

Brief

August 2001

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Highlights of the 77th Texas Legislature

Budget

General Appropriations Act (GAA) authored by Senator Ellis. During the 76th Legislature, one lawmaker said that it was easier to draw up a budget in hard times than in good. Members of the Senate Finance Committee of the 77th session are likely to disagree. The comptroller of public accounts (comptroller), warned in January that "Texas' economic furnace is cooling" and repeated the warning in May, stating, "Texas' economic furnace has cooled considerably" since January. Lawmakers were cautioned that there would be almost no money for new programs and were faced with the reality of a strained budget to even continue current programs. Throughout the session, the comptroller repeated that "Texas government needs to budget like any good Texas family – spend wisely, invest wisely, and

save for a rainy day." Lawmakers heeded the warnings but did not neglect the people of Texas. In the aftermath of the budget conference committee, Senator Ellis, chair of the Finance Committee, stated, "I spent everything I could get my hands on."

The 77th Legislature appropriated a total of \$113.8 billion from all fund sources for state government operations for the 2002-2003 biennium. The GAA provides an \$11.8 billion, or 11.6 percent, increase from the 2000-2001 biennial level (totals include emergency appropriations). General Revenue (GR) funding totals \$61.7 billion for the 2002-2003 biennium, an increase of \$5.1 billion, or 9.1 percent, over the anticipated 2000-2001 biennial spending level. GR funding, including funds dedicated within the General Revenue Fund, totals \$66.2 billion. Senator Ellis commented, "It's a reasonable budget. It's a tight economy. We did a responsible job of balancing our books."

Factors Affecting the State Budget

Always influencing the state budget is the increase or decrease of certain populations. During the last ten years, average daily attendance in public schools increased by 20.5 percent; higher education enrollment in general academic institutions grew by 0.8 percent; and community college enrollment increased by 17.7 percent. The average monthly caseload for Temporary Assistance for Needy Families (TANF) grants (includes TANF-Basic and TANF-UP) decreased by 43.4 percent, but the average monthly caseload for nursing home clients and for Medicaid clients grew by 10.6 percent and 50.3 percent respectively. Prominent growth occurred in inmate populations (214.9 percent) and in new adjudications to the juvenile probation system (154.7 percent). The implementation of the Children's Health Insurance Program (CHIP) has had a profound affect on the state budget, requiring millions to implement, but CHIP – Phase II

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– Texas Comptroller of Public Accounts

served 37,175 children in FY 2000 and is projected to serve more than 425,000 children by September 2001.

Each legislative session, state agencies project the costs of fulfilling their functions and for providing important services. As seen above, Medicaid caseloads and the prison population have exceeded projections made during the 76th legislative session. The Emergency Appropriations Act, sponsored by Senator Ellis, transfers unencumbered amounts totaling \$363.7 million to provide emergency appropriations to the Texas Department of Health (TDH), Texas Department of Criminal Justice (TDCJ), the State Office of Risk Management (SORM), and other state agencies.

Tobacco Settlement Receipts

A \$1.1 billion biennial appropriation of Comprehensive Tobacco Settlement Agreement and Release (Tobacco Settlement) receipts is included in the GAA. The earnings of permanent funds and endowments provided funding for CHIP, the Department of Human Services, Medicaid simplification, provider rates (\$120 million), and other health care services. The Legislative Budget Board reported that the increase in appropriations from 2000–2001 is primarily due to the implementation of CHIP and the funding of additional health and human services programs with Tobacco Settlement receipts. Senator Duncan sponsored legislation allowing the Texas Department of Health (TDH) to temporarily transfer certain tobacco funds among tobacco-endowed programs to alleviate the financial hardships on grant recipients resulting from fund reimbursement backup.

Significant Appropriations

Major recommended appropriations in the GAA include continuing the state contribution rate to the Employees Retirement System of Texas (ERS), the Teacher Retirement System of Texas (TRS) and Optional Retirement Program at the current level to account for payroll growth, resulting in increases in All Funds. Recommendations relating to group insurance premium contribution rates for state and higher education employees provide for increases to cover anticipated increases in claims and medical inflation. Funding for public school retirees' health insurance is increased by \$403.6 million (GR), or 164.5 percent. Included in the recommendations is an appropriation of \$452.2 million (a \$375.9 million increase over 2000–2001) to cover the projected deficit in the trust fund for TRS-Care. Despite the tight state economy, the legislature did not appropriate money from the Economic Stabilization Fund (Rainy Day Fund). The comptroller estimated the fund's balance, including interest, will reach at least \$881 million by the end of the next biennium, and possibly increase to more than \$1.1 billion.

Table 1
Comparison of All Funds
2002-2003 Budget Recommendations to 2000-2001

Appropriation Areas	(In Millions)			
	2000-2001 Biennium*	2002-2003 Biennium	Biennial Change	Percentage Change (%)
General Government	\$2,469.8	\$2,626.0	\$156.3	6.3
Health & Human Services	\$29,876.2	\$34,989.6	\$5,113.4	17.1
Education	\$45,239.3	\$48,680.9	\$3,441.6	7.6
Public Education	\$31,173.8	\$33,216.5	\$2,042.7	6.6
Higher Education	\$14,065.5	\$15,464.3	\$1,398.9	9.9
The Judiciary	\$383.7	\$430.7	\$47.1	12.3
Public Safety & Criminal Justice	\$8,084.4	\$8,289.5	\$205.1	2.5
Natural Resources	\$1,911.8	\$1,951.0	\$39.2	2.0
Business & Economic Development	\$12,731.1	\$13,890.8	\$1,159.6	9.1
Regulatory	\$528.8	\$771.7	\$243.0	45.9
General Provisions	\$0.0	\$764.4	\$764.4	100
The Legislature	\$282.5	\$294.4	\$11.8	4.2
Total	\$101,507.7	\$112,689.0	\$11,181.3	11.0
Tobacco Settlement	\$418.2	\$1,076.6	\$658.3	157.4
Grand Total	\$101,925.9	\$113,765.6	\$11,839.7	11.6

Excludes interagency contracts. Totals may not add due to rounding. *Includes anticipated supplemental spending needs.
Source: Legislative Budget Board

Education: The largest share of GR is \$38.2 billion (57.7 percent) appropriated to state-funded education. Funding for education agencies increased by \$3.4 billion, or 7.6 percent, over the previous biennium. Significant recommendations for public higher education included increased funding for the Toward EXcellence, Access and Success (TEXAS) Grant Program, TEXAS Grant II Program, enrollment growth at general academic and two-year institutions, and Tuition Equalization Grants Program. To comply with the state's commitment to the United States Office of Civil Rights' Priority Plan, appropriations were made to Texas Southern University and Prairie View A&M University.

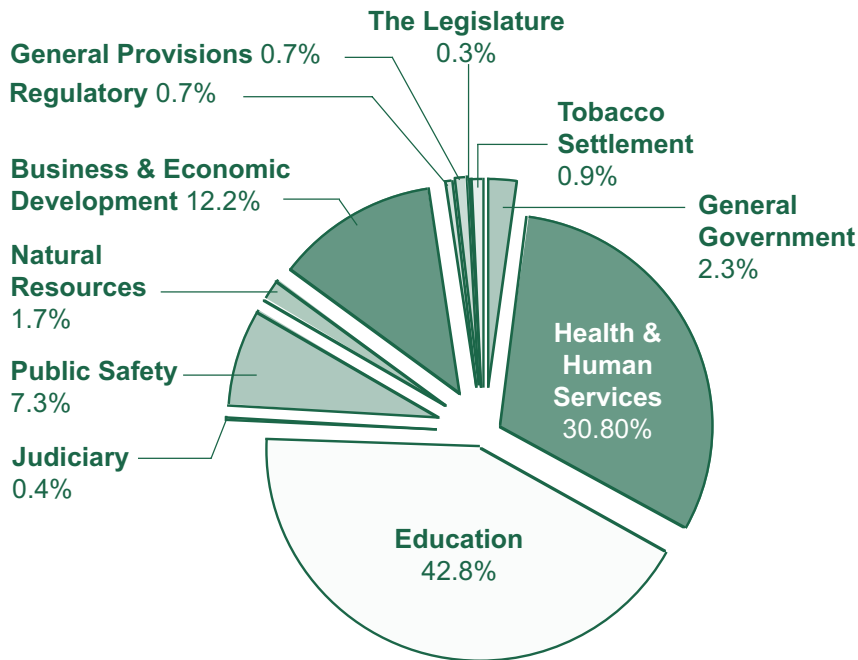


Figure 1
All Funds 2002-2003 Budget: \$113.8 Billion
Percent of Budget by Function

Health and Human Services: A total of \$25 billion in All Funds, with \$10 billion in GR and \$15 billion in federal funds in Medicaid appropriations, excluding employee benefits, was appropriated. Significant increases in the Medicaid program are aimed at supporting caseload growth and addressing the increases in costs and utilization for acute care, community care, and nursing facility and hospice care services.

Public Safety and Criminal Justice: Significant recommendations include an appropriation of \$185.9 million (GR) for salary increases and to extend the career ladders for adult and juvenile correctional officers, parole officers, juvenile probation officers, and other correctional personnel. In an effort to prevent racial profiling, the Department of Public Safety was appropriated \$18.5 million to provide in-car cameras to local police agencies.

Business and Economic Development: Significant appropriations include a \$104.5 million increase in state

highway funds and an increase of \$960.8 million in federal funds for highway planning and construction, aviation, and public transportation. An increase of \$208.4 million was appropriated to the Public Utility Commission for costs associated with electric deregulation and the System Benefit Fund.

State Fiscal Management

Senator Duncan authored legislation directing the Legislative Budget Board to develop a single annual report on the performance of the state's major investment funds instead of the various state entities investing state treasury funds issuing their own reports. Senators Duncan and Lucio authored a bill directing the comptroller to establish an investment advisory board to advise the comptroller regarding investments. Legislation sponsored by Senator Duncan made technical and policy changes to several statutes relating to the state's fiscal management

and the comptroller's duties to administer those laws.

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

Taxes

Ad Valorem Tax: A bill by Senator Carona eliminates ad valorem taxes for vehicles leased primarily for personal use. Senator Duncan proposed a constitutional amendment that exempts certain personal property from ad valorem taxation. Currently, the state provides for a "freepoint exemption" granted as a local option and exempts certain types of inventory that are brought into or acquired in the state and transported out of the state within 175 days of acquisition. The amendment provides a new exemption for "goods in transit," and authorizes the legislature by general law to exempt from ad valorem taxation goods, wares, merchandise, other tangible personal property, and ores other than oil, natural gas, and other petroleum products. The property must meet the following requirements: property is acquired or imported into Texas; stored at a location in the state; not owned or under the control of the property owner; and transported to another location either inside or outside of the state within 270 days.

Legislation sponsored by Senator Lucio exempts from ad valorem taxation any travel trailer that is less than 400 square feet in area and designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use and not as a permanent dwelling. Senator Lucio also sponsored a constitutional amendment that would authorize the legislature to allow taxing units other than

school districts to exempt from ad valorem taxation those travel trailers that are not held or used for the production of income.

Franchise Tax: A corporation that is an insurance company, surety, guaranty, or fidelity company required to pay or which pays an annual tax measured by gross receipts is exempted from the franchise tax. However, there is no provision that exempts from the franchise tax an insurance organization performing management or accounting activities in this state on behalf of a nonadmitted captive insurance company. Legislation authored by Senator Ellis exempts from the franchise tax an insurance organization, title insurance company, or title insurance agent authorized to engage in insurance business in this state, rather than a corporation that is an insurance company, surety, guaranty, or fidelity company now required to pay an annual tax that is measured by its gross premium receipts. The legislation includes farm mutuals, local mutual aid associations, and burial associations.

Senator Ellis sponsored legislation addressing nondisclosure of unclaimed property in Texas. The Texas Unclaimed Property Program, administered by the comptroller, requires financial institutions, businesses, and other entities to deliver to the comptroller property considered abandoned, but some entities do not do so because state law requires them to pay interest and penalties on the property. The legislation waives interest and penalties on certain unclaimed property and authorizes the comptroller to waive penalty and interest imposed on delinquent property meeting certain requirements.

Currently, the price of American-manufactured cigarettes intended for export is significantly less than American-manufactured cigarettes designated for domestic consumption because of federal and state taxes. Senator Armbrister sponsored legislation designed to establish a system to identify and monitor tax stamping, prohibit stamp affixation to cigarettes violating federal regulations, prohibit certain cigarettes, and reinforce existing laws. An exception is made for cigarettes imported by an individual for personal use and for cigarettes lawfully sold in duty-free stores.

Business & Commerce

Housing. Legislation authored by Senator West, known as "the predatory lending bill," will ensure that people who agree to pay high interest rates for mortgages are provided sufficient information to decide if they can accept the terms of the loan.

Closing costs on the purchase of a house may be lowered if the insurance commissioner writes the regulations to allow a title company to accept a survey of any age, provided it is brought current by a signed affidavit from someone knowledgeable about the property. Senator Van de Putte, stating that regulations on survey fees were particularly discriminatory to inner-city residents, authored legislation to require the commissioner of insurance to adopt rules allowing an insurer to accept an existing real property survey.

Before the purchase of a home is finalized, buyers face various risks. An unwary consumer could buy a home, including the purchase of a warranty, but the warranty could be

withdrawn within three days, in some cases without the knowledge of the consumer, leaving a gap in home protection. Senator Wentworth passed legislation that closes this loophole in the Texas Real Estate Act

Manufactured Housing. Manufactured housing has become the choice of many who seek low-cost housing making up one-third of all new houses according to *Texas Lawyer*. Senator Shapiro sponsored a bill to enforce tax liens for manufactured homes as provided in the Tax Code in the same manner as provided by the current law for personal property tax liens

Senator Harris sponsored legislation to alleviate concerns associated with unscrupulous retailers who have caused problems for consumers in counties. The bill provides for full disclosure of financing obligations for both retailers and consumers, classifies manufactured homes as real property once established on permanent sites, and requires a closing to take place at either FDIC or other regulated financing locations, without legal or other representation present

A resolution sponsored by Senator Shapleigh proposes an amendment to the Texas Constitution to change time periods on home improvement loans and the liens imposed for them to include those secured by a manufactured home

Manufactured home communities, with fewer laws and regulations governing the relationships between landlord and tenant, have also seen some unfair rental practices. Senator Lucio sponsored a bill to require landlords to provide tenants in manufactured home communities with protections parallel to laws governing other commercial properties



The Texas Department of Housing and Community Affairs. In addition to review from the Sunset Advisory Commission, the Texas Department of Housing and Community Affairs (TDHCA) faced critical publicity due to internal organizational problems. A Sunset bill authored by Senators Lucio and Zaffirini set out many recommendations derived from meetings with Sunset staff, including restructuring the governing board to include public members with demonstrated interest in housing and community services issues. New prohibitions include restrictions regarding conflicts of interest. The creation of a uniform application and fund allocation cycle will be required of TDHCA to support needed projects and assess proposals that meet regional objectives, and a separate department of manufactured housing will be established.

Insurance Companies and Venture Capital. Availability of venture capital was the desired outcome of a bill sponsored by Senator Carona which authorizes insurance companies to invest seed capital in fledgling companies operating in the state. Senator Carona stated that the bill would provide a tax credit to these insurance companies. Previously, only certified capital companies that were state-regulated and privately owned and operated could invest funds in this manner.

Overhaul of Workers' Compensation System. Senator Duncan sponsored legislation that made major changes in the workers' compensation system, including increasing the maximum employee benefit to approximately \$800 per week; providing lifetime income benefits for serious burn victims; prohibiting employers who do not participate in the workers' compensation system from requiring workers to sign waivers of their rights

to recover benefits; setting up a series of regional health care networks to provide medical services to injured workers; authorizing the Texas Workers' Compensation Commission to allow major nonemergency medical surgery in workers' compensation cases and adopt treatment guidelines according to medical industry standards; reducing the waiting period before an injured worker can receive benefits for the first seven days away from work from 30 to 14 days; and aggregating all wages earned in part-time jobs, rather than just the job at which the worker was injured, in the computation of workers' compensation benefits.



Foreign Car Insurance. While the commissioner of insurance still has to form a committee to initiate a plan to implement the bill, under a bill authored by Senators Lucio, Shapleigh, Truan, and Zaffirini, uninsured drivers from Mexico and other foreign countries will be required to buy temporary insurance policies while driving in Texas, at a cost of about \$2 to \$3 a day. In El Paso alone, the municipal court clerk said that in the past two years, police issued almost 97,000 warrants to drivers for failure to maintain financial responsi-

bility for their vehicles, which would include a lack of insurance coverage.

Consumer Loans. Consumer loans and practices identified by the Texas Office of Consumer Credit Commission (OCCC) as needing reform were the focus of legislation authored by Senator Sibley. The legislation put some teeth into the OCCC's ability to set fees and make rules regarding pawnshops, car loans, consumer loans, deferred presentment transactions, and sale-leaseback transactions. The bill also requires the OCCC to conduct a study of mortgage lending practices with an emphasis on identifying possible predatory and discriminatory lending patterns or practices.

A bill authored by Senator Carona addresses the concern that the maximum interest rate for consumers who qualify for large loans is less than the maximum interest rate for consumers who qualify for smaller loans. The legislation provides an alternate interest rate for certain loans and directs the consumer credit commissioner to establish a program to address alternatives to high-cost lending in Texas.

Telecommunications and Utilities Regulation. With statewide implementation of the landmark electric utility

deregulation passed into law by the 76th Legislature and with the pilot project of that deregulation currently underway, several key pieces of regulatory legislation were enacted by the 77th Legislature.

Delayed Dereg in Panhandle. Utility services in the state's Panhandle region, served by the Southwest Public Service Company, are constrained by transmission issues that require the power consumed there to be generated within the region. Legislation sponsored by Senator Bivins delays electric deregulation in

the Panhandle until the later of January 2007, or the date on which a non-Electric Reliability Council of Texas utility is authorized by the Public Utility Commission to implement customer choice. This delay will provide time for a slower, more structured transition to competition in a region that must address unique transmission and generation concerns.

System Benefit Fund Adjustments. The System Benefit Fund (fund) was created by the 76th Legislature as part of electric utility deregulation to deal with financing programs promoting utility awareness and assistance. Since schools derive some portion of their funding from electric generation property tax values, there is significant potential for losses due to electric utility restructuring and concomitant losses as a result of changes in such facilities' appraisal roll values. Legislation sponsored by Senator Sibley makes adjustments to the provisions regarding the purpose and use of the fund in order to address these issues.



Telemarketing 'No-Call' List. Each year the attorney general's office receives voluminous telemarketing fraud and nuisance complaints. Many of the complaints involve unsolicited and untimely calls that violate state-mandated, self-imposed no-call lists that are to be maintained by the solicitors themselves. Legislation sponsored by Senator Shapleigh

creates the Texas Telemarketing Disclosure and Privacy Act to protect consumers from unwanted or potentially fraudulent telemarketing calls, including the opportunity for Texans to sign up for a state-wide no-call list, and to penalize telemarketers who violate those provisions.

Streamlined Database for Low-Income Consumer Discounts. Texas law provides for automatic enrollment databases for both telecommunications discounts and electric discounts to low-income consumers. Legislation sponsored by Senator Van de Putte provides for an integrated eligibility process for telecommunications and electric discounts to low-income Texans in need of assistance and makes other changes to improve this service.

Texas Workforce Commission and Child-Care Subsidies. Legislation sponsored by Senator Shapleigh makes certain that federal funds intended for child-care will be used only for this purpose. The Texas Workforce Commission (TWC) is responsible for allocating funds for child-care subsidies, and this bill directs TWC to ensure this occurs.

Financial Services and Federal Regulations. Sponsored by Senator Sibley, a new statute brings Texas into compliance with the federal Gramm-Leach-Bliley Act (GLBA), or financial modernization act, of 1999.

States must comply with new guidelines for ownership of entities in insurance, securities, and banking activities. GLBA also preempts state agent licensing laws that prohibit or interfere with a depository institution's ability to sell insurance.

Coffee, Cocoa, and Taxes. Due to Houston's location as a port, certain commodities are both shipped to and stored in Texas. Senator Gallegos authored legislation that exempts green coffee and raw cocoa held in Harris County from ad valorem taxes

in order to qualify as an exchange port for coffee on the New York Board of Trade. This proposal will be submitted to the voters as a constitutional amendment.

Criminal Justice

DNA: DNA evidence has become a reliable forensic tool for identifying perpetrators and eliminating suspects. Several bills this session seek to make further use of this technology. Under a bill sponsored by Senator Jackson, all inmates incarcerated for a felony offense must provide samples for the DNA record. It provides for prioritization of taking samples from certain inmates if the Texas Department of Criminal Justice determines that there are insufficient funds to obtain a sample from each such inmate. This bill also makes unauthorized release of DNA information a state jail felony. A bill by Senator Barrientos expands the Texas DNA database system, which maintains DNA profiles sent in from law enforcement agencies, to include the collection of DNA specimens for defendants who have been arrested or indicted for certain sexual offenses or first degree felony burglary or convicted of public lewdness or indecent exposure. Under the bill, specimens and records must be destroyed if the person is acquitted or the case dismissed, and there is a penalty for unauthorized release of the DNA information. A bill by Senator Duncan requires the state to preserve biological evidence in a criminal case resulting in a conviction and allows a convicted person to seek postconviction forensic DNA testing of the evidence in certain circumstances. The bill sets out the procedures and requirements for such testing and requires the Texas Department of Criminal Justice to notify all persons housed in its facilities of the Act. Senator Barrientos sponsored legislation creating an unsolved

crimes investigation team within the Texas Rangers to help local law enforcement investigate “cold” crimes using the advances in genetic and forensic sciences.



Racial Profiling: Senator West spearheaded an effort to prohibit and prevent the practice of racial profiling. The legislation requires additional training for police chiefs and peace officers on racial profiling. Each law enforcement agency must adopt a written policy that defines racial profiling, provides for data collection, and creates a system for dealing with complaints.

Peace officers must document each stop with information on the race of the person stopped, the reason for the stop, whether a search was conducted, and any action taken. The data gathered at a traffic or pedestrian stop is to be collected and analyzed to determine the prevalence of racial profiling. A law enforcement agency has the option of installing video cameras in patrol cars or audio equipment on motorcycles and taping each stop in lieu of the documentation required of peace officers. Funds will be available, particularly to smaller departments, to help purchase equipment.

Hate Crimes: Senator Ellis sponsored the James Byrd, Jr. Hate Crimes Act which enhances penalties for crimes motivated by hate, prejudice, or bias against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference. Education requirements, reporting requirements, and the means for obtaining assistance for the investigation and prosecution of hate crimes are included in the bill.

Alcohol-Related Offenses: Under a bill sponsored by Senator Zaffirini, driver’s licenses of persons who refuse to take or who fail a blood-alcohol content test administered by a peace officer can be confiscated, rather than simply suspended, at the time of the stop. Commercial driver’s licenses

are included as well. Senator Moncrief developed legislation that increases penalties for operating a motor vehicle, aircraft, or watercraft, or operating or assembling an amusement ride, while intoxicated.

Domestic Violence: To afford adult victims of dating violence additional safeguards against abusive dating relationships, Senator Moncrief authored legislation that allows an adult victim of dating violence to obtain a protective order. Identifying domestic violence offenders and victims, and the needs of the victims can be critical in breaking the cycle of violence. A bill by Senator Zaffirini requires additional training for social service workers, particularly those who determine whether a person is complying with the work requirements of the Temporary Assistance for Needy Families program or is cooperating in establishing paternity, to identify victims of domestic violence. Additionally, the bill requires a person trained in family violence to help an aid recipient enter

the workforce safely and successfully if domestic violence is a reason the recipient is not complying or cooperating. When an incident of family violence occurs, determining who is the aggressor can be difficult and often both parties are arrested. Another bill by Senator Moncrief requires police officers to be trained on determining which person is the dominant aggressor.

Juvenile Justice: The Juvenile Justice Code underwent modifications in a bill backed by Senator West. There were a number of substantive amendments relating to the automatic restriction of access to certain juvenile records, destruction of certain out-of-date records, a hearing to determine the need for sex offender registration, timely appointment of counsel, activities of justice and municipal courts, Texas Youth Commission commitment criteria, and taking a child into temporary custody for fingerprinting and photographing for limited purposes. Legislation by Senator Carona makes it an offense for children to purchase lottery tickets, punishable by a fine up to \$250. Now the child as well as the seller can be held accountable.

Sex Offenders and Offenses: Senator Armbrister penned a bill containing many changes to the sex offender registration program. The bill requires adult and juvenile registered sex offenders to submit a DNA specimen, extends the program to include registrants under federal and military law, requires neighborhood notification of the presence of a sex offender to be in English and Spanish, and expands the number of crimes for which a person is required to register for life. Senator Madla pushed legislation that makes it an offense for an incarcerated sex offender to directly or indirectly contact, by any means, a juvenile victim of the sex offense or a member of the victim’s family. To give support to victims of sex offenders, Senator Zaffirini

backed a bill that requires the person examining the sexual assault victim to offer to have an advocate present during the medical exam. Persons assaulted while incarcerated are allowed to request that a representative be present during the exam under this bill.

Criminal Forfeiture: Texas law authorizes law enforcement to seize a criminal's assets. Two bills seek to clarify this law and protect innocent property owners or holders. A bill by Senator Armbrister bars an owner or interest holder's interest in property from being subject to forfeiture if the owner or holder proves that the owner or holder was not a party to the offense and the contraband was either stolen, purchased with money stolen from the owner or holder or with proceeds from the sale of property stolen from the owner or holder, or used without the owner's or holder's effective consent. It also requires education and training regarding asset forfeiture for police chiefs and peace officers. A bill by Senator Duncan provides that when an innocent third party has perfected a secured interest in the assets (such as a bank accepting the assets as collateral for a loan) under certain circumstances, the party's secured interest in the property may not be suspended. The bill sets out the actions a regulated financial institution may take to comply with a seizure and the state's duty to disclose certain information to financial institution regulators or the state banking commissioner.

Indigent Defense: A bill by Senator Ellis sets standards and requirements for the appointment of counsel to represent indigent persons accused of a crime. Under this bill, a court must appoint an attorney from a public appointment list using a system of rotation, provide a public defender, or implement a countywide alternative

program for appointing counsel. The bill sets out the procedures and requirements for appointment systems and guidelines for determining when a defendant is indigent. The Task Force on Indigent Defense (TFID) is created and charged with developing policies and standards for providing legal services to indigent defendants on trial. The bill also sets out the duties of appointed counsel or public defenders and their compensation, the time period in which counsel must be appointed to an indigent



defendant, and the bonds for certain defendants. County juvenile boards must also adopt an appointment of counsel plan meeting specific requirements. Under the bill, a percentage of certain costs paid by a convicted person is placed in a fair defense account in the general revenue fund. Counties must annually report certain information regarding the appointment of indigent defendants. Counties are barred from reducing the amount of funds provided for indigent defense services in the county because of funds provided through TFID.

Statute of Limitations: Legislation enacted this session extended the statute of limitations for a number of

criminal offenses. A bill by Senators Bernsen and Zaffirini provides there is no statute of limitations for leaving the scene of an accident that resulted in a person's death and extends the statute of limitations for sexual assault, abandoning or endangering a child, or indecency with a child. This bill and a bill by Senator Jackson increase to 10 years the statute of limitations for injury to a child, elderly individual, or disabled individual punishable as a first degree felony. Under a bill sponsored by Senator Wentworth, there is no statute of limitations for sexual assault if biological evidence is subjected to DNA testing and the results do not match any known person, and the statute for most sexual assaults is increased to 10 years.

Wrongful Imprisonment: A bill by Senator Ellis extends the period in which a person who has been wrongfully imprisoned may pursue compensation from the state from two to three years and increases the amount of compensation to which the person is entitled from the current cap of \$50,000. Under the bill, the person may seek compensation through an administrative proceeding or by filing suit. Under an administrative proceeding, the person is entitled to \$25,000 per year served in prison, if time served is less than 20 years, or \$500,000 if the time served is 20 years or more. In a civil action, the person may be awarded attorney and court costs, lost income, and medical and counseling expenses, up to \$500,000.

Miscellaneous: Senators Bivins and Haywood authored legislation to counter the increase in motor fuel theft likely spurred by the rise in gas prices. Their bill makes prosecution of the crime easier and provides for the suspension and denial of the driver's license of person convicted of motor fuel theft.

When a person is arrested, a crime record is created. However, if prosecution is not pursued and the records are vacated by the court, there is no mechanism to clear the person's record. Senator Staples shepherded a bill to allow a person's criminal record to be expunged if the indictment or information about the prosecution is quashed.

Two bills by Senator Haywood address the increasing problem of "speed" labs, which manufacture methamphetamines. One bill holds a person who manufactures methamphetamines liable for personal injury, death, or property damages resulting from the production process. Another bill increases penalties for possessing and transporting materials commonly used to manufacture methamphetamines.

Senator Whitmire sponsored a bill developing a drug court program to provide drug treatment and other alternatives to incarceration for drug offenders.

Legislation sponsored by Senator Ellis and vetoed by the governor would have prohibited the execution of a person with mental retardation.

Education

In public education, three issues dominated the session: health insurance for school employees; charter school regulation; and the state budget.

Health Insurance for Teachers.

Responding to testimony primarily from small district employees who either cannot get coverage or experience very large increases in premiums from year to year, legislation sponsored by Senator Bivins creates a health insurance group plan that requires the participation of school districts with fewer than 500 employees, and allows districts with 500 to 1,000 employees to participate on a

voluntary basis beginning September 1, 2002. School districts will contribute \$1,800 per employee. The state will provide \$1,000 to each employee, \$900 per employee to each school district, and additional assistance to districts that contribute less than the required \$1,800 or have little taxing authority available.



Charter Schools Shape-Up. After five years of operation, charter schools had developed problems that needed attention. A bill sponsored by Senator Bivins improves state oversight, increases financial and academic accountability, transfers some charter authority from the State Board of Education to the commissioner, limits the total number of open-enrollment charters to 215, and allows colleges and universities to establish charter schools.

Public School Finance. The same legislation increased the guaranteed yield per weighted student to \$25.81 for 2001-2002 and \$27.14 for 2002-2003 and the property wealth limit to \$300,000 per weighted student in 2001-2002 and \$305,000 in 2002-2003.

Revising state policy that prevents state dollars from making up for school board-granted property value limitations, a bill sponsored by Senator Harris allows school districts

to grant tax credits to new economic development projects and requires the state to reimburse ISDs for most of the lost tax revenue. Between 2006 and 2011, the program is estimated to cost the state a total of \$1.6 billion and school districts will lose a net \$434 million, according to the comptroller's projections. In FY 2006, the fiscal note shows state revenue increasing by \$6 million, but school districts losing more than \$100 million of tax revenue that is not reimbursed. According to the fiscal note, in FY 2007 the state's cost jumps to \$104 million and increases each year until 2011 when it reaches \$453 million. An economic development project with a \$20 million capital investment that creates 25 new jobs qualifies for the valuation cap, if it complies with requirements of the new law. But ISDs with little industrial property can grant tax credits to a \$1 million project.

As structured, the tax credit becomes effective after a qualifying time period of two years, during which the owner pays taxes on the increasing value of the development. Then the tax cap kicks in, costing ISDs \$100 million, and the following year state reimbursement begins and continues for seven years. School districts cannot grant new tax credits after 2007. The bill also requires the state to reimburse tax-credit revenue losses of districts that do not qualify for state aid, which are districts with property values higher than the equalized funding system. The Legislature also extended until 2005 the property tax abatement act, under which the state does not reimburse school districts for taxes lost to property tax abatements.

Other Public Education Issues. The legislature: set the school start date in the week that includes August 21 (authored by Senator Lucio); prohibited the use of locked, windowless boxes, closets, and rooms with fewer than 50 square feet for disciplinary

purposes unless a student with a weapon presents an imminent danger (authored by Senator Truan); and increased truancy prosecution by requiring immediate response, streamlining court processes, and clarifying responsibility among district, courts, and police (authored by Senator West).

Higher Education. A bill by Senator Ellis expands the Texas Grant Program to include savings for living expenses, and another bill authored by Senators Bivins, Wentworth, and West adds a savings program for those planning to attend community or technical college. The legislature approved the University of North Texas at Dallas (authored by Senator West); authorized fee increases at several colleges and universities; waived tuition and fees, room and board, and textbooks for the surviving spouse and dependent children of peace officers and firefighters who die while performing their duties, and provided in-state tuition for non-citizen Texas high school graduates, Mexicans who attend an institution of higher education located in a county on the Mexican border, and family members of military persons formerly stationed in Texas. Some students who attend junior college during off peak hours or enroll in summer school at selected IHEs will pay lower tuition in pilot programs.

Health and Human Services

Health, as defined by public health professor Mildred Blaxter, can be viewed “negatively, as the absence of illness; functionally, as the ability to cope with everyday activities; or positively, as fitness and well-being. It has also been noted that in the modern world, health still has a moral dimension.” The 77th Legislature clearly recognized the multiple components of public health in

passing a broad range of health legislation. Some of the policy areas addressed by the legislature included long-term care, Medicaid, medical privacy, dental health, technology in public health, child care, general health care, and regulatory issues.

Long-Term Care. The nursing home industry in Texas faces significant obstacles to providing quality care. Some of those obstacles include increasingly unaffordable liability insurance rates for nursing homes, high turnover rates among direct long-term care staff, and Medicaid reimbursement rates that the industry believes are inadequate to provide quality care.

Legislation by Senators Moncrief and Duncan addressed many of the problems confronting the nursing home industry. Some of the key components of this legislation include:

- Increasing the state oversight of insurance companies selling liability insurance in Texas;
- Providing opportunities for nursing homes to purchase affordable liability insurance from the state’s Joint Underwriting Association;
- Enhancing the education requirements for state nursing home surveyors; and
- Allowing state regulators and nursing home facilities to pursue alternative remedies to correcting violations within facilities.

Senator Shapleigh devised an innovative policy approach to long-term care. The plan, called the Program for All-Inclusive Care for the Elderly (PACE), is a nationwide alternative to nursing home care for the elderly. PACE programs cost the state less than traditional Medicaid payments for individuals who are eligible for nursing home placement. Currently, the only PACE program site in Texas

is *Bienvenir* in El Paso. Under Senator Shapleigh’s plan, caseworkers and other appropriate direct care staff are required to discuss the benefits of participating in the PACE program with long-term care clients.

Senators Zaffirini and Lucio authored legislation establishing a tuition assistance program for vocational nursing students attending any school or program in Texas who practice their profession in a long-term care facility.

Medicaid. Governor Perry vetoed Medicaid legislation designed by Senator Zaffirini. The legislation would have provided a number of reforms to the state’s Medicaid service delivery.

An equally important piece of Medicaid legislation, authored by Senator Zaffirini and signed by Governor Perry, focuses on simplifying the application process for Medicaid enrollment. The legislation requires the state to:

- Adopt a single consolidated Medicaid application for children under 19 applying for Medicaid and the Children’s Health Insurance Program (CHIP);
- Permit Medicaid applications for children under 19 years of age to be submitted by mail or be received in various state agency offices, medical providers, and hospital districts; and
- Promptly transmit information on children denied Medicaid coverage to CHIP enrollment offices.

Medical Privacy. A comprehensive medical privacy bill, crafted by Senator Nelson, addresses the confidentiality of personal health and medical data. The bill:

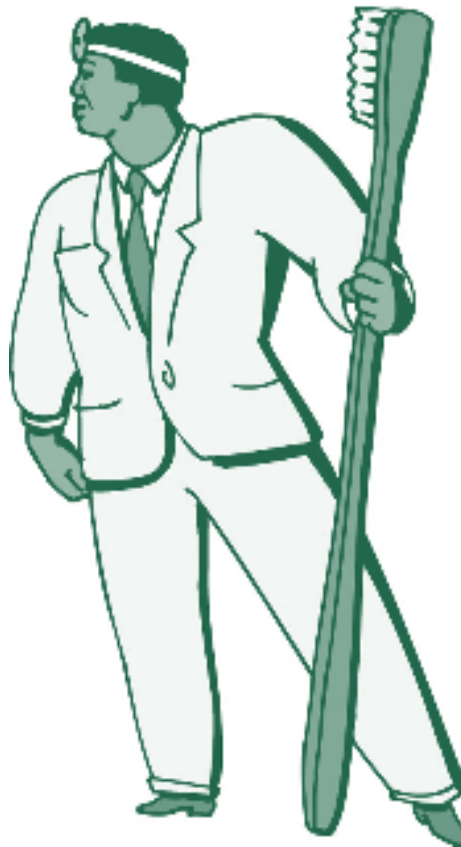
- Prevents the transfer of patient data from health entities to marketing or advertising entities without patient consent;

- Directs the Texas Department of Insurance to adopt rules consistent with federal guidelines covering the release of patient specific data by health plans and insurance companies;
- Gives patients the right to know how entities use their medical information in the form of an easy-to-understand public notice;
- Establishes privacy standards for medical research efforts;
- Authorizes the Office of the Attorney General to impose administrative penalties up to \$250,000 per violation;
- Gives individuals the right to sue to stop the release of information and seek injunctive relief but not punitive damages; and
- Gives patients the right to inspect their medical records and provides a mechanism to correct errors in their files.

Dental Health: The young and the elderly were the primary focus of dental health legislation this session. Legislation sponsored by Senator Moncrief addressed the issue of children's dental health, since tooth decay is one of the most prevalent diseases among children. The legislation develops a program for training dental hygienists, implementing teledentistry in certain rural areas of the state, investigating evidence of dental fraud in the Texas Health Steps Dental Services Program, and establishing a student loan repayment program for rural dentists.

A bill authored by Senator Zaffirini, focusing on elderly dental care, will provide annual dental services to Medicaid recipients in nursing homes. The bill requires the Health and Human Services Commission to develop a fee schedule for dental services in cooperation with the Texas Department of Health and the Texas Department of Human Services.

Technology in Public Health. Applying technological innovations to healthcare was the purpose of bills passed by Senator Madla and Senator Duncan. Both senators passed legislation establishing pilot projects to demonstrate the application of technology to rehabilitation services, services for the aging or disabled, long-term care services, and rural Border health care services and support.



Senator Moncrief also developed legislation that will monitor and regulate the use of telemedicine. The legislation will add telemedicine and teledentistry pilot programs to certain designated rural areas of the state.

Child Welfare. Legislation crafted by Senator West will encourage the participation of non-custodial fathers in raising their children. The legislation involves state health and human services agencies as well as the Office of the Attorney General.

Senator Jackson devised legislation that will protect the earnings of foster children. This legislation remedies the current situation that leaves many foster children uncertain about the protection and security of their earnings.

Senator Harris directed legislation at developing a more timely court process for lawsuits terminating the parent-child relationship. In cases where the state has requested termination, these bills clarify the circumstances under which a court may continue or dismiss a suit, or suspend an order while a suit is on appeal. The bills also provide for faster appeal of the cases. Senator West authored legislation limiting the amount of retroactive child support a court can order to what would have been due for the past four years, if the court finds this limitation is in the best interest of the child.

Health Care. Senator Cain authored legislation to remedy unequal health care rates and payments made to women's health services. The bill requires a health benefits plan to pay an amount for women's health services not less than the amount paid for services exclusively to men or to the general population.

Senators Madla and Bernsen created a rural foundation to focus on the public health issues facing rural parts of the state. Senators Fraser and Madla designed a voluntary Medicaid demonstration project for rural health. The project will emphasize preventive care, disease management, care coordination, and quality improvement to uninsured individuals living in a rural community.

Hepatitis was the focus of Senator Van de Putte's legislation that re-

quires emergency medical services personnel, firefighters, and peace officers, to take reasonable steps to test potentially exposed patients for hepatitis B or C.

Regulatory. A safeguard against the abuse of Internet pharmaceutical sales was a key piece of legislation sponsored by Senator Van de Putte. The legislation will protect citizens from the improper sale of drugs by online practitioners and pharmacies.

Other important regulatory issues addressed during the 77th Legislature included:

- Creating an interagency council on pharmaceuticals bulk purchasing, sponsored by Senator Moncrief;
- Regulating the licensing of surgical assistants, sponsored by Senator Carona;
- Providing a lien for emergency hospital services by physicians, authored by Senator Duncan; and
- Regulating automated prescription drug dispensing, authored by Senator Nelson.

Intergovernmental Relations

In the area of intergovernmental relations, the 77th Legislature covered a broad spectrum of issues focusing on the ways in which cities, counties, and other local governments interact with one another. Other focus areas were state and county retirement systems, infrastructure planning, and revenue and economic development.

Interlocal Agreements. Generally, interlocal contracts are contracts made between local governments and agencies either within a state or between states, to perform governmental functions and services. When entering into such contracts with other states, Texas has been limited to contracting only with those along its

border. However, this session Senator Carona passed a bill allowing Texas to execute interlocal contracts with all states. In the same vein, Senator Duncan sponsored legislation clarifying that a local government requesting and receiving fire protection from another in the absence of a contract retains any civil liability arising out of those services. Senator Wentworth also sponsored a bill delineating interlocal agreements between counties and municipalities for regulation of subdivision platting in the extraterritorial jurisdiction (ETJ) of a city.



Retirement. Senator Armbrister passed a bill improving and refining the Texas Municipal Retirement System, a voluntary statewide system servicing municipal employees in Texas. Some of the bill's improvements include more favorable vesting requirements and new benefit options for members and beneficiaries. Senator Armbrister also wrote legislation making similar improvements to the Texas County and District Retirement System.

Revenue. Legislation authored by Senators Cain and Moncrief institutes a financial sharing system for airport revenues generated by an airport that spans several municipalities, but is owned by only one or two cities. Senator Barrientos passed legislation removing the requirement that a county accepting a donation in the middle of a year must wait until the next fiscal year before putting the

money to use. Senator Truan passed legislation strengthening county authority to compel payment for solid waste services by allowing counties to contract with other entities, including utilities, to collect fees and suspend service until delinquent customers pay their bills.

Municipal Law. Senators Madla and Moncrief passed legislation prohibiting a municipality from issuing a permit for renovation or demolition without evidence of an asbestos survey certifying the absence of asbestos in affected parts of the building. Senator Harris passed legislation requiring political subdivisions to credit new developments with a portion of the taxes and revenues they will generate in order to offset the impact fees cities charge for the cost of capital improvements. Senator Lindsay authored a bill giving counties the same power municipalities have for setting requirements regarding infrastructure development in subdivisions, which includes granting counties the authority to adopt subdivision regulations, enforce thoroughfare plans, and require plat compliance certificates.

Economic Development. Design-build procurement methods have been shown to save time and construction costs with regard to public works and Senators Armbrister and Truan passed legislation authorizing cities, counties, river authorities, and certain educational institutions to use design-build procedures. Senator Duncan passed legislation allowing municipalities to extend their capacity to offer tax abatement incentives to owners of real property located in reinvestment zones to owners of leasehold interests in these areas. He also authored related legislation giving cities recourse when tax

abatement agreements offered in exchange for job creation or other requirements have not been fulfilled. Senator Van de Putte sponsored similar clarifying legislation.

Natural Resources

Sunset Review. During the 76th legislative interim, the Sunset Advisory Commission reviewed agencies entrusted with managing and conserving the state's natural resources. These included the Texas Natural Resources Conservation Commission (TNRCC), the Texas Parks and Wildlife Department, the Texas Railroad Commission, the Texas Water Development Board, and the State Soil and Water Conservation Board.

Senator Harris sponsored sunset legislation for TNRCC, which continues the agency for 12 years and renames it the Texas Commission on Environmental Quality, effective in 2004. The bill gives regulated entities and other affected groups a greater role in protecting the environment. It requires TNRCC to develop a system of electronic posting for easier public access to agency business, including information on advisory committee meetings, pending permit and enforcement actions, compliance histories, emissions inventories by county and facility name, and information regarding complaint procedures and policies. The bill addresses the continuing problem of unpermitted or "grandfathered" facilities that emit harmful air emissions in Texas by setting deadlines for the facilities to obtain permits and achieve specific percentage reductions by 2007. The bill also establishes the Texas Environmental Health Institute, an organization charged with examining ways to identify, treat, and reduce health problems associated with environmental contamination.

Preservation and conservation of Texas natural resources. Senator Bernsen authored legislation for greater regulation of the state's oyster industry and Senator Wentworth authored legislation prohibiting the sale or hunting of bats. Senator Whitmire sponsored legislation increasing penalties for illegal dumping and Senator Brown sponsored legislation to further encourage environmental cleanup of contaminated property, otherwise known as brownfields. Senator Duncan also sponsored legislation for continued clean up of under- and aboveground storage tanks.

Water. Major legislation authored by Senator Brown continues to build on the statewide water planning and conservation process begun in 1997. The bill creates an advisory council to oversee a unified state water policy, review the state's many water authorities, and report its findings to the legislature. It contains provisions regarding water rights and water uses and places agricultural use of water on par with industrial use for appropriation preferences during periods of drought. The bill ratifies a number of groundwater conservation districts created in 1999 and provides some guidelines for water management by groundwater conservation districts. This legislation promotes conjunctive use of water, which is the combined use of groundwater and surface water sources to optimize the benefit of both sources. The bill also sets up funds for water infrastructure financing and outreach to rural communities. Lastly, the bill creates an interim legislative committee to study water marketing and long-term water financing strategies. Other water-related

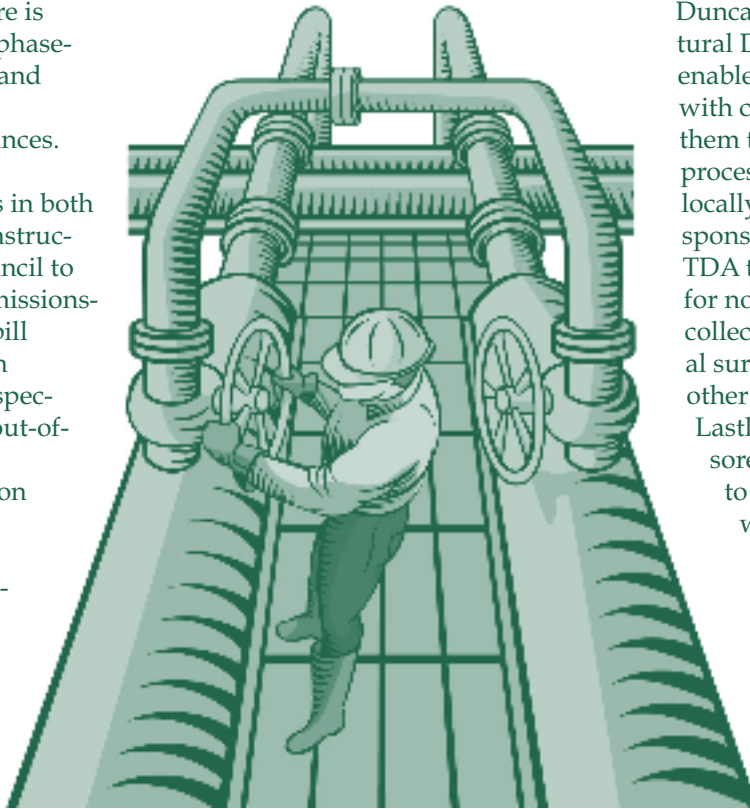
legislation passed by the 77th Legislature includes a bill sponsored by Senator Armbrister for a large-scale water supply contract between the Lower Colorado River Authority and the City of San Antonio, and a bill by Senator Ogden requiring contract poultry growers to develop state-approved water quality plans.

Air. This legislative session marks important steps taken to address the growing problem of air pollution in Texas. Under the federal Clean Air Act, the United States Environmental Protection Agency (EPA) sets threshold levels for common air contaminants that each state must not exceed. If states do not meet these standards by 2007, EPA may declare delinquent areas as "nonattainment" and impose economic sanctions. Texas already has four nonattainment areas and risks that categorization for three others. Senators Brown and Jackson authored legislation introducing the Texas Emissions Reduction Plan designed to offer incentives for voluntary reduction of emissions produced by vehicles or industries that TNRCC does not have authority to regulate. The bill proposes incentive purchase and lease programs encouraging motorists to invest in cleaner burning vehicles, including



diesel burning vehicles. There is also a plan to encourage the phase-out of outmoded appliances and the purchase of more energy efficient materials and appliances. The bill adopts new energy-conscious building standards in both residential and industrial construction and creates a special council to identify and promote new emissions-reducing technologies. The bill provides funding for the plan through increased vehicle inspection fees and registration of out-of-state vehicles. There are also various surcharges imposed on the sale, lease, or rent of construction equipment and the registration fees for truck-tractor or commercial vehicles. In other areas, Senator Brown authored legislation to ensure that any concrete mixing batch plants operating in Texas without permits either obtain them or risk immediate shut down. He also sponsored legislation granting state agencies expanded authority and flexibility for vehicle emissions testing. Senator Lucio passed legislation calling for performance measures to assess innovative regulatory programs implemented by TNRCC aimed at improved environmental quality.

Agriculture. Addressing the need to preserve and continue to develop the agricultural heritage of Texas, Senator Haywood passed legislation setting out a comprehensive agriculture policy for our state. The bill targets several key areas such as water availability, transportation, availability of capital for producers, promotion of Texas agricultural products through marketing, and attention to rural economic and infrastructure needs. Building on this foundation, Senator Haywood also sponsored legislation creating the Agricultural Policy Board, with the intent to



benefit consumers and promote efficient use of natural resources through growth recommendations in the areas of agricultural production, income, and employment opportunities. Senators Lucio and Bernsen passed a bill expanding the "Go Texan" Partner Program (GOTEPP) of the Texas Department of Agriculture (TDA). GOTEPP is designed to promote and market Texas agricultural goods, including processed and value-added products. Senator Staples wrote legislation requiring TDA to maintain an economic development program for rural areas in Texas, with the objectives of identifying and developing potential business opportunities and encouraging communications between industries and regions. To strengthen the position of agricultural producers in an increasingly competitive market, Senator Duncan passed legislation allowing growers to retain a secured interest in the proceeds of crops they contract to produce and sell. Senator

Duncan sponsored the Agricultural Development Act, which enables producers to compete with corporations by allowing them to acquire capital for processing agricultural products locally. Senator Duncan also sponsored a bill authorizing TDA to create a grant program for nonprofit organizations to collect and distribute agricultural surplus to food banks and other charitable organizations. Lastly, Senator Duncan sponsored legislation this session to help promote the Texas wine industry by allowing wineries to host wine tastings and in-house sales in both wet and dry counties. The bill also allows direct shipment of wine to a consumer when a consumer purchases from the winery or to a local retail store when the consumer purchases by phone or Internet.

State Affairs

Elections. Partly in response to the election problems in Florida, several bills designed to improve the election process in Texas were approved by the 77th Legislature. Punch card ballots are still used in some counties, including El Paso, Hays, and Harris, and a bill sponsored by Senator Shapiro phases out these systems. Counties are not required to purchase new voting systems, but rather are encouraged to phase out the punch card systems as they upgrade. The bill also prohibits the butterfly ballots which caused confusion in the Florida election.

Another bill sponsored by Senator Shapiro requires prompt purging and updating of voter rolls. Two bills sponsored by Senator Whitmire also

improve voting processes. One bill requires verification of voter lists supplied by private companies, while another creates a toll-free number directly to the secretary of state's office to report problems or abuses at polling sites.

Transportation. With a very tight budget for the next biennium, lawmakers were unable to put extra state money into transportation. However, the legislature did begin to look at ways to supplement the traditional "pay as you go" strategy for state highways by approving a bill by Senator Shapiro that will allow the state to use up to 30 percent of its federal highway aid as seed money for toll road projects that otherwise would have to wait several more years. The bill allows regional toll authorities to charge tolls to pay off bonds issued for toll road construction. Another proposal by Senator Shapiro requires approval by the voters of a constitutional amendment that would create the Texas Mobility Fund that could be used to pay off road construction bonds. Small and minority contractors will be able to better compete as the result of a bill sponsored by Senator Truan. These contractors may now submit a proposal guarantee in the form of a bid bond, rather than a cashier's check or money order.

Transportation safety proved to be an important issue for legislators. A new center to study highway safety was created in a bill by Senator Ogden. In addition, highway safety is addressed by bills that ban open containers of alcohol in moving vehicles (sponsored by Senator Nelson), provide for graduated driver's licenses for young drivers under the age of 18 (authored by Senator West), and prohibit children from riding in the bed of a flatbed truck (authored by Senator Duncan). Speed limits in rural areas with a population of fewer than 10 persons per square mile may be

increased to 75 miles per hour under a bill sponsored by Senator Shapleigh.

State Government. With the advent of the Internet, there were numerous proposals to make state government more efficient and accessible through e-government. Senator Shapleigh authored a bill creating the Texas-Online Authority to implement the



"TexasOnline" project that will establish a common electronic infrastructure through which state agencies and local governments can provide services. Another bill by Senator Duncan requires the Department of Information Resources to develop a method for electronic filing of information required by agencies, while Senators Duncan and Shapleigh authored a bill creating an electronic government management office to direct and facilitate the implementation of e-government projects.

Numerous agencies were subject to Sunset Review in 2001. In a sunset bill by Senator Zaffirini, the General Services Commission was abolished and its functions transferred to other agencies, including the newly created Texas Building and Procurement Commission. In addition, Senator Armbrister's omnibus bill relating to the Employee Retirement System increased benefits for state employees. The bill slightly increases the

retirement multiplier and allows employees to purchase up to five years of service, among other provisions. Finally, Senator Sibley sponsored a bill creating a new agency, the Office of Rural and Community Affairs. The bill transfers the community development non-entitlement block grant to the office and creates several new programs to promote rural development.

Privacy. Several bills relating to individual privacy were approved in 2001. Individual information collected by state agencies will now be subject to strict disclosure guidelines under a bill sponsored by Senator Duncan that also establishes a state privacy task force to research privacy issues and make recommendations. Duncan also sponsored legislation that prohibits a person or governmental body from selling, leasing, or disclosing a person's biometric identifier, such as a retina or iris scan or fingerprint. In addition, Senator Wentworth authored a bill that clarifies that all credit and debit card numbers held in governmental records and certain e-mail addresses are confidential.

Other Legislation. Property owners whose homes are located in a subdivision with a homeowner's association will be better protected from foreclosure by the association under a bill, authored by Senator Carona, which also provides guidelines for the operation of these associations.

Animal advocates are pleased with a bill sponsored by Senator Cain that increases the penalty for cruelty to animals, making it a felony punishable by up to two years in a state jail and a fine up to \$10,000. The bill also clarifies what constitutes cruelty to animals. In a similar vein, Senator Harris sponsored a bill that authorizes municipal and county authorities to regulate the possession of dangerous wild animals.

Legal Issues



West, the secretary of state is authorized to prepare and post on the Internet a voter information guide on judicial candidates.

Jurisprudence: Several bills affect the presentation of evidence or testimony in the courts. A bill by Senator West bars the state, in the sentencing phase of a criminal case, from offering evidence that the defendant's race or ethnicity make it likely that the defendant will engage in future criminal conduct. Senator Bernsen sponsored a bill that requires the

certification or licensing of court interpreters for hearing-impaired or non-English speaking individuals. Under a bill by Senator Shapiro, a child younger than 13 years of age who has witnessed certain criminal activity may testify outside the presence of the defendant.



Family law: Under a bill by Senator Harris, the minimum age of a child at which a parent can be held liable for malicious and willful property damage by the child is lowered to 10 years. Two bills sponsored by Harris concern obligations arising from marriage. One creates a procedure for the withholding of court-ordered spousal maintenance from the obligor's income. The other bill clarifies existing law regarding the equitable interest created on behalf of a community estate in a spouse's separate property when a financial contribution made with community property enhances the value of the separate property.

Judiciary: A bill by Senator Lucio incorporates recommendations by the Sunset Advisory Commission into statutory provisions regarding the State Commission on Judicial Conduct. These provisions include making the public more aware of the commission's duties and addressing issues in the complaint process. Under a bill sponsored by Senator

*Father,
Statesman,
Educator.
His service
to Texas
will not
be forgotten.*



*In Memoriam
Senator Tom Haywood
September 30, 1939
July 12, 2001*