

By: Shapleigh

S.B. No. 342

A BILL TO BE ENTITLED

AN ACT

relating to health care for certain Texans; providing a penalty.

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

ARTICLE 1. SHORT TITLE AND PURPOSE

SECTION 1.01. SHORT TITLE. This Act may be known as the Texas Health Improvement Act.

SECTION 1.02. PURPOSE. All residents of this state are entitled to equal treatment and access to services by the government of this state. However, because many of this state's Hispanic residents live in economically disadvantaged areas, the health and well-being of this population is compromised. All but two of the 43 border counties, including every county on the Rio Grande, are federally designated health profession shortage areas. To remedy disparities of this nature, it is necessary to increase and improve resources directed to people of Hispanic origin to help achieve equality among all residents of this state and to facilitate the quality of life that all Texans deserve. The purpose of this Act is to promote development of the health infrastructure that serves the citizens of Texas and improve the health of Hispanic Texans, who are an integral part of this state.

ARTICLE 2. IMMUNIZATIONS

SECTION 2.01. UNIVERSAL VACCINE PURCHASE PROGRAM. (a) The comptroller of public accounts shall study the feasibility of implementing a universal vaccine purchase program in this state.

1 The comptroller shall determine:

2 (1) the fiscal impact of a universal vaccine purchase  
3 program;

4 (2) the administrative feasibility of a universal  
5 vaccine purchase program;

6 (3) whether a universal vaccine purchase program would  
7 simplify the administration of vaccines in this state;

8 (4) the best practices for universal vaccine programs  
9 in states that are similar to this state in size, population, and  
10 immunization requirements; and

11 (5) the impact of a universal vaccine purchase program  
12 on the vaccine industry.

13 (b) As part of the study, the comptroller shall consult with  
14 the Texas Department of Health, the Centers for Disease Control and  
15 Prevention, local health departments, the Legislative Budget  
16 Board, and private entities involved in the administration of  
17 vaccines in this state.

18 SECTION 2.02. IMMUNIZATION REGISTRY. Subchapter A, Chapter  
19 161, Health and Safety Code, is amended by amending Section 161.007  
20 and adding Sections 161.0071, 161.0072, 161.0073, and 161.0074 to  
21 read as follows:

22 Sec. 161.007. IMMUNIZATION REGISTRY; REPORTS TO  
23 DEPARTMENT. (a) The department, for purposes of establishing and  
24 maintaining a single repository of accurate, complete, and current  
25 immunization records to be used in aiding, coordinating, and  
26 promoting efficient and cost-effective childhood communicable  
27 disease prevention and control efforts, shall establish and

1 maintain a childhood immunization registry. The department by rule  
2 shall develop guidelines to:

3 (1) protect the confidentiality of registrants in  
4 accordance with state and federal law [~~patients in accordance with~~  
5 ~~Section 159.002, Occupations Code~~];

6 (2) inform a parent, managing conservator, or guardian  
7 of each registrant [~~patient~~] about the registry; and

8 (3) permit [~~require~~] the written consent of a parent,  
9 managing conservator, or guardian of a registrant to choose in  
10 writing to have the registrant excluded from [~~patient before any~~  
11 ~~information relating to the patient is included in the registry,~~  
12 ~~and~~

13 [~~(4) permit a parent, managing conservator, or~~  
14 ~~guardian to withdraw consent for the patient to be included in]~~ the  
15 registry.

16 (b) Except as provided by Section 161.0071, the [~~The~~]  
17 childhood immunization registry must contain information on the  
18 immunization history that is obtained by the department under this  
19 section of each person who is younger than 18 years of age [~~and for~~  
20 ~~whom consent has been obtained in accordance with guidelines~~  
21 ~~adopted under Subsection (a). The department shall remove from the~~  
22 ~~registry information for any person for whom consent has been~~  
23 ~~withdrawn~~].

24 (c) An insurance company, a health maintenance  
25 organization, or another organization that pays or reimburses a  
26 claim for an immunization of a person younger than 18 years of age  
27 shall provide an immunization history to the department. The

1 report shall contain the elements prescribed by the department.  
2 The report may be submitted in writing or by electronic means. [~~An~~  
3 ~~insurance company, health maintenance organization, or other~~  
4 ~~organization is not required to provide an immunization history to~~  
5 ~~the department under this subsection for a person for whom consent~~  
6 ~~has not been obtained in accordance with guidelines adopted under~~  
7 ~~Subsection (a) or for whom consent has been withdrawn.]~~

8 (d) A health care provider who administers an immunization  
9 to a person younger than 18 years of age shall provide an  
10 immunization history to the department unless the immunization  
11 history is submitted to an insurance company, a health maintenance  
12 organization, or another organization that pays or reimburses a  
13 claim for an immunization to a person younger than 18 years of age.  
14 The report shall contain the elements [~~be in a format~~] prescribed by  
15 the department. The report may be submitted [~~, which may include~~  
16 ~~submission~~] in writing or [~~7~~] by electronic means [~~, or by voice~~].  
17 [~~A health care provider is not required to provide an immunization~~  
18 ~~history to the department under this subsection for a person for~~  
19 ~~whom consent has not been obtained in accordance with guidelines~~  
20 ~~adopted under Subsection (a) or for whom consent has been~~  
21 ~~withdrawn.]~~

22 (e) The department may use the registry to provide notices  
23 by mail, telephone, personal contact, or other means to a parent,  
24 managing conservator, or guardian regarding his or her child or  
25 ward who is due or overdue for a particular type of immunization  
26 according to the department's immunization schedule. The notices  
27 must contain instructions for the parent, managing conservator, or

1 guardian to request that future notices not be sent and to remove  
2 the child's immunization record from the registry and any other  
3 registry-related record that individually identifies the child.  
4 The notices must describe the procedure to report a violation if a  
5 child is included in the registry after the submission of a written  
6 request for exclusion. The department shall consult with health  
7 care providers to determine the most efficient and cost-effective  
8 manner of using the registry to provide those notices.

9 (f) Nothing in this subchapter [~~section~~] diminishes a  
10 parent's, managing conservator's, or guardian's responsibility for  
11 having a child immunized properly, subject to Section 161.004(d).

12 (g) A person, including a health care provider or an  
13 insurance company, a health maintenance organization, or another  
14 organization that pays or reimburses a claim for immunization, who  
15 submits or obtains in good faith an immunization history or data to  
16 or from the department in compliance with the provisions of this  
17 subchapter [~~section~~] and any rules adopted under this subchapter  
18 [~~section~~] is not liable for any civil damages.

19 (~~h~~) [~~Information obtained by the department for the~~  
20 ~~immunization registry is confidential and may be disclosed only~~  
21 ~~with the written consent of the child's parent, managing~~  
22 ~~conservator, or guardian.~~

23 [~~(i)~~] The board shall adopt rules to implement this  
24 subchapter [~~section~~].

25 Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA;  
26 EXCLUSION FROM REGISTRY. (a) The first time the department  
27 receives registry data for a child, the department shall send a

1 written notification to the child's parent, managing conservator,  
2 or guardian disclosing:

3 (1) that providers and insurers may be sending the  
4 child's immunization information to the department, but the  
5 department may not keep the information if the parent, managing  
6 conservator, or guardian chooses to exclude the child from the  
7 registry;

8 (2) the information that is included in the registry;

9 (3) the persons to whom the information may be  
10 released under Section 161.008(d);

11 (4) the purpose and use of the registry;

12 (5) the procedure to exclude a child from the  
13 registry; and

14 (6) the procedure to report a violation if a parent,  
15 managing conservator, or guardian discovers a child is included in  
16 the registry after exclusion has been requested.

17 (b) The department shall delete the child's immunization  
18 records from the registry and any other registry-related department  
19 record that individually identifies the child not later than the  
20 30th day after the date the department receives from the parent,  
21 managing conservator, or guardian of the child a written request  
22 that the child be excluded from the registry. The department shall  
23 maintain only those records related to the child necessary to  
24 ensure that the child continues to be excluded from the registry and  
25 may not release the identity of a child excluded from the registry.

26 (c) The department shall send to a parent, managing  
27 conservator, or guardian who makes a written request under

1 Subsection (b) a written confirmation of receipt of the request for  
2 exclusion and the exclusion of the child's records from the  
3 registry.

4 (d) The department commits a violation if the department  
5 fails to exclude a child from the registry within the period  
6 required by Subsection (b).

7 (e) The department shall accept a written statement from a  
8 parent, managing conservator, or guardian communicating to the  
9 department that a child should be excluded from the registry,  
10 including a statement on the child's birth certificate, as a  
11 request for exclusion under Subsection (b).

12 Sec. 161.0072. REGISTRY CONFIDENTIALITY. (a) The  
13 information that individually identifies a child received by the  
14 department for the immunization registry is confidential and may be  
15 used by the department for registry purposes only.

16 (b) Unless specifically authorized under this subchapter,  
17 the department may not release registry information to any  
18 individual or entity without the consent of the person, or if a  
19 minor, the parent, managing conservator, or guardian of the child.

20 (c) A person required to report information to the  
21 department for registry purposes or authorized to receive  
22 information from the registry may not disclose the individually  
23 identifiable information to any other person without written  
24 consent of the parent, managing conservator, or guardian of the  
25 child, except as provided by Chapter 159, Occupations Code.

26 (d) Registry information is not:

27 (1) subject to discovery, subpoena, or other means of

1 legal compulsion for release to any person or entity except as  
2 provided by this subchapter; or

3 (2) admissible in any civil, administrative, or  
4 criminal proceeding.

5 Sec. 161.0073. REPORT TO LEGISLATURE. (a) The department  
6 shall report to the Legislative Budget Board, the governor, the  
7 lieutenant governor, the speaker of the house of representatives,  
8 and appropriate committees of the legislature not later than  
9 September 30 of each even-numbered year.

10 (b) The department shall use the report required under  
11 Subsection (a) to develop ways to increase immunization rates using  
12 state and federal resources.

13 (c) The report must:

14 (1) include the current immunization rates by  
15 geographic region of the state, where available;

16 (2) focus on the geographic regions of the state with  
17 immunization rates below the state average for preschool children;

18 (3) describe the approaches identified to increase  
19 immunization rates in underserved areas and the estimated cost for  
20 each;

21 (4) identify changes to department procedures needed  
22 to increase immunization rates;

23 (5) identify the services provided under and  
24 provisions of contracts entered into by the department to increase  
25 immunization rates in underserved areas;

26 (6) identify performance measures used in contracts  
27 described by Subdivision (5);



1           (7) include the number and type of exemptions used in  
2 the past year;

3           (8) include the number of complaints received by the  
4 department related to the department's failure to comply with  
5 requests for exclusion of individuals from the registry; and

6           (9) identify all reported incidents of discrimination  
7 for requesting exclusion from the registry or for using an  
8 exemption for a required immunization.

9           Sec. 161.0074. IMMUNITY FROM LIABILITY. Except as provided  
10 by Section 161.009, the following persons subject to this  
11 subchapter that act in compliance with Sections 161.007, 161.0071,  
12 161.0072, 161.0073, and 161.008 are not civilly or criminally  
13 liable for furnishing the information required under this  
14 subchapter:

15           (1) an insurance company, a health maintenance  
16 organization, or another organization that pays or reimburses a  
17 claim for immunization;

18           (2) a health care provider who administers  
19 immunizations; and

20           (3) an employee of the department.

21           SECTION 2.03. IMMUNIZATION       REGISTRY;       RELEASE       OF  
22 INFORMATION. Section 161.008, Health and Safety Code, is amended  
23 by amending Subsections (c) and (d) and adding Subsections (e)-(g)  
24 to read as follows:

25           (c) The department [~~only with the consent of a child's~~  
26 ~~parent, managing conservator, or guardian,~~] may [+  
27

[~~1~~] obtain the data constituting an immunization

1 record for the child from a public health district, a local health  
2 department, an insurance company, a health maintenance  
3 organization, or any other organization that pays or reimburses a  
4 claim for immunization, or any health care provider licensed or  
5 otherwise authorized to administer vaccines.

6 (d) After the 30th day after the date notice was sent by the  
7 department to the child's parent, managing conservator, or guardian  
8 under Section 161.0071, the department, if the department has not  
9 received a written request to exclude the child from the registry,  
10 shall:

11 (1) enter the child into the registry; and [~~or a~~  
12 ~~physician to the child, or~~]

13 (2) release the data constituting an immunization  
14 record for the child to any entity in this state that is described  
15 by Subsection (c) and is providing immunization services to the  
16 child or is paying or reimbursing a claim for an immunization for  
17 the child, to [~~a public health district, a local health department,~~  
18 ~~a physician to the child, or~~] a school or child care facility in  
19 which the child is enrolled, or to a state agency responsible for  
20 the health care of the child.

21 (e) [(d)] A parent, managing conservator, or legal guardian  
22 may obtain and on request to the department shall be provided with  
23 all individually identifiable immunization registry information  
24 concerning his or her child or ward.

25 (f) The department may release nonidentifying summary  
26 statistics related to the registry that do not individually  
27 identify a child.

1        (g) The department may not release individually  
2 identifiable information under Subsection (d)(2) to an entity  
3 outside this state.

4            SECTION 2.04. IMMUNIZATION REGISTRY; OFFENSE.        Section  
5 161.009(a), Health and Safety Code, is amended to read as follows:

6            (a) A person commits an offense if the person:

7                    (1) negligently releases or discloses immunization  
8 registry information in violation of Section 161.007, 161.0071,  
9 161.0072, or 161.008; or

10                    (2) negligently uses the information in the  
11 immunization registry to solicit new patients or clients or for  
12 other purposes that are not associated with immunization purposes,  
13 unless authorized under this section.

14            SECTION 2.05. REQUIRED BENEFITS FOR IMMUNIZATIONS. Section  
15 3, Article 21.53F, Insurance Code, as added by Chapter 683, Acts of  
16 the 75th Legislature, Regular Session, 1997, is amended to read as  
17 follows:

18            Sec. 3. REQUIRED BENEFIT FOR CHILDHOOD IMMUNIZATIONS. (a)  
19 A health benefit plan that provides benefits for a family member of  
20 the insured shall provide coverage for each covered child described  
21 by Section 5 of this article, from birth through the date the child  
22 is 18 [~~six~~] years of age, for:

23                    (1) immunization against:

24                            (A) diphtheria;

25                            (B) haemophilus influenzae type b;

26                            (C) hepatitis B;

27                            (D) measles;

- (E) mumps;
- (F) pertussis;
- (G) polio;
- (H) rubella;
- (I) tetanus; and
- (J) varicella; ~~and~~

(2) any other immunization recommended as of January 1, 2003, by the federal Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention; and

(3) any other immunization that is required by law for the child.

(b) The commissioner of public health, in consultation with the commissioner, by rule may:

(1) require coverage under this section for an immunization recommended after January 1, 2003, by the federal Advisory Committee on Immunization Practices or its successor committee; or

(2) remove the requirement of coverage under this section for an immunization that is no longer recommended after January 1, 2003, by the federal Advisory Committee on Immunization Practices or its successor committee.

SECTION 2.06. TRANSITION. (a) Not later than January 15, 2005, the comptroller of public accounts shall submit a report detailing the findings of the universal vaccine purchase program study required by this Act to the lieutenant governor and the speaker of the house of representatives.

(b) Section 2.01 of this Act expires September 1, 2005.

1 (c) As soon as practicable, but not later than August 1,  
2 2004, the Texas Board of Health shall:

3 (1) adopt rules necessary to implement the procedure  
4 for excluding children from the immunization registry required by  
5 this Act; and

6 (2) make available for use a form for requesting  
7 exclusion from the immunization registry required under Section  
8 161.0071, Health and Safety Code, as added by this Act.

9 (d) The report required under Section 161.007(c), Health  
10 and Safety Code, as amended by this Act, and the data obtained or  
11 released under Section 161.008, Health and Safety Code, as amended  
12 by this Act, may not be accepted or released by the Texas Department  
13 of Health until the department has adopted rules and prescribed the  
14 forms required by this Act.

15 (e) The changes made by this Act to Section 3, Article  
16 21.53F, Insurance Code, as added by Chapter 683, Acts of the 75th  
17 Legislature, Regular Session, 1997, apply only to a health benefit  
18 plan that is delivered or issued for delivery on or after the  
19 effective date of this Act. A plan that is delivered or issued for  
20 delivery before September 1, 2003, is governed by the law as it  
21 existed immediately before that date, and that law is continued in  
22 effect for that purpose.

23 ARTICLE 3. PROMOTORAS

24 SECTION 3.01. COMPENSATION. Section 48.003(c), Health and  
25 Safety Code, is amended to read as follows:

26 (c) The Health and Human Services Commission shall require  
27 health and human services agencies to use and compensate certified

1 promotoras to assist with [~~the extent possible in~~] health outreach  
2 and education programs for recipients of medical assistance under  
3 Chapter 32, Human Resources Code.

4 SECTION 3.02. TRANSITION. The classification officer  
5 shall ensure that, as soon as practicable, a classification system,  
6 including a supervisory and salary structure, is provided for  
7 promotoras as appropriate under the state's position  
8 classification plan in accordance with Chapter 654, Government  
9 Code.

10 ARTICLE 4. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS  
11 COVERAGE FOR EMPLOYEES

12 SECTION 4.01. BEST VALUE CONSIDERATION. Section  
13 2155.074(b), Government Code, is amended to read as follows:

14 (b) In determining the best value for the state, the  
15 purchase price and whether the goods or services meet  
16 specifications are the most important considerations. However, the  
17 commission or other state agency may, subject to Subsection (c) and  
18 Section 2155.075, consider other relevant factors, including:

- 19 (1) installation costs;  
20 (2) life cycle costs;  
21 (3) the quality and reliability of the goods and  
22 services;  
23 (4) the delivery terms;  
24 (5) indicators of probable vendor performance under  
25 the contract such as past vendor performance, the vendor's  
26 financial resources and ability to perform, the vendor's experience  
27 or demonstrated capability and responsibility, and the vendor's

1 ability to provide reliable maintenance agreements and support;

2 (6) the cost of any employee training associated with  
3 a purchase;

4 (7) the effect of a purchase on agency productivity;

5 (8) the vendor's anticipated economic impact to the  
6 state or a subdivision of the state, including potential tax  
7 revenue and employment;

8 (9) whether the vendor provides health benefits  
9 coverage to employees; and

10 (10) [~~(9)~~] other factors relevant to determining the  
11 best value for the state in the context of a particular purchase.

12 SECTION 4.02. STATE AGENCY PREFERENCE. Subchapter H,  
13 Chapter 2155, Government Code, is amended by adding Section  
14 2155.451 to read as follows:

15 Sec. 2155.451. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH  
16 BENEFITS COVERAGE. The commission and all state agencies  
17 procuring goods or services shall give preference to goods or  
18 services of a vendor that demonstrates that the vendor provides  
19 health benefits coverage to the vendor's employees if:

20 (1) the goods or services meet state specifications  
21 regarding quantity and quality; and

22 (2) the cost of the good or service does not exceed the  
23 cost of other similar goods or services that are produced by a  
24 vendor that does not demonstrate that the vendor provides health  
25 benefits coverage to the vendor's employees.

26 ARTICLE 5. BORDER HEALTH FOUNDATION

27 SECTION 5.01. BORDER HEALTH FOUNDATION. Subtitle E, Title

1 2, Health and Safety Code, is amended by adding Chapter 112 to read  
2 as follows:

3 CHAPTER 112. BORDER HEALTH FOUNDATION

4 Sec. 112.001. DEFINITIONS. In this chapter:

5 (1) "Board of directors" means the board of directors  
6 of the Border Health Foundation.

7 (2) "Foundation" means the Border Health Foundation.

8 Sec. 112.002. CREATION OF FOUNDATION. (a) The department  
9 shall establish the Border Health Foundation as a nonprofit  
10 corporation that complies with the Texas Non-Profit Corporation Act  
11 (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except  
12 as otherwise provided by this chapter, and qualifies as an  
13 organization exempt from federal income tax under Section  
14 501(c)(3), Internal Revenue Code of 1986, as amended.

15 (b) The department shall ensure that the foundation  
16 operates independently of any state agency or political subdivision  
17 of this state.

18 Sec. 112.003. POWERS AND DUTIES. (a) The foundation shall  
19 raise money from other foundations, governmental entities, and  
20 other sources to finance health programs in this state in areas  
21 adjacent to the border with the United Mexican States.

22 (b) The foundation shall:

23 (1) identify and seek potential partners in the  
24 private sector that will afford this state the opportunity to  
25 maintain or increase the existing levels of financing of health  
26 programs and activities;

27 (2) engage in outreach efforts to make the existence



1 of the office known to potential partners throughout this state;  
2 and

3 (3) perform any other function necessary to carry out  
4 the purposes of this section.

5 (c) The department shall review programs from all agencies  
6 under its control to determine which projects should be available  
7 to receive money under Subsection (b).

8 (d) The foundation has the powers necessary and convenient  
9 to carry out its duties.

10 Sec. 112.004. ADMINISTRATION. (a) The foundation is  
11 governed by a board of five directors appointed by the Texas Board  
12 of Health from individuals recommended by the commissioner.

13 (b) Members of the board of directors serve for staggered  
14 terms of six years, with as near as possible to one-third of the  
15 members' terms expiring every two years.

16 (c) Appointments to the board of directors shall be made  
17 without regard to the race, color, disability, sex, religion, age,  
18 or national origin of the appointees.

19 (d) The board of directors shall ensure that the foundation  
20 remains eligible for an exemption from federal income tax under  
21 Section 501(a), Internal Revenue Code of 1986, as amended, by being  
22 listed as an exempt organization under Section 501(c)(3) of that  
23 code, as amended.

24 Sec. 112.005. RESTRICTIONS ON BOARD APPOINTMENT,  
25 MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade  
26 association" means a cooperative and voluntarily joined  
27 association of business or professional competitors in this state

1 designed to assist its members and its industry or profession in  
2 dealing with mutual business or professional problems and in  
3 promoting their common interest.

4 (b) A person may not be a member of the board of directors  
5 and may not be a foundation employee employed in a "bona fide  
6 executive, administrative, or professional capacity," as that  
7 phrase is used for purposes of establishing an exemption to the  
8 overtime provisions of the federal Fair Labor Standards Act of 1938  
9 (29 U.S.C. Section 201 et seq.), as amended, if:

10 (1) the person is an officer, employee, or paid  
11 consultant of a Texas trade association in the field of health care;  
12 or

13 (2) the person's spouse is an officer, manager, or paid  
14 consultant of a Texas trade association in the field of health care.

15 (c) A person may not be a member of the board of directors or  
16 act as the general counsel to the board of directors or the  
17 foundation if the person is required to register as a lobbyist under  
18 Chapter 305, Government Code, because of the person's activities  
19 for compensation on behalf of a profession related to the operation  
20 of the foundation.

21 Sec. 112.006. REMOVAL OF BOARD MEMBER. (a) It is a ground  
22 for removal from the board of directors that a member:

23 (1) is ineligible for membership under Section  
24 112.005;

25 (2) cannot, because of illness or disability,  
26 discharge the member's duties for a substantial part of the member's  
27 term; or

1           (3) is absent from more than half of the regularly  
2 scheduled board meetings that the member is eligible to attend  
3 during a calendar year without an excuse approved by a majority vote  
4 of the board of directors.

5           (b) The validity of an action of the board of directors is  
6 not affected by the fact that it is taken when a ground for removal  
7 of a board member exists.

8           (c) The foundation in its articles or bylaws shall establish  
9 the manner in which a board member may be removed under this section  
10 and may establish other grounds for removal of a member.

11           Sec. 112.007. VACANCY. A vacancy on the board of directors  
12 shall be filled for the remainder of the unexpired term in the same  
13 manner as provided in Section 112.004(a).

14           Sec. 112.008. OFFICERS. The board of directors shall elect  
15 from among its members a presiding officer, an assistant presiding  
16 officer, and other necessary officers. The presiding officer and  
17 assistant presiding officer serve for a period of one year and may  
18 be reelected.

19           Sec. 112.009. MEETINGS. The board of directors may meet as  
20 often as necessary, but shall meet at least twice a year.

21           Sec. 112.010. TAX EXEMPTION. All income, property, and  
22 other assets of the foundation are exempt from taxation by this  
23 state and political subdivisions of this state.

24           Sec. 112.011. MEMORANDUM OF UNDERSTANDING. The foundation  
25 and the department shall enter into a memorandum of understanding  
26 that:

27           (1) requires the board of directors and staff of the

1 foundation to report to the commissioner and department;

2 (2) allows the department to provide staff functions  
3 to the foundation; and

4 (3) outlines the financial contributions to be made to  
5 the foundation from funds obtained from grants and other sources.

6 Sec. 112.012. FUNDING. (a) The department, another agency  
7 of this state, including an institution of higher education as  
8 defined by Section 61.003, Education Code, or a political  
9 subdivision of this state may contract with the foundation to  
10 finance, on behalf of the department, agency, or political  
11 subdivision, health programs described by Section 112.003.

12 (b) The foundation may apply for and accept funds from the  
13 federal government or any other public or private entity. The  
14 foundation or any member of the foundation may also solicit and  
15 accept pledges, gifts, and endowments from private sources on the  
16 foundation's behalf. The foundation may only accept a pledge,  
17 gift, or endowment solicited under this section that is consistent  
18 with the purposes of the foundation.

19 (c) The board of directors of the foundation shall manage  
20 and approve disbursements of funds, pledges, gifts, and endowments  
21 that are the property of the foundation.

22 (d) The board of directors of the foundation shall manage  
23 any capital improvements constructed, owned, or leased by the  
24 foundation and any real property acquired by the foundation.

25 Sec. 112.013. RECORDS. (a) The foundation shall maintain  
26 financial records and reports independently from those of the  
27 department.

1       (b) The foundation shall comply with all filing  
2 requirements of the secretary of state and the Internal Revenue  
3 Service.

4       Sec. 112.014. REPORT TO DEPARTMENT. Not later than the 60th  
5 day after the last day of the fiscal year, the foundation shall  
6 submit to the department a report itemizing all income and  
7 expenditures and describing all activities of the foundation during  
8 the preceding fiscal year.

9       SECTION 5.02. TRANSITION. The Texas Department of Health  
10 shall create the Border Health Foundation as required by this Act  
11 not later than June 1, 2004.

12               ARTICLE 6. EDUCATION AND RECRUITMENT OF  
13                       HEALTH CARE PROFESSIONALS

14       SECTION 6.01. BORDER HEALTH CORPS. Chapter 61, Education  
15 Code, is amended by adding Subchapter J-1 to read as follows:

16                       SUBCHAPTER J-1. BORDER HEALTH CORPS

17       Sec. 61.551. DEFINITIONS. In this subchapter:

18               (1) "Health professional shortage area" means an area  
19 designated as a health professional shortage area under 42 U.S.C.  
20 Section 254e.

21               (2) "Texas-Mexico border region" has the meaning  
22 assigned by Section 2056.002, Government Code.

23       Sec. 61.552. BORDER HEALTH CORPS. (a) The board shall  
24 establish a program to encourage the training, recruitment, and  
25 retention of health care professionals and practitioners in health  
26 professional shortage areas in the Texas-Mexico border region.  
27 Individuals participating in the program may be referred to as the

1 Border Health Corps. The board shall adopt rules as necessary to  
2 administer the program.

3 (b) Practitioners in medicine, dentistry, and nursing are  
4 eligible to participate in the program, including specialists and  
5 subspecialists. The board may include other health care  
6 professions in the program as the board determines appropriate to  
7 address a shortage of practitioners in that profession in the  
8 Texas-Mexico border region.

9 (c) In granting loan repayment assistance or other benefits  
10 to individuals in the program, the board shall give priority to:

11 (1) health professional shortage areas with the  
12 highest health professional shortage area scores or rankings; and

13 (2) individuals in fields and areas of practice for  
14 which the greatest need exists in health professional shortage  
15 areas in the Texas-Mexico border region.

16 Sec. 61.553. EDUCATION LOAN REPAYMENT ASSISTANCE. (a) To  
17 the extent funding is available, the board shall provide assistance  
18 in the repayment of education loans to individuals in the program.  
19 To receive loan repayment assistance, an individual must agree to  
20 practice for at least two years in the individual's field or area of  
21 practice in a health professional shortage area in the Texas-Mexico  
22 border region.

23 (b) An individual may not receive more than \$10,000 in loan  
24 repayment assistance under the program in any year. The amount of  
25 loan repayment assistance an individual receives may not exceed the  
26 amount of principal and interest due on the loan during the period  
27 of service for which the assistance is provided.

1       (c) The board shall pay the loan repayment assistance  
2 directly to the entity to which the loan obligation is due. The  
3 board shall make the payments periodically during the period of the  
4 individual's practice and may make the payments in advance of that  
5 practice. The board shall take action as necessary to recover any  
6 amount for which the promised practice is not performed, subject to  
7 any exception for hardship as the board considers appropriate.

8       (d) The board shall make loan repayment assistance awards  
9 under this section to allow individuals in the program to qualify  
10 for matching federal loan repayment assistance, to the extent  
11 consistent with the purposes of the program.

12       Sec. 61.554. FUNDING. (a) The program is funded by  
13 appropriations, including gifts and grants, and other money  
14 available for purposes of the program. The board may solicit and  
15 accept gifts and grants from any public or private source for the  
16 program.

17       (b) The board shall take any action necessary, including  
18 applying for waivers of applicable requirements or restrictions, to  
19 permit federal funds available for loan repayment assistance under  
20 the program to be available to individuals in the program who are in  
21 private practice.

22       SECTION 6.02. MEDICAL EDUCATION PREPARATION. Subchapter C,  
23 Chapter 61, Education Code, is amended by adding Sections 61.0902  
24 and 61.0903 to read as follows:

25       Sec. 61.0902. EXTENDED UNDERGRADUATE MEDICAL EDUCATION  
26 PREPARATION PROGRAM. The board shall examine the use of  
27 undergraduate programs that require more than four years of

1 undergraduate course work to prepare students for graduate medical  
2 education to determine whether such a program would be feasible or  
3 effective in institutions of higher education in this state. If the  
4 board determines that extended undergraduate medical education  
5 preparation programs may be effective in the education and training  
6 of physicians or other health care professionals in this state, the  
7 board shall work with institutions of higher education to  
8 successfully implement and conduct those programs.

9 Sec. 61.0903. RECRUITING AND RETAINING UNDERREPRESENTED  
10 STUDENTS. (a) The board, in coordination with institutions of  
11 higher education, shall develop a strategy to coordinate  
12 recruitment and retention of students from ethnic or racial  
13 backgrounds that are underrepresented in institutions of higher  
14 education in this state.

15 (b) In coordinating efforts under this section, the board  
16 and institutions of higher education shall:

17 (1) identify best practices in recruitment and  
18 retention efforts; and

19 (2) create regional joint programs to eliminate  
20 duplicate or overlapping recruitment and retention programs.

21 SECTION 6.03. PUBLIC SCHOOL PROGRAMS. Subchapter F,  
22 Chapter 29, Education Code, is amended by adding Sections 29.187  
23 and 29.188 to read as follows:

24 Sec. 29.187. HEALTH SCIENCE TECHNOLOGY AND COLLEGE  
25 PREPARATION PROGRAMS IN BORDER REGION. (a) In this section,  
26 "Texas-Mexico border region" has the meaning assigned by Section  
27 2056.002, Government Code.



1       (b) The agency shall periodically assess the adequacy of  
2 existing health science technology and college preparatory courses  
3 and programs in secondary schools in the Texas-Mexico border  
4 region. The agency shall encourage and assist school districts to  
5 establish additional health science technology and college  
6 preparatory courses and programs and to improve the quality of  
7 existing courses and programs in those schools in which the agency  
8 determines the need exists.

9       (c) The agency shall encourage and assist school districts  
10 in the Texas-Mexico border region to operate mentoring programs  
11 between students enrolled in health science technology and related  
12 courses and health care professionals practicing in the  
13 Texas-Mexico border region. The agency shall assist school  
14 districts in administering the mentoring programs so that the  
15 programs are effective in fostering student awareness of the health  
16 professions and encouraging students to pursue an education leading  
17 to a career in the health professions and to enter into practice in  
18 the Texas-Mexico border region. The agency and participating  
19 school districts shall track students who participate in the  
20 mentoring programs to assess the success of those programs and to  
21 allow the agency and participating school districts to improve  
22 those programs.

23       (d) The agency shall report to the governor, the lieutenant  
24 governor, and the speaker of the house of representatives not later  
25 than September 1, 2004, on the agency's activities under this  
26 section. The report shall include the agency's recommendations for  
27 legislation, funding, or administrative action to address any need

1 identified by the agency for additional or improved health science  
2 technology and college preparatory courses and programs in  
3 secondary schools in the Texas-Mexico border region. This  
4 subsection expires January 1, 2005.

5 Sec. 29.188. SUMMER STUDY SCIENCE PROGRAMS FOR  
6 UNDERREPRESENTED STUDENTS. The agency shall establish a statewide  
7 network of summer study science instruction programs for students  
8 from ethnic or racial groups that are underrepresented in the  
9 fields of science and medicine.

10 SECTION 6.04. REPEALER AND TRANSITION. (a) Subchapter G,  
11 Chapter 487, Government Code, is repealed.

12 (b) The Office of Rural Community Affairs may continue to  
13 administer the Texas Health Service Corps as provided by former  
14 Subchapter G, Chapter 487, Government Code, with respect to a  
15 person awarded or paid a stipend under the program before the repeal  
16 of that subchapter. The office may not award a stipend under the  
17 program on or after the effective date of this Act.

18 (c) It is the intent of the legislature that the Border  
19 Health Corps established under Subchapter J-1, Chapter 61,  
20 Education Code, as added by this Act, be funded primarily from  
21 revenue that would have been appropriated to fund the Texas Health  
22 Service Corps, if that program had not been abolished by this Act.  
23 All money and appropriations available or designated to administer  
24 the Texas Health Service Corps on the effective date of this Act are  
25 reallocated or reappropriated, as appropriate, to the Texas Higher  
26 Education Coordinating Board to administer the Border Health Corps  
27 under Subchapter J-1, Chapter 61, Education Code, as added by this

1 Act, except as necessary to permit the Office of Rural Community  
2 Affairs to comply with Subsection (b) of this section.

3 ARTICLE 7. OFFICE OF STATE-FEDERAL RELATIONS

4 SECTION 7.01. REPORT. (a) As part of its report under  
5 Section 751.022(c), Government Code, the Office of State-Federal  
6 Relations shall report, not later than September 1, 2004, on  
7 efforts by the office and actions of the federal government to  
8 increase federal Medicaid funding to the border region and to  
9 increase matching funds for other health care programs in the  
10 border region. The report must include recommendations for  
11 maximizing the amount of federal money available to the border  
12 region for health care programs.

13 (b) This section expires January 1, 2005.

14 SECTION 7.02. FEDERAL HEALTH CARE FUNDS AVAILABLE TO BORDER  
15 REGION. Subchapter B, Chapter 751, Government Code, is amended by  
16 adding Section 751.025 to read as follows:

17 Sec. 751.025. FEDERAL HEALTH CARE FUNDS TO BORDER REGION.

18 (a) In this section, "Texas-Mexico border region" has the meaning  
19 assigned by Section 2056.002.

20 (b) The office shall make efforts to:

21 (1) achieve equity in reimbursement rates between  
22 health care professionals in the Texas-Mexico border region and  
23 health care professionals in other areas of the state; and

24 (2) increase the Federal Medical Assistance  
25 Percentage for the Texas-Mexico border region.

26 ARTICLE 8. EFFECTIVE DATE

27 SECTION 8.01. EFFECTIVE DATE. This Act takes effect

S.B. No. 342

1 September 1, 2003.