value and any damages to an owner for property acquired or severed.

Authorizes TTC may issue turnpike revenue bonds, at public or private sale, to pay all or part of the cost of a turnpike project, each project to be financed and built by a separate bond issue, the proceeds to be used solely for the payment of the project for which the bonds were issued.

Prohibits TTC and TxDOT from incurring financial obligations that cannot be paid from tolls or revenue derived from owning or operating turnpike projects.

Requires TxDOT to authorize a feasibility study.
Logo Signs on Major Highways - H.B. 3330

by Representative Crownover - Senate Sponsor: Senator Estes

Texas law currently restricts logo reader boards, blue signs on the side of highways that indicate businesses at that exit, to areas outside an urbanized area with a population of more than 50,000. This bill:

Redefines “eligible highway” to include a controlled-access highway located in an urbanized area with a population of 50,000 or more.

Requires fees to be paid to contractors by a commercial establishment eligible for display on the specific information logo sign as well as remittance to the Texas Department of Transportation (TxDOT) of at least 10 percent of the fees collected by the contractor.

Authorizes the Texas Transportation Commission to contract with an individual, firm, group, or association in this state to erect and maintain major shopping area guide signs at appropriate locations along an eligible urban highway.

Requires at least 10 percent of the amount of fees that are paid to a contractor by a major shopping area to be remitted to TxDOT.

Changes in Transportation - H.B. 3588

by Representative Krusee, et al. - Senate Sponsor: Senator Ogden

The Texas Department of Transportation (TxDOT) is the traditional operator of highways in the state, and has relied on motor fuels taxes to finance this network, but these taxes are declining. Construction of new highways has been unable to keep up with almost unprecedented demand created by the tremendous population growth and economic expansion. Please note that the following represents a sampling of the major provisions and is not a comprehensive summary of the changes in H.B. 3588.

Article 1: Trans-Texas Corridor

Provides for the establishment, designation, construction, and operation of a system of multimodal facilities including toll roads, rail facilities, and utilities to be known as the Trans-Texas Corridor (corridor).

Provides that the Texas Transportation Commission (TTC) and TxDOT have the necessary powers to construct and operate the corridor, and broadens their authority with respect to financing the corridor, including the encouragement that private entities participate in the planning, design, construction, and operation of corridor facilities.

Provides that contributions from governmental entities as well as loans, grants and reimbursements from the federal government may be used by TxDOT; provides that TTC may issue bonds for construction and transfer funds from the State Infrastructure Bank.
Authorizes TxDOT to enter into comprehensive development agreements (CDA) with regard to turnpikes. (See Article 15.)

Provides for the establishment of tolls and fees for the use of corridor facilities; provides for the granting of franchise rights and exclusive and non-exclusive access licenses; allows for agreements with a rail operator, public utility, private utility communications system, common carrier, transportation system, or other entity.

Requires the TTC to designate facilities when selecting a route, considering criteria for interrelationship with the corridor.

Authorizes the TTC to purchase options to acquire real property in advance of the final determination of the corridor route, including granting TxDOT a right of entry and “early possession” authority for the corridor as currently authorized for turnpikes.

Limits TxDOT to an amount equivalent to 20 percent of the obligation authority under the federal-aid highway program distributed to Texas in that year for the purposes of acquiring rights-of-way, initial construction of the corridor, and grading and bed preparation for non-highway components of the corridor expended from state highway fund (Fund 6).

Prohibits TxDOT from expending more than $25 million for the construction or purchase of non-highway facilities on the corridor, and provides for exceptions to the expenditure cap.

Provides TTC with necessary tools for implementation of the corridor in planning, financing, and construction.

**Article 2: Regional Mobility Authorities**

Establishes the Regional Mobility Authority Act and provides a Regional Mobility Authority (RMA) the power to issue revenue bonds.

Authorizes TTC to create an RMA to construct, maintain, and operate transportation projects; establish tolls; lease part of a transportation facility for hotels, gas stations, stores, garages, railroad tracks, or restaurants.

Allows the TTC to convert segments of the non-tolled state highway system to a turnpike project and transfer that segment to an RMA.

Requires the RMA to reimburse the TTC for the cost of a transferred highway unless TTC determines that the transfer will result in substantial net benefits to the state TxDOT, and the public.

Requires RMAs to establish and meet goals for participation by disadvantaged businesses.

Allows TxDOT to help pay for certain costs of an RMA project.
Allows an RMA to enter into agreements with a public or private entity, a toll road corporation, the U.S., a state of the U.S., the United Mexican States, a state of the United Mexican States, another governmental entity, or a political subdivision, in order to study the feasibility of a transportation project or to acquire, design, finance, construct, maintain, repair, operate, extend, or expand a transportation project.

Should the TTC request an RMA to participate in the corridor, the RMA shall have all powers of TxDOT related to the development of the corridor.

RMAs and TxDOT and the TTC will coordinate on transportation planning, financing, construction, and operation of highways.

**Article 3: Advanced Acquisition**

Allows TTC to purchase an option to acquire real property before a final alignment has been determined, but prohibits TTC from making an advance acquisition by condemnation.

Authorizes the General Land Office, at the request of TxDOT, to manage such property.

**Article 4: Rail**

Authorizes TxDOT to plan, construct, maintain, and operate rail facilities or systems, including the acquisition and development of existing facilities, using appropriations from Fund 6 not otherwise dedicated (i.e., vehicle registration fees and taxes on motor fuels), bonds secured by the mobility fund, donations, and the proceeds of revenue bonds.

Prohibits disbursement of total funds over $12.5 million unless for rail on the corridor; acquisition of abandoned rail facilities; grading and rail bed preparation; or funds derived from bonds, gifts, private donations, or certain federal funds.

Requires TTC to promulgate rules in order to administer these requirements.

**Article 5: Bonds**

Authorizes TTC to issue bonds and other public securities from revenue deposited to the credit of Fund 6.

Prohibits that the aggregate principal amount of the bonds and other public securities issued exceed $3 billion (and not exceed $1 billion per year).

Requires that with revenue used to fund highway improvement projects, a minimum of $600 million must be used to fund highway safety improvement projects in the state highway system.

Prohibits bond proceeds from being used for projects on the corridor.

Allows TTC the option of accelerating construction through the issuance of debt-retired existing revenues to Fund 6.
Article 6: Pass-Through Tolls

Allows TxDOT to enter into an agreement with a public or private entity to provide pass-through tolls to be paid to a public or private entity as reimbursement for the construction, maintenance, or operation of a toll or non-toll facility on the state highway system by the public or private entity.

Allows TxDOT to enter into an agreement with RMAs, a regional tollway authority, or a county regarding the payment of pass-through tolls as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway converted to a toll facility of the authority or county that TxDOT estimates would have been incurred without the conversion.

Article 7: Toll Conversion

Allows TTC to transfer segments of the non-tolled state highway system to a county toll road authority for its operation and maintenance under certain circumstances.

Allows TTC to waive all or a portion of money due if the conveyance could result in a substantial net benefit to the state.

Requires counties to use toll revenue to fund the expansion, extension, operation, and maintenance of the converted or transferred highway.

Article 8: Commercial Driver’s License

Expands the definition of “serious traffic violation” to include violations that have occurred in any motor vehicle, not just a commercial vehicle, when determining qualifications for operating a commercial vehicle.

Article 9: County Fee Switch

Moves, beginning in 2006, the amount that counties retain from motor vehicle registration fees based on motor vehicle sales taxes, at a rate of 10 percent per year, from motor vehicle registration fees and Fund 6 to motor vehicle sales tax revenues and the General Revenue Fund (GR); after 10 years, all county revenue based on motor vehicle sales taxes will be deducted from GR.

Article 10: Driver Responsibility Act

Creates a system of points and surcharges applied to the driver’s license of those convicted of certain moving violations to be implemented by the Department of Public Safety (DPS).

Creates and credits half the revenue collected to the trauma facility and emergency medical services account; the other half is credited to GR.
Article 11: DPS Fees to Mobility Fund

Moves existing revenue from motor vehicle inspection fees, driver’s license fees, driver’s license information fees, from GR to the mobility fund to be used to secure bonds issued to fund transportation projects.

Capitalizes the mobility fund.

Allows TxDOT to coordinate the provision of public transportation projects and improvements throughout the state.

Article 12: $30 Additional Court Fee

Imposes a new $30 court fee on traffic violations, excluding some parking tickets. Two-thirds of the revenue will be deposited to GR; one third credited to the designated trauma facility and emergency medical services account, effective September 1, 2003; expires September 1, 2007. (See Article 20.)

Article 13: Public Transportation

Authorizes the TTC to adopt rules requiring state agencies that provide public transportation services to contract with TxDOT in order for them to assume responsibilities of that agency relating to public services; authorizes the TTC to require public transportation providers to provide detailed information on its public transportation services including revenue, routes, and number of passengers.

Requires certain health and human services agencies to contract with TxDOT for the provision of medical transportation services.

Allows TxDOT to contract with any public or private transportation provider to arrange for services.

TTC may increase or reduce funding to a public transportation provider based on whether the provider is complying fully with this chapter.

Authorizes TTC to appoint the membership of the Public Transportation Advisory Committee, rather than the governor, lieutenant governor, and speaker of the house of representatives.

Article 14: Conditional Grant Program

Changes the eligibility requirements for participation in the Conditional Grant Program from minorities and women to “economically disadvantaged,” giving priority to students demonstrating the greatest financial need.

Article 15: Turnpike

Substitutes “department” or “commission” where “authority” or “board” previously existed.
Allows TxDOT to lease property for ancillary activities such as hotels, stores, restaurants, and gas stations to provide additional revenue sources for turnpike projects.

Allows for Comprehensive Development Agreements (CDA) agreements with a private entity that provides for the design and construction of a turnpike project and the financing, acquisition, maintenance, or operation of a turnpike project.

Prohibits TxDOT from disbursing money during a federal fiscal year from the mobility fund or Fund 6 under a CDA in an amount greater than 40 percent of the obligation authority under the federal aid highway program distributed to the state.

Requires a private entity entering into a CDA to provide performance and payment bonds or alternative forms of security in an amount sufficient to protect TxDOT and the payment bond beneficiaries.

Limits TxDOT’s involvement with a private equity investor and a CDA with a project that is identified in the Unified Transportation Program or located on a transportation corridor identified in the statewide transportation plan.

Requires TxDOT to pay a stipulated amount to those who submit unsuccessful proposals as compensation for proposal costs in an amount that does not exceed the value of the work product contained in the proposal that can be used by TxDOT in the performance of its functions.

Prohibits TxDOT from entering into an agreement with the United Mexican States or a state of the United Mexican States without the approval of the governor.

Article 16: Commercial Motor Vehicle Safety

Allows DPS and certified municipal police to stop and enter commercial vehicles in addition to their existing authority to detain them.

Article 17: Nonrepairable and Salvage Motor Vehicles

Redefines the criteria for determining whether a vehicle is a “salvage” vehicle by eliminating the model year and percentage of damage criteria currently used for that purpose in order to reduce fraud associated with the issuance of salvage certificates of title and to improve regulatory oversight of the salvage and rebuilt industries.

Article 18: Port Authority Advisory Committee

Transfers the Texas Port Transportation and Economic Development Advisory Committee and its duties to TxDOT and merges it with TxDOT’s existing port authority advisory committee; increases the size of the committee from five to seven members.
Article 19: Miscellaneous Provisions

Requires TxDOT’s statewide transportation plan to include a component, not financially constrained, that identifies transportation improvements designed to relieve congestion, and to include in that development, opinions and assistance from pertinent local transportation officials.

Eliminates the 30 percent cap on the use of monies in Fund 6 for toll equity, changing it to a hard limit of $800 million.

Provides that vehicles with safety inspection stickers that have been lost or stolen are required to be reinspected and any applicable fees paid.

Provides that malfunctioning traffic signals be treated by approaching drivers as if they were stop signs.

Increases the penalty for improperly passing a school bus if the Act causes serious injury or there are multiple offenses.

Provides conditions for how and where electric vehicles or motor assisted scooters may be driven; sets out conditions for prohibitions of these electric vehicles.

Adds “standing” to the prohibition on occupying a disabled parking space; to “stand” a vehicle means to halt an occupied or unoccupied vehicle.

Provides that a metropolitan rapid transit authority with a population of 1.5 million or more may issue bonds with a term of not more than five years.

Requires that a study conducted by DPS and the Texas Department of Insurance (TDI) determine the use of a database interface software program for verifying whether a vehicle owner has established financial responsibility, that it be completed by a certain time, and that, if it is determined the use of this software is feasible, DPS and TDI shall implement the system before January 1, 2005.

Provides that TxDOT collect an additional $1 fee on each initial and renewed registration to be deposited to Fund 6.

Article 20: General Provisions

Directs different revenue streams:

- $60 million previously credited to GR in 2004 under the Driver Responsibility Act will be credited to the mobility fund debt service account;
- $79 million that would have gone to GR under the new $30 court fee provision will be credited to the mobility fund debt service account; and
- $218 million slated for the mobility fund will go to GR in 2004.
Constitutional Amendment Providing for Authorization to Borrow Money on a Short-Term Basis by a State Transportation Agency - H.J.R. 28

by Representative Pickett, et al. - Senate Sponsor: Senator Lucio

Proposed a constitutional amendment to allow the legislature, by law, to authorize the Texas Transportation Commission or its successor to authorize the Texas Department of Transportation or its successor to issue notes or borrow money from any source to carry out the function of the department on a short-term basis, not to exceed two years. This bill:

Requires the proposed constitutional amendment to be submitted to the voters at an election to be held September 13, 2003.

(See H.B. 471, page 399)

Curb Cuts and State Highways - S.B. 361

by Senator Shapiro and Ratliff - House Sponsor: Representative Hill

Provides that certain orders of the Texas Transportation Commission (TTC) do not supersede a conflicting rule of a municipality, including a home-rule municipality, unless the United States Department of Transportation Federal Highway Administration notifies the Texas Department of Transportation (TxDOT) that enforcement of the municipal rule or ordinance would impair the state or TxDOT’s ability to receive funds from the federal government.

Advanced Transportation Districts - S.B. 404


Currently, sales and use taxes are utilized for advanced transportation purposes, defined as light rail, commuter rail, fixed guideways, and high occupancy vehicle lanes, with a tax rate set at 0.25 percent. This bill:

Expands the definition of advanced transportation to include, among others: traffic management systems, bus ways, bus lanes, technologically advanced bus transit vehicle and systems.

Defines “mobility enhancement” to include the design, construction, reconstruction, alteration, and maintenance of certain roadways, sidewalks, and transportation infrastructures.

Allows the governing board of an advanced transportation district (district), in a district in which the principal municipality has a population of more than 700,000, to impose a rate of one-eighth of one percent; one-fourth of one percent; three-eighths of one percent; or one-half of one percent, for advanced transportation and mobility enhancement within the district.

Requires the district to use one-half the proceeds of sales and use tax only for advanced transportation purposes as determined by the governing board (board) of the district.
Provides that the board remit one-fourth of the proceeds of the sales and use tax proportionately to each participating unit in proportion to the amount of sales and use tax proceeds that were collected in each participating unit.

Provides that the governing body of the district place one-fourth of the proceeds of the sales and use tax in a separate account to be used only to provide an appropriate amount to the Texas Department of Transportation as the local share of a state or federal grant for advanced transportation or mobility enhancement purposed. Requires projects funded with these matching local, state, and federal funds to follow certain protocols.

Members on the Texas Transportation Commission - S.B. 409
by Senators Lucio and Hinojosa - House Sponsor: Representative Chavez

Provides that the Texas Transportation Commission (TTC) consists of five, rather than three, members and requires membership to reflect the diverse geographic regions and population groups of Texas.

Requires the TTC to consider ways to improve the Texas Department of Transportation’s (TxDOT) operations and periodically report to the legislature concerning potential statutory changes to this effect.

Requires the chair, on behalf of TTC, to report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by TTC and relating to TxDOT’s operation.

Utility Facilities, Utility Lines, and the Trans Texas Corridor Plan - S.B. 487
by Senator Ogden - House Sponsor: Representative Krusee

With the designs of the Trans Texas Corridor Plan underway, utility lines or a utility’s facility will need to be relocated as the state highway system undergoes change. This bill:

Authorizes the Texas Department of Transportation (TxDOT) to determine the relocation of a utility facility to accommodate improvements to the state highway system.

Requires TxDOT to utilize its best efforts in notifying an affected utility with plans and drawings of the highway improvement project in order to enable the utility to make all necessary determinations to relocate the affected facility.

Requires TxDOT, should TxDOT and the affected utility not enter into an agreement under this section, to give sufficient notice to the affected utility regarding the relocation of the facility.

Requires costs attributable to failure to comply with these provisions to be borne by the utility less certain reimbursable costs that would have been payable to the utility.

Requires any relocation by TxDOT to be carried out in a manner that minimizes disruption of utility service.
County Restrictions on Highway Use - S.B. 514  
by Senator Lindsay - House Sponsor: Representative Mowery

Restrictions may be placed on certain designated lanes when authorized by a municipality, and in Houston’s application of this policy, traffic accidents have been reduced by 68 percent. This bill:

- Authorizes a commissioners court to restrict by class of vehicle, through traffic to two or more designated lanes on a county highway.
- Requires the approval of restrictions by the executive director or his or her designee of the Texas Department of Transportation (TxDOT).
- Provides adherence to a certain systems approach in order to preclude inconsistencies in lane restrictions among adjacent counties or municipalities prior to approval.

Authority of a Commissioners Court to Alter County Road Speed Limits - S.B. 540  
by Senator Williams - House Sponsor: Representative Eissler

Authorizes the commissioners court of a county to declare a lower speed limit of not less than 20 miles per hour on a county road or highway in a residential district, unless the roadway has been designated as a major thoroughfare by a city planning commission.

Suspension of Sentence for Misdemeanor Traffic Offenses - S.B. 631  
by Senator Harris - House Sponsor: Representative Talton

Specifies that an order of deferral, in a case in which a plea of guilty or nolo contendere has been entered, or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs has been made, terminates any liability under a bail bond or an appearance bond given for the charge.

- Extends the judge’s authority, during the deferral period, by allowing the judge to require the defendant to complete an approved driving safety course and to present to the court satisfactory evidence showing that the defendant has complied with each requirement imposed by the judge. These provisions do not apply to a traffic offense committed in a work zone or to an offense committed by a person who holds a commercial driver’s license.

- Requires the judge to require the defendant to successfully complete a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency, if:
  - the defendant elects driving safety course or motorcycle operator training course dismissal;
  - the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense;
the defendant enters a plea in person or in writing of no contest or guilty on or before the answer date on the notice to appear and:
  ▪ presents in person or by counsel to the court a request to take a course; or
  ▪ sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course;
  ▪ the defendant has a valid Texas driver’s license or permit;
  ▪ the defendant is charged with an offense, other than speeding 25 miles per hour or more over the posted speed limit; and
  ▪ the defendant provides evidence of financial responsibility.

Requires the judge to enter judgment on the defendant’s plea at the time the plea is made, defer the imposition of the judgment, allow the defendant 90 days to complete an approved course, and to present to the judge a completion certificate and the driving record showing that the same course had not been completed within 12 months or begun on the same day as the plea was entered.

Authorizes the court to require the defendant requesting an approved course to pay a fee in an amount not to exceed the maximum amount of the fine for the offense committed by the defendant.

Requires the court to enter an adjudication of guilt and impose sentence, upon the defendant’s failing to comply with this provision.

Requires notices to appear to inform defendants of their right to complete a driving safety or motorcycle operator training course.

**Toll Roads and Counties - S.B. 716**

*by Senator Lindsay - House Sponsor: Representative Eiland*

Current law allows certain eligible counties to construct and maintain toll roads are not clear as to whether such projects may include a toll road project located entirely outside the eligible county’s borders. This bill:

Allows eligible counties to construct, operate, and maintain a toll road project that is located exclusively in adjacent counties, provided that the action has been approved by the adjacent county’s commissioners court.

Adds counties that border Mexico to the list of eligible counties.

**Driver Education Courses - S.B. 895**

*by Senator Bivins - House Sponsor: Representative Swinford*

The Department of Public Safety (DPS), under current law, does not have the specific authority to approve parent-taught, computer-based driver education programs. This bill:
Requires DPS to provide for approval of a driver education course to be conducted by the parent, step-parent, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license.

Requires DPS to provide a method by which approval of a course and submission of proof of the course completion is obtained; and by which approval of delivering course materials by an alternative method, including electronic means, is obtained.

**Free Use of Toll Project by Military Vehicle - S.B. 903**  
*by Senators Lindsay and Van de Putte - House Sponsor: Representative Hamric*

Requires the operator of a toll project to adopt rules exempting military vehicles from paying tolls or fares.

Allows a convoy of military vehicles or individual military vehicles of this state, another state, or the federal government to use a toll project without paying tolls or fares.

Creates a Class C misdemeanor where a person claims a privilege under this rule and the person is not so entitled.

**Commercial Motor Carriers and Notification of Cancellation of Insurance - S.B. 1063**  
*by Senator Shapiro - House Sponsor: Representative Krusee*

Currently, when an insurance policy on a commercial motor carrier is going to be cancelled, the insurance company notifies the Texas Department of Transportation (TxDOT), which then notifies the Department of Public Safety (DPS), but DPS does not verify this information. This practice has led to some commercial vehicles being able to operate without liability coverage. This bill:

Requires that TxDOT notify DPS and other law enforcement agencies of any revocation of a motor carrier’s registration due to failure to maintain liability insurance coverage.

Requires DPS or a local law enforcement agency to confirm that the motor carrier whose registration has been revoked is not operating.

Requires a law enforcement officer to detain or impound any commercial vehicle so operating until such time as proper liability insurance coverage is filed with TxDOT.

**Permanent School Fund Loans for Acquisition of Rights-of-Way - S.B. 1082**  
*by Senator Ogden - House Sponsor: Representative Phillips*

Authorizes the Texas Department of Transportation (TxDOT), on terms and conditions agreed on by TxDOT and the State Board of Education (SBOE), to borrow from the permanent school fund to acquire rights-of-way for the state highway system.
Prohibits TxDOT from using the proceeds of a loan for the construction of a state highway or other facility of the Trans Texas Corridor.

Authorizes SBOE to make loans from the permanent school fund to TxDOT for acquiring rights-of-way for the highway system.

**Electronically Readable Information - S.B. 1445**
*by Senator Averitt - House Sponsor: Representative Solomons*

Provides a penalty for compiling or maintaining a database of the electronically readable information from a driver’s license, commercial driver’s license, or personal identification certificate.

Makes the offense a Class A misdemeanor.

Provides that a financial institution may maintain a database if each license or certificate holder whose information is included in the compilation or database consents to the inclusion of the person’s information in the compilation or database.

**Conversion of a Nontoll State Highway to a Toll Facility - S.B. 1463**
*by Senator Lindsay - House Sponsor: Representative Hamric*

Establishes the process for the Texas Transportation Commission (TCC) to convey a nontoll highway, or a segment thereof, to a county for operation and maintenance as a toll facility.

Authorizes toll revenue collected from state facilities to be earmarked for the state highway fund for Texas Department of Transportation (TxDOT) functions and air quality projects.

Requires TTC to adopt rules establishing the criteria and guidelines for such conveyances.

Requires TTC, before conveying a nontoll state highway or a segment of a nontoll state highway, to conduct a public hearing to receive comments from interested persons concerning the proposed conveyance.

Applies only to a nontoll state highway, or a segment thereof, conveyed to creating an outer loop located primarily in a county with a population of more than three million or an adjacent county.

**Enforcement of the Collection of Certain Tolls - S.B. 1464**
*by Senator Lindsay - House Sponsor: Representative Hamric*

Authorizes the Harris County Toll Road Authority and the Harris County Commissioners Court, on written notice to the registered owner of a vehicle, to impose an administrative cost for the collection of an unpaid toll and the payment of the proper toll.
Clarifies administrative hearing procedures, establishes a salary and expense fund for the Harris County attorney, and authorizes the seizure of transponders as a remedy.

Curb Cuts and Highway Access - S.B. 1782  
by Senator Lindsay - House Sponsor: Representative Hamric

Prohibits the Texas Transportation Commission (TTC) from adopting or enforcing an order applicable to a highway located in a county with a population of 3.3 million or more or in a county adjacent to a county with a population of 3.3 million or more and inconsistent with a highway access rule or ordinance adopted by the commissioners court of the county.

Provides that an order of TTC does not supersede a conflicting rule or ordinance of a municipality, including a home-rule municipality, or a county, unless the United States Department of Transportation Federal Highway Administration notifies TxDOT that this would impair the ability of the state or TxDOT to receive federal funds for highway construction or maintenance.

Provides that the prohibition against TTC from adopting or enforcing an order applicable to a highway located in a county with a population of 3.3 million or more does not apply when TxDOT owns the access rights by having specifically acquired abutters’ rights of access from the adjacent property owner, by specific deed language so indicated, or when constructing limited access toll roads and parkways, built without frontage roads that would otherwise allow access, unless preexisting abutters’ rights of access to an existing roadway are impacted.

Commercial Driver’s Licenses for the Operation of Motor Vehicles - S.B. 1904  
by Senator Barrientos - House Sponsor: Representative Keel

Current law holds that if a person who has a commercial driver’s license (CDL) commits a serious traffic violation or certain types of alcohol- or drug-related offenses while driving a non-commercial vehicle, the violations do not affect the person’s CDL, and the offenses are not registered on the CDL driving record. This bill:

Allows certain traffic violations committed by a person who holds a CDL in a non-commercial vehicle to adversely affect the status of his or her CDL.

Requires motor carriers to provide positive drug test information to the Department of Public Safety (DPS) and permits DPS to release the information to any person eligible to receive the information under the Motor Vehicle Records Disclosure Act.

Authorizes an expansion of the interactive release of records to include the five-year and certified complete records.
Mobile Telephone Numbers Added to Texas No-Call List - H.B. 147
by Representative Solomons, et al. - Senate Sponsor: Senator Shapleigh

Currently, under the Texas Telemarketing Disclosure and Privacy Act, a consumer is allowed to register a nonbusiness number on the Texas no-call list. However, the Act does not specifically mention mobile phones, thus allowing telemarketing calls to be made to citizens’ cellular phones. This bill:

Redefines “telephone call” to include a call to a mobile telephone number.

Requires the Public Utility Commission of Texas (PUC) to adopt rules requiring each local phone exchange telephone company and each commercial mobile service provider that provides commercial mobile service in this state to inform its customers of certain requirements by notification in a customer’s electronic bill, notification printed on a customer’s paper bill, or notification sent free of charge by messaging service to a customer’s mobile telephone number, among other methods.

Requires a commercial mobile service provider providing commercial mobile service in Texas to comply with those rules before October 1, 2003.

Requires the PUC, or the appropriate private vendor, to include mobile telephone numbers in the Texas no-call list that will be updated and published on January 1, 2004.

Bond Requirements for Certain Oil and Gas Activities - H.B. 942
by Representatives Chisum and Rose - Senate Sponsor: Senator Hinojosa

Amends current law requiring persons involved in oil and gas Activities to file a bond or alternate form of financial security by exempting the following from the bond requirement: local distribution companies; gas marketers; crude oil nominators; first purchasers; well servicing companies; survey companies; salt water haulers; gas nominator; gas purchasers; and well pluggers.

Increases certain filing fees.

Pipeline Safety Fees - H.B. 1194
by Representative West - Senate Sponsor: Senator Armbrister

Authorizes the Texas Railroad Commission (TRC) to adopt fees to be assessed annually against operators of natural gas distribution pipelines and their pipeline facilities and natural gas master metered pipelines and their pipeline facilities. Limits the amount of fees collected to the amount estimated by TRC to be necessary to recover the costs of administering the pipeline safety program, excluding costs that are fully funded by federal sources.

Authorizes TRC to assess each investor-owned and each municipally-owned gas distribution system an annual inspection fee not to exceed 50 cents per service line. Authorizes the commission to assess each operator of a natural gas master metered system an annual inspection fee not to exceed $100 per system.
Fee for a Reissued Certificate of Compliance for an Oil Lease or Gas Well - H.B. 1195

by Representative West - Senate Sponsor: Senator Armbrister

Requires the Texas Railroad Commission (TRC) to collect a nonrefundable fee of $300 for each severance or seal order issued for an oil lease or gas well if a certificate of compliance for the lease or well has been cancelled for a violation of one or more TRC rules.

Standardized Local Registration of Retail Electric Providers - H.B. 1369

by Representatives Baxter and Crabb - Senate Sponsor: Senator Brimer

Currently, a retail electric provider (REP) is required to register with a municipality as a condition of providing retail electric service to residents of the municipality. The municipality is authorized to charge a reasonable fee for that registration. This has created numerous differing municipal registration and fee requirements for REPs. This bill requires the Public Utility Commission of Texas (PUC) to adopt rules governing the local registration of REPs. This bill:

- Requires the rules relating to certification, registration, and reporting requirements for a certificated telecommunications utility, a REP, or an electric utility, among other entities, to be consistent with and no less effective than federal law.
- Prohibits those rules from requiring the disclosure of highly sensitive competitive or trade secret information.
- Requires PUC to adopt rules governing the local registration of REPs.

Utilities Corporations Clarified - H.B. 1531

by Representative Robert “Robby” Cook - Senate Sponsor: Senator Armbrister

Currently, the Utilities Code contains the general powers of utilities and refers to corporations engaged in the utility business. Recently, some local courts have questioned whether master limited partnerships and limited partnerships are included in the definition of corporation under the Utilities Code. This bill:

- Redefines "corporation" to include a limited partnership or master limited partnership; a combination of business entities composed exclusively of corporations or in which a corporation is a general partner; and a gas utility or electric utility regardless of form of organization, but not including a municipally owned utility.

Pipeline Safety, Construction, and Operation - H.B. 1931

by Representative Capelo, et al. - Senate Sponsor: Senator Williams

Current law requires at least 30-days notice and an opportunity for public comment before a pipeline project can be built, if that pipeline crosses more than three counties, and prohibits the Texas Railroad Commission (TRC) from issuing the permit until said comments have been considered. This bill:
Authorizes a pipeline operator or the operator’s representative to conduct required community liaison activities only if the operator or the operator’s representative has made an effort, by one of three certain methods, to conduct a community liaison meeting in person with the officials.

Authorizes the TRC to require the pipeline owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to provide, upon written request from the school district, a pipeline emergency response plan relevant to that school.

Prohibits a person from building, repairing, replacing, or maintaining a construction on, across, over, or under the easement or right-of-way for a pipeline facility unless notice of the construction is given to the operator of the pipeline facility, and the operator determines that the construction will not increase a risk to the public or increase a risk of a break, leak, rupture, or other damage to the pipeline facility.

Requires that the constructor pay the cost of the additional fortifications, barriers, conduits, or other changes or improvements necessary to protect the public or pipeline facility, if the operator determines that the construction will increase risk to the public or the pipeline facility.

**Facilities Along, Over, Under, or Across a Railroad Right-Of-Way - H.B. 2006**

*by Representatives Elizabeth Jones and McReynolds - Senate Sponsor: Senator Fraser*

Many railroads have turned their rights-of-way over to outside management companies. Utilities, pipeline, and cable companies which need to build facilities that cross the right-of-way or go alongside the right-of-way must deal with those management companies. This bill:

Creates a uniform process for gas companies, electrical companies, telecommunication companies, cable companies, and oil and gas pipelines to construct and maintain facilities along, over, under, or across a railroad right-of-way.

**PUC Authority Over Transmission Construction Clarified - H.B. 2548**

*by Representative King, et al. - Senate Sponsor: Senator Fraser*

Currently, under the Public Utilities Regulatory Act it is unclear whether the Public Utility Commission of Texas (PUC) has the authority to order a public utility to construct transmission and distribution infrastructure. This bill:

Authorizes the PUC, if it determines that conditions warrant the action, to authorize the inclusion of construction work in progress in the rate base for transmission investment.

Requires the PUC to grant each certificate on a nondiscriminatory basis after considering certain information, including, to the extent applicable, the effect of granting the certificate on the ability of this state to meet the goal established by Utilities Code provisions relating to renewable energy.
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Authorizes the PUC to require an electric utility or a transmission and distribution utility to construct or enlarge facilities to ensure safe and reliable service for the state’s electric markets and to reduce transmission constraints within the Electric Reliability Council of Texas (ERCOT) in a cost-effective manner where the constraints are such that they are not being resolved through Chapter 37 (Certificates of Convenience and Necessity) or the ERCOT transmission planning process.

Community Telecommunications Alliance Program - H.B. 3325
by Representative Jim Keffer, et al. - Senate Sponsor: Senator Staples

Currently, few mechanisms exist that allow small and rural communities to create associations in an effort to access funds for economic development and to improve technology. The communities often lack the knowledge of where and how to apply for grants and funding for projects. This bill:

Requires the Office of Rural Community Affairs (ORCA) and the Telecommunications Infrastructure Fund (TIF) Board by rule to adopt a memorandum of understanding establishing the community telecommunications alliance program (program).

Sets forth guidelines for the function of the program.

Requires each community telecommunications alliance established under this Act to have an advisory council with representation from each of the following:

- a local nonprofit organization;
- a local county-elected official;
- a local city-elected official;
- a local telecommunications provider;
- a local economic development group;
- the local financial community; and
- a local information services provider.

Requires ORCA and TIF, not later than January 1 of each odd-numbered year, to jointly submit to the legislature a report detailing the grant activities of the program and grant recipients.

Telecommunications Win-Back and Retention Offer Guidelines - S.B. 732
by Senators Brimer and West - House Sponsor: Representative Puente

Currently, the Public Utility Commission of Texas (PUC) has a proposed rule that would require certain telecommunications providers to wait a specified period of time before making a win-back or retention offer to a customer that is switching to a new provider. This bill:
Prohibits a discount or other form of pricing flexibility from being unreasonably preferential, prejudicial, or discriminatory; or predatory or anticompetitive.

Provides that this title allows an offer based on a reasonable business purpose, including an offer made at any time to a selected customer, or group thereof, in response to a competitor’s offer or a former customer’s acceptance of a competitor’s offer, if the price of the offer meets the requirements of certain statutory provisions.

Requires that those offers be made in compliance with Chapter 43 (Uniform Electronic Transactions Act), Business and Commerce Code.

**Jennings-Payne Act - Location of Wireless Communication Facilities - S.B. 1261**
*by Senator Armbrister - House Sponsor: Representative Campbell*

As the demand for wireless services grows, wireless providers are constructing new towers. Residents in rural areas may have little or no notice when a new tower is scheduled for construction. This bill:

Requires a person proposing to construct a wireless communication facility that is taller than 100 feet to mail a letter, on or before the 30th day before the date the construction begins, to any airport located within three miles of the proposed facility location and to the Texas Agricultural Aviation Association.

Requires the letter to include:
- the legal description of the proposed site of construction, including a graphic depiction showing the location, height, longitude, latitude, pad size, roadway access, and proposed use of the wireless communication facility and location of any guy wires;
- at a minimum, the name, phone number, electronic mail address, if any, and mailing address of the person proposing construction of the wireless communication facility; and
- a phone number that is operational 24 hours a day, seven days a week, for emergency purposes.

Sets forth certain exemptions from the application of these provisions and provides that these provisions do not preempt a local ordinance regulating a wireless communication facility.

Sets forth provisions regarding the marking of wireless communication facilities in proximity to cultivated fields.

**Greater Flexibility for Utility Investment Recovery - S.B. 1271**
*by Senator Armbrister - House Sponsors: Representatives West and King*

Under their original jurisdiction, municipalities and the Texas Railroad Commission regulate the rates of local distribution companies and pipelines, respectively. These regulators base those rates on the operating expenses of the utilities and a reasonable return on their investment in facilities. If a utility makes
an investment after it has prepared a rate case, it must wait until the next case to begin recovering on that investment. This bill:

Enacts Subchapter G in Chapter 104 of the Utilities Code, relating to interim cost recovery and rate adjustments.

Authorizes a gas utility that has filed a rate case under certain circumstances within the preceding two years to file with the regulatory authority a tariff or rate schedule that provides for an interim adjustment in the utility’s monthly customer charge or initial block rate to recover the cost of changes in the investment in service for gas utility services.

Requires the adjustment to be allocated among the gas utility’s classes of customers in the same manner as the cost of service was allocated among classes of customers in the utility’s latest effective rates for the area in which the tariff or rate schedule is implemented.

Requires the gas utility to file the tariff or rate schedule, or the annual adjustment, with the regulatory authority at least 60 days before the proposed implementation date of the tariff, rate schedule, or annual adjustment.

Requires the gas utility to provide notice of the tariff, rate schedule, or annual adjustment to affected customers by bill insert or direct mail not later than the 45th day after the date the utility files the tariff, rate schedule, or annual adjustment with the regulatory authority.

Authorizes the regulatory authority, during the 60-day period, to act to suspend the implementation of the tariff, rate schedule, or annual adjustment.

Provides that after the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this Act, any change in investment that has been included in an interim adjustment in accordance with the tariff or rate schedule under this Act shall no longer be subject to subsequent review for reasonableness or prudence.

Provides that until the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this Act, all amounts collected under the tariff or rate schedule before the filing of the rate case are subject to refund.

Provides that the amount by which the gas utility shall adjust the utility’s rates upward or downward under the tariff or rate schedule each calendar year is based on the difference between the value of the invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year.

Provides that the value of the invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment.

Sets forth provisions regarding the calculation of adjustments, request for suspension of rate adjustments, reporting requirements, and other issues relating to the implementation of interim rate adjustments.
Hybrid Utility Cap Rock Energy Corporation Addressed - S.B. 1280
by Senator Fraser - House Sponsor: Representative King

Currently, ambiguity exists about the appropriate mechanism for regulating certain successors to electric cooperatives. This bill:

Redefines “electric cooperative,” by removing from the definition “a successor to an electric cooperative created before June 1, 1999…,” with the goal of excepting those successor cooperatives from the alternative application of the restructuring of the electric utility industry to electric cooperatives.

Requires the Public Utility Commission (PUC) to oversee compliance with Chapter 39 (Restructuring of Electric Utility Industry), Utilities Code by electric utilities that were not subject to this chapter before September 1, 2003.

Requires PUC to establish schedules, procedures, and approval requirements as part of its oversight requirement, as it deems necessary.

Repeals provisions of the Utilities Code relating to the retail rates of a successor cooperative.

Security Personnel at Commercial Nuclear Power Plants - S.B. 1517
by Senator Armbister - House Sponsor: Representative Miller

The United States Nuclear Regulatory Commission (NRC) requires commercial nuclear power plants to maintain rigorous security programs and approved security plans. For nuclear plants to fully meet NRC directives and to enhance plant security, nuclear plant security personnel need greater authority under state law to respond to dangerous situations. This bill:

Authorizes security personnel trained and qualified under an NRC-approved security plan, including security contract personnel, to perform certain activities, including arrest and search and seizure, while in the performance of their duties at a commercial nuclear power plant, licensed by NRC.

Authorizes commercial nuclear power plant licensees to obtain criminal history record information from the Department of Public Safety, and prohibits release of such information except in certain circumstances.

Sales and Use Tax Exemptions for Telecommunications Services - S.B. 1705
by Senator Wentworth - House Sponsor: Representative Martinez Fischer

Current law prohibits a metropolitan transit authority (MTA) from collecting a sales tax that includes telecommunications services unless it is approved by the majority of the members of the governing body of each municipality within the MTA service area. This bill:

Restructures the approval process for MTA repeal of the local sales and use tax exemption for telecommunications services.
Currently, when a telecommunications provider goes out of business there is no provision for the Public Utility Commission of Texas (PUC) to name a company to take over service in the area. This may create safety and reliability concerns for the customers of the outgoing telecommunications provider if they no longer have a provider of local phone service. This bill:

Authorizes the holder of a certificate of convenience and necessity, if a telecommunications utility installs facilities to serve customers located in a defined geographic area to provide telecommunications services, including basic local telecommunications service, before the holder of the certificate of convenience and necessity installs facilities to serve customers located in that defined geographic area, to petition the PUC for an order relieving the utility of its designation as the provider of last resort in that geographic area.

Requires the PUC to relieve the holder of the certificate of convenience and necessity of the obligations of service as the provider of last resort for the defined geographic area, and to designate the facilities-based telecommunications utility as the provider of last resort if the PUC determines that the holder of the certificate of convenience and necessity does not have facilities in place to provide basic local telecommunications service to all customers within that defined geographic area, another certificated telecommunications utility has installed facilities adequate to provide that service throughout that area, and the public interest would be served by transferring the provider of last resort obligations for that area.

Requires the PUC, when it obtains required notice that a utility intends to become an exiting utility and no other telecommunications utility has facilities sufficient to provide basic local telecommunications service in that defined geographic area, to open a contested case proceeding to determine the identity of the successor utility, and the amount of universal service funding to be made available to the successor utility.

Authorizes the PUC, on its own motion or on the petition of an interested party, to institute an expedited proceeding if it finds that:

- a holder of a certificate of operating authority or service provider certificate of operating authority is the predominant provider of basic local telecommunications service in a defined geographic area and the utility provides that service using the utility’s own facilities;
- no other telecommunications utility has facilities sufficient to provide basic local telecommunications service in that defined geographic area; and
- the holder of the certificate of operating authority or service provider certificate of operating authority has ceased providing basic local telecommunications service to the utility’s customers in that defined geographic area or abandoned the operation of the utility’s facilities in the defined geographic area that are used to provide basic local telecommunications service.

Authorizes the PUC to declare that an emergency exists and issue any order necessary to protect the health, safety, and welfare of affected customers of the utility and to expedite the restoration and continuation of basic local telecommunications service to those customers.

Sets forth provisions regarding the PUC's participation in a certificated telecommunication’s utility bankruptcy proceeding.
Employment Preference for Veterans - H.B. 76
by Representative Wise and Guillen - Senate Sponsor: Senator Van de Putte

Approximately 1.6 million veterans reside in Texas representing a significant portion of the Texas population and workforce. This bill:

Requires a public entity to prepare and make available for public inspection a statement of any measures taken by the entity to ensure that veterans receive the required employment preference and any remedies available through the entity for an individual entitled to a hiring preference if the individual is not hired or appointed for a position.

Provides that if a public official fails to comply with a provision of this Act, a district court in the district in which the individual is a public official may require the public official to comply with the provision on the filing of a motion, petition, or other appropriate pleading by an individual entitled to a benefit under the provision.

Requires the court to order a speedy hearing and to advance the hearing on the calendar.

Requires the district attorney, criminal district attorney, or county attorney, on application by an individual who the attorney reasonably believes is entitled to the benefit of a provision of this Act to appear and act as attorney for the individual in an amicable adjustment of the claim, or file or prosecute a motion, petition, or other appropriate pleading to specifically require compliance with the provision.

Provides that a person applying for a preference under this Act may not be charged court costs or fees for a claim, motion, petition, or other pleading filed under the Act.

Military Benefits - H.B. 174
by Representative Howard, et al. - Senate Sponsor: Senator Estes

A disparity exists between privileges and benefits afforded military service personnel serving in a national capacity and those serving in an active state capacity. State military forces, including the National Guard, serving in a national capacity are granted protections, including exclusion from hiring discrimination, reemployment privileges, and continuation of health coverage upon reemployment, not granted to those serving on active state duty. This bill:

Provides that a member of a state military force who is ordered to active state duty by the governor, or by another authority authorized under state law, is entitled to the same benefits and protections provided to persons in the uniformed and military services.

Provides that these protections apply only to persons serving on active state duty on or after the effective date of this Act without regard to the date on which the person was initially ordered to active state duty.
Texas Tuition and Fees for Military Personnel and Families - H.B. 261
by Representative Hupp, et al. - Senate Sponsor: Senator Fraser

Under current law, dependents of military personnel stationed in Texas are allowed to pay in-state tuition at Texas universities if they reside continuously in Texas. This bill:

Clarifies and ensures that dependents, spouses, or members of the armed forces are eligible to continue paying in-state tuition and fees while continuously enrolled in a degree or certificate program, even if the military personnel moves out-of-state or terminates service in the armed forces.

Military Discharge Records Held by a Governmental Body - H.B. 545
by Representative Wohlgemuth, et al. - Senate Sponsor: Senator Wentworth

Provides that military discharge forms (DD-214 form), which currently are public records, filed with a county clerk or with a governmental body after September 1, 2003, are confidential for 75 years.

Authorizes certain people to access the DD-214 form and authorizes a veteran to direct the county clerk with whom the form is filed to destroy all copies within the clerk’s control.

The Texas Legislative Medal of Honor - H.B. 573
by Representative Hunter - Senate Sponsor: Senator Van de Putte

The Texas Legislative Medal of Honor (TLMH) was established by the 58th Texas Legislature, and has been awarded three times to those who voluntarily perform a distinguished deed of personal bravery or self sacrifice involving risk of life. Under current law, the governor determines the TLMH award recipients and awards the medal upon passage of a legislative resolution confirming the receiver. Additionally, there are no residency requirements for the TLMH. This bill:

Establishes certain Texas residency requirements for nominees and TLMH nominating and awarding criteria.

Establishes a committee consisting of legislative branch officials and the Texas Adjutant General to designate award recipients.

Reciprocity Agreements for Educational Purposes for Military Families - H.B. 591
by Representative Delisi, et al. - Senate Sponsor: Senator Fraser

Frequent moves experienced by dependents of military personnel often cause disruptions to their educational careers, including difficulties in transferring records and credits, and having to take repetitive tests. Currently, the Texas Education Agency (TEA) is authorized, but not required, to negotiate reciprocity agreements governing the terms of such school transfers with other states to facilitate the transfer of military personnel and dependents. This bill:
Requires TEA:
- to pursue reciprocity agreements governing the terms of transfers with other states;
- to give priority to pursuing reciprocity agreements with Florida, Georgia, North Carolina, and Virginia;
- to address allowing a student to fulfill exit level requirements through comparable instruments administered in other states; and
- to report the results of these efforts by January 1, 2004.

Child Support Order of Obligor Called Into Active Military Duty - H.B. 674
by Representative Madden - Senate Sponsor: Senator Lucio

The Family Code authorizes a court to modify an order for the support of a child if the circumstances of a person affected by the order have materially and substantially changed since the date of the order's rendition. This bill authorizes such modification when an obligor is called for active military service. This bill:

Declares it is a material and substantial change in circumstances if an obligor has been called into active military service in any branch of the United States armed forces, if that active service is for at least 30 consecutive days and results in a decrease in the obligor's net resources.

Requires any motion for modification under such circumstances to be accompanied by the affidavit of the obligor's commanding officer containing certain information.

Provides that if the child support order is modified under these circumstances, the obligee may file a motion for modification of the support order upon the return of the obligor from active military service.

Polling Place on a Military Base - H.B. 1173
by Representatives Madden and Riddle - Senate Sponsor: Senator Madla

Authorizes a building on a federal military base or facility, with the permission of the post or base commander, to be a polling place.

Revenue Bonds Issued by the Veterans’ Land Board - H.B. 1749
by Representative Hupp - Senate Sponsor: Senator Fraser

The Texas Constitution does not currently provide for the use of assets in the veterans' land program or the veterans' housing assistance program for the state veterans' home program. This bill:

Enacts legislation for H.J.R. 68, which amends the Texas Constitution to authorize the Veterans’ Land Board (VLB), if it determines that receipts of the veterans’ land fund, veterans' housing assistance fund, or veterans’ housing assistance fund II are not required for the payment of debt service on the general
obligation bonds benefiting those funds, to use those receipts to pay the debt service on any revenue bonds issued by the VLB.

Provides that this Act has no effect if the proposed constitutional amendment is not approved by the voters.

(See H.J.R. 68, page 431)

**Supplemental Pay for Members of the Texas National Guard - H.B. 2251**

_by Representative Flores - Senate Sponsor: Senator Van de Putte_

Provides for supplemental pay to a member of the Texas National Guard who suffers an economic hardship as a result of serving on active duty.

Requires the comptroller of public accounts to establish an appropriate account in the general revenue fund and establishes caps on the amount of supplemental pay allowed for an eligible member of the Texas National Guard.

Requires the adjutant general to determine who is eligible for the supplemental pay and the amount of that pay.

**Continuation of Salary for Certain Persons Called to Active Military Duty - H.B. 2385**

_by Representative Griggs, et al. - Senate Sponsor: Senator Harris_

Texas law does not provide for a temporary continuation of salary for municipal and county employees who are members of a reserve component of the United States military called to active duty. This bill:

Authorizes a municipality and a county to continue to pay a salary to municipal and county employees who are members of the military reserve if they are called to active duty and exhaust all of their military leave.

Authorizes the governing body of the municipality or county to establish the amount of the salary during that period until the person is no longer required to serve on active duty. Those salary payments would be from a local government's general fund or other funds available for that purpose on the date the person is called to active duty and only for a municipal or county pay period that began on or after September 1, 2002.

Provides that the provisions of this bill do not apply to a person who resigns or is terminated by a municipality or county for a reason that is not a direct consequence of the person's call to active duty, or to a person who commits a voluntary act that extends the person's original assigned service to active duty.
Military Leave for Certain Firefighters and Police Officers - H.B. 2400
by Representative Noriega - Senate Sponsor: Senator Gallegos

Requires municipalities to provide military leave accounts for firefighters or police officers called to federal active military duty and to maintain their health, dental, and life insurance coverage and benefits during the period of military service.

Establishes that a firefighter or police officer may voluntarily substitute for a firefighter or police officer who has been called to federal active military duty, as long as the firefighter or police officer is qualified.

Requires a municipality to equally distribute the leave time donated to the account among all firefighters and police officers who are eligible beneficiaries of the account.

Expansion of Veterans’ Land Board Benefits- H.B. 3211
by Representative Heflin, et al. - Senate Sponsor: Senator Van de Putte

The Veterans’ Land Board (VLB) has provided loans for the purchase of land to eligible veterans since 1949 and this is the only program of its kind in the nation. Former members of the armed forces of the Republic of Vietnam cannot return to their native country, and cannot receive any benefits for their service. Many are now citizens, or legal residents, of the United States. This bill:

Expands the definition of "veteran" for eligibility for VLB benefits to include former members of the armed forces of the Republic of Vietnam who served in the armed forces of the Republic of Vietnam between February 28, 1961, and May 7, 1975.

Authorizes VLB to adopt a rule regarding these veterans and to decrease the required term of residency at the time of the person’s enlistment, induction, commissioning, appointment, or drafting from five years to one year.

Requires the VLB, if it establishes a rule regarding these veterans, to establish procedures for verifying proof of such military service.

Constitutional Amendments Relating to Veterans’ Homes Revenue Bond Payments and the Income and Appreciation of the PSF - H.J.R. 68
by Representative Hupp, et al. - Senate Sponsor: Senator Fraser

Proposes a constitutional amendment authorizing the Veterans’ Land Board to make certain payments on revenue bonds and to use assets from certain funds to plan and design, construct, acquire, own, operate, maintain, enlarge, improve, furnish, or equip veterans’ homes. Requires the proposed constitutional amendment to be submitted to the voters at an election held on September 13, 2003.

(See H.B. 1749, page 429)
Proposes a constitutional amendment concerning the use of income and appreciation of the permanent school fund (PSF). Sets forth the mechanisms for distribution and the amounts to be distributed from the permanent school fund to the available school fund. Requires the proposed constitutional amendment shall be submitted to the voters at an election held on September 13, 2003.

(See H.B. 1749).

Military Activation Creates Public Office Vacancy - H.J.R. 84
by Representative Uresti, et al. - Senate Sponsor: Senator Van de Putte

Currently, when an elected or appointed officer of the state or of any political subdivision goes on active military duty, is drafted, or in the case of a reservist, is activated, he or she vacates the office held and the appropriate authority issues writs of election to fill such vacancies. This bill:

Proposes a constitutional amendment to allow a public officer called to active duty to retain office while in the military.

Limit for Claiming a Lottery Prize for Certain Military Personnel - S.B. 6
by Senator Van de Putte - House Sponsor: Representative Flores

Currently, Texas law provides that a lottery ticket holder forfeits any claim or entitlement to a prize after 180 days after the date on which the winning numbers were selected or after the end of the game, in the case of an instant scratch-off ticket. This bill:

Clarifies for certain military personnel the period in which a lottery prize is claimed.

Authorizes a person serving on active military duty during a war or national emergency to claim a lottery prize no later than 90 days after the person is discharged; the person returns to Texas for 10 consecutive days; the person returns to reserve status; or the war or national emergency ends.

Deferred Payment of Property Taxes for Military Personnel - S.B. 173
by Senator Nelson - House Sponsor: Representative Elizabeth Jones

Current law provides a 60-day grace period for a member of the armed forces serving in the Persian Gulf to pay a property tax bill without penalty and does not cover persons serving during hostilities in other areas of the world. This bill:

Expands the eligibility for the 60-day grace period to any person on active duty in the United States armed forces during a war or national emergency and describes specific criteria for payment of the property taxes without penalty.
Defines “eligible person” as a person on active military duty or in the reserve forces in this state who was transferred out of this state as a result of war or national emergency declared in accordance with federal law.

**Military Preparedness Act - S.B. 652**


The 18 major military installations in Texas make important economic contributions to the state, producing a combined economic impact on Texas of over $49 billion and employing over some 225,000 Texans. The United States Department of Defense (DOD) has announced plans to facilitate the transition and transformation of bases largely through dollar savings associated with the 2005 Base Realignment and Closure (BRAC) process which could close and realign as much as 25 percent of DOD bases. Local defense communities require assistance to identify and prioritize cooperative economic development initiatives that enhance the real military value of their installations, by providing important cost saving options to reduce overall base operating costs and by institutionalizing the process of investing in Texas’ military bases. This bill:

Renames the Texas Strategic Military Planning Commission to the Texas Military Preparedness Commission (commission) within the Office of the Governor to advise the governor and the legislature on defense-related issues, including private industry and federal actions that will affect Texas.

Abolishes the Office of Defense Affairs and the Texas Strategic Military Planning Commission and transfers their powers, duties, and funding to the commission.

Requires the Office of the Governor to resolve any disputes about which obligations, rights, contracts, leases, records, personnel, property, and unspent and unobligated appropriations or other funds are entitled to be transferred to the commission.

Requires a state agency to consider enhancing the military value of federally owned or operated military installations or facilities when establishing agency goals and to make an expenditure a high priority if, based on base realignment and closure criteria, the agency determines it will enhance the military value of a federally owned or operated military installation or facility.

Creates the Texas Military Value Revolving Loan Account (account).

Provides that the account is to be funded through the issuance of general obligation bonds issued by the Texas Department of Economic Development, or by gifts and grants, and that the bonds be designed to be self-supporting through loan payments made by political subdivisions.

Recreates the community infrastructure development revolving loan account as a separate account in the general revenue fund and rededicates any money in the community infrastructure development revolving loan account for the purposes of this bill.
Authorizes the commission to provide loans from the account based on criteria delineated in the bill to political subdivisions for projects that will enhance the military value of a military facility in, or adjacent to the political subdivision.

Requires that a project financed with a loan under this section to be completed within five years and that a defense community that applies for financial assistance from the account to prepare, in consultation with each defense base associated with the community, a defense base military value enhancement statement illustrating specifically how the funds will enhance the military value of the installations.

Requires the community to prepare a Comprehensive Defense Installation and Community Strategic Impact Plan explaining the effects of future growth on the defense base and minimizing encroachment.

Includes natural gas in the specification of what an agency can sell or convey on behalf of the state to military installations.

Requires the Texas Education Agency (TEA) to pursue reciprocity agreements with other states to address the needs of military dependents transferring into, out of, and between Texas, giving priority to pursuing agreements with Florida, Georgia, North Carolina, and Virginia.

Requires the commission to submit an annual report to the governor and the legislature.

(See S.J.R. 55, page 438)

Texas Online for Veterans Website - S.B. 655
by Senator Shapleigh - House Sponsor: Representative Hunter

Some Texas veterans are not aware of the programs and benefits to which they are entitled and the Texas Veterans Commission (TVC) currently lacks adequate resources to survey target populations or address the growing financial need among Texas veterans. This bill:

Requires the Department of Information Resources (DIR) to create and maintain a Texas Online website containing information on state and federal veterans benefits programs and the ability to file for selected benefits.

Directs TVC to create and distribute electronic and printed copy versions of a state veteran’s benefits booklet and facilitate the electronic initiation of veteran’s benefits by county veteran’s services county officers.

Requires that all state agency employment-related forms include a statement regarding the goal prescribed by Chapter 657 (Veteran’s Employment Preferences) that each state agency give a veteran’s employment preference until the agency workforce is composed of at least 40 percent veterans.

Requires TVC forms to include the veteran’s website address maintained and the TVC toll-free telephone number.
Authorizes TVC, within available resources and with the assistance of DIR, to develop and implement a program using appropriate hardware, software, and required training programs to facilitate the delivery of a veteran’s newsletter.

Authorizes TVC to accept donated computers from any person, including a governmental entity, and to cooperate with that person to establish a program to provide computers at no cost to interested veteran’s county service officers.

Requires a veteran’s county service officer who obtains a computer under this program to make the computer available to veterans at the veteran’s county service office or to lend the computer to veterans in a manner determined by the officer and approved by the county commissioners court.

Requires the Veteran’s Land Board (VLB), on request, to provide information on state land and housing programs for veterans in this state to lending institutions.

Requires the secretary of state to study the feasibility and cost of establishing procedures to allow a member of the armed forces of the United States who is on active duty overseas or a spouse or dependent of that person who will be outside the United States on election day and during the early voting period for the election to cast an electronic ballot and to recommend options in a report to be submitted to the legislature not later than December 1, 2005.

Texas Academic Skills Program Exemption for Certain Military Personnel - S.B. 814

by Senator Averitt - House Sponsor: Representative Haggerty

Current state law exempts persons on active military duty from the Texas Academic Skills Program (TASP), but does not exempt persons who serve in one of the reserve components or the Texas Army or Air Force National Guard. This bill:

Provides that a student serving on active duty as a member of the Texas National Guard; a student serving, and who has served for at least three years as a member of the reserve component of the armed forces of the United States; or a student who on or after August 1, 1990, was honorably discharged, retired, or released from the above mentioned branches of the military, is exempt from the Texas Academic Skills Program requirements.

Financial Assistance to Defense Communities - S.B. 1295

by Senators Van de Putte and Hinojosa - House Sponsor: Representative Corte

Requires a state agency making a loan to a defense community to evaluate the project and determine whether the project may be financed through certain agencies’ economic development programs. Provides that the agency has sole discretion whether to finance the project.

Requires state agencies to consider the Office of Defense Affairs’ (ODA) priority for the project.
Requires ODA to maintain a record of each loan granted to a defense community that includes the amount of the loan, the agency making the loan, and a description of the project.

Directs ODA to submit to state agencies a priority list of economic development projects that total not more than $150 million.

Authorizes a state agency making a loan to the defense community for a project, in addition to any other security provided by law, if a defense community defaults on a loan, to foreclose under a loan agreement in the manner provided by law for foreclosure and liquidate collateral provided under the loan agreement to recover any outstanding debt.

**Federal Matching Funds for Projects at Military Facilities - S.B. 1439**  
*by Senator Shapleigh - House Sponsor: Representative Corte*

Allows the governor, if the state is eligible, to direct certain state funds to obtain federal matching funds for projects at military facilities in Texas, after consulting with the executive director of the Military Facilities Commission and the Texas Adjutant General.

**Qualifications for Appointment as Adjutant General - S.B. 1457**  
*by Senator Lindsay - House Sponsors: Representatives Corte and Noriega*

Currently, a candidate for appointment as adjutant general is required to have completed at least 10 years as a federally recognized commissioned officer with an active unit of the Texas National Guard, and have previously served on active duty with the army or air force. This bill:

Expands the pool of persons potentially eligible for appointment as adjutant general by establishing in the requirements to be qualified for appointment as adjutant general, that the person has served on active duty or active duty for training with the army, air force, or marines, and completed at least 10 years of service as a federally recognized reserve or active duty commissioned officer with an active unit of the United States armed forces, the National Guard, or the Texas National Guard, including at least five years with the Texas National Guard.

**Defense Adjustment Management Authority - S.B. 1565**  
*by Senator Madla - House Sponsor: Representative Uresti*

In the years since the passage of the Defense Base Realignment and Closure Act, areas in and around former defense bases have faced considerable challenges to economic development. For a municipality that plans to annex such an area, the creation of a defense adjustment management authority with the power to develop infrastructure and other projects advances the opportunity for economic development of the area and provides for a better transition to annexation. This bill:
Provides for the creation, governance, and dissolution of a defense adjustment management authority. Creates a structure to address issues, including taxation, annexation, zoning, and elections, within the authority.

Grants a defense adjustment management authority the power to enter into regional development agreements.

**Supplemental Volunteer Military Forces - S.B. 1594**  
*by Senator Van de Putte - House Sponsor: Representative Corte*

Changes the Government Code language from “Supplemental Militia” to “Supplemental Volunteer Military Forces.”

Authorizes Supplemental Voluntary Military Forces to be used in homeland security and community service activities.

Clarifies that a member of the Texas State Guard must be a citizen of the United States and a resident of Texas for at least 180 days.

**State Employee Military Leave - S.B. 1800**  
*by Senator Van de Putte - House Sponsors: Representatives Corte and Gutierrez*

Currently, state agencies and institutions of higher education do not have formalized practices relating to leave for employees who, as members of the state military forces or the reserve component of the armed forces, are called to active duty. This bill:

Specifies that a person who is an officer or employee of the state, a municipality, county, or another political subdivision of the state and who is a member of the state military forces or a reserve component of the armed forces is entitled to paid leave for not more than 15 work days in a federal fiscal year.

Deletes salary from the list of items prohibited from being lost during a leave of absence.

Entitles a state employee called to state active duty as a member of the state military forces, rather than the National Guard, by the governor to receive paid emergency leave without loss of military leave under this Act, or annual leave.

Requires a state agency to provide an employee activated to military services as a member of the reserve component of the armed forces with a statement containing the balance of the employee’s accrued state compensatory time and accommodate an employee’s request to use the balance of the employee’s accrued state compensatory time before the compensatory time expires.
Entitles a state employee called to state active duty as a member of the state military forces by the governor because of an emergency to receive a leave of absence without a deduction in salary, if paid by state funds, in accordance with the provisions of this Act. Prohibits a state employee who is called to federal active duty as a member of the state military forces from receiving the employee’s state salary except as provided by this Act.

Specifies that an employee called to active duty under Title 10 and Title 32 of the United States Code is entitled to unpaid leave. Provides that the employee does not accrue vacation or sick leave during an unpaid leave of absence. Authorizes the employee to retain any previously accrued vacation or sick leave.

Provides that leave earned while in a state paid status is to be credited to the employee’s balance when the employee returns to active state employment.

Authorizes the employee to use any accrued vacation leave, earned compensatory leave, or overtime leave under the federal Fair Labor and Standards Act of 1938 in whole or in part, to maintain benefits for the employee or the employee’s dependents while the employee is on military duty.

Requires the state agency employing the employee, before a state employee leaves for military service, to review with the employee any issues relating to maintaining state health insurance coverage during the employee’s military duty, including how the employee maintains state health insurance coverage, how the coverage is affected by paid or unpaid leave, and how to pay any required premium.

Authorizes the state employee activated for military service to continue to accrue Employees Retirement System retirement service credit by receiving a minimum of one hour of state pay during each month of active military service.

Authorizes the employee to use any combination of paid leave or approved agency differential pay to qualify for state pay.

Requires the administrative head of a state agency to grant sufficient emergency leave as differential pay to a state employee on unpaid military leave if the employee’s military gross pay is less than the employee’s state gross pay.

Prohibits the combination of emergency leave and military pay from exceeding the employee’s actual state gross pay.

**Military Preparedness Act - S.J.R. 55**

*by Senator Shapleigh - House Sponsor: Representative Corte*

Authorizes the legislature to allow one or more state agencies to issue general obligation bonds in an aggregate total not to exceed $250,000,000 to provide loans for economic development projects that benefit defense-related communities including projects that enhance the military value of military installations located in Texas.
Requires proceeds of the sale of bonds to be deposited into the Texas Military Value Revolving Loan account (account) in the state treasury to be used for certain purposes.

Authorizes an agency providing a loan from the account to a defense-related community to require the defense-related community to pay any pro rata cost of issuing the general obligation bonds and notes.

Authorizes a defense-related community receiving a loan from the account to use money from the account to capitalize interest on the loan.

Requires this proposed constitutional amendment to be submitted to the voters on September 13, 2003.

(See S.B. 652, page 433)
Compliance with Texas Workers’ Compensation Commission Orders - H.B. 145

by Representative Solomons - Senate Sponsor: Senator Fraser

Currently a claimant may sue an insurance carrier to enforce compliance with orders or decisions rendered by the Texas Workers’ Compensation Commission (TWCC). Current law also provides for an administrative penalty for failure to comply with an order from TWCC. This bill:

- Clarifies TWCC’s authority to bring suit in Travis County to enforce an order or decision if a person refuses or fails to comply with an interlocutory order, final order, or decision, of TWCC.
- Provides that TWCC is entitled to reasonable attorney's fees and costs as a result of any suit brought by TWCC in the above actions.

Group Benefits for Community Supervision and Corrections Employees - H.B. 725

by Representatives Haggerty and Ellis - Senate Sponsor: Senator Whitmire

Community supervision and corrections departments currently contract with a county for health coverage and other benefits for their employees. This bill:

- Provides that full-time employees and retired employees of community supervision and corrections departments who meet certain requirements are automatically covered by the same life, accident, and health benefit coverage as those provided to state employees, retired state employees, and their dependents, unless the employee specifically waives coverage or is expelled from the program.
- Authorizes part-time employees to participate in the program as prescribed by ERS.
- Provides that all such employees are not entitled to state contributions for premiums, but that the community justice assistance division of the Texas Department of Criminal Justice must pay that portion of the contribution.
- Requires that the Employees Retirement System (ERS) develop a plan for the extension of benefits.
- Provide that coverage becomes effective September 1, 2004, except that a community supervision and corrections department (department) may delay participation in the group benefits program until the date life, accident, and health benefit coverage in effect on September 1, 2004, expires or terminates.
- Requires a commissioners court of a county to transfer from the employee benefits program all records relating to group insurance and related coverage of certain employees to the ERS.
- Requires that all contributions formerly paid into the employees’ life, accident, and health insurance and benefits fund be used by the ERS board to provide coverage.
Requires submission to the ERS board of an estimated number of active employees, retired employees, and dependents of active or retired employees of the department to be enrolled in the group benefit program for the following fiscal year.

Minimum Wage Uniformity - H.B. 804

by Representatives Geren and Seaman - Senate Sponsor: Senator Lindsay

Currently, there is no provision preventing a municipality from establishing its own minimum wage. Although no city in Texas has established its own minimum wage, recently there was a ballot initiative to raise the minimum wage in Houston to $6.50. This bill:

Provides that except as otherwise provided by this Act, the minimum wage provided by this chapter supersedes a wage established in an ordinance, order, or charter provision governing wages in private employment, other than wages under a public contract.

Provides that these provisions do not apply to any state or federal job training or workforce development program.

Provides that these provisions do not apply to a minimum wage established by a governmental entity that applies to a contract or agreement, including a non-annexation agreement, entered into by a governmental entity and a private entity.

Provides that a private entity that enters into a contract or agreement, including a non-annexation agreement, with a governmental entity, under the terms of which the private entity agrees to comply with a minimum wage established by the governmental entity, is subject to the terms of that contract or agreement, and those terms apply to and may be enforced against a general contractor, subcontractor, developer, and other person with which the private entity contracts in order to comply with the provisions of the original contract or agreement.

Repeals Sections 62.055 and 62.056, Labor Code, relating to special wages for certain employees and to medical certificates.

Disposition of Unclaimed Wage Payments - H.B. 826

by Representative Yvonne Davis - Senate Sponsor: Senator Carona

The unclaimed property law, originally passed by the Texas Legislature in 1961, requires financial institutions, businesses, and government entities to report to the state wages they are holding that are considered abandoned or unclaimed. The comptroller of public accounts is responsible for administering the Texas Unclaimed Property Program. Property is turned over to the comptroller's office annually when the owner's whereabouts are unknown and the property has been inactive on the books of the reporting company between three and five years. The comptroller's office acts only as custodian for the missing owners, holding the property in trust until it is claimed; Texas never takes legal ownership of the property. This bill:
Provides that cash paid as wages is presumed abandoned if:

- unclaimed for longer than six months if the amount in question is $100 or less, or for longer than three years if the amount in question is greater than $100;
- the existence and location of the employee or former employee to whom the wages are owed is unknown to the employer liable for the payment of the wages; and
- according to the knowledge and records of the employer liable for the payment of the wages, a wage claim has not been filed.

Provides that a check paid as wages is presumed to be abandoned on the latest of:

- the 180th day after the date the check was payable if the amount in question is $100 or less, or the third anniversary of the date the check was payable if the amount in question is greater than $100;
- the 180th day after the date the issuer or payor of the check last received documented communication from the payee of the check if the amount in question is $100 or less, or the third anniversary of the date the issuer or payor of the check last received documented communication from the payee of the check if the amount in question is greater than $100; or
- the 180th day after the date the check was issued if the amount in question is $100 or less and if, during that period, according to the knowledge and records of the issuer or payor of the check, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised, or the third anniversary of the date the check was issued if the amount in question is greater than $100 and if, during that period, according to the knowledge and records of the issuer or payor of the check, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

Provides that an employer or former employer who holds unclaimed wage payments presumed to be abandoned is a “holder” for purposes of Chapter 74 (Report, Delivery, and Claims Process), Property Code, and requires that employer or former employer to dispose of the unclaimed wage payments in the manner prescribed by that chapter.

Provides that an employer or former employer who holds an unclaimed wage payment of $100 or less that is presumed to be abandoned is not required to dispose of the unclaimed wage payment in the manner prescribed by Chapter 74, until the payment has been abandoned for three years after the date from which the period applicable is measured.

**Criminal History Record Information for Employment - H.B. 983**

*by Representative Talton - Senate Sponsor: Senator Staples*

Current law grants municipalities and counties the authority to request that the Department of Public Safety (DPS) conduct background checks on potential employees. Like employees of both municipalities and counties, appraisal district employees often must enter the property of residents to evaluate property. This bill:
Grants an appraisal district the authority to request criminal history record information maintained by the DPS that relates to a person who is an applicant for employment by the appraisal district.

**Audit Assistance to Texas Workforce Commission - H.B. 1496**  
*by Representative Solomons - Senate Sponsor: Senator Duncan*

Texas’ unemployment insurance trust fund reached a deficit of $529.8 million at the end of fiscal year 2002. This bill:

Sets forth provisions requiring the State Auditors Office (state auditor) to perform a review to identify trends in benefit fraud and claim overpayments in the state unemployment compensation insurance program.

Requires the Texas Workforce Commission (TWC) to implement the unemployment compensation insurance overpayment collection and fraud detection strategies recommended by the state auditor that TWC is able to perform with existing staff and within its existing budget.

Sets forth provisions regarding the proposal of legislation regarding use of private collection agencies by TWC.

**Chargeback Relief for Employers in Governor-Declared Disaster - H.B. 1819**  
*by Representative Oliveira - Senate Sponsor: Senator Lucio*

A chargeback, in regards to unemployment insurance, is when benefits of a former employee are charged to the account of an employer; this is used in determining an employer’s unemployment insurance tax rate. Chargeback relief is effected when the employer’s account is not charged.

In 2001, the bridge connecting South Padre Island to the Texas mainland collapsed after being struck by a barge that was forced off course by high tides. The governor declared the area a disaster, but President Bush declined to make the same declaration. Although chargeback relief was granted for this incident, it uncovered a weakness in current statute; if the accident had been caused by human error, the Texas Workforce Commission would not have been able to extend relief, unless the president had declared the area a disaster. This bill:

Prohibits benefits computed on benefit wage credits of an employee or former employee from being charged to the account of an employer, if the employee’s last separation from the employer’s employment before the employee’s benefit year was based on a disaster that results in a disaster declaration by the governor.
Nonresident Alien Worker Wages Exempted from Unemployment Taxes - H.B. 1820  
by Representative Oliveira - Senate Sponsor: Senator Lucio

H2-A visas permit immigrants to work in agriculture in the United States. Under federal law, these workers are required to return to their native country at the completion of their work and are not eligible for unemployment insurance benefits. Currently, Texas law requires employers to report these workers' wages and pay unemployment taxes on those wages. This bill:

Provides that "employment" does not include service performed by a nonresident alien during the period that the alien is temporarily in the United States under an H2-A visa if the service is not defined as employment under the Federal Unemployment Tax Act.

Entrance Examinations for Fire and Police Departments - H.B. 2038  
by Representative Lewis - Senate Sponsor: Senator Madla

Current civil service provisions require applicants for beginning positions in fire and police departments, in municipalities with a population of 10,000 or more, to take a competitive examination. This bill:

Requires persons applying for positions in fire and police departments to take a competitive examination that tests the applicants' general knowledge and aptitude instead of knowledge of and qualifications for fire fighting and work in a fire department or for police work and work in a police department.

Self-Insured Workers’ Compensation Insurance Coverage - H.B. 2095  
by Representative Robert “Robby” Cook - Senate Sponsor: Senator Staples

Under Texas law, an employer who chooses to obtain workers’ compensation insurance coverage for employees has several options for coverage. However, while many states also allow self-insurance by a group of employers, Texas does not. This bill:

Authorizes an unincorporated association or business trust composed of five or more private employers to establish a workers' compensation self-insurance group under this Act if the employers:

- are engaged in the same or a similar type of business;
- are members of a bona fide trade or professional association that has been in existence in Texas for purposes other than insurance for at least five years prior to establishment of the group; and
- enter into agreements to pool their liabilities for workers' compensation benefits and employers' liability in this state.

Provides this Act does not apply to public employees or governmental entities.

Requires an association of employers to obtain a certificate of approval by the commissioner of insurance (commissioner) pursuant to this Act in order to act as a workers’ compensation self-insurance group.
Sets forth the application process and requirements for obtaining a certificate, including a nonrefundable $1,000 filing fee, financial requirements, and the posting of security.

Provides that a group issued a certificate of approval is not an insurer and is not subject to state insurance laws and rules, except as provided by this Act.

Provides that a group shall be deemed to have appointed the commissioner as its attorney to receive service of legal process issued against the group.

Requires a hearing required under this Act to be conducted by the State Office of Administrative Hearings in the manner provided for a contested case.

Provides that a certificate of approval remains in effect until terminated at the request of the group or revoked by the commissioner. The commissioner may not grant the request of any group to terminate its certificate unless the group has insured or reinsured all incurred workers’ compensation obligations with an authorized insurer under an agreement approved by the commissioner.

Requires each group to be operated by a board of trustees and sets forth the composition, qualifications, powers, and duties of the board.

Sets out the procedure for an employer seeking admission to an approved workers’ compensation self-insurance group and for the termination of such membership.

Requires each group to submit certain financial statements to the commissioner and sets forth what such statements must include.

Requires such groups to pay certain taxes under this Act and sets forth how the tax liability is determined and to be paid.

Requires each group to use the Texas Department of Insurance’s uniform classification system, experience rating plan, and rate relativities. Requires annual audits of each member of a group to verify proper classifications, experience rating, payroll, and rates.

Requires each group to establish a premium payment plan and to establish and maintain certain reserves.

Provides that if the assets of a group are at any time insufficient to enable the group to discharge its legal liabilities and obligations, the group must make up the deficiency. Sets forth the procedure in the event of such deficiency or the liquidation of the group.

Establishes the Texas Group Self-Insurance Guaranty Association to provide for the payment of workers’ compensation insurance benefits and expenses for the injured employees of an insolvent group. Sets forth the composition, qualifications, powers, and duties of the guaranty association advisory committee. Prohibits a person from making an untrue statement in connection with the solicitation of membership in a group, and provides for a fine.
Sets forth the procedure for revoking to the group’s certificate of approval.

**Payment of Workers Compensation Benefits - H.B. 2199**  
*by Representative Solomons - Senate Sponsor: Senator Fraser*

Provides for an administrative penalty if a workers compensation insurance carrier fails to begin the payment of benefits or notify the Workers Compensation Commission and the employee of its refusal to pay insurance within the statutory deadline. The penalties ranges from $500 to $5,000, depending on when the carrier initiates compensation or files a notice of refusal.

Provides that an insurance carrier that fails to comply with these notice or payment requirements does not waive the right to contest the compensability of the injury.

**Transfer of Certain Workers’ Compensation Suits - H.B. 2323**  
*by Representative McReynolds - Senate Sponsor: Senator Carona*

Authorizes a court in a suit seeking judicial review of a workers compensation claim decision, on determining that it does not have jurisdiction to render judgment, to transfer the case to a proper court.

Provides that if the suit is initially filed within the statutory period and is transferred, the suit is considered to be timely filed in the court to which it is transferred.

**Temporary Assistance and Related Support Services for Needy Persons - H.B. 2970**  
*by Representative Naishat - Senate Sponsor: Senator Zaffirini*

The 77th Legislature enacted legislation creating a separate state program for two-parent families who are clients of the Temporary Assistance for Needy Families (TANF) program to help ensure the state’s ability to meet the federal work participation rate requirements. That program expires September 2, 2003. This bill:

Authorizes the Texas Department of Human Services (DHS), if federal law is enacted that imposes work participation rate requirements on two-parent families for purposes of the financial assistance program that are substantively identical to those that federal law imposes on one-parent families, on the effective date of the federal law relating to the work participation rate requirements for two-parent families, to provide for the establishment of a recipient’s eligibility for financial assistance under Chapter 31 (Financial Assistance and Service Programs) instead of under Chapter 34 (State Temporary Assistance and Support Services Program) in a manner that avoids disruption of benefits for which the recipient is eligible.

Requires the Health and Human Services Commission, DHS, and the Texas Workforce Commission to monitor implementation and operation of the state program and, no later than September 1 of each year, to jointly report to the governor, the legislature, and the Legislative Budget Board on the status and use of the state program.
Transition Planning Programs - H.B. 3124
by Representative Truitt - Senate Sponsor: Senator Zaffirini

The Texas Rehabilitation Commission (TRC) offers rehabilitative programs to assist persons to rejoin the workforce. This bill:

Authorizes TRC to assess the statewide need for services necessary to prepare students with disabilities for a successful transition to employment, establish collaborative relationships with each school district with education service centers to the maximum extent possible within available resources, and develop strategies to assist vocational rehabilitation counselors in identifying and reaching students in need of transition planning.

Eliminates the Extended Rehabilitation Services program, a state-funded program operated by TRC that provides ongoing support services to persons with significant disabilities to enable them to achieve and maintain employment.

Eligibility Requirements for Workers’ Compensation Benefits - S.B. 478
by Senator Duncan - House Sponsor: Representative Campbell

Currently, the law is unclear regarding workers’ compensation benefits for certain persons who perform services that benefit a political subdivision. This bill:

Provides that a person is not an employee and is not entitled to compensation if the person performs services that may benefit a political subdivision, or is employed by or under contract with a performer providing those services, but does not receive payment from the political subdivision for the performance of the services, if the services are performed in connection with the operation or production of a:

- stock show;
- rodeo;
- carnival;
- circus;
- musical, vocal, or theatrical performance;
- professional baseball league or game;
- professional hockey league or game;
- wrestling event or match;
- vehicle or motorcycle event; or
- another entertainment event.
Workers’ Compensation and Maximum Medical Improvement Rules - S.B. 820  
by Senator Fraser - House Sponsor: Representative Solomons

The Texas Workers’ Compensation Commission (TWCC) adopted a 90-day deadline to dispute maximum medical improvement (MMI) and the resultant impairment rating (IR). The Third District Court of Appeals opined that the TWCC did not have the statutory authority to adopt a rule placing a deadline on a dispute involving either MMI or IR. This bill:

Provides that an employee’s first valid certification of MMI and first valid assignment of an IR is final if the certification or assignment is not disputed before the 91st day after the date written notification of the certification or assignment is provided to the employee and the carrier by verifiable means.

Authorizes dispute of an MMI or IR assignment after this period if the following conditions apply:
- a significant error by the certifying doctor in applying the appropriate American Medical Association guidelines or in calculating the impairment rating;
- a clearly mistaken diagnosis or a previously undiagnosed medical condition; or
- improper or inadequate treatment of the injury before the date of the certification or assignment that would render the certification or assignment invalid.

Authorizes a certification of MMI or IR to be disputed if it is modified, overturned, or withdrawn, after the 90th day, under certain conditions.

Sufficient Notice Regarding Worker’s Compensation Insurance Benefits - S.B. 1282  
by Senator Fraser - House Sponsor: Representative Elkins

Workers’ Compensation Insurance Carriers are required to begin payment of benefits or give written notice of refusal within seven days of receiving notice of the injury. This bill:

Requires that “written notice” to a political subdivision which self-insures, either individually or collectively, occurs only upon written notice to the intergovernmental risk pool or other responsible entity.

Requires that “written notice” to a certified self-insurer occurs only upon written notice to the qualified claims servicing contractor designated by the certified self-insurer.

Protocols for Workers’ Compensation Commission - S.B. 1572  
by Senator Carona - House Sponsor: Representative Giddings

Requires the Texas Workers’ Compensation Commission (TWCC) to establish treatment guidelines and protocols that are nationally recognized, scientifically valid, and outcome-based, and be designed to reduce excessive or inappropriate medical care, and if not available for adoption, TWCC is authorized to adopt another treatment guideline or protocol as long as it is scientifically valid and outcome-based.
Workers Compensation and Medical Quality Review - S.B. 1574
by Senator Carona - House Sponsor: Representative Giddings

Clarifies that the Medical Quality Review Panel (MQRP) may share certain information with the Board of Medical Examiners, the Board of Chiropractic Examiners, or other occupational licensing boards regarding physician, chiropractor, or other type of doctor who applies for registration or is registered with the Texas Workers’ Compensation Commission (TWCC).

Provides immunity from civil liability for members of the MQRP regardless of whether the person is a member of the panel at the time the action is brought.

Defines the state's average weekly wage used in determining worker compensation benefits at $537 for the 2003-2004 fiscal year and $539 for the 2004-2005 fiscal year.

Resolution of Disputes Concerning Pharmaceutical Services - S.B. 1804
by Senator Harris - House Sponsor: Representative Zedler

Currently, a health care provider may contact an insurance carrier to obtain precertification or preauthorization for certain care. After receiving the precertification or preauthorization from the carrier, the services will be provided and billed to the insurance carrier. The insurance carrier subsequently may dispute the treatment and services provided and even refuse payment. This bill:

Prohibits the Texas Worker’s Compensation Commission (TWCC) from prohibiting an insurance carrier and a health care provider from voluntarily discussing pharmaceutical services, either prospectively or concurrently.

Provides that the insurance carrier is liable for health care treatment and treatment plans and pharmaceutical services that are voluntarily preauthorized.

Prohibits the insurance carrier from disputing the certified or agreed-upon preauthorized health care treatment and treatment plans and pharmaceutical services at a later date.

Requires independent review organizations (IRO) in performing a medical necessity review to consider TWCC’s health care reimbursement policies and guidelines and to document the reasons in cases where the IRO diverges from such policies and guidelines.
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