

**Texas
Sunset
Advisory
Commission**

SUNSET - 71ST LEGISLATURE

**Analysis of Action on
Sunset Agencies**



July 1989

SUNSET ADVISORY COMMISSION



Representative Al Granoff
Representative Lena Guerrero
Representative Bill Hammond
Charles Edmonds, Public Member

Representative Jack Vowell, Chairman
Senator Bob McFarland, Vice Chairman

Senator Gonzalo Barrientos
Senator Gene Green
Senator Don Henderson
Jane Hickie, Public Member

Bill Wells, Executive Director

MEMORANDUM

TO: Members of the 71st Legislature
FROM: Jack Vowell *Jack C. Vowell*
Chairman, Texas Sunset Advisory Commission
DATE: July 13, 1989
SUBJECT: SUNSET LEGISLATION -- 71st LEGISLATURE

On behalf of the Sunset Commission, I would like to take this opportunity to thank the members of the legislature for the manner in which the sunset legislation was handled during the regular session. It is particularly significant to me that most of the recommendations developed by the sunset commission, during our 18 month review process, were retained in the final legislation.

The 23 sunset bills passed by the legislature produced a number of significant changes to current state policy. Many of these changes were not part of the sunset commissions initial recommendations but were developed during the session, a reflection of the overall participation of the legislature in the sunset process.

The changes brought about as a result of our efforts are analyzed in the following report.

Table of Contents

i

Summary

1

Analysis of Action

Agricultural Agencies

Texas Department of Agriculture	11
Texas Animal Health Commission	19
Texas State Seed and Plant Board	23

Educational Agencies

Texas Education Agency	25
State Textbook Committee	35
Texas Higher Education Coordinating Board	39
Texas Guaranteed Student Loan Corporation	49
Office of Compact for Education Commissioner for Texas	53
Southern Regional Education Compact Commissioner	55

Transportation Agencies

Metropolitan Transit Authority of Harris County	57
Corpus Christi Regional Transit Authority	59

Health and Human Relations Agencies

Interagency Council for Genetic Services	61
Governor's Commission on Physical Fitness	63
Texas Commission on Human Rights	65

Tax Related Agencies

State Property Tax Board	71
Committee on State Revenue Estimates	75
Office of the Multistate Tax Compact Commissioner for Texas	77

**Analysis of
Action** (cont.)**Research Agencies**

Natural Fibers and Food Protein Commission	79
On-Site Wastewater Treatment Research Council	81

General Agencies

Texas Department of Labor and Standards	83
Texas Industrialized Building Code Council	89
Texas Surplus Property Agency	91
State Board of Canvassers	93

Exhibits**Exhibit 1**

Sunset Legislation	2
--------------------	---

Exhibit 2

Number of Sunset Bills Passed by Week - 71st Legislature	3
---	---

Exhibit 3

Number of Days in Each House Senate Sunset Bills	4
---	---

Exhibit 4

Number of Days in Each House House Sunset Bills	5
--	---

Exhibit 5

Sunset Recommendations	8
------------------------	---

Exhibit 6

Fiscal Impact of Sunset Legislation - 71st Legislature	10
---	----

SUMMARY
SUNSET IN THE 71st LEGISLATURE

Thirty agencies were set for sunset review during the 1988-89 biennium. All but three of these agencies were scheduled for abolishment if the 71st Legislature did not enact legislation renewing them. The three agencies that were scheduled for review but not abolished were the Metropolitan Transit Authority of Harris County, the Corpus Christi Regional Transit Authority, and the State Board of Education. Of the 27 agencies that would automatically terminate, 22 were continued and five were abolished.

The legislature did not enact legislation to continue three agencies, and their functions were automatically abolished under the provisions of the Sunset Act. These were the Texas Indian Commission, the Poultry Improvement Board and the Western Information Network Association. Two other agencies were also abolished and their functions were transferred to other agencies. These two agencies were the State Board of Canvassers, whose functions were transferred to the Governor's Office; and the Governor's Commission on Physical Fitness, whose statutory responsibilities were transferred to the Texas Department of Health.

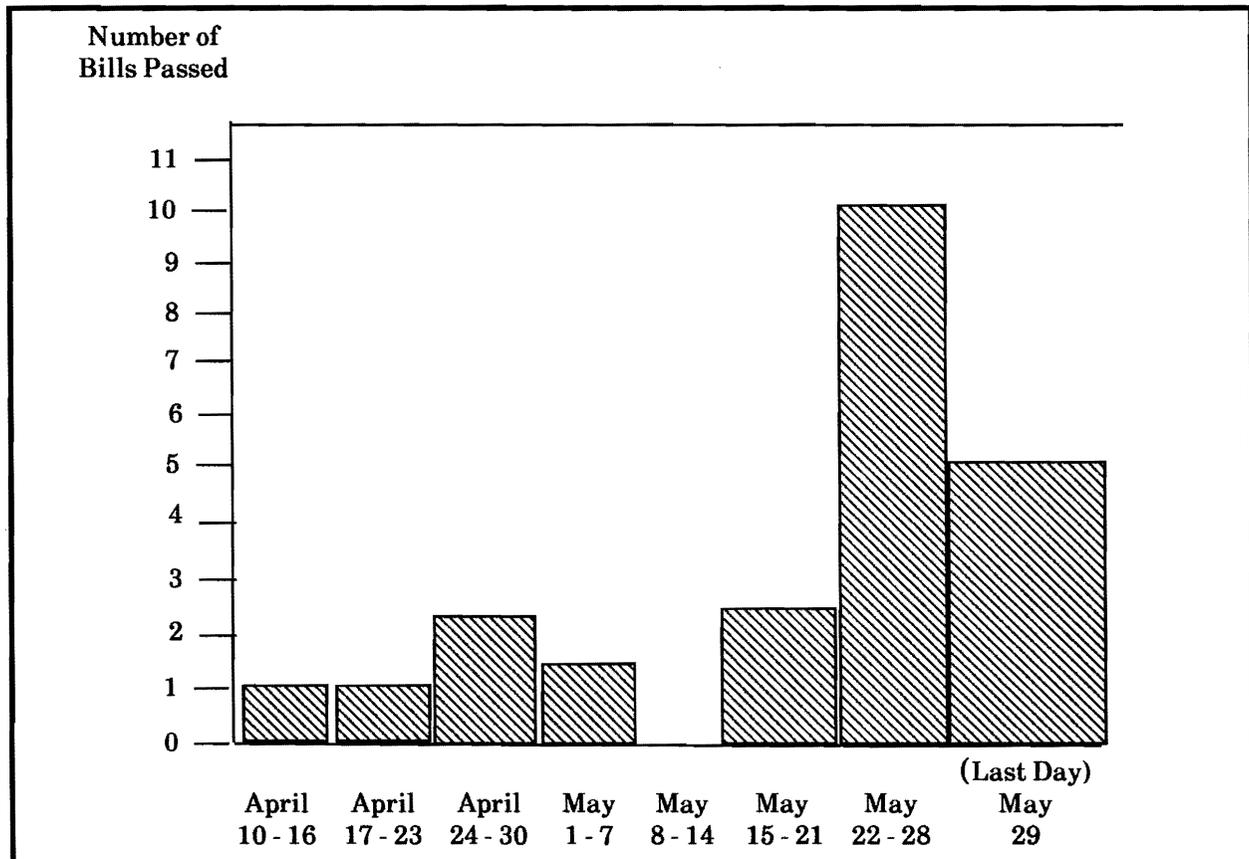
Sunset legislation is generally sponsored by a member of the sunset commission. However, this pattern was altered during the 71st Legislature. Eight of the 24 sunset bills which were introduced were carried by legislators who were not members of the commission. The sunset bills and bill sponsors are shown in Exhibit 1.

Exhibit 1
Sunset Legislation

Agency	Bill	Author
Texas Department of Agriculture	S.B. 489	Senator Santiesteban
Texas Animal Health Commission	S.B. 497	Senator Sims
State Seed and Plant Board	H.B. 2330	Representative Guerrero
Texas Education Agency/State Board of Education	S.B. 417	Senator Green
State Textbook Committee	H.B. 884	Representative Hammond
Texas Higher Education Coordinating Board	S.B. 457	Senator Parker
Texas Guaranteed Student Loan Corporation	H.B. 715	Representative Guerrero
Office of Compact for Education Commissioner for Texas	H.B. 857	Representative Granoff
Office of Southern Regional Education Compact Commissioner for Texas	H.B. 2645	Representative Gibson
Harris County Metropolitan Rapid Transit Authority	S.B. 189	Senator Henderson
Corpus Christi Regional Transit Authority	S.B. 950	Senator Truan
Interagency Council for Genetic Services	S.B. 506	Senator McFarland
Governor's Commission on Physical Fitness	S.B. 545	Senator Truan
Texas Commission on Human Rights	S.B. 479	Senator Barrientos
State Property Tax Board	S.B. 531	Senator Henderson
Committee on State Revenue Estimates	H.B. 1258	Representative Gibson
Office of Multistate Tax Compact Commissioner for Texas	S.B. 505	Senator McFarland
Natural Fibers and Food Protein Commission	S.B. 529	Senator Henderson
On-site Wastewater Treatment Research Council	S.B. 624	Senator Montford
Office of Commissioner of Labor and Standards	H.B. 863	Representative Vowell
Texas Industrialized Building Code Council	H.B. 2644	Representative Gibson
Texas Surplus Property Agency	S.B. 508	Senator McFarland
State Board of Canvassers	H.B. 772	Representative Guerrero

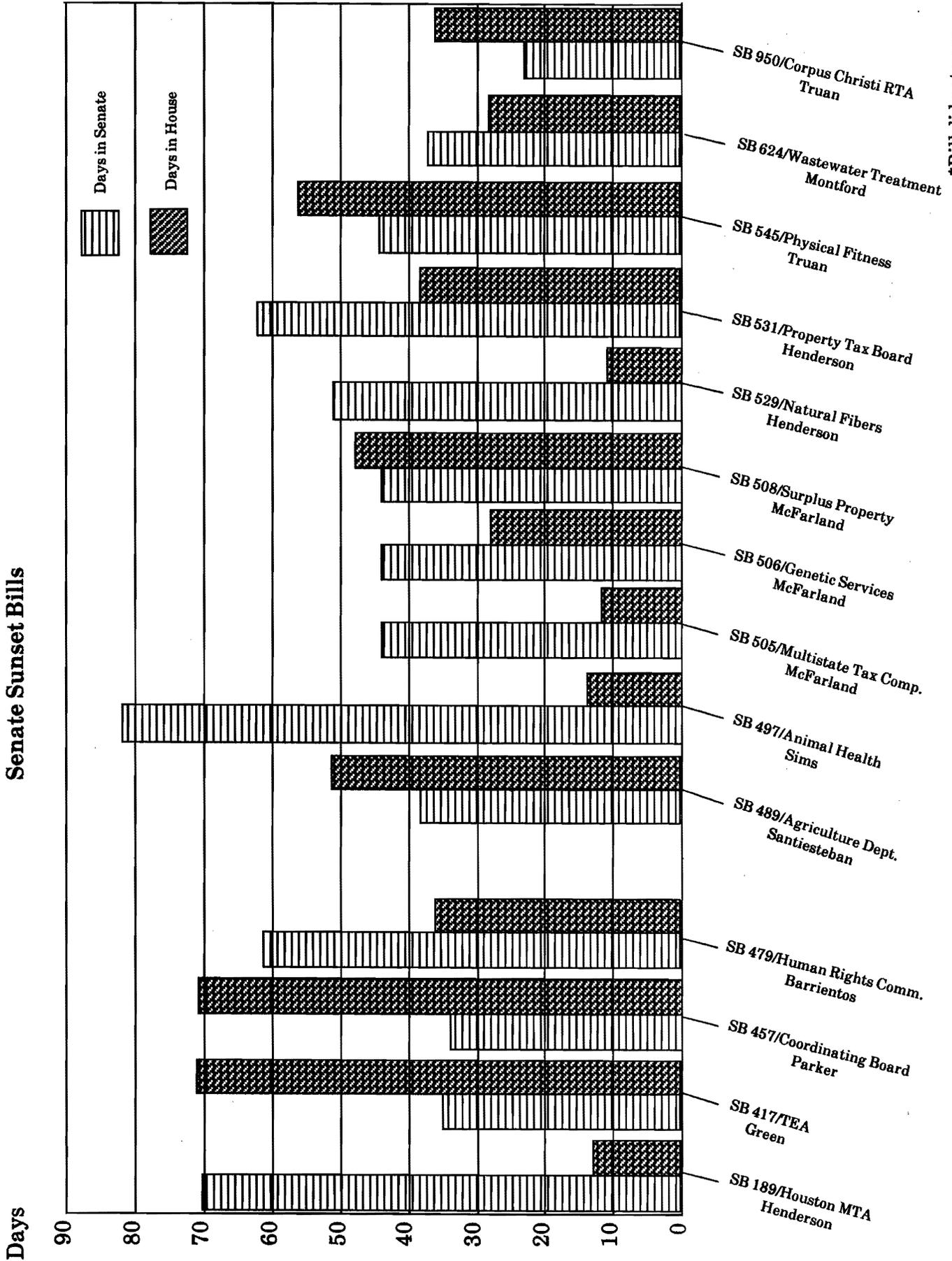
A number of sunset bills dealt with controversial issues which took a great deal of time to resolve. Other sunset legislation was delayed until late in the session for the purpose of incorporating legislative proposals into the final piece of sunset legislation. The flow of sunset legislation during the session is shown in Exhibit 2.

Exhibit 2
Number of Sunset Bills Passed by Week - 71st Legislature



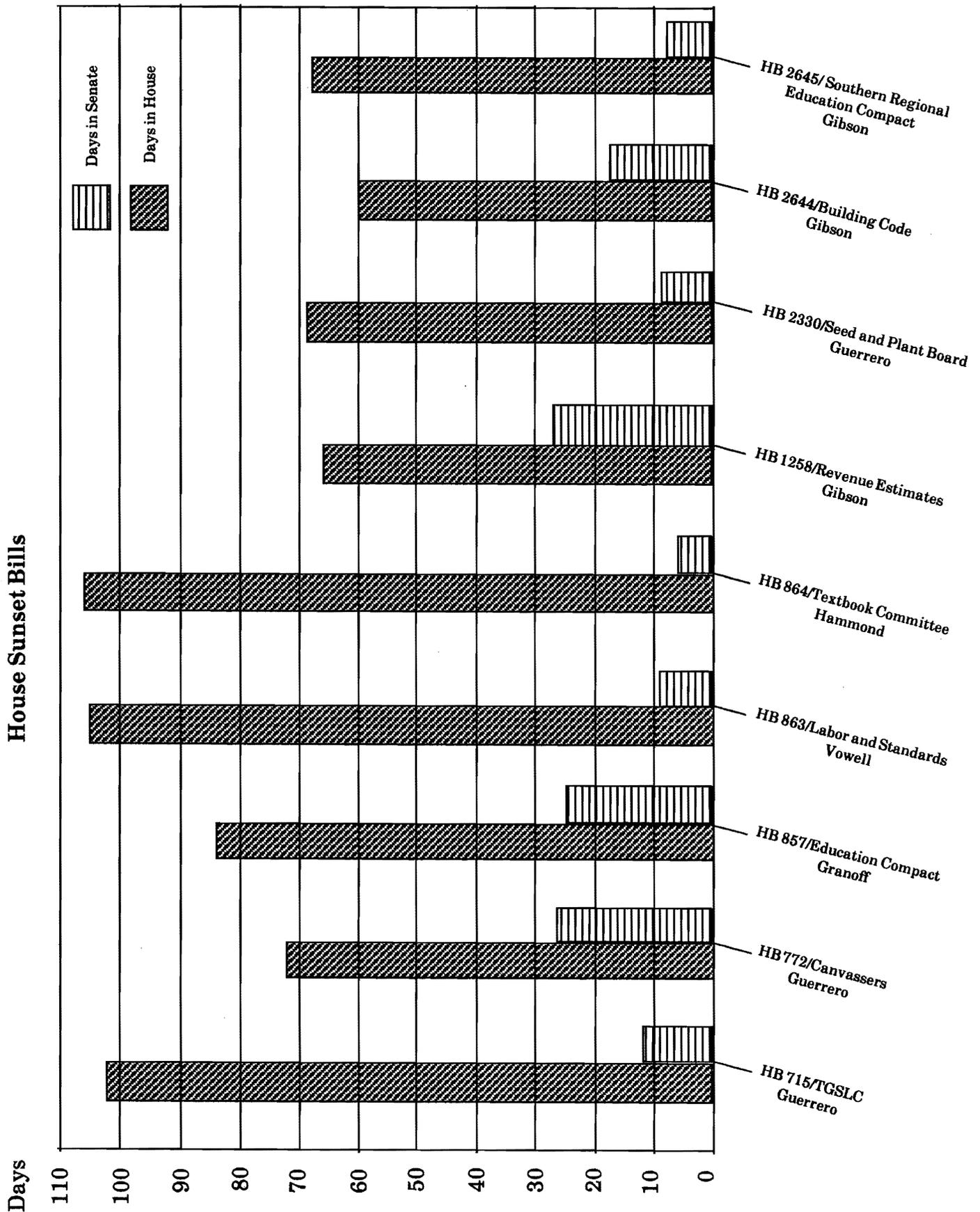
As shown on Exhibits 3 and 4, the shortest time from introduction to passage of a sunset bill was 56 days (S.B. 505 McFarland-Multistate Tax Compact). The longest period of time from introduction to passage was 114 days (H.B. 715 Guerrero-Texas Guaranteed Student Loan Corporation). The average length of time for final passage of sunset legislation was 89 days.

Exhibit 3
Number of Days in Each House
Senate Sunset Bills



*Bill did not pass.

Exhibit 4
Number of Days in Each House
House Sunset Bills



The statutes of the agencies that were continued contained a number of significant changes to current state policy. Examples of those changes are:

- Prior to passage of S.B. 489, the sunset bill for the Department of Agriculture, state policies dealing with regulation of pesticides were split between six separate agencies with only informal coordination between agencies. Provisions of S.B. 489 changed this to establish an Agricultural Resources Protection Agency which has the authority to review and approve new pesticide rules proposed by these agencies. S.B. 489 also added to the protection available to the public by substantially increasing the penalties for violations of pesticide laws and by upgrading the training required for private applicators who handle restricted-use and state-limited use pesticides.
- S.B. 457, the Sunset bill for the Texas Higher Education Coordinating Board revised the current method of dealing with higher education health insurance programs. The changes would provide a standard framework for operating 65 separate insurance plans and would strengthen the possibility of universities developing joint insurance plans that would enhance health insurance benefits.
- A number of changes were made in S.B. 417, the sunset bill for the Texas Education Agency, which strengthened and extended changes begun in H.B. 72. Many of the provisions that were originally in the Governor's Educational Excellence Program were included. These provisions would improve student performance and attendance increase parental and community involvement, encourage campus improvement and enhance dropout, drug and alcohol prevention programs. Another significant change recognized the educational break-point involved in

moving from third to fourth grade and required remediation for fourth grade students who are not performing well on the third grade TEAMS test. Finally, the level of state regulation of proprietary schools was increased to deal with escalating default rates, poor programs, and closure of schools.

- Expanding and strengthening through the provisions of S.B. 479, Texas Commission on Human Rights sunset bill, the coverage for persons who are subjected to employment discrimination. Additionally, the commission is given overall responsibility for inventorying EEO policies and programs of state agencies.
- Restructuring and changing the name of the Department of Labor and Standards to the Department of Licensing and Regulation through H.B. 863. This was done as a part of a long range effort to provide a potential framework for consolidation of numerous small licensing and regulatory agencies or their functions.

While the changes outlined above indicate major initiatives they do not give the full range of changes developed through sunset legislation. Exhibit 5 shows the number of changes, both statutory and management, that resulted from the sunset process.

Exhibit 5
Sunset Recommendations

	Statutory Recommendations	Management Recommendations	Total
<u>Agricultural Agencies</u>			
Texas Department of Agriculture	20	1	21
Texas Animal Health Commission	20	0	20
State Seed and Plant Board	1	0	1
<u>Educational Agencies</u>			
Texas Education Agency	88	13	101
State Textbook Committee	13	2	15
Texas Higher Education Coordinating Board	24	0	24
Texas Guaranteed Student Loan Corporation	13	2	15
Office of Compact for Education Commissioner for Texas	4	0	4
Office of Southern Regional Education Compact Commissioner for Texas	1	1	0
<u>Transportation Agencies</u>			
Harris County Metropolitan Rapid Transit Authority	9	5	14
Corpus Christi Regional Transit Authority	6	3	9
<u>Health and Human Relations Agencies</u>			
Interagency Council for Genetic Services	4	1	5
Governor's Commission on Physical Fitness	2	1	3
Texas Commission on Human Rights	17	0	17
<u>Tax Related Agencies</u>			
State Property Tax Board	8	3	11
Committee on State Revenue Estimates	2	0	2
Office of Multistate Tax Compact Commissioner for Texas	5	0	5
<u>Research Agencies</u>			
Natural Fibers and Food Protein Commission	5	0	5
On-site Wastewater Treatment Research Council	1	0	1

Exhibit 5
Sunset Recommendations
(cont.)

	Statutory Recommendations	Management Recommendations	Total
General Agencies			
Office of Commissioner of Labor and Standards	25	1	26
Texas Industrialized Building Code Council	1	0	1
Texas Surplus Property Agency	6	0	6
State Board of Canvassers	1	0	1
Total	276	32	308

The statutory changes and management recommendations developed through the sunset process will, for the first time, cost the state additional money to implement. Generally the sunset recommendations have produced between \$15 to \$20 million per biennium in increased revenues. As a result of new programs, primarily the Governors excellence in education plan, sunset legislation will cost \$10.7 million over the next two years. If the costs of public education initiatives that were added to the TEA sunset bill are excluded, sunset legislation is expected to save the state approximately \$2.2 million in the next biennium. The costs and revenues for each agency are shown in Exhibit 6.

Exhibit 6
Fiscal Impact of Sunset Legislation - 71st Legislature

SAC 89

10

Legislative Analysis

Agency	Fiscal Year 1990			Fiscal Year 1991			FY 1990-1991 Total Net Fiscal Impact *
	Estimated Savings **	Appropriated Cost	Net Fiscal Impact	Estimated Savings **	Appropriated Cost	Net Fiscal Impact	
Agriculture, Department	\$1,067,227	(\$100,000)	\$967,227	\$1,189,118	(\$100,000)	\$1,089,118	\$2,056,345
Animal Health Commission	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Canvassers, Board of	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Corpus Christi RTA	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Coordinating Board	4,600	-0-	4,600	4,600	-0-	4,600	9,200
Education Compact	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Genetics Council	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Guaranteed Student Loan	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Houston MTA	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Human Rights Commission	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Indian Commission	139,046	-0-	139,046	131,042	-0-	131,042	270,088
Labor and Standards, Department	616,578	(182,910)***	433,668	731,838	(273,000)***	458,838	892,506
Natural Fiber Commission	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Physical Fitness Commission	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Property Tax Board	14,135	-0-	14,135	14,135	-0-	14,135	28,270
Surplus Property Agency	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Tax Compact	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Texas Education Agency	413,480	(11,798,706)	(11,385,226)	395,040	(1,943,941)	(1,548,901)	(12,934,127)
Textbook Committee	-0-	(239,780)	(239,780)	-0-	(317,719)	(317,719)	(557,499)
Wastewater Treatment Council	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Total	\$2,255,066	(\$12,321,396)	(\$10,066,300)	\$2,465,773	(\$2,634,660)	(\$168,887)	(\$10,235,217)

* Figures reflect fiscal impact to state government and do not include cost or savings to local units of government.

** Includes savings in operating costs and anticipated additional revenue.

*** Cost to the Unemployment Compensation Special Administration Fund #165. Rider #21 of the Texas Employment Commission Appropriations Act, 71st Legislature, Regular Session.

AGRICULTURAL AGENCIES



TEXAS DEPARTMENT OF AGRICULTURE
S.B. 489 by Santiesteban

Final Action: The department was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 489, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Texas Department of Agriculture. A comparison of the introduced and final versions of the bill shows that the final legislation contains a majority of the recommendations proposed by the Sunset Commission. All the standard sunset across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- A provision was added to the bill which establishes qualifications that a person must meet to be eligible for election or appointment as commissioner of agriculture. The requirements relate to direct involvement in the business of agriculture and work experience in a state or federal agency in a position directly related to agriculture or operation of a farm, ranch or timberland. The intent is to ensure that the commissioner of agriculture has the related expertise and experience in agriculture needed to oversee the Department of Agriculture.
- A provision was added which establishes procedures for the commissioner to use in reviewing the budgets of commodity boards. The commissioner currently has the authority to review and approve the budgets. The provision provides a specific structure and timeframe for that review.
- Another new provision added to the bill provides the department with authority to adopt pesticide rules and regulations and establish programs as necessary to comply with federal pesticide rules and regulations. The intent

is to give the department flexibility to comply quickly with new federal requirements related to pesticide regulation rather than waiting for the next session of the legislature.

- Another new provision added to the bill establishes an Agricultural Resources Protection Authority to coordinate the programs of the state agencies with responsibility for regulation of pesticides. The authority is composed of nine members with expertise related to all facets of pesticides and is chaired by the commissioner of agriculture. Key activities of the authority include reviewing and approving proposed new rules of the agencies over which it has responsibility; adopting pesticide rules on its own providing those rules are not less protective of the public than existing rules; developing recommendations to improve pesticide regulation; providing technical advice on matters related to pesticides; and hearing and determining all appeals from decisions or orders entered by an agency for which the authority is the coordinating body. This provision is intended to provide a mechanism to improve the coordination of pesticide regulation in the state and provide a means whereby all involved in pesticide regulation can participate in policy development.
- A provision was also added which requires the department to conduct at least five regional hearings throughout the state prior to the adoption of any pesticide rules. This is intended to provide all parties affected by the rules with the opportunity to have input into their development.
- Another provision added by the bill raises the minimum liability insurance requirements for licensed commercial applicators. The new minimum of \$100,000 for property damage and bodily injury is intended to ensure that an applicator has adequate coverage for any accidents that might occur.

Modifications

- One modification to the bill, as introduced, deals with civil penalty authority. The original language specified that all penalties collected would be deposited in the General Revenue Fund. The final bill allows local county or district attorneys to receive one-half of civil penalties they collect for prosecution of violations of the department's statutes with the remainder going to the General Revenue Fund.

- Another modification to the original bill related to inspections under the weights and measures and nursery/floral programs. Originally, the annual inspection requirement for these programs was removed and the department was given the flexibility to conduct inspections as necessary to ensure compliance. The final bill requires the department to perform the inspections at least once every three years.
- A third modification related to a memorandum of understanding (MOU) on pesticide regulation. The bill, as introduced, required an MOU which would have established the respective responsibilities of the agencies involved in pesticide regulation. The final bill removes the MOU requirement and adds language which establishes the department as the head agency for pesticide regulation in the state and delineates the department's regulatory responsibilities and those of the Water Commission and the Department of Health. The final bill also adds language to ensure that the department's pesticide rules related to protecting groundwater are consistent with those of the Water Commission. The final bill also removes language related to the department's responsibilities to regulate pesticides to protect groundwater.
- A fourth modification to the original bill related to private applicators. The bill, as introduced, required all private applicators to receive training and become licensed in order to continue using restricted-use and state-limited-use pesticides. The final bill exempts from the new licensing requirements those applicators certified by the department as of January 10, 1989. However, all private applicators would be regulated by the department as are all other licensed pesticide applicators.
- A fifth modification to the original bill related to administrative penalties. The bill, as introduced, provided the department with authority to assess administrative penalties for violations of the pesticide law and related rules of \$5,000 per day per violation. The final bill reduces the administrative penalty to \$2,000 for each violation with a maximum of \$4,000 for all violations related to a single incident. The final bill also changed procedures a person must follow to contest an administrative penalty assessed by the department. The bill, as introduced, provided for payment of the contested penalty into an escrow account or posting of a bond for the

amount of the penalty with the department pending the outcome of the appeal. The final bill removes the option of using the escrow account and changes the bond procedure so that the bond is reduced to a \$1,000 maximum and is filed with the District Clerk where the appeal is filed rather than the department.

- A sixth modification to the original bill related to civil penalty authority. The bill, as introduced, contained authority for a civil penalty of up to \$10,000 per day, per violation for violations of the pesticide law or related rules. The final bill changes the authority so that the \$10,000 penalty is authorized per violation with a \$25,000 maximum for all violations related to a single incident.
- The final modification also related to civil penalties. The bill, as introduced, allowed both civil and administrative penalties to be assessed for the same violation. The final bill prevents a civil penalty from being collected for the same violation for which an administrative penalty was sought, regardless of whether the department was successful in collecting the administrative penalty.

Deletions

- The final bill removes a provision which authorized the department to charge a fee for a "natural" or "lean" meat certification program. The department had been contemplating the establishment of such a program and the commission's recommendation would have allowed for partial cost recovery. Concerns over the conflict of such a program with the meat inspection program of the Department of Health led to its removal.
- The final bill removes provisions establishing a pesticide advisory board to review and comment on pesticide rules and regulations proposed by the department. The commission's recommendation was intended to provide the department with information on the effect of the rules and regulations from those most affected by them. The final bill adds another mechanism, the Agricultural Resources Protection Authority, to review the department's rules as well as perform other duties to coordinate the state's pesticide regulation.

- The final bill removes language which established a commercial technician license category for persons working for commercial pesticide applicators. The commission's recommendation established training and licensing requirements for these persons who apply pesticides under the supervision of a licensed commercial applicator. The final bill requires these persons to apply pesticides in the presence of the commercial applicators for which they work.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Increase Cost Recovery. Senate Bill 489 contains several provisions designed to increase the department's ability to recover the costs associated with administering its various programs. First, the department is required to develop a fee schedule which provides for cost recovery in its regulatory programs. This schedule is to be submitted as part of the department's request for legislative appropriations so that fees can be adjusted to match funding levels for the various programs. Second, certain license fees charged by the department are designated as non-refundable so that the cost of reviewing applications is recovered regardless of whether a license is actually issued. Third, fees are authorized for late renewal of licenses both as an incentive for timely renewal and to cover the cost of processing late renewals. Finally, new fees are authorized in certain areas. The department is authorized to charge fees to recover the costs of performing lab analyses, primarily walk-in requests at its laboratories. Also, fees are authorized for participants in the department's marketing programs so that part of these programs' costs are recovered.

Coordination of Pesticide Regulation. While the department is the lead agency in the state responsible for pesticide regulation, many other agencies also have various responsibilities. These responsibilities often overlap and problems have arisen when the agencies have attempted to resolve areas of overlapping jurisdiction. Senate Bill 489 contains two provisions designed to address this area of concern. First, the bill creates an Agricultural Resources Protection Authority to coordinate the programs of the state agencies with responsibility for pesticide regulation. The authority is composed of nine members with expertise related to all aspects of pesticides and is chaired by the commissioner of agriculture. The authority has the responsibility to coordinate and advise the agencies involved in pesticide regulation, review and approve their rules and regulations, adopt new

rules on its own, hear appeals from orders issued by the agencies related to pesticides and recommend legislation as needed to improve the state's regulation of pesticides.

The other coordination provision in the bill relates to the delineation of the department's responsibilities for pesticide regulation and those of the Water Commission and the Department of Health. The bill requires the department to ensure that its programs are consistent with those of the other agencies where they are closely related such as in the area of groundwater protection.

Strengthen Regulation of Pesticide Applicators. Senate Bill 489 contains two provisions related to strengthening the regulation of pesticide applicators. These applicators are authorized to use more dangerous restricted-use and state-limited-use pesticides. First, the bill changes language related to persons working under the supervision of a licensed commercial applicator. These persons will now be authorized to apply pesticides only in the presence of the commercial applicators for which they work. Second, the bill strengthens the regulation of private applicators. All new private applicators will be required to receive training through the Extension Service and be licensed by the department. These applicators certified prior to January 10, 1989 will be allowed to continue to operate without meeting the new licensing requirements. However, private applicators will now be regulated by the department as are all other licensed applicators and will be subject to the same penalties. In addition, the department is authorized to place additional requirements on private applicators as necessary to comply with federal rules and regulations.

Strengthen Enforcement Authority. Senate Bill 489 contains several provisions which strengthen the department's enforcement ability. The department's powers were limited and penalties were low compared to other regulatory agencies. First, the department is authorized to assess administrative penalties for violations of the pesticide law or related rules. Penalties of up to \$2,000 per violation are authorized with a \$4,000 maximum for any single incident. Penalties can be assessed against any violator licensed or unlicensed. Civil penalties for the pesticide program were also changed. The maximum penalty is raised to \$10,000 per violation with a \$25,000 maximum for a single incident.

Enforcement powers are also increased for the department's other regulatory programs. Administrative penalties ranging from \$500 to \$5,000 are authorized per violation, per day for violations of law or related rules. Civil penalties, stop-sales

and injunctive relief are, where appropriate, authorized for the various other regulatory programs operated by the department. These programs include weights and measures, seed, grain warehouse, eggs, the agricultural protective act, nursery/floral and quarantines.

TEXAS ANIMAL HEALTH COMMISSION
S.B. 497 by Sims

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 497, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Texas Animal Health Commission and other minor statutory changes. A comparison of the introduced and final version of the bill shows that the final legislation contains the majority of recommendations proposed by the Sunset Commission. The across-the-board recommendations proposed by the commission for this agency were included in the final bill with one modification. The across-the-board language related to conflict of interest was changed to delete the prohibition regarding an officer or spouse of an officer or paid consultant of the Texas Poultry Federation or a statewide Texas trade association in the field of livestock production serving as a member of the commission. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- A provision added to the bill defines, for the first time, "exotic livestock" and authorizes the commission to take necessary action to eradicate or control any disease affecting exotic livestock, including the adopting of rules concerning the testing, movement, inspection, and treatment of exotic livestock.
- A provision was added to the final bill that includes "equine infectious anemia" as a disease specifically controlled by the commission.
- A provision was added to the final bill which makes it a Class B misdemeanor if a person knowingly fails to handle infected livestock in accordance with commission rules.

- The final bill contains a provision that makes it a Class B misdemeanor if a person knowingly fails to identify or refuse to permit an agent of the commission to identify livestock infected with a disease under the commission's jurisdiction in accordance with commission rules.
- A provision was added to the bill that authorizes the commission to provide, by rule, the method for inspecting and testing animals before and after entry into the state.
- A provision was added to the bill that authorizes the commission to provide, by rule, for the issuance of entry permits and rules for recognizing veterinarians of Texas, of other states, and departments of the federal government for the purpose of issuing certificates or permits.
- The final bill includes a provision that makes it a Class B misdemeanor if a person refuses to permit a representative of the commission to enter property or premises of which the person is the owner, tenant, or caretaker for the purpose of carrying out a provision of the commission's statute.
- Another provision in the final bill makes failure of a slaughter plant to collect and submit blood samples for brucellosis testing, in accordance with commission rule, a Class B misdemeanor.
- The final bill includes a provision that repeals sections of the Agriculture Code that provide guidelines for allowing exemptions of health certificates and handling of livestock without a certificate and that describe the contents of a health certificate. The bill authorizes the commission to set these guidelines by rule.
- Another provision added to the final bill repeals sections of the Agriculture Code that require a brucellosis test 30 days prior to entry into the state; that authorize the commission to prescribe a method for testing for tuberculosis prior to entry; and that provide for tuberculosis and brucellosis tests after entry and allow for quarantine and restrictions to accomplish testing. The bill authorizes the commission to establish necessary requirements by rule.
- A provision was added to the final bill that repeals the section of the Agriculture Code that restricts entry of animals into the state from diseased quarantined herds and the movement of livestock from an area quarantined

for screwworms. The bill authorizes the commission to establish necessary restrictions by rule.

Modifications

- One modification to the bill, as introduced, deals with a Sunset Commission recommendation that cattle dealers keep records of cattle transactions and movements. The information provided in these records would assist the commission in its efforts to trace outbreaks of disease. The final bill expands this recommendation to include all livestock and domestic fowl dealers under the record keeping requirement. The penalty for non-compliance with this requirement, which was a Class C misdemeanor in the bill as introduced, was increased to a Class B misdemeanor.
- Another amendment modified several provisions in the bill, as introduced, that made misdemeanor penalties currently in the commission's statute consistent with the Penal Code. The final bill increases, with one exception, all misdemeanor penalties, throughout the commission's statute, that are currently Class C misdemeanors to Class B misdemeanors. The section dealing with improper use of vaccine or antigen, movement of animals from stockyard or railway shipping pens without proper certificates and importation of animals without health certificates was changed to a Class A misdemeanor.

Analysis of Substantive Changes Contained in Final Legislation

Provide Conditional Fee Authority. The Texas Animal Health Commission currently receives federal support from the USDA to partially fund its brucellosis disease program. This funding will be reduced in 1990 and other federal support currently provided will also be eliminated or reduced. If federal support is withdrawn, the funding would need to be replaced to maintain the effectiveness of the program. Senate Bill 497 contains a provision authorizing the commission to establish fees to cover the costs of administering the brucellosis program. This will provide the commission with the ability to offset any loss of federal funds.

Improve Recordkeeping Requirements. The commission's ability to trace outbreaks of disease to the point of origin depends greatly on the records of transactions maintained by dealers and livestock markets. Currently, livestock

markets are required by statute to maintain records of livestock movement. However, there is no similar statutory requirement for livestock or domestic fowl dealers. Senate Bill 497 contains provisions that define livestock and domestic poultry dealers and requires them to maintain records regarding transactions and the movement of livestock or domestic fowl. Other provisions authorize the commission to outline, in rule, the form in which the records are to be maintained and to periodically inspect them. Failure of a dealer to comply with these provisions is a Class B misdemeanor. These measures will help to improve the commission's ability to trace and control outbreaks of disease in a timely manner.

Increased Flexibility in Regulation. The commission's statute currently contains language that specifies how the commission must regulate the importation of animals into the state. These provisions, however, do not provide the commission the flexibility needed to respond to changing disease conditions. Senate Bill 497 contains provisions that allow the commission to regulate, by rule, the method for inspecting and testing animals prior to entry into the state, the movement of livestock, domestic animal or domestic fowl by railroad or common carrier into Texas and the issuance of health certificates and entry permits. The bill also repeals current statutory language that outlines in detail how the commission must regulate the movement and testing of animals prior to entry into the state.

Coordination of Enforcement Activities. The commission currently has personnel involved in conducting roadblocks to ensure that vehicles bringing livestock into the state comply with entry requirements. These efforts are limited because of the large number of interstate highways coming into the state and the small number of commission personnel available to perform the activity. Senate Bill 497 contains two provisions that call upon the Department of Public Safety and certain local sheriff's departments (those located in the 28 counties where livestock movement is significant) to enter into an interagency agreement with the commission to provide coordination and assistance in the enforcing the state's animal health laws. These measures will help the strengthen the commission's roadblock activities.

TEXAS STATE SEED AND PLANT BOARD
H.B. 2330 by Guerrero

Final Action: The board was recreated without a separate sunset date. The board will be examined as part of future sunset reviews of the Texas Department of Agriculture.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 2330, as introduced, contained the statutory recommendations of the sunset commission for the Texas State Seed and Plant Board. A comparison of the introduced version and the final version shows the following results:

New Provisions

- There were no new provisions.

Modifications

- There were no provisions modified.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Legislation

Remove Separate Sunset Date. The final legislation continued the board but removed the sunset date that applied to the board. However, because it operates within the Texas Department of Agriculture as an advisory body, the board will be subject to sunset review as part of the department.

EDUCATIONAL AGENCIES

TEXAS EDUCATION AGENCY

S.B. 417 by Green

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 417, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Texas Education Agency. A comparison of the introduced and final versions of the bill shows that the final legislation contains most of the recommendations proposed by the Sunset Commission. All the standard across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- Provisions were added to the bill that require intensive academic programs for students in grades 1-3 who are performing below grade level and that require districts to offer remedial instruction for fourth grade students not performing well on the third grade TEAMS test. In addition, the bill establishes a pilot program to identify methods for assisting elementary school students at-risk of dropping out of school in the future. These provisions are intended to provide assistance to children at an early age in order to prevent them from falling behind and dropping out of school.
- A provision was added that changes the prekindergarten program for disadvantaged four-year olds to focus on the skills needed for success in the regular academic school curriculum. The bill also authorized three-year olds to participate in the program if funds are available for this purpose and sets up a pilot prekindergarten program for three-year olds. These provisions are intended to help certain children, such as non-English speaking children or children from low income families, who may need

assistance in order to start school with approximately the same level of preparation as other children.

- Provisions were added that authorize certain school districts to provide a program of educational and support services for students who are pregnant or are parents. The program would include counseling, job-readiness training, day care, transportation, instruction related to knowledge and skills in child development and parenting, and assistance in obtaining public services. The agency is responsible for distributing \$10 million in compensatory education funds to districts for this program. The intent is to keep these students from dropping out of school and to provide necessary skills for post-educational life.
- Provisions of the Governor's Educational Excellence Program were added to the bill. These provisions generally: recognize and reward gains in the achievement of schools and districts; provide awards and incentives for certain students; provide school principal development grants and scholarships; authorize waivers for innovative programs in exemplary school districts; and provide early intervention strategies for students at-risk of dropping out. The overall intent of these provisions is to improve student performance and attendance, increase parental and community involvement, encourage campus improvement and innovation, and enhance dropout, drug, and alcohol prevention programs.
- A provision was added that requires students to be in attendance for at least 80 days per semester while deleting the provision in law that prevents a student from receiving class credit if they have more than five days of unexcused absences. The bill also requires the creation of local attendance committees to hear petitions for class credit for students with less than 80 days attendance which provides the districts with additional flexibility to deal with attendance problems.
- Numerous provisions were added to increase the agency's authority to regulate proprietary schools. These provisions include authorizing the agency to approve or disapprove minimum entrance and course hour requirements set by proprietary schools; requiring TEA, the TGSLC, and other agencies regulating proprietary schools to enter into a memorandum of understanding (MOU) to develop strategies to reduce default rates and

improve program performance; authorizing a peer review process for problem schools; authorizing TEA to increase fees within certain limits; and transferring the regulation of driver training, truck driver training, and defensive driving from DPS to TEA. The bill also creates an interim study committee to further examine the state's system for regulating proprietary schools.

- Another provision added to the bill increases legislative oversight of TEA by requiring the Legislative Audit Committee to select a management firm for periodic independent performance/management audits of TEA. The state auditor will provide funding for the audit, propose its scope and provide contract management. The firm will report its findings to the Legislative Audit Committee, the Legislative Education Board and the State Board of Education.

Modifications

- One modification to the original bill relates to the accreditation of school districts. The original language of the bill set the accreditation cycle at every six years or less based on the performance of the district, and authorized the board to waive on-site accreditation visits for up to 12 years for exemplary districts. The final bill includes provisions from the Governor's Educational Excellence Program that establish six categories of accreditation, expand the criteria to be examined through the process, require annual evaluations of districts, and require on-site visits at least once every six years with an extension of up to two years for exemplary districts. The final bill retained Sunset recommended provisions which require TEA to develop a system of performance indicators and require input from parents and teachers prior to closing an accreditation report.
- Another modification to the original bill expands the alternative certification program for prospective teachers to administrators and allows current teachers to use the program to obtain certification in an additional subject area. The original bill had only clarified that the program may not be used solely as a teacher shortage program, a provision retained in the final bill.

- A third change to the bill relates to the agency's monitoring of school districts' special education programs. The introduced bill required that TEA conduct compliance reviews of these programs at least every three years. The final bill changed the on-site monitoring requirement to at least once every five years and required TEA to develop a series of sanctions for districts that fail to comply with state and federal regulations regarding special education. The initial sanctions would begin with frequent monitoring visits and could range to withholding of a districts special education funds.
- A fourth change relates to the regulation of associate degree programs operated by proprietary schools. The bill, as introduced, split the regulation of Associate degrees between TEA and the Coordinating Board. The final bill required that degree programs approved by TEA may not use the title "associate", or other titles such as bachelor's, master's or doctor's. Associate degree programs in proprietary schools currently approved by TEA could continue in place for a four-year period, after which regulation of the programs would transfer to the Coordinating Board. After the four-year period, TEA would only have the authority to approve an applied technology degree, an occupational studies degree or other similar degree for use by proprietary schools.
- A fifth change to the original bill relates to oversight of the University Interscholastic League (UIL). The introduced bill required State Board of Education approval of all rules of interscholastic organizations and clarified that the board could reconsider all UIL rules previously approved. It also required TEA to monitor compliance with these rules and required that certain UIL funds be placed in the state treasury. These provisions of the final bill were narrowed to require the UIL to submit its rules to the state board for approval, to require an annual report to the governor and legislature, and to require the UIL to report on the minority and female composition of the UIL Legislative Council. The bill deletes the requirements to place UIL funds in the treasury and that TEA be responsible for monitoring of rule compliance. Instead, the league's funds are to be deposited with UT Austin and are subject to audits by UT and the state auditor.

- A sixth change concerns a pilot program to prepare certain students at-risk of dropping out of school for GED exam while still in school. The original bill established the pilot but did not require the participation of any school district, and limited the extent of the implementation of the program to appropriations specifically for the pilot. The final bill requires districts with dropout rates in the top 25 percent to participate in the program and deleted the limitation on implementation of the program to appropriated funds.
- A seventh change relates to the age range for compulsory school attendance. The original bill changed the upper end of the range from the end of the school year in which the student's 16th birthday falls to the end of the school year of the 17th birthday. The introduced bill did not change the lower end of the age range which was age seven. The final bill reduced the lower age for compulsory school attendance to age six. It also allowed those students who are 17 and have passed the GED exam to leave school.
- The final modification to Senate Bill 417 relates to transition planning for special education students age 16 and over. The original bill required that an individual transition plan (ITP) be developed for each student age 16 and older and the plan was to be updated as needed. The final bill requires that the transition plan be reviewed annually. The bill also specifies that the plan is a separate document from a student's individualized education program (IEP). However, the components of the ITP that are the responsibility of the school district are to be incorporated into the student's IEP and are subject to federal due process procedures and TEA complaint procedures. The final bill also provides that TEA monitoring visits include a review of a district's compliance with transition planning requirements.

Deletions

- The final bill removes the provision which limited the scope of appeals to the Commissioner of Education to matters governed by the school laws of Texas. The commission's recommendation was intended to reduce the volume of appeals of actions taken by local school districts by not allowing appeals to the state on matters resulting from local policies. In the final

bill, appeals stemming from local policies will continue to be appealable to the commissioner.

- The final bill removes provisions from the bill that merged the functions of the Teachers Professional Practices Commission (TPPC) with the Commission on Standards for the Teaching Profession (CSTP). The Sunset Commission's recommendation merged the two commissions in order to consolidate two advisory activities regarding the agency's regulation of the teaching profession. The final bill retains current law as it relates to the two advisory bodies.

Analysis of Substantive Changes Contained in the Final Legislation

Improved Agency Administration. Senate Bill 417 contains several provisions designed to improve the effectiveness of agency activities and increase oversight of those activities. First, the bill requires that periodic independent performance and management audits of TEA be conducted. The bill requires that the performance audits be conducted by a management firm selected by the Legislative Audit Committee and be paid for by the state auditor. The firm is to report its findings to the Legislative Audit Committee, the Legislative Education Board and the State Board of Education. The audits are to be conducted in bienniums ending in 1991, 1995, and 1999.

Second, the bill expands the duties and the structure of the agency's internal audit division. In particular, the internal auditor will be responsible for coordinating the agency's efforts to evaluate and improve its internal management information. Third, the bill also requires the agency to initiate reviews of commercially available support activities that are currently performed in-house to determine if they could be performed more cost effectively by the private sector.

Strengthen Performance of Schools. The bill contains several key provisions designed to provide incentives for increasing school performance and improving oversight of the performance of school districts. The bill establishes a pilot program to identify and develop effective education programs for improvement of academic performance using 20 elementary schools in the state. The bill also provides for financial awards to school districts and campuses for improvement in student performance, progress toward school goals and exemplary student intervention programs. In addition, a system of cash incentives for students who take high school

physics or calculus courses, and for students who have dropped out of school and return under certain conditions, are established.

In terms of oversight of schools, the bill institutes a system for accreditation of schools based on their performance. A six step accreditation rating scale is established which provides for recognition of high-performing districts by setting out categories for "exemplary" and "recognized" school districts. Further, the time-frames for on-sight accreditation reviews are to vary from annual visits up to a maximum of eight years depending on a district's performance. TEA is also required to develop a set of indicators of school performance which will be used in the accreditation process and for reporting to the legislature on the status of education in the state.

Improved Student Performance and Reduction of Drop-Out Rates.

Several new programs are established in the bill that are intended to better prepare disadvantaged children for school and to improve the academic performance of students in the early grades. In the long term, these programs are expected to reduce the dropout rate by preventing students from falling behind their peers academically. First, TEA will establish pilot programs for intensive academic programs for students in grades 1-3 who are performing below grade level. Second, districts are to offer remedial instruction for fourth grade students not performing adequately on the third grade TEAMS test. Third, the current prekindergarten program for low-income or non-English speaking four-year olds is required to focus on preparing children for the regular school curriculum. School districts are authorized to use this program for three-year olds if funds are available and TEA will set up pilot prekindergarten programs for three-year olds in certain districts.

The bill also contains two significant provisions intended to assist in retaining secondary school students who are at-risk of dropping out of school. The first provision establishes a pilot program for certain at-risk students to prepare for and take the GED exam while still enrolled in school. All school districts with dropout rates in the top 25 percent are required to participate in the pilot. The program is designed for students who have fallen behind their peers in grade level and are unlikely to complete their regular high school program. The second provision authorizes a program for educational and support services for students who are pregnant or are parents. The program would include counseling, job-readiness training, day care, transportation, instruction related to knowledge and skills in child development and parenting, and assistance in obtaining public services. The

agency is responsible for distributing \$10 million in compensatory education funds to districts for this program.

Flexibility in Student Attendance Requirements. Two significant changes were made to school attendance laws through this legislation. First, students are required to be in attendance for 80 days per semester in order to earn class credit. This requirement replaces the current limit of five unexcused absences per semester, which limited school districts' flexibility. The bill provides for the appointment of local committees to consider exceptions for cases where there are extenuating circumstances. The second change expands the age range for compulsory school attendance. For younger children, the bill decreases the compulsory attendance requirement from age seven to age six. At the upper end of the range, the bill increases the required attendance age from the end of the school year of the student's 16th birthday to the end of the school year of the student's 17th birthday. An exception is provided for 17-year olds who have taken and passed the GED exam.

Increased Oversight for Special Education Programs. The bill makes several significant changes in the area of special education which fall basically into two areas: oversight of school districts' programs by TEA; and the educational program planning done for individual students by the school district, parents, and other service providers. The bill requires the agency to monitor each school district's special education program at least every five years. This cycle was not previously set out in statute. In addition, TEA is required to develop a series of sanctions for districts that fail to comply with state and federal regulations regarding special education. The initial sanctions would begin with annual or more frequent monitoring visits and could range to withholding of a district's special education funds.

In the area of planning for individual students, the bill requires that a transition plan be developed for each student over the age of 16 to plan for the services needed for a smooth transition to adult life. Many special education students receive services from public agencies after completing public school such as vocational training, institutional care, and public financial assistance. The bill provides for the inclusion of these agencies in the planning process.

In addition, the bill requires that the committee that develops each student's educational program, called the Admission, Review, and Dismissal (ARD)

committee, attempt to base its decisions on mutual agreement between the school and the parents whenever possible. The bill also directs the State Board of Education to develop procedures for appropriate methods to reach decisions in the ARD committee when mutual agreement is not possible, but prohibits the use of voting as one of those procedures since the school district makes up the majority of the committee.

Increased Regulation of Proprietary Schools. Senate Bill 417 contains numerous provisions intended to increase the regulatory authority of TEA over proprietary schools and to provide prospective students with better information to make decisions about the schools and their courses of instruction. The first major change is in the area of degree programs offered by proprietary schools. The bill requires that degree programs approved by TEA may not use the title "associate", or other titles such as bachelor's, master's or doctor's. Associate degree programs in proprietary schools currently approved by TEA would continue in place for a four-year period, after which the regulation of these programs would transfer to the Coordinating Board. Proprietary schools may offer an applied technology degree, an occupational studies degree or other degree approved by TEA.

Other changes in the bill relating to proprietary schools increase the range of enforcement sanctions available for use by TEA; authorize the agency to approve or disapprove course hour and minimum entrance requirements for proprietary school students; require TEA, the TGSLC, and other agencies regulating proprietary schools to enter into an MOU to develop strategies to reduce default rates and improve program performance; and transfer the regulation of driver training, truck driver training, and defensive driving from DPS to TEA. The bill also creates an interim study committee to further examine the state's system for regulating proprietary schools.

Oversight of the University Interscholastic League. The bill increases the oversight of the University Interscholastic League (UIL) in several ways. First, the UIL is required to submit an annual financial report to the governor and legislature. In addition, the league's funds are to be deposited with UT Austin and are subject to audits by UT and the state auditor. Second, the bill creates an advisory council composed of members of the State Board of Education, the legislature, the Legislative Council of the UIL, public school board members, and the general public. The advisory council is to review all rules of the UIL and make recommendations to

the league and the State Board of Education. The bill also requires TEA to review the rules and procedures of the UIL including the structure of the league's governing bodies and the minority representation on those governing bodies.

STATE TEXTBOOK COMMITTEE
H.B. 884 by Hammond

Final Action: The committee was continued without a separate sunset date. It will be reviewed as part of the Texas Education Agency in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 884 as originally introduced contained the recommendations of the Sunset Commission regarding the State Textbook Committee. A comparison of the introduced and final version of the bill shows that the final legislation contains the majority of the recommendations proposed by the Sunset Commission. A comparison of the changes found in the introduced and final versions shows the following results:

New Provisions

- A provision was added to the original bill which requires the appointment of textbook proclamation advisory committees. The intent is to provide the State Board of Education with outside expert advise in developing the content requirements for new textbooks.
- Another provision was added that requires proclamations for new textbooks to be issued no later than 32 months before the scheduled adoption of the books. Currently publishers have approximately 18 months from the time the proclamation is issued to the time the books are scheduled for adoption. This will give to publishers additional time to develop books in response to Texas' requirements.
- The final bill also includes a provision that prohibits any contact between textbook committee members and publishers during the selection process, other than in public meetings. The intent is to ensure against any potential conflicts of interest.
- Another provision was added which prohibits the adoption of books in more than one elementary level basal subject area per year, effective after the current proclamation cycle. This will spread out the adoption of the largest

subject areas such as elementary reading, math, science, social studies and language arts.

- The final bill includes a new requirement for the State Board to develop rules under which a school district may donate discontinued books to students, adult education programs, or nonprofit organizations. The intent is to use these books to benefit others, rather than returning them to the publisher to be destroyed.
- The final bill also includes a new provision which authorizes the State Board to designate more than one city as the shipping point for depositories. This provides the State Board with flexibility if they determine it would be beneficial to designate more than one city in Texas as a shipping point for textbooks.

Modifications

- A provision dealing with the direct shipping of textbooks from a publisher to a school district was modified. The original bill authorized the State Board to allow a publisher to ship books directly to a school district rather than using a book depository if certain requirements were met. This authority was maintained in the final bill, but was modified to expire on September 1, 1991. The final bill also requires the Texas Education Agency to report on the impact of direct shipping to the 72nd Legislature.

Deletions

- The final bill removed the provision which would have required the State Board to develop a process allowing local school districts to apply for a waiver to buy books with state funds that were not on the state adoption list.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Improvements in Textbook Committee Structure. The State Board of Education has previously appointed one 15-member committee, with the responsibility for reviewing and making recommendations on up to 200 textbooks in ten different subject areas. This approach did not provide for sufficient expert coverage of all subject areas and the volume of books was too large for each to be

carefully read by all the members. House Bill 884 addresses this problem by establishing separate subject area textbook committees of 7 to 15 members to focus on reviewing and making recommendations on books in their area of expertise.

Strengthen Conflict-of-Interest Provisions. In addition to clarifying the existing conflict-of-interest provisions for the appointment of members to the subject area textbook committees, a number of changes were made through House Bill 884 to help ensure against potential conflicts arising throughout the book selection process. First, any contact between textbook committee members and publishers is prohibited during the selection process, except in public meetings. Second, members and their spouses are now prohibited from going to work for a textbook publisher for two years from the time the member's term on the committee ends. Third, any transaction between an employee of a school district and a textbook publisher that results in remuneration to that employee must be registered with the employee's superintendent and the commissioner of education.

Controlling Textbook Price Increases. The rising price of textbooks has become a growing issue nationwide. Texas is one of the largest purchasers of textbooks, spending over \$112 million in 1988 to buy new textbooks. This annual expenditure has increased over 100 percent from the \$44 million required in 1982 to purchase new textbooks. Although the Texas Education Agency had periodically attempted to contain these increases, there was no systematic means for tracking or controlling these prices. House Bill 884 continues to require the purchase of high quality textbooks but provides for two changes dealing with price control. First, the bill requires TEA to develop a system for the regular evaluation of textbook price increases. Second, the bill authorizes the State Board of Education to set price limits on textbooks in areas showing significant cost increases.

Improving Proclamations for New Textbooks. Proclamations for new books specify the subject areas and grade levels in which new textbooks will be adopted. They also provide an outline of the major content areas that the books should address. The proclamations are currently developed by the staff of the Texas Education Agency and must be approved and formally issued by the State Board of Education. House Bill 884 requires that advisory committees, composed of teachers and other subject area experts, be appointed to make recommendations to the State Board on the appropriate content of new textbooks included in the proclamations. In addition, the bill requires that proclamations be issued at least 32 months before the

scheduled adoption of the books in order to give publishers sufficient time to develop quality books in response to Texas' needs. Previously the proclamations were issued 18 months prior to the adoption of new books.

TEXAS HIGHER EDUCATION COORDINATING BOARD
S.B. 457 by Parker

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 457, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Texas Coordinating Board for Higher Education. A comparison of the introduced and final versions of the bill shows that the final legislation contains a majority of the recommendations proposed by the Sunset Commission. All the standard sunset across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- A provision was added which requires the board and the State Board of Education to coordinate the state's publicly funded education system to ensure that it is efficient, effective, and of high quality. This effort will involve the two boards, the Joint Advisory Committee (a committee composed of members of TEA, Coordinating Board and the Technical/Vocational Advisory Council), and other agencies as may be appropriate. The scope includes education from early childhood through postgraduate study and requires planning and program coordination to include six specific areas.
- A provision was added that charged the board to take an active part in promoting educational quality in the various regions of the state and to assure that there is no discrimination in the distribution of programs and resources throughout the state based on race, national origin, or sex. In addition, the board is required to consider the present and future needs of

the county in which an institution is located when reviewing an institution's role and mission statement and table of programs.

- A provision was added which revises the \$100 million annual allocation of higher education assistance funds provided by Article VII, Section 17 (a) of the state constitution. The revised allocations become effective September 1, 1990. The allocation process distributes \$100 million annually to institutions that do not participate in the Permanent University Fund and funds facility needs, library resources, and certain academic elements. The adjustment to the annual allocations is required every five years by the state constitution.
- A provision was added to the original bill that prevents the board from prohibiting a public junior college from offering a course for credit outside the boundaries of the junior college district when such course has met the board's requirements for approval. Prior to this addition, no off-campus course could be offered without specific prior board approval.
- A provision was added which authorizes the governor to request the board, with the advice and assistance of the State Auditor, to determine if a condition of gross fiscal mismanagement exists at a public junior college. If such condition is found, the governor may order the board to act as conservator until the condition is ameliorated.
- A provision was added which subjects the Coordinating Board to the competitive cost review program requiring state agencies to compare the costs of performing certain functions in-house to the costs the private sector would incur to carry out the same functions. The cost review provisions apply only to the board's student loan program until September 1, 1991 and all other eligible activities thereafter.
- A provision was added which requires the board to include in its annual report, information pertaining to the ethnicity of Tuition Equalization Grant (TEG) recipients.
- A provision was added which establishes a "MedPREP" program to be operated by the Coordinating Board to strengthen state level support in recruiting ethnic minorities into health care professions. A fund is created in the State Treasury to accept gifts, grants, and donations that will support

programs, targeted at high school students, in the state's higher education institutions.

- A provision was added which establishes a college savings bond program to be administered by the Coordinating Board for the purpose of providing the public with a method of saving that encourages enrollment at postsecondary educational institutions. The bill authorizes the issuance of up to \$75 million in new state general obligation bonds as part of the Texas Opportunity Plan Fund and authorizes the use of the proceeds of the bonds for Hinson-Hazlewood student loans. The program's implementation is contingent upon voter approval of a constitutional amendment allowing the bond issue.
- A provision was added which changes the set aside amounts for emergency loans made under the Texas Public Educational Grant program from not less than 20 percent to not more than 10 percent of the set aside funds. This will require at least 90 percent of the set aside funds be used for grants.

Modifications

- One modification to the bill as introduced, related to the process required for role and mission statements developed by institutions. The original bill contained specific elements to be addressed in the statement regarding each of the three basic missions of higher education: teaching, research, and public service. The final bill deleted the detailed elements, but requires the statements to address the three missions of higher education.
- Another modification related to the board's approval authority of degree programs. The original bill required a public senior institution that was planning a new degree program or new organizational unit for the administration of a new degree program to submit a declaration of intent at least one year prior to its request for approval to the board. The final bill requires that an institution must notify the board when it begins preliminary planning of a new degree program or an organizational unit to administer a new degree program.
- A modification was made regarding the board's approval authority over placement on an institution's facilities inventory for formula funding of land and real property acquired by gift or lease-purchase. The original bill

provided for prior review and approval by the board before an institution could place any real property on its facilities inventory acquired by gift or lease-purchase. The approval requirement applied if the acquisition had not been approved for placement on the inventory at the time of acquisition and the value exceeded \$300,000 at the time it was added. The final bill limited the board's approval authority to only improved real property and excluded gifts, grants, and lease-purchase arrangements for clinical or research facilities.

- The original bill changed the board approval level for repair and renovation projects from \$300,000 to more than \$600,000 so long as the project did not increase formula fundable square footage by one percent or more. The final bill eliminated the qualification about square footage increases and made the \$600,000 amount apply to all such projects.
- Modifications were made to several of the original bill's provisions regarding campus master plans. The original bill required that the funding source for any new construction, repair or rehabilitation project costing more than \$300,000 be included in an institution's campus master plan. The final bill raised the amount for repair and renovation projects to \$600,000. Further, the original bill required that an institution which receives dedicated funding under the Higher Education Assistance Fund (Article VII, Section 17 of the Texas Constitution) include in its campus master plan a description of the projects on which it intends to spend those funds. The final bill added that projects funded by the Permanent University Fund (Section 18) be included in the provision.
- The final bill modified provisions related to the Texas State College and University Employees Uniform Insurance Benefits Act by adding to the definition of "employee" graduate students who are employed at least 20 hours per week. Additionally, institutions are authorized to assist these persons in purchasing insurance coverage if funds are available. Also added was a requirement that all institutions report the number and classification of persons affected by this change.
- The final bill contains a series of changes relating to the State Rural Medical Education Board. The original Sunset Commission recommendation was to abolish this board, assign its remaining

administrative duties to the Coordinating Board, and modify the composition and name of the board's Family Practice Residency Advisory Committee to ensure that the board's physician assistance programs attended to rural medical needs . In response to concerns raised about this approach, given that a "State Medical Education Board" is designated in the constitution, the final bill changes the name of the State Rural Medical Education Board by deleting the word "Rural," maintains the existing membership of that body, attaches it administratively to the Coordinating Board, and specifies that the only duties of the State Medical Education Board are to administer and collect rural medical loans already made.

- The final bill modifies provisions in the bill as introduced which restructured the board's loan forgiveness programs into loan repayment programs. The Sunset Commission recommended repealing the board's loan forgiveness programs and authorizing loan repayment programs in their place because the repayment programs accomplish the same objectives in a more cost effective manner. The final legislation contains the bill's original language restructuring teacher loan programs, but leaves intact existing law authorizing loan forgiveness for psychologists.
- The final bill contains a series of modifications to the recommendations adopted by the Sunset Commission regarding the board's Hinson-Hazlewood student loan program. The original bill included a provision prohibiting the board from adopting loan application requirements that are stricter for one class of applicants than another class for those loans which are federally insured. For example, the board currently requires all freshman borrowers to obtain a loan co-signer although federal law does not require them to do so. The final bill authorizes the board to have such requirements if the applicant attends a school with a loan default rate of 15 percent or more. Another change relates to the Sunset recommendation that the Coordinating Board establish "separate accounts" within the Texas Opportunity Plan Fund for each loan program it operates using that fund. The bill language was changed to require "separate accounting within" the fund for each of its programs. Finally, the Sunset Commission recommendation that the board terminate its existing litigation contract with the U.S. Department of Education by January 1, 1991 was amended to

extend the termination date until September 1, 1995. This agreement allows extended collection efforts for defaulted guaranteed student loans prior to filing claims with the federal government for reimbursement. However, the final bill limits the collection period under this agreement to one year after the official default date of a loan.

Deletions

- The final bill removes a provision which specifically authorized the board to exclude from formula funding certain graduate, doctoral and professional courses that were not part of approved schools or degree programs and lower division courses offered at upper-division institutions or centers. The provision was added in the original bill because the board's existing approval authority over course additions was removed. The final bill removed this provision because the board has general authority in existing law to exclude such courses.
- The final bill removes a provision that would have required reviews of the Higher Education Assistance Fund allocation formula to determine if additional incentives should be included in the formula that would encourage institutions to address deferred maintenance needs. The provision that was removed was part of several Sunset Commission recommendations intended to address growing deferred maintenance needs in institutions. A provision that required evaluation of the effectiveness of the allocation formula concerning deferred maintenance needs was retained in the final bill.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Coordination of Higher Education. Senate Bill 457 contains several provisions designed to improve the coordination of public higher education. Since the board was created in 1965 it has been responsible for developing role and mission statements that define each institution's role in the state's higher education system. However, it did not formally begin this process until 1984. The sunset legislation strengthened the process in several ways. First, a time table was established that requires the completion of all role and mission statements. Second, basic requirements for the statements are placed in law and the board is required to adopt criteria to be used in their approval process. Third, the board is required to

review the statements at least every four years and must involve the chairperson of the institution's board of regents. Finally, the board is required to study and recommend changes in the funding formulas based on the institutions' role and mission statements.

Availability, Cost Effectiveness, and Accountability of State Student Financial Aid Programs. The bill provides for increased funding for Hinson-Hazlewood student loans by limiting the extended litigation efforts the Coordinating Board currently conducts on defaulted student loans. A new provision, if adopted by voters, will also increase funds available for student loans through the sale of College Savings Bonds. Hinson-Hazlewood loans will be made available to more students as the bill extends eligibility of these loans to students at proprietary schools in degree programs approved by the board and directs the board to adopt less restrictive eligibility requirements in certain circumstances. The bill also increases the amount of grant funds which will be available under the Texas Public Education Grant program by decreasing the required set aside for emergency loans in that program.

The bill increases the cost effectiveness of the board's teacher loan programs by restructuring them into a loan repayment program instead of a loan forgiveness programs. Loan repayment programs are more effective and easier to administer because the state makes payments only after the service obligations of the recipients have been fulfilled.

Enhanced accountability in the board's student aid programs is required by a series of provisions in the bill which require separate accounting within the Texas Opportunity Plan Fund for each loan program funded from that source, consistent reporting of student loan defaults, and reporting of the ethnicity of Tuition Equalization Grant recipients.

Improved Campus Planning and Maintenance. Senate Bill 457 contains several provisions which improve the board's role in the control of resources, campus planning and development, and deferred maintenance activities. The board is authorized to approve an institution's placement on its facilities inventory of certain improved real property acquired by gift and lease-purchase agreements. This authority provides control over formula funding for the operation and maintenance of these buildings. Further, the board is required to verify the accuracy of square

footage reported in each institution's facilities inventory. The board must also audit construction projects to ensure that they have received appropriate prior approvals by the board and that the project is completed as approved. The board is required to report its audit findings to the Legislative Budget Board and the audited institutions.

The bill requires the board, in conjunction with institutions of higher education, to develop space standards for new construction and other capital improvement projects that address the differences in space requirements for teaching, research, and public service activities. Existing space standards do not fully address these differences.

Several additions were made to institutions' reporting requirements related to deferred maintenance. The board is authorized to specify the information to be reported and must use it to assess the deferred maintenance needs of those institutions. The board is required to include its findings in its annual report. Further, each institution's campus master plan is required to include an assessment of its deferred maintenance needs, a plan to address its regular preventive maintenance and deferred maintenance needs, and the amount of funds the institution plans to designate each year for repairs, rehabilitation, and deferred maintenance projects.

Improved Administration of the Higher Education Health Insurance Program. Senate Bill 457 contains several provisions designed to improve the administration of the Higher Education Health Insurance Program. The nine member Administrative Council is restructured to include a more balanced representation of persons covered under the program and includes three new members who must be knowledgeable about the actuarial principles necessary to analyze higher education insurance plans. Uniform bidding specifications and standardized reporting formats are required. The uniform bidding specifications are required by smaller institutions and can be required for larger ones if they do not maintain compliance with program standards. Institution insurance contracts are required to be submitted to ensure adequate time for review by the administrative council and a process is established to resolve deficiencies found in insurance programs. The state auditor is required to conduct periodic audits of each institution's program to verify that all persons enrolled in the program are eligible for program benefits. These changes are intended to provide a framework for potentially reducing the number of different health plans offered by institutions of

higher education. By encouraging consolidation of the more than 65 plans, it is hoped that health benefits for university employees can be improved.

Improved Accountability and Cost Effectiveness of the Agency's Operations. The final legislation improves the accountability of the agency's programs by requiring the appointment of an internal auditor that reports to the board. In addition, the bill subjects the board to the competitive cost review program requiring state agencies to compare the costs of performing certain functions in-house to the costs the private sector would incur to carry out the same functions. The cost review provisions apply only to the board's student loan program until September 1, 1991 and all other eligible activities thereafter.

TEXAS GUARANTEED STUDENT LOAN CORPORATION

H.B. 715 by Guerrero

Final Action: The corporation was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 715, as originally introduced, contained the recommendations of the Sunset Commission regarding the Texas Guaranteed Student Loan Corporation. A comparison of the introduced and final version of the bill shows that the final legislation contains a majority of the recommendations proposed by the Sunset Commission. All the standard sunset across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- The final legislation includes a provision which authorizes the corporation and the Texas Higher Education Coordinating Board to pay, in two installments, the filing fee or other court costs due when they file suit in Travis County on defaulted student loan borrowers. Fifty percent of the fees due would be paid at the time suits are filed and the remaining 50 percent would be paid when the defaulting borrower's liability to the corporation or the coordinating board has been paid in full.

Modifications

- The final legislation exempts the State Securities Board from the provisions in the bill relating to establishing student loan default as a ground for nonrenewal of professional or occupational licenses. The national information network used to regulate security brokers and related personnel could not be cost effectively modified to fit into the new loan default monitoring program established in the bill.

- The final legislation removes the State Bar of Texas from the definition of a "licensing agency" for the purposes of establishing student loan default as a ground for nonrenewal of professional or occupational license. Instead, the bill adds a provision authorizing the supreme court to adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a student loan.

Deletions

- The final legislation removes provisions in the original bill which required all proprietary schools to submit dropout data to the Central Education Agency (TEA) and required TEA to analyze the data in conjunction with each school's loan default rate. Instead, provisions were added to the sunset legislation on TEA (S.B. 417 by Green) which requires proprietary schools to provide program completion and placement rates to TEA. In addition, S.B. 417 requires TEA, TGS LC, and other state agencies regulating proprietary schools to enter into a memorandum-of-understanding (MOU) to develop strategies to reduce default rates and improve program performance in proprietary schools. The MOU must provide for the sharing of information between TEA and TGS LC and for the use of sanctions to lower default rates.

Analysis of Substantive Changes Contained in Final Legislation

Change the Composition of the Board. House Bill 715 changes the composition of the corporation's board of directors to remove participating lenders from board eligibility and to provide more expertise to help meet the board's principal challenge of skillful fiscal management. Specifically, the six positions on the board which were filled by three persons from the field of commercial finance, two public members, and a member of the Higher Education Coordinating Board are replaced by five public members who must have knowledge of or experience in finance. In addition, the student member position will be appointed by the governor rather than the commissioner of higher education. The bill also provides for statutory lender and school advisory committees to provide for continued input to decision making from those groups.

Provide for Greater Accountability of the Corporation. The corporation is not a state agency but rather a public nonprofit corporation. Consequently, the corporation does not come under the legislative appropriations process and is not subject to state statutes governing state agencies, except for the Open Records Act. To compensate for the absence of these more traditional mechanisms of ensuring accountability, the final legislation requires the state auditor to review the independent audit of the corporation, requires the appointment of an internal auditor, and includes the corporation under the Open Meetings Act.

Direct and Facilitate Lower Student Fees. Since the corporation is not a state agency, it receives no state appropriations. The majority of its operating income comes from guarantee fees charged to each student who obtains a guaranteed student loan in addition to federal funds. The final legislation contains a policy statement that directs the corporation to charge students the lowest guarantee fee possible. To facilitate this, the legislation authorizes the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum.

Student Loan Default Reduction. Student loan defaults are the major problem facing the guaranteed student loan program nationwide. Although options available for states to address the problem are limited, the final legislation strengthens the powers of the corporation to deal with loan defaults by authorizing it to impose additional program participation requirements of high default schools and lenders. In addition, the legislation provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are still in default on student loans after a one-year warning period.

**OFFICE OF COMPACT FOR EDUCATION COMMISSIONER FOR TEXAS
H.B. 857 by Granoff**

Final Action: The agency was continued without requirement for future sunset review.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 857, as originally introduced, contained the statutory recommendations of the Sunset Commission regarding the Office of Compact for Education Commissioner for Texas. A comparison of the introduced version and the final version shows that the final legislation contains a majority of recommendations proposed by the Sunset Commission. The changes to the bill, as introduced, are summarized below:

New Provisions

- A provision was added to the bill which specifies that the commissioner of education and the commissioner of higher education shall be two of the six appointees of the governor to represent Texas on the Education Commission of the States.

Modifications

- There were no provisions modified.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Legislation

Strengthen Reporting Requirements. Two provisions were included in the bill to increase the amount of information available to the legislature, state agencies and the public regarding Texas' participation in the compact for education. The provisions require the governor's office to post notice in the Texas Register of the national compact meetings. The governor's office is also to include a report on the

activities and expenditures relating to Texas' participation in the compact in its annual financial report.

Modify Texas' Representation. The bill modifies who serves as Texas' representatives to the Education Commission of the States. The commissioner of education and the commissioner of higher education are named as two of the governor's six appointees to represent the state on the Education Commission of the States.

Remove Separate Sunset Date. The sunset date was removed from the compact since adequate oversight is provided by the governor as a compact commissioner, the legislature through the appropriations process, and by a legislator who historically has been appointed by the governor as a compact commissioner. In addition, provisions in the bill strengthen the reporting requirements providing more information on the activities of the compact commissioners to the legislature.

OFFICE OF THE SOUTHERN REGIONAL EDUCATION COMPACT COMMISSIONER FOR TEXAS

H.B. 2645 by Gibson

Final Action: The state's participation in the compact will continue without a separate sunset date. The office of the compact will be reviewed as part of the sunset review of the Texas Higher Education Coordinating Board.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 2645, as originally introduced, contained the statutory recommendation of the Sunset Commission regarding the Office of the Southern Regional Education Compact Commissioner for Texas -- the repeal of the separate sunset date for the office. A comparison of the introduced version and the final version shows the following results:

New Provisions

- A new provision requires the commissioner of higher education or his designee to file notice of the compact meetings with the secretary of state's office for publication in the Texas Register.

Modifications

- There were no provisions modified.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Strengthen Reporting Requirements. Senate Bill 2645 contains a provision which increases the amount of information available to the legislature, state agencies and the public regarding Texas' participation in the Southern Regional Education Compact. The provision requires the commissioner of higher education or his designee to post notice in the Texas Register of the national compact meetings.

TRANSPORTATION AGENCIES

METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY
S.B. 189 by Henderson

Final Action: The Metropolitan Transit Authority of Harris County is not subject to being abolished through the sunset process. The authority was reviewed and legislation containing the recommendations of the Sunset Commission was enacted. The authority will be reviewed again in the year 2001.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 189, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Metropolitan Transit Authority of Harris County (Houston Metro). A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- A provision was added to the bill which allows Houston Metro to issue short-term bonds for up to twelve months. Previously the law required these bonds to be paid off within the same fiscal year in which they were issued.
- Another provision was added which authorizes Harris County to adopt City of Houston ordinances relating to passenger conduct and apply them consistently in any part of the county. The bill makes an offense under this section a Class C misdemeanor.

Modifications

- One modification to the bill relates to general mobility projects. The bill, as introduced, provided authorization for Houston Metro to engage in general road improvements anywhere within the boundaries of the authority. The final bill clarifies that the authority must first obtain a city's agreement before engaging in any road improvements within the boundaries of that city.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Legislation

Changes to the Board. The legislation includes two key changes related to the governing board of Houston Metro. First, board members terms of office are reduced from four to two years to conform with state constitutional requirements, and members are prohibited from serving more than a total of eight years on the board. Second, the legislation authorizes the governing bodies that appoint members of the board to remove a member if certain grounds exist. The legislation clarifies the grounds and procedures for removal of a board member.

Increased Oversight. The need for additional oversight was addressed by requiring an independent performance audit of Houston Metro every four years. The purpose of the audit is to provide the transit authority, as well as state and local officials, with an external evaluation of Metro's performance over time, and in comparison with other similar transit systems in the industry. The legislation also requires the authority to submit a copy of its annual financial audit to the state auditor for review and action if problems are found with the appropriate use of these funds.

Authority for General Mobility Improvements. Senate Bill 189 clarifies Houston Metro's authority to engage in general mobility projects to improve the overall flow of traffic in the Houston/Harris County area. This involves the construction and maintenance of streets, highways, bridges, overpasses, and traffic signals to improve the flow of automobile traffic and is not limited strictly to transit related projects.

CORPUS CHRISTI REGIONAL TRANSIT AUTHORITY
S.B. 950 by Truan

Final Action: The Corpus Christi RTA is not subject to being abolished through the sunset process. The authority was reviewed and legislation containing the recommendations of the Sunset Commission was enacted. The RTA will be reviewed again in the year 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 950, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Corpus Christi Regional Transit Authority. A comparison of the introduced and final version of the bill shows the following results:

New Provisions

- There were no new provisions added to the final bill.

Modifications

- There were no modifications made in the final bill.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Changes to the Board. Senate Bill 950 includes two changes related to the governing board of the Corpus Christi Regional Transit Authority. First, board members' terms of office are reduced from four to two years to conform with state constitutional requirements, and members are prohibited from serving more than eight years in total on the board. Second, the legislation authorizes the governing bodies that appoint members of the board to remove a member if certain grounds exist. The legislation clarifies the grounds and procedures for removal of a board member.

Increased Oversight. The need for additional oversight was addressed by requiring an independent performance audit of the transit authority every four years. The purpose of the audit is to provide the transit authority, as well as state and local officials, with an external evaluation of the authority's performance over time, and in comparison with other similar transit systems in the industry. The legislation also requires the authority to submit a copy of its annual financial audit to the state auditor for review and action if problems are found.

HEALTH AND HUMAN RELATIONS AGENCIES

INTERAGENCY COUNCIL FOR GENETIC SERVICES

S.B. 506 by McFarland

Final Action: The agency was continued for a 6-year period rather than the standard 12-year period. It will be reviewed in 1995.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 506 as originally introduced contained the recommendations of the Sunset Commission regarding the Interagency Council for Genetic Services. All the standard across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- Provisions were added to the legislation which authorize the council to receive funds; requires the council to adopt financial management policies; and authorizes the Texas Department of Health to accept and expend funds on behalf of the council in accordance with the recommendations of the council.
- Another new provision was added to the bill which specifies that the biennial resource allocation plan to be developed by the council is advisory in nature and affected entities are not liable for deviations from the plan.

Modifications

- The final legislation adjusted language concerning the biennial resource allocation plan to specify that the plan "recommend" rather than "detail" how resources are to be spent; clarifies that the plan must identify resources needed to implement the plan; and clarify that the service delivery structure identified for each affected entity is only recommended.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Assessment of Genetic Service Delivery Structures. Currently MHMR and the Department of Health run two distinctly different delivery structures for providing genetic services. Questions have continued to surface as to whether one or the other approaches should be used. Both delivery structures present distinct cost and service policy concerns which have not been fully addressed. A statutory change reflected in S.B. 506 requires the council to conduct a study to determine the most cost-effective and functional service delivery method or methods for the state to deliver genetic services.

Coordination of Available Resources. Due to the number of entities and individuals involved in the delivery of genetic services in Texas it is important that the state be able to effectively coordinate their activities and prevent duplication of effort and maximize its investment in genetic services. The final legislation requires the council to develop a biennial resource allocation plan for genetic services which recommends a service delivery structure for each affected entity, identifies the resources needed to implement the plan and recommends how those resources are to be spent.

Coordination with Other State Entities. Many state agencies must deal with various aspects of environmental genetic disorders. Currently, the council is not specifically directed to include this category of disorders in its deliberations. A statutory change in S.B. 506 requires the council to identify and coordinate with state entities such as the Texas Commission on Alcohol and Drug Abuse and the Commission for the Blind that serve persons affected by or who are at-risk of having children with environmental disorders.

GOVERNOR'S COMMISSION ON PHYSICAL FITNESS
S.B. 545 by Truan

Final Action: The agency was abolished. Authority for administering the Health Fitness and Education Act, previously administered by the agency, was transferred to the Texas Department of Health.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 1257, as introduced, contained the statutory recommendations of the Sunset Commission related to duties of the Governor's Commission on Physical Fitness. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- The bill requires health fitness plans submitted by state agencies to have written approval of the governor or his designee only if implementation of the plan requires the expenditure of public funds. Current law requires all plans to have the governor's written approval.

Modifications

- The final bill makes the Texas Department of Health (TDH) responsible for approving health fitness plans submitted by state agencies while the language in the original bill required TDH to review and comment on the plans and submit them to the governor for approval.

Deletions

- The requirement for health fitness plans to include a method for evaluating the costs and benefits of the health fitness programs was deleted in the final bill.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Continuation of the State Employee Health Fitness and Education (SEHFE) Act. The Governor's Commission on Physical Fitness was statutorily charged with administering the SEHFE Act, however, upon termination of the commission's funding by the legislature, the responsibilities were transferred to the Texas Department of Health (TDH). The bill therefore formalizes a transfer which has already taken place.

Approval of Fitness Plans. The bill requires TDH to approve the health fitness plans submitted by state agencies, unless implementation of the plan requires the expenditure of public funds. In such cases, the governor or his designee would be required to approve the plans. Current law required all plans to be reviewed by the Governor's Commission on Physical Fitness and forwarded to the governor for approval.

TEXAS COMMISSION ON HUMAN RIGHTS
S.B. 479 by Barrientos

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 479, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Texas Commission on Human Rights (TCHR). A comparison of the introduced and final version of the bill shows that the final legislation contains the majority of recommendations proposed by the Sunset Commission. The across-the-board recommendations proposed by the commission for this agency were included in the final bill with one modification. The standard requirement for TCHR to notify parties to a complaint of the status of the complaint unless the notice would jeopardize an undercover investigation was changed to specify that the undercover investigation must be by an agency other than the Commission on Human Rights. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provision

- A provision was added to the definition of "disability" in the original bill which specifies that a disability does not include a communicable disease or infection, including AIDS or infection with HIV, that constitutes a direct threat to the health or safety of other persons or that makes the affected person unable to do the job.
- Another provision was added to the definition of "disability" changing the language which had excluded persons with a past or present condition of addiction to drugs or alcohol from protection under the state Act. In the final bill, this exclusion is narrowed so that only persons with a current condition of addiction to drugs or alcohol will be excluded under the Act.
- The bill also added religious corporations, associations or societies to the list of entities that may limit employment or show preference to members of the

same religion. Under existing law, only religious educational institutions may limit employment or show preference to members of the same religion. Religious corporations, associations or societies, however, are exempted elsewhere from the provisions of the Act.

- The bill also added language which specifies that persons seeking an expedited notice of the right to file civil action because of having a life-threatening illness must have written confirmation from a licensed physician that they, in fact, have a life-threatening illness.

Modifications

- The final bill modified the commission's recommendation regarding the definition of "disability." The original language patterned the definition of "disability" after language in federal law. Under this definition, a disability would mean a physical or mental impairment that substantially limits at least one major life activity, a record of such a mental or physical impairment or a perception of such a mental or physical impairment. This language would have assured that protection under the Act remained at the same level that existed before a recent Texas state court ruling restricted protection to just those persons who are so severely impaired that they would not be otherwise qualified for the job. The final bill removes the provision dealing with a perception of mental or physical impairment.
- The bill also changed the commission's recommendation regarding the definition of "employer." The original language defined "employer" to include all state agencies, cities, counties and public institutions of higher education regardless of the number of employees they have. Private employers and school districts and special-purpose districts with fewer than 15 employees would continue to be exempt from the law. The final bill provides for the coverage of all state agencies, cities, counties and public institutions of education regardless of the number of employees they have. This change means that covered entities with fewer than 15 employees would come under the Act for the first time.
- The final bill changed a provision regarding a person's ability to take legal action under the state human rights law. The original bill specified that a failure by the commission to issue a of right to sue or any other omission by

the commission would not adversely affect a person's right to take legal action under the state Act. The final bill changed this language so that a person's right to take legal action is not jeopardized when the commission fails to issue the notice of the person's right to sue.

Deletion(s)

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Added Protection from Employment Discrimination. The Texas Commission on Human Rights Act specifies what employment practices are unlawful and which classes of individuals are protected from these unlawful practices. Senate Bill 479 contains four provisions which strengthen the protection from employment discrimination for individuals under state law. First, the bill defines a disability using language patterned after federal law. A disability is defined as being a mental or physical impairment that substantially limits at least one major life activity or a record of such a mental or physical impairment. In addition, the bill adopts language similar to federal law regarding who is specifically excluded from the definition of "disability." Only persons with a current condition of addiction to drugs or alcohol or persons with a currently communicable disease or infection who either cannot do the job or who pose a direct threat to the health or safety of others will be excluded from the protection from job discrimination under the Act. These changes from the old definition of "handicap" will mean that protection under the Act will remain at almost the same level that existed before a recent Texas state court ruling which restricted protection to just those persons who are so severely impaired that they would not be otherwise qualified for the job.

A second provision in the bill expands coverage of the Act to include all state agencies, cities, counties and public institutions of education. Currently, the state law only applies to employers--public and private--who have 15 or more employees. The bill expands the definition of "employer" so that all state agencies, cities, counties and public institutions of education, including school districts, will be prohibited from job discrimination. Private employers and special-purpose districts must still have 15 or more employees before they are covered under the Act.

A third provision in the bill extends protection from discrimination because of age to all individuals over the age of 40. Under prior law, only persons 40 to 70 years of age are protected from age discrimination. The fourth provision extends protection from discrimination in job training programs on the basis of disability or, for persons age 40 to 55, on the basis of age. Existing law prohibits discrimination in job training programs only because of race, color, religion, sex, or national origin.

Fairness of Remedies Strengthened. The state Act allows individuals who feel that they are victims of employment discrimination to seek remedies in the courts. The courts decide what remedies are needed to restore individuals to their former status had the unlawful practice not occurred. These remedies include hiring, upgrading, and reinstating individuals to their jobs with or without back pay. Back pay awards must be reduced by the amount of any interim earnings or unemployment compensation received by the complainant since the occurrence of the discriminatory action. Senate Bill 479 added language to specify that back pay must also be reduced by the amount of any workers' compensation benefits received. Senate Bill 479 removed a provision which exempted state and political subdivisions from liability for court costs and attorney fees and made them liable for those costs to the same extent as a private employer.

Clarify Definition of Bona Fide Occupational Qualification Clarified. Existing statutory language regarding job qualifications specifies that an employer must have a factual basis for believing only that a person of an excluded group would be unable to perform the job. This language can be construed to give the employer too much latitude in excluding persons from employment. The final version of S.B. 479 changed this provision regarding job qualifications so that an employer must have a factual basis for believing that no person of an excluded group would be able to perform the job. This change removes the wide latitude that employers may currently have in establishing job qualifications.

Better Procedures Provided for Gathering Information. Senate Bill 479 contains several provisions to improve the commission's information-related procedures and thereby enhance the commission's ability to implement the Act. First, the bill changes the commission's procedure for issuing the notice of the right to file civil action so that complainants are informed of their right to request this notice if their complaint is dismissed or is not resolved within 180 days of the filing

date. The bill also establishes a procedure for expediting the issuance of the notice of the right to sue in state court in cases involving alleged employment discrimination because of a life-threatening illness or cases in which the executive director certifies that the commission cannot process a complaint within 180 days of the filing date. These changes allow complainants who want to pursue legal action to do so while also allowing the commission to discontinue processing complaints in which resolution is being sought in the courts.

Second, the bill requires the commission to develop an inventory of equal employment opportunity (EEO) policies and programs of state agencies and it authorizes the commission to conduct studies of these policies and programs at the direction of the legislature or the governor. By using its expertise to study and report on EEO issues of state agencies, the commission may be able to identify and resolve patterns of employment discrimination in state agencies at an early stage. Finally, the bill requires the commission to develop rules regarding access to the commission's complaint records by parties to a complaint. This requirement assures that persons will have access to information in the commission's files for use in legal proceedings while safeguarding information on other cases closed through negotiated settlement or conciliation.

TAX RELATED AGENCIES

STATE PROPERTY TAX BOARD

S.B. 531 by Henderson

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 531, as originally introduced, contained the statutory recommendations of the Sunset Commission for the State Property Tax Board. A comparison of the introduced with the final versions of the bill shows that the final legislation contains all of the recommendations proposed by the Sunset Commission. All standard sunset across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- A provision was added which authorizes the board of directors of an appraisal district to specify, in a resolution, actions of the chief appraiser relating to the finance or administration of the district which are subject to the approval of the district's board. The intent was to clarify the authority of the board of directors of appraisal districts in decisions concerning the finances and administration of the district.

Modifications

- The commission's recommendation to modify the board composition to ensure that at least three of the six board members be representatives of the general public was expanded. The bill, as finally passed, requires that all six of the board members be representatives of the general public.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Legislation

Increase Public Representation on Board. Senate Bill 531 modifies the board composition to require that all six board members be representatives of the general public. Existing law did not provide safeguards to ensure that the general public was adequately represented in the board composition. The primary composition requirement in the old law was that at least two members of the six board members must be certified tax professionals. The Sunset Commission recommended requiring that at least three of the six members be representatives of the general public that have no monetary interest in the operations of appraisal districts. The bill, as finally passed, expands the provision to require that all six members be representatives of the general public. People who are ineligible to serve as public members of the board include those who are, or whose spouses are, registered or certified tax professionals and those who work for, manage, or do business with an appraisal district, school district, or tax office.

Authorize Entrance for Appraisals. Existing law authorizes appraisal district personnel to enter non-residential property at reasonable times to inspect it for appraisal. Although the agency is required to report on the accuracy of local appraisal practices, it has not had similar authority to conduct appraisals. The bill provides the State Property Tax Board personnel with authority similar to that of appraisal district personnel.

Establish a Technical Advisory Committee. A major function of the agency is to perform statistical studies of the accuracy of local appraisals throughout the state. The agency's property value study is used by the Texas Education Agency to determine the taxable property value in each school district. Taxable value in a school district is a major factor in distribution of state funds for public schools. Senate Bill 531 establishes a committee of experts in the field to review the methodology used in the studies and to advise the board. The intent in creating the committee is to provide the board with the technical expertise needed to ensure that the agency's methodology provides the highest level of accuracy possible within the limitations of available resources.

Revise Fees for Certificates of Service. The agency is the agent of process in lawsuits concerning delinquent property taxes if the defendant is out of state. Due to the existing statutory fee structure, the agency has recovered only a small percentage of its costs for this activity. Senate Bill 531 modifies the fee structure to

be similar to that used by other agencies that perform a similar function and allows the agency to recover more of its direct costs.

Link Performance Audits for Appraisal Districts to Appraisal Practices.

Existing law requires the agency to conduct a performance audit of an appraisal district when petitioned by taxpayers or taxing units within the district. The bill expands on this concept by tying the audits to the accuracy of local appraisals as measured by the agency's annual ratio study. The bill directs the agency to conduct a performance audit at district expense for each appraisal district whose appraisals are significantly below market value or non-uniform for two consecutive years. In contrast, a district with high quality appraisals, those that are close to market value and uniform, are exempted from petition-initiated audits. The authority for taxpayers and taxing units to petition for an audit will continue for districts that do not qualify for a mandatory audit or an exemption. These changes link the requirement for performance audits more closely to available information on appraisal district performance, eliminate the need for a petition if local practices are significantly below standards, and provide an incentive for districts to maintain good practices.

COMMITTEE ON STATE REVENUE ESTIMATES

H.B. 1258 by Gibson

Final Action: The committee was continued for a 12-year period. It will be reviewed again in 2001.

The Sunset Commission did not recommend continuation of the Committee on State Revenue Estimates and no sunset legislation was introduced. However, House Bill 1258 was introduced to continue the committee for another 12 years and was finally passed.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Changes in Committee Composition. The committee was composed of the governor or his representative, the director of the Legislative Budget Board, and the state auditor. House Bill 1258 changed the composition of the committee by replacing the governor or his representative with the governor's chief budget officer; adding the director of the Texas Legislative Council; and removing the state auditor. The bill names the governor's chief budget officer as chairman of the committee.

OFFICE OF THE MULTISTATE TAX COMPACT
COMMISSIONER FOR TEXAS

S.B. 505 by McFarland

Final Action: The agency was continued without requirement for future sunset review.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 505 as originally introduced contained the recommendations of the Sunset Commission regarding the Office of the Multistate Tax Compact Commissioner for Texas. All the standard across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions show the following results:

New Provision

- There were no new provisions added to the final bill.

Modifications

- There were no modifications made to any Sunset Commission recommendation language in the bill.

Deletion

- The final legislation deleted the provision which would have removed the statutory Multistate Tax Compact Advisory Committee and maintained the committee's original composition. The final legislation also deleted language to give the comptroller's office authority to appoint advisory committees as needed for advice on matters relative to the compact.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Strengthen Reporting Requirements. Senate Bill 505 includes two provisions designed to increase the amount of information available to the legislature, state agencies, and the public regarding Texas' participation in the

compact. The first provision requires the comptroller's office to post notice of the annual national meetings of the commission in the Texas Register. The second provision requires the comptroller to include in the comptroller's annual report to the governor an accounting of the expenditures and a brief summary of the results of the work of the compact as they relate to Texas.

RESEARCH AGENCIES

NATURAL FIBERS AND FOOD PROTEIN COMMISSION

S.B. 529 by Henderson

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 529 as originally introduced contained the recommendations of the Sunset Commission regarding the Natural Fibers and Food Protein Commission. All the standard across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- There were no new provisions added to the final bill.

Modifications

- There were no modifications made in the final bill.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Research Focus Should Not Be Expanded. Senate Bill 529 contains provisions designed to provide a clear direction to the agency to stay within its current areas of research. The commission was created to fund market-oriented research on certain commodities of particular importance to the Texas economy. Over time, this focus has expanded to include related efforts and if not carefully controlled could result in the waste of scarce research dollars. Several provisions prevent further expansion into unrelated commodities or expansion into new commodities which would require basic, not market-oriented, research. Other provisions provide for getting maximum use of state dollars by requiring funds to be

matched by private funds and to be used only for research. The intent behind this approach is to fund only the research which has relevance to the marketplace. Finally, the fourth provision requires the commission to continue to fund research and prevents expansion into promotional marketing.

Better Coordination of Research. The Natural Fibers and Food Protein Commission serves a pass-through function for state and private money to fund scientific research at four state universities: Texas A&M University, Texas Tech University, Texas Woman's University, and the University of Texas at Austin. Senate Bill 529 provides that the commission consider related university research before deciding how to allocate its research monies. This will require the agency to review all research projects being conducted on the related commodities at the four member universities before funding decisions are made and will help prevent duplication in the use of scarce research dollars.

Renaming the Agency. The name of the agency has proven cumbersome for those who work with the agency on a regular basis. Discussion with persons involved with the agency's origin as well as its current functions indicated a shortened name with a Texas identity would be useful in carrying out its work. Senate Bill 529 changes the name of the agency to the Texas Food and Fiber Commission.

ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL
S.B. 624 by Montford

Final Action: The agency was continued for a 12-year period. It will be abolished in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 624, as originally introduced, contained the recommendations of the Sunset Commission regarding the On-site Wastewater Treatment Research Council. A comparison of the introduced and final version of the bill shows that the final legislation contains most of the recommendations proposed by the Sunset Commission. All the standard across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- There were no new provisions added to the final bill.

Modifications

- The bill as introduced deleted the public member from the council and put in its place an employee of the Department of Health. The final legislation restores the public member and puts the TDH employee in another council slot. The TDH employee replaces "one professional engaged in monitoring the environmental impact of on-site wastewater treatment systems in Texas."

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Continue Agency and Include Regulatory Agency Participation. One significant change contained in Senate Bill 624 involves the continuation of the council for a 12-year period, providing that at the end of that period the council be abolished. Since, as of September 1, 1989, the Department of Health will be regulating all on-site wastewater treatment systems in the state, the final bill replaced the council member "engaged in monitoring the environmental impact of on-site wastewater treatment systems" with an employee of TDH. This change allows participation of the regulatory agency in the council and also addresses the former statutory requirement that the council include a person who monitors the environmental impact of on-site wastewater treatment systems.

Ensure the Monitoring of Projects after Agency is Abolished. Senate Bill 624 contains a provision designed to monitor all those research projects that would continue to run after the agency is abolished. The Department of Health would be the agency required to monitor those projects.

GENERAL AGENCIES

TEXAS DEPARTMENT OF LABOR AND STANDARDS

H.B. 864 by Vowell

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 863, as originally introduced, contained the statutory recommendations of the Sunset Commission for the Texas Department of Labor and Standards. A comparison of the introduced and final versions of the bill shows that the final legislation contains a majority of the recommendations proposed by the Sunset Commission. All the standard sunset recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- A provision was added to the department's general authority to initiate an action for injunctive relief to restrain persons from continuing violations of a law overseen by the department. The authority was expanded to allow the commissioner or the attorney general to seek civil penalties not exceeding \$1,000 for each violation and not exceeding \$250,000 in the aggregate.
- A provision was added to the bill which modifies the current inspection scheme for new manufactured homes constructed in Texas. Since 1976, under an agreement with the federal Department of Housing and Urban Development (HUD), the state's policy has been to have only the department perform such inspections. The new provision requires that the agreement with HUD be modified to allow a manufacturer to elect inspection of new home construction by either the department or a third party inspection agency. The new provision also requires commission approval of the third party inspection agencies from which a manufacturer

may choose and restricts a manufacturer from changing inspection agencies without prior approval by the commission.

- Several new provisions related to the manufactured housing homeowner's recovery fund were added to the final bill. The department's policy body was made the administering and managing authority of the fund, replacing a three member board of trustees made up of the commissioner, a representative of the attorney general's office and a member of the manufactured housing industry. The new provisions added recovery of attorney costs and expenses. Current law allows a consumer to claim from the fund only actual damages and attorney fees. Further, the amount of actual damages a person can recover from the fund was reduced from \$50,000 to \$25,000 per home, and the amount a court can assess in civil penalties for failing to be properly registered under the act was modified. The current limits, \$1,000 per violation, not to exceed an aggregated total of \$1,000,000, were changed to \$10,000 per violation with no aggregate limit.
- Another new provision added to the final bill modified the Vehicle Storage Facility Act. A definition of a "principal" in a vehicle storage facility was added to improve enforcement efforts. Further, the amount of time an operator has to notify an owner of a vehicle placed in storage without knowledge of the owner was reduced from ten to seven days. Also, the notification requirements that an operator must give a vehicle owner were expanded, and the types and amounts of fees that can be charged were limited.
- Two provisions were added to the restructured payday law. The Texas Employment Commission (TEC), the agency now charged with administration of the law, is empowered to collect wages due. Further, the creation of an administrative lien on an employer's real and personal property was added in situations where the employer does not pay wages or penalties in a timely manner under a final order issued by the TEC.
- A transition provision was added to authorize the commissioner of the Texas Department of Labor and Standards to act as the commissioner of the Department of Licensing and Regulation until such time as the new commission appoints a commissioner.

Modifications

- One modification to the bill, as introduced, expanded the department's inspection and investigation authority to include any person suspected to be in violation of a regulatory program of the department. The modification has the affect of allowing inspection and investigation of all persons suspected of violation, not just those regulated (registered, licensed, etc.) by the department.
- Another modification to the original bill changed the method of consumer protection and inspection of the sale of used manufactured homes. The bill, as introduced, eliminated the current habitability inspection program for used homes offered for sale and replaced it with a requirement that all persons selling more than one used home in any 12-month period prepare a disclosure statement for the buyer. The original bill also removed retailer registration requirements for persons selling only used homes. The final bill eliminated the disclosure statement requirements but added a provision requiring a written 60 day warranty to be provided to all purchasers of used homes. The final bill also restored the used home retailer registration and habitability inspection requirements.
- Modifications were made to the original bill regarding the deregulation of professional wrestling and the gross receipts taxes collected on wrestling events. The original bill removed licensing requirements for persons involved in professional wrestling, required registration of promoters of professional wrestling events and moved this responsibility to the secretary of state. The original bill also moved collection of the gross receipts on such events from the department to the Comptroller of Public Accounts. The final bill removed the gross receipts tax requirements.
- Modifications were made to the payday provisions contained in the original bill. Several procedural steps were added to clarify the TEC's authority regarding invalid claims and final orders. Further, a definition of "payday" was added and several time-lines for parties required to perform or respond were adjusted. Finally, authority was added for the attorney general to bring an action in district court in Travis County to enforce a final action of

the commission. The original bill included only the authority to bring an action to enforce an administrative penalty assessed by the commission.

Deletions

- The original bill, as introduced, removed lending institutions from the requirement to be registered as a retailer in order to sell repossessed manufactured homes. The final bill required these institutions to be registered as any other person selling used manufactured homes but exempted them from the bonding and educational requirements placed on other retailers.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Agency Restructuring. House Bill 863 contains provisions designed to restructure the department and establish it as the primary state agency responsible for oversight of businesses, industries, general trades, and occupations regulated by the state and assigned to it by the legislature. Major aspects of this restructuring include changing the name of the department from the Texas Department of Labor and Standards to the Texas Department of Licensing and Regulation; creating a six member commission to replace the gubernatorially appointed commissioner; consolidating the licensing, regulatory and administrative sanction authorities of the agency into its general operating statutes; and transferring out programs more compatible with the role of another agency.

The new six-member commission consists of public members appointed by the governor and confirmed by the senate. The commission's primary duties are to appoint the commissioner, develop policy direction for the agency, adopt rules, set fees, assess administrative penalties, and approve the department's operating budget. The commissioner is appointed by the commission for a one year period and is responsible for administering and enforcing all programs of the department.

The department's general provisions establish a uniform set of procedures and administrative sanctions consistent with a state licensing and regulatory agency. In addition to basic licensing activities the agency can issue warnings, revoke, suspend, or probate administrative sanctions of licensees found in violation of law or rule. The department can hold hearings on these issues and the commissioner may recommend and the commission may assess administrative penalties. Further, the

department or the attorney general is authorized to bring suit for injunctive relief and for civil penalties for violations of law or rule.

Programs Transferred. Five programs administered by the department are transferred to other agencies. The payday law, the child labor law, and the state minimum wage law are transferred to the Texas Employment Commission. These three labor related laws are more compatible with the role of the TEC, its administrative structure, and general involvement with the state's employers. The health spa and membership campground resort acts are transferred to the Office of the Secretary of State. These acts involve business registration functions, a basic responsibility of the secretary of state.

Strengthening Consumer Protection and Public Safety. House Bill 863, as enacted, strengthened the consumer protection aspects of three laws currently administered by the Department of Labor and Standards. The payday law, now to be administered by the Texas Employment Commission, allows an employee to file a wage claim with any TEC office in the state and authorizes TEC to investigate complaints, hold hearings, collect wages, and assess administrative penalties. These changes substantially improve an employee's opportunity to recover wages due in a timely and effective manner. Improvements made in other laws are discussed below.

- The consumer protection and enforcement aspects of the vehicle storage facilities act are strengthened by improving the notification procedures a facility operator must give to a vehicle owner, shortening the time frames for notice to the vehicle owner that his or her vehicle is in the possession of the operator, and providing additional authority to the commissioner to prohibit the registration of a facility in which a principal party is a convicted felon.
- The health spa act was strengthened by requiring all spa locations opened on or after September 1, 1989 to be registered and to file a \$20,000 surety bond 30 days before the spa is opened.
- The public safety aspects of the boiler safety and inspection act are strengthened by increasing the penalties for violations of the act and requiring the department to enter into agreements with local and other state agencies to report unregistered and unsafe boilers.

Programs Abolished. House Bill 863 eliminated state regulation of professional wrestling. The Sunset Commission made this recommendation based on information that the initial intent of the law, licensing and inspection for participant and spectator safety, was no longer warranted. However, promoters of professional wrestling in the state will continue to be required to register with the secretary of state and to post a single statewide bond.

TEXAS INDUSTRIALIZED BUILDING CODE COUNCIL
H.B. 2644 by Gibson

Final Action: The council was continued without a separate sunset date. The council will be reviewed as part of the sunset review of the Department of Licensing and Regulation in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 2644, as originally introduced, contained the statutory recommendations of the Sunset Commission regarding the Texas Industrialized Building Code Council. A comparison of the introduced version and the final version shows that the final bill contained no differences.

New Provisions

- There were no new provisions.

Modifications

- There were no modifications.

Deletions

- There were no deletions.

Analysis of Substantive Changes Contained in Final Legislation

There were no substantive changes.

TEXAS SURPLUS PROPERTY AGENCY

S.B. 508 by McFarland

Final Action: The agency was continued for a 12-year period. It will be reviewed again in 2001.

Comparison of Sunset Commission Legislation with Final Legislation

Senate Bill 508, as originally introduced, contained the statutory recommendations of the Sunset Advisory Commission for the Texas Surplus Property Agency. All the standard across-the-board recommendations proposed by the commission were included in the final bill. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- There were no new provisions added to the final bill.

Modifications

- There was one minor modification to the bill which requires that the memorandum of understanding between the agency and the State Purchasing and General Services Commission be adopted through the rule-making process. This was the original recommendation of the commission but was inadvertently omitted from the introduced version of the bill.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Legislation

Strengthen Board Composition. Two provisions in the bill modify the composition of the agency's board. First, the bill requires the governor to designate the board chairman. Vesting such authority with the governor enhances accountability and continuity within the executive branch of government. Second, the nine public member board is modified by adding the perspective of the state's

purchasing agency in its membership. The bill specifies that the chairman of the State Purchasing and General Services Commission, or his designee, serves as a member of the board. Expanding the board membership will provide an ongoing resource of information concerning the potential uses of federal surplus property by state agencies, as well as, the operations of the state surplus property program.

Provide Assistance to the State Surplus Property Program. While the Texas Surplus Property Agency (TSPA) distributes a large volume of federal surplus property each year, it is not involved with the distribution of state surplus property. The programs which distribute state and federal surplus property operate independently, in two separate agencies. The bill contains three main provisions designed to bring the two programs' operations closer together so that each program can benefit. First, the bill modifies the state surplus property handling laws to allow the TSPA to act as a broker in locating eligible private or public agencies to purchase state surplus property before it is sold at public auction. This provision is designed to make maximum use of TSPAs ability to distribute property, while limiting disruption to the state program. Second, the types of organizations which are eligible to purchase state surplus property prior to auction is modified to more closely parallel the federal program. This required adding eligibility for non-profit agencies that provide health services, human services, or education and is intended to make it easier for the programs to work together. Local governments and agencies that were previously eligible for state surplus property continue their eligibility as in the past. The third provision requires that the State Purchasing and General Services Commission and the Texas Surplus Property Agency develop, and adopt as rules, a memorandum of understanding which sets out the details of how the two programs will work together in the distribution of state surplus property. Formalized planning is designed to ensure that a workable system for both agencies is developed and agreed to at a policy-level and that the affected agencies and the public have an opportunity to comment on the proposed procedures.

**STATE BOARD OF CANVASSERS
H.B. 772 by Guerrero**

Final Action: The board was abolished and its functions transferred to the governor's office.

Comparison of Sunset Commission Legislation with Final Legislation

House Bill 772, as originally introduced, contained the statutory recommendations of the Sunset Commission for the State Board of Canvassers. A comparison of the other changes found in the introduced and final versions shows the following results:

New Provisions

- There were no new provisions added to the final bill.

Modifications

- There were no provisions modified.

Deletions

- There were no provisions deleted.

Analysis of Substantive Changes Contained in Final Sunset Legislation

Abolish Board and Transfer Functions to Governor. The State Board of Canvassers has been responsible for canvassing - or counting - the final election returns from the counties for most statewide and district elections since it was created in statute in 1897. The board, however, does not actually tabulate the returns. The tabulations are performed by the secretary of state. The board performs a largely ceremonial function, which is limited almost exclusively to adopting the totals computed by the Secretary of State's Office. Though there is need to continue canvassing statewide and district elections, there is no need to have a board of canvassers perform this function.

House Bill 772 contains provisions for abolishing the board of canvassers and transferring its responsibilities to the governor's office. Specifically, the governor will assume the responsibility of certifying the results of all elections currently canvassed by the state board. The governor will also be responsible for settling contests involving the election of presidential electors. This will not significantly change the current practice. The staff of the Secretary of State's Office will continue to tabulate the statewide results, and the governor's office will continue to issue the election certificates based on these results. The major change will be that the governor, alone, will certify the canvassed results. The largely ceremonial procedure of certifying these results by the state board will be removed.