

# HOUSE JOURNAL

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SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

SIXTY-SIXTH DAY (CONTINUED) — FRIDAY, MAY 5, 1995

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 312).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzhauser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Absent, Excused — Harris; Rabuck.

The invocation was offered by James R. Haney, minister, Moody Church of Christ, Moody, as follows:

Our Father in Heaven, we give you our thanks for this new day in which to serve you. Thank you for our state and for these men and women elected to represent our state, district by district. Bless them this day with sincere hearts determined to represent well and honestly those who placed their trust in them. Give them wisdom to make proper decisions. Help them to know, Father, the greatness of their work. Help them to feel the satisfaction of knowing they are using their lives to make our state a better place in which to live. Give them the strength they need to fulfill their mission. And, Father, may we all live in a way that we will bring praise and honor to you. Forgive our sins, and help us to ever strive to live closer to the great example that Jesus left us while he was on earth. In his name, we pray. Amen.

### LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Rabuck on motion of Swinford.

The following member was granted leave of absence temporarily for today because of important business:

Harris on motion of Yost.

### SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

**HB 637, HB 645, HB 767, HB 1090, HB 1235, HB 1294, HB 1486, HB 1503, HB 1689, HB 1737, HB 2028, HB 2066, HB 2068, HB 2183, HB 3168, HCR 25, HCR 58, HCR 143, HCR 161, HCR 163, HCR 181, SB 12, SB 368, SB 410, SB 529, SB 548, SB 688, SB 1060, SB 1098**

### MESSAGE FROM THE SENATE

Austin, Texas, May 5, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**SB 977** by Sims, et al., relating to the beneficial land application of biosolids.

**SB 1687** by Henderson, relating to the creation of certain judicial districts and to the offices of county attorney and district attorney of certain judicial districts.

**HCR 115** by Solomons, commending John Gordon for his service to the residents of The Colony.

**HCR 116** by Solomons, commending Bill Longo for his service to the residents of The Colony.

**HCR 131** by Solomons, congratulating Dr. Carol Diann Smith Surles on her selection as the ninth president of Texas Women's University.

**SCR 128** by Zaffirini, commending the Texas Math and Science Hotline.

Respectfully,  
Betty King  
Secretary of the Senate

### CAPITOL PHYSICIAN

Speaker Laney presented Dr. Frederic Johnson of Fort Worth as the "Doctor for the Day."

The house welcomed Dr. Johnson and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

### HR 790 - ADOPTED

Representative Yost moved to suspend all necessary rules to take up and consider at this time **HR 790**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Yost,

**HR 790**, Honoring Dan Noll.

The resolution was read and was adopted without objection.

**HR 791 - ADOPTED**

Representative Yost moved to suspend all necessary rules to take up and consider at this time **HR 791**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Yost,

**HR 791**, Honoring students from White Oak High School.

The resolution was read and was adopted without objection.

**HR 808 - ADOPTED**

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 808**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Elkins,

**HR 808**, Honoring Geoffry M. Neundorfer on attaining the rank of Eagle Scout.

The resolution was adopted without objection.

**HR 740 - ADOPTED**

Representative Johnson moved to suspend all necessary rules to take up and consider at this time **HR 740**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Johnson,

**HR 740**, Honoring Judy McDonald.

The resolution was adopted without objection.

**HR 704 - ADOPTED**

Representative Saunders moved to suspend all necessary rules to take up and consider at this time **HR 704**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Saunders and Oakley,

**HR 704**, In memory of Lenore Johnson.

The resolution was read and was unanimously adopted by a rising vote.

On motion of Representative Black, the names of all the members of the house were added to **HR 704** as signers thereof.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Saunders, who introduced former house photographer Lenore Johnson's family: Nory Johnson, her daughter, and Rusty Busby.

### HR 806 - ADOPTED

Representative Staples moved to suspend all necessary rules to take up and consider at this time **HR 806**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Staples,

**HR 806**, Honoring Mayor Jackson R. Hanks for his service to the citizens of Palestine.

The resolution was adopted without objection.

### HR 799 - ADOPTED

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 799**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Yarbrough,

**HR 799**, Congratulating Margarita Macias on her graduation from the Texas School for the Deaf.

The resolution was adopted without objection.

### HR 782 - ADOPTED

Representative Allen moved to suspend all necessary rules to take up and consider at this time **HR 782**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Allen,

**HR 782**, Honoring the Truman Middle School participants in the 1995 Texas Math & Science Coaches Association Middle School Championship.

The resolution was adopted without objection.

**HB 3236 - PERMISSION TO INTRODUCE**

Representative Corte moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 3236**.

A record vote was requested.

The motion prevailed by (Record 313): 131 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; De La Garza; Dear; Delisi; Denny; Driver; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Price; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Nay — Davis.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harris; Rabuck.

Absent — Alonzo; Brady; Dukes; Gray; Lewis, R.; Luna; Marchant; Mowery; Munoz; Ogden; Place; Saunders; Thompson; Williamson; Zbranek.

**SB 699 - REQUEST OF SENATE GRANTED**

On motion of Representative Patterson, the house granted the request of the senate for the appointment of a conference committee on **SB 699**.

**SB 699 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 699**: Patterson, chair, Black, R. Cuellar, Kubiak, and Rabuck.

**SB 360 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Telford submitted the conference committee report on **SB 360**.

Representative Telford moved to adopt the conference committee report on **SB 360**.

The motion prevailed without objection.

**SB 60 - REQUEST OF SENATE GRANTED**

On motion of Representative Wilson, the house granted the request of the senate for the appointment of a conference committee on **SB 60**.

**SB 60 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 60**: Wilson, chair, Carter, Greenberg, Allen, and Luna.

**HB 85 - WITH SENATE AMENDMENT**

Representative T. Hunter called up with a senate amendment for consideration at this time,

**HB 85**, A bill to be entitled An Act relating to the development of distance learning and related activities by institutions of higher education.

On motion of Representative T. Hunter the house concurred in the senate amendment to **HB 85**.

**HB 85 - TEXT OF SENATE AMENDMENT****Senate Amendment No. 1**

Amend **HB 85** as follows:

In Section 1, Sec. 61.0771, strike subsection (d) beginning on line 68, page one, committee printing, and replace it with the following.

(d) The advisory committee may request the cooperation or participation of state agencies, public broadcasting stations, representatives of the local and long distance telecommunications industries, representatives of federally qualified health centers, and representatives providing distance learning equipment or services, including computer hardware and software, in preparing the master plan.

**HB 383 - WITH SENATE AMENDMENTS**

Representative Junell called up with senate amendments for consideration at this time,

**HB 383**, A bill to be entitled An Act relating to liability of certain governmental units and to the employees and officers of those units.

On motion of Representative Junell the house concurred in the senate amendments to **HB 383**.

**HB 383 - TEXT OF SENATE AMENDMENTS**

**CSHB 383**, A bill to be entitled An Act relating to liability of certain governmental units and to the employees and officers of those units.

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

SECTION 1. Section 101.055, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.055. CERTAIN GOVERNMENTAL FUNCTIONS. This chapter does not apply to a claim arising:

(1) in connection with the assessment or collection of taxes by a governmental unit;

(2) from the action of an employee while responding to an emergency call or reacting to an emergency situation if the action is in compliance with the laws and ordinances applicable to emergency action, or in the absence of such a law or ordinance, if the action is not taken with conscious indifference or reckless disregard for the safety of others; or

(3) from the failure to provide or the method of providing police or fire protection.

SECTION 2. Section 104.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.001. STATE LIABILITY; PERSONS COVERED. In a cause of action based on conduct described in Section 104.002, the state shall indemnify the following persons, without regard to whether the persons performed their services for compensation, for actual damages, court costs, and attorney's fees adjudged against:

(1) an employee, a member of the governing board, or any other officer of a state agency, institution, or department;

(2) a former employee, former member of the governing board, or any other former officer of a state agency, institution, or department who was an employee or officer when the act or omission on which the damages are based occurred;

(3) a physician or psychiatrist licensed in this state who was performing services under a contract with any state agency, institution, or department or a racing official performing services under a contract with the Texas Racing Commission when the act or omission on which the damages are based occurred;

(4) a person serving on the governing board of a foundation, corporation, or association at the request and on behalf of an institution of higher education, as that term is defined by Section 61.003(8), Education Code, not including a public junior college; or

(5) the estate of a person listed in this section.

SECTION 3. Section 104.003(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) Except as provided by Subsection (c) or a specific appropriation, state liability for indemnification under this chapter may not exceed:

(1) \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury, death, or deprivation of a right, privilege, or immunity; and

(2) \$10,000 for a single occurrence of damage to property.

SECTION 4. Chapter 108, Civil Practice and Remedies Code, is amended to read as follows:

#### CHAPTER 108. LIMITATION OF LIABILITY FOR PUBLIC SERVANTS

Sec. 108.001. Definitions [DEFINITION]. In this chapter:

(1) "Public [~~,-public~~] servant" means a person who is:

(A) a public official elected or appointed to serve a governmental unit and acting in that capacity when the act or omission on which the damages were based occurred; or

(B) covered by Section 104.001 or Section 102.001.

(2) "Public servant" does not include an independent contractor, an agent or employee of an independent contractor, or another person who performs a contract for a unit of government.

Sec. 108.002. LIMITATION OF LIABILITY. (a) Except in an action arising under the constitution or laws of the United States, a [A] public servant, other than a provider of health care as that term is defined in Sec. 108.002(c), is not personally liable for damages in excess of \$100,000 arising from personal injury, death, or deprivation of a right, privilege, or immunity if:

(1) the damages [to the extent that the state is liable for indemnification under Section 104.002 that] are the result of an act or omission by the public servant in the course and scope of the public servant's office, employment, or contractual performance for or service on behalf of a state agency, institution, [or] department, or local government; and

(2) for the amount not in excess of \$100,000, the public servant is covered:

(A) by the state's obligation to indemnify under Chapter 104;

(B) by a local government's authorization to indemnify under

Chapter 102;

(C) by liability or errors and omissions insurance; or

(D) by liability or errors and omissions coverage under an

interlocal agreement.

(b) Except in an action arising under the constitution or laws of the United States, a public servant, other than a provider of health care as that term is defined in Sec. 108.002(c), is not liable for damages in excess of \$100,000 for property damage if:

(1) the damages are the result of an act or omission by the public servant in the course and scope of the public servant's office, employment, or contractual performance for or service on behalf of a state agency, institution, department, or local government; and

(2) for the amount not in excess of \$100,000, the public servant is covered:

(A) by the state's obligation to indemnify under Chapter 104;

(B) by a local government's authorization to indemnify under

Chapter 102;

(C) by liability or errors and omissions insurance; or

(D) by liability or errors and omissions coverage under an

interlocal agreement.

Sec. 108.003. STATE LIABILITY NOT AFFECTED. (a) This chapter does not affect the liability for indemnification of the state under Chapter 104 or of a local government under Chapter 102.

(b) This chapter does not impose liability or waive immunity for a public servant who has common law, statutory, or other immunity.

(c) A provider of health care in Sections 108.002(a) and (b) is one of the following licensed health care providers:

(1) physicians;

(2) psychiatrists;

(3) pharmacists;



- (4) registered nurses;
- (5) podiatrists;
- (6) chiropractors;
- (7) psychologists;
- (8) physician assistants;
- (9) licensed vocational nurses;
- (10) profusionists;
- (11) dieticians;
- (12) respiratory therapists;
- (13) occupational therapists;
- (14) physical therapists;
- (15) audiologists;
- (16) speech therapists;
- (17) radiological technologists;
- (18) social workers;
- (19) professional counselors; and
- (20) family marriage therapists.

SECTION 5. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.064 to read as follows:

Sec. 101.064. LAND ACQUIRED UNDER FORECLOSURE OF LIEN.

(a) This section applies only to a municipality with a population of 1.5 million or more that acquires land at a sale following the foreclosure of a lien held by the municipality.

(b) This chapter does not apply to a claim that:

(1) arises after the date the land was acquired and before the date the land is sold, conveyed, or exchanged by the municipality; and

(2) arises from:

(A) the condition of the land;

(B) a premises defect on the land; or

(C) an action committed by any person, other than an agent or employee of the municipality, on the land.

(c) In this section, the term "land" includes any building or improvement located on land acquired by a municipality.

SECTION 6. The change in law made by this Act by the addition of Section 101.064, Civil Practice and Remedies Code, applies only to a claim brought against a municipality that is filed with a court on or after the effective date of this Act. A claim filed with a court before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. (a) This Act takes effect September 1, 1995.

(b) The change in law made by this Act applies to a cause of action accruing on or after the effective date of this Act.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

### **Senate Amendment No. 1**

Amend **CSHB 383** as follows:

(1) In SECTION 4, Sec. 108.002, add a new subsection (c) to read as follows:

(c) A provider of health care in Sections 108.002(a) and (b) is one of the following licensed health care providers:

- (1) physicians;
  - (2) psychiatrists;
  - (3) pharmacists;
  - (4) registered nurses;
  - (5) podiatrists;
  - (6) chiropractors;
  - (7) psychologists;
  - (8) physician assistants;
  - (9) licensed vocational nurses;
  - (10) perfusionists;
  - (11) dieticians;
  - (12) respiratory therapists;
  - (13) occupational therapists;
  - (14) physical therapists;
  - (15) audiologists;
  - (16) speech therapists;
  - (17) radiological technologists;
  - (18) social workers;
  - (19) professional counselors; and
  - (20) family marriage therapists.
- (2) In SECTION 4, Sec. 108.003, delete subsection (c) in its entirety.

#### **HB 971 - WITH SENATE AMENDMENT**

Representative T. Hunter called up with a senate amendment for consideration at this time,

**HB 971**, A bill to be entitled An Act relating to health care liability claims.

On motion of Representative T. Hunter the house concurred in the senate amendment to **HB 971**.

#### **HB 971 - TEXT OF SENATE AMENDMENT**

**CSHB 971**, A bill to be entitled An Act relating to health care liability claims.

SECTION 1. Section 13.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.01. ~~[AFFIDAVIT OR]~~ COST BOND, DEPOSIT, AND EXPERT REPORT. (a) In a health care liability claim, a claimant shall, not later than the 90th day after the date the claim is filed:

(1) file a separate cost bond in the amount of \$5,000 for each physician or health care provider named by the claimant in the action;

(2) place cash in an escrow account in the amount of \$5,000 for each physician or health care provider named in the action; or

(3) file an expert report for each physician or health care provider with respect to whom a cost bond has not been filed and cash in lieu of the bond has not been deposited under Subdivision (1) or (2) of this subsection [the plaintiff's attorney or, if the plaintiff is not represented by an attorney, the

plaintiff shall, within 90 days after the date the action was commenced, file an affidavit attesting that the attorney or plaintiff has obtained a written opinion from an expert who has knowledge of accepted standards of care for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim, that the acts or omissions of the physician or health care provider were negligent and a proximate cause of the injury, harm, or damages claimed].

(b) If, as to a defendant physician or health care provider, an expert report, cost bond, or cash in lieu of bond has not been filed or deposited within the period specified by Subsection (a) or (h) of this section, the court, on the motion of the affected physician or health care provider, shall enter an order that:

(1) requires the filing of a \$7,500 cost bond with respect to the physician or health care provider not later than the 21st day after the date of the order; and

(2) provides that if the claimant fails to comply with the order, the action shall be dismissed for want of prosecution with respect to the physician or health care provider, subject to reinstatement in accordance with the applicable rules of civil procedure and Subsection (c) of this section. [A plaintiff or plaintiff's attorney shall be deemed to be in compliance with Subsection (a) of this section if, within 90 days after the date the action was commenced, the plaintiff posts a bond with surety or any other equivalent security approved by the court, including cash in an escrow account, for costs in an amount of \$2,000.]

(c) Before a claim that has been dismissed under Subsection (b)(2) of this section may be reinstated, the claimant must pay the costs of court incurred by the defendant before the dismissal and file a \$7,500 cost bond for each defendant physician or health care provider. [If on the expiration of the 90th day after the date the action was commenced or the expiration of the extension period described in Subsection (d) of this section, whichever is later, the plaintiff has failed to post security as described in Subsection (b) of this section or alternatively has failed to file an affidavit as described in Subsection (a) of this section, then the court on the motion of any party or on the court's own motion shall increase the amount of security required by Subsection (b) of this section to an amount not to exceed \$4,000. If the plaintiff fails to post the increased security within 30 days after being served with a copy of the court's order or fails to provide an affidavit as provided by Subsection (a) of this section, the court shall on motion unless good cause is shown for such failure dismiss the action without prejudice to its re-filing and assess costs of court against plaintiff.]

(d) Not later than the later of the 180th day after the date on which a health care liability claim is filed or the last day of any extended period established under Subsection (f) or (h) of this section, the claimant shall, for each physician or health care provider against whom a claim is asserted:

(1) furnish to counsel for each physician or health care provider one or more expert reports, with a curriculum vitae of each expert listed in the report; or

(2) voluntarily nonsuit the action against the physician or health care provider. [The court on motion of any party and for good cause shown may

~~extend the time for the plaintiff to comply with Subsection (a) or (b) of this section for a period not to exceed 90 days. The time for the plaintiff to comply with Subsection (a) or (b) of this section may also be extended by written agreement of the parties filed with the court.]~~

(e) If a claimant has failed, for any defendant physician or health care provider, to comply with Subsection (d) of this section within the time required, the court shall, on the motion of the affected physician or health care provider, enter an order awarding as sanctions against the claimant or the claimant's attorney:

(1) the reasonable attorney's fees and costs of court incurred by that defendant;

(2) the forfeiture of any cost bond respecting the claimant's claim against that defendant to the extent necessary to pay the award; and

(3) the dismissal of the action of the claimant against that defendant with prejudice to the claim's refiling [Discovery concerning the affidavit, including the written opinion and the identity of the physician or health care provider who supplied the opinion, shall not be allowed unless the physician or health care provider who supplied the opinion is designated as an expert witness by the plaintiff].

(f) The court may, for good cause shown after motion and hearing, extend any time period specified in Subsection (d) of this section for an additional 30 days. Only one extension may be granted under this subsection.

(g) Notwithstanding any other provision of this section, if a claimant has failed to comply with a deadline established by Subsection (d) of this section and after hearing the court finds that the failure of the claimant or the claimant's attorney was not intentional or the result of conscious indifference but was the result of an accident or mistake, the court shall grant a grace period of 30 days to permit the claimant to comply with that subsection. A motion by a claimant for relief under this subsection shall be considered timely if it is filed before any hearing on a motion by a defendant under Subsection (e) of this section.

(h) The affected parties may agree to extend any time period specified in Subsection (a) or (d) of this section. An agreement under this subsection is binding and shall be honored by the court if signed by the affected parties or their counsel and filed with the court.

(i) Notwithstanding any other provision of this section, a claimant may satisfy any requirement of this section for filing an expert report by filing reports of separate experts regarding different physicians or health care providers or regarding different issues arising from the conduct of a physician or health care provider, such as issues of liability and causation. Nothing in this section shall be construed to mean that a single expert must address all liability and causation issues with respect to all physicians or health care providers or with respect to both liability and causation issues for a physician or health care provider.

(j) Nothing in this section shall be construed to require the filing of an expert report regarding any issue other than an issue relating to liability or causation.

(k) Notwithstanding any other law, an expert report filed under this section:

(1) is not admissible in evidence by a defendant;

(2) shall not be used in a deposition, trial, or other proceeding; and  
(3) shall not be referred to by a defendant during the course of the action for any purpose.

(l) A court shall grant a motion challenging the adequacy of an expert report only if it appears to the court, after hearing, that the report does not represent a good faith effort to comply with the definition of an expert report in Subsection (r)(6) of this section.

(m) On the claimant's compliance with the requirements of Subsection (d) of this section:

(1) any cost bond filed or cash deposited in an escrow account by the claimant under this section shall be released;

(2) the claimant, the claimant's counsel, and any surety have no liability on the cost bond or cash deposit; and

(3) an execution shall not be issued on the cost bond or cash deposit.

(n) If a claimant nonsuits a health care liability claim against a physician or health care provider before filing a cost bond and seeks to refile the same or a similar health care liability claim against the physician or health care provider, the claimant shall file a \$7,500 cost bond for each previously nonsuited physician or health care provider at the time of the filing of the health care liability claim. If the claimant fails to file the \$7,500 cost bond for each physician or health care provider, on motion and hearing the court shall order the filing of the cost bond and the claimant shall pay the movant reasonable attorney's fees incurred in obtaining relief under this subsection.

(o) Notwithstanding any other provision of this section, a claimant who is proceeding without an attorney and who is unable to afford a cost bond or cash deposit may, in lieu of a cost bond or cash deposit, file an affidavit in the same form required for an affidavit in lieu of security for costs under the Texas Rules of Civil Procedure.

(p) In the event of a conflict between this section and another law, including a rule of procedure or court rule, this section controls to the extent of the conflict.

(q) Notwithstanding the provisions of Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this section. The district courts and statutory county courts in a county may not adopt local rules in conflict with this section.

(r) In this section:

(1) "Affected parties" means the claimant and the physician or health care provider who are directly affected by an act or agreement required or permitted by this section and does not include other parties to an action who are not directly affected by that particular act or agreement.

(2) "Claim" means a health care liability claim.

(3) "Claimant" means a party who files a pleading asserting a claim. All plaintiffs claiming to have sustained damages as the result of the bodily injury or death of a single person are considered to be a single claimant.

(4) "Defendant" means a physician or health care provider against whom a health care liability claim is asserted. The term includes a third-party defendant, cross-defendant, or counterdefendant.

(5) "Expert" means:

(A) with respect to a person giving opinion testimony regarding whether a physician departed from accepted standards of medical care, an expert qualified to testify under the requirements of Section 14.01(a) of this Act; or

(B) with respect to a person giving opinion testimony about a nonphysician health care provider, an expert who has knowledge of accepted standards of care for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim.

(6) "Expert report" means a written report by an expert that provides a fair summary of the expert's opinions as of the date of the report regarding applicable standards of care, the manner in which the care rendered by the physician or health care provider failed to meet the standards, and the causal relationship between that failure and the injury, harm, or damages claimed.

SECTION 2. Section 14.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14.01. QUALIFICATION OF EXPERT WITNESS IN SUIT AGAINST PHYSICIAN. (a) In a suit involving a health care liability claim against a physician for injury to or death of a patient, a person may qualify as an expert witness on the issue of whether the physician departed from accepted standards of medical care only if the person is a physician who:

(1) ~~[the person]~~ is practicing medicine at the time such testimony is given or was practicing medicine at the time the claim arose;

(2) ~~[and]~~ has knowledge of accepted standards of medical care for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim; and

(3) is qualified on the basis of training or experience to offer an expert opinion regarding those accepted standards of medical care. [or

~~(2) the court, after a hearing conducted outside the presence of the jury, determines that the person is otherwise qualified to give expert testimony on said issue.]~~

(b) For the purpose of this section, "practicing medicine" or "medical practice" includes, but is not limited to, training residents or students at an accredited school of medicine or osteopathy or serving as a consulting physician to other physicians who provide direct patient care, upon the request of such other physicians.

(c) In determining whether a witness is qualified on the basis of training or experience, the court shall consider whether, at the time the claim arose or at the time the testimony is given, the witness:

(1) is board certified or has other substantial training or experience in an area of medical practice relevant to the claim; and

(2) is actively practicing medicine in rendering medical care services relevant to the claim.

(d) The court shall apply the criteria specified in Subsections (a), (b), and (c) of this section in determining whether an expert is qualified to offer expert testimony on the issue of whether the physician departed from accepted standards of medical care, but may depart from those criteria if, under the circumstances, the court determines that there is a good reason to admit the

expert's testimony. The court shall state on the record the reason for admitting the testimony if the court departs from the criteria.

(e) A pretrial objection to the qualifications of a witness under this section must be made not later than the later of the 21st day after the date the objecting party receives a copy of the witness's curriculum vitae or the date of the witness's deposition. If circumstances arise after the date on which the objection must be made that could not have been reasonably anticipated by a party before that date and that the party believes in good faith provide a basis for an objection to a witness's qualifications, and if an objection was not made previously, this subsection does not prevent the party from making an objection as soon as practicable under the circumstances. The court shall conduct a hearing to determine whether the witness is qualified as soon as practicable after the filing of an objection and, if possible, before trial. If the objecting party is unable to object in time for the hearing to be conducted before the trial, the hearing shall be conducted outside the presence of the jury. This subsection does not prevent a party from examining or cross-examining a witness at trial about the witness's qualifications.

(f) This section does not prevent a physician who is a defendant from qualifying as an expert.

SECTION 3. The Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes) is amended by adding Subchapter P to read as follows:

#### SUBCHAPTER P. PREJUDGMENT INTEREST

Sec. 16.01. APPLICATION OF OTHER LAW. Notwithstanding Sections 6(a)-(f), Article 1.05, Title 79, Revised Statutes (Article 5069-1.05, Vernon's Texas Civil Statutes), prejudgment interest in a health care liability claim shall be awarded in accordance with this subchapter.

Sec. 16.02. COMPUTATION OF PREJUDGMENT INTEREST. (a) In a health care liability claim, prejudgment interest may not be charged with respect to a defendant physician or health care provider who has settled the claim before the 181st day after the date notice of the claim was first mailed to the physician or health care provider.

(b) In a health care liability claim that is not settled within the period specified by Subsection (a) of this section, the judgment must include prejudgment interest on past damages found by the trier of fact, but shall not include prejudgment interest on future damages found by the trier of fact.

(c) Prejudgment interest allowed under this subchapter shall be computed in accordance with Section 6(g), Article 1.05, Title 79, Revised Statutes (Article 5069-1.05, Vernon's Texas Civil Statutes), for a period beginning on the date of injury and ending on the date before the date the judgment is signed.

(d) In this section:

(1) "Past damages" means damages awarded to compensate the claimant for loss the claimant will incur for a period beginning on the date of injury and ending on the date before the date of judgment.

(2) "Future damages" means damages awarded to compensate the claimant for loss the claimant will incur after the date of judgment.

SECTION 4. This Act takes effect September 1, 1995.

SECTION 5. Except as provided by Section 6 of this Act, this Act applies

only to a cause of action that accrues on or after the effective date of this Act. An action that accrued before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

**SECTION 6.** Sections 13.01 and 14.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), as amended by this Act, apply only to a health care liability claim filed on or after the effective date of this Act. A health care liability claim filed before the effective date of this Act is governed by the law applicable to the claim as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

**SECTION 7.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

### **SB 9 - REQUEST OF SENATE GRANTED**

On motion of Representative Gray, the house granted the request of the senate for the appointment of a conference committee on **SB 9**.

### **SB 9 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 9**: Gray, chair, Telford, Black, Mowery, and Junell.

### **HB 1343 - WITH SENATE AMENDMENTS**

Representative Hightower called up with senate amendments for consideration at this time,

**HB 1343**, A bill to be entitled An Act relating to inmate grievances and frivolous or malicious litigation filed by inmates.

Representative Hightower moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

### **HB 1343 - APPOINTMENT OF CONFERENCE COMMITTEE**

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1343**: Hightower, chair, Place, Gray, Farrar, and Telford.

### **HR 803 - ADOPTED**

Representative Hirschi moved to suspend all necessary rules to take up and consider at this time **HR 803**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Hirschi,

**HR 803**, Honoring the Wichita Falls Metropolitan YMCA Child Care program.



The resolution was adopted without objection.

**HR 807 - ADOPTED**

Representative Hirschi moved to suspend all necessary rules to take up and consider at this time **HR 807**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Hirschi,

**HR 807**, Honoring the Wichita Foundation for Children's Services, Inc.

The resolution was adopted without objection.

**HR 802 - ADOPTED**

Representative Berlanga moved to suspend all necessary rules to take up and consider at this time **HR 802**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Berlanga, T. Hunter, and Luna,

**HR 802**, Honoring Nancy Adams as Texas Secondary School Teacher of the Year.

The resolution was adopted without objection.

**HR 801 - ADOPTED**

Representative Berlanga moved to suspend all necessary rules to take up and consider at this time **HR 801**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Berlanga, T. Hunter, and Luna,

**HR 801**, Honoring Jill Scott.

The resolution was adopted without objection.

**HR 805 - ADOPTED**

Representative Greenberg moved to suspend all necessary rules to take up and consider at this time **HR 805**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Greenberg,

**HR 805**, Honoring the Corporate Fund for Children.

The resolution was adopted without objection.

**HR 804 - ADOPTED**

Representative De La Garza moved to suspend all necessary rules to take up and consider at this time **HR 804**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By De La Garza,

**HR 804**, Honoring Daniel Hernandez on his retirement as superintendent of the Edcouch-Elsa Independent School District.

The resolution was adopted without objection.

**HB 1465 - WITH SENATE AMENDMENT**

Representative Coleman called up with a senate amendment for consideration at this time,

**HB 1465**, A bill to be entitled An Act relating to the authority of the governing bodies of certain public institutions of higher education to close streets or alleys running through the campuses of those institutions.

On motion of Representative Coleman, the house concurred in the senate amendment to **HB 1465** by (Record 314): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harris; Rabuck.

Absent — Goolsby; Longoria; Ogden; Saunders; Zbraneck.

**HB 1465 - TEXT OF SENATE AMENDMENT****Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 1465** in Section 1. of the bill (line 14) by adding the following:

property abutting the street or alley and if the institution owns 20 or more acres of real property at the campus where the street or alley is located.

**CSSB 1- (pending business)**

**Amendment No. 67**

Representative Rodriguez offered an amendment (Floor No. 12-3) to **CSSB 1**:

Amendment No. 67 was withdrawn.

**Amendment No. 68**

Representative Hochberg offered the following amendment to **CSSB 1**:  
Floor No. 12-4

Amend **CSSB 1** as follows:

On page 70, lines 16 and 17, delete "and the rule is approved on final adoption by a two-thirds record vote of the membership of the board".

On page 71, delete lines 11 and 12. On page 71, line 10 replace "; and" with "." and insert "and" to line 7 after ";".

**Amendment No. 69**

Representative Sadler offered the following amendment to Amendment No. 68:

Amend the Hochberg amendment No. 68 by striking lines 10 and 11 of the amendment.

Amendment No. 69 was adopted without objection.

Amendment No. 68, as amended, was adopted without objection.

**Amendment No. 70**

Representative Coleman offered the following amendment to **CSSB 1**:  
Floor No. 12-8

Amend **CSSB 1**, House Committee Report 1st Printing, Subsection 12.013(b)(2) on page 70, line 25 through page 71, line 12, as follows:

(2) a prohibition, restriction or requirement, as applicable, imposed by this title or a rule adopted under this title relating to:

(A) computation and distribution of state aid under Chapter 42;

(B) a bond or other obligation or tax rate under Chapter 45;

(C) equalized wealth under Chapter 41;

(D) public school accountability under Chapter 39;

(E) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter; **[and]**

(F) elementary class size caps under Section 25.112; and

(G) extracurricular activities under Section 33.081.

Representative Sadler moved to table Amendment No. 70.

## MESSAGE FROM THE SENATE

Austin, Texas, May 5, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HB 2341** by Ramsay (Sponsor-Sims), relating to research for the control of fire ants (amended).

**SCR 141** by Nixon, recalling **SB 550** from the Governor.

Respectfully,  
Betty King  
Secretary of the Senate

### CSSB 1 - (consideration continued)

A record vote was requested.

The vote of the house was taken on the motion to table Amendment No. 70 and the vote was announced yeas 73, nays 70.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 315): 72 Yeas, 72 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Brady; Brimer; Carona; Carter; Chisum; Combs; Corte; Crabb; Craddick; Culberson; Danburg; Dear; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Nixon; Oakley; Ogden; Park; Reyna; Rhodes; Rusling; Sadler; Saunders; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Bailey; Berlanga; Black; Bosse; Clemons; Coleman; Conley; Cook; Counts; Cuellar, H.; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hirschi; Hochberg; Hudson; Johnson; Jones, J.; Junell; Kamel; King; Kubiak; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Rodriguez; Romo; Seidlits; Serna; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Wilson; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harris; Rabuck.

Absent — Alvarado; Oliveira; Zbranek.

The speaker stated that the motion to table Amendment No. 70 was lost by the above vote.

### LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Zbranek on motion of Munoz.

The following member was granted leave of absence temporarily for today because of important business:

Alvarado on motion of Danburg.

### CSSB 1 - (consideration continued)

A record vote was requested.

Amendment No. 70 was adopted by (Record 316): 77 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Alonzo; Bailey; Berlanga; Black; Bosse; Clemons; Coleman; Conley; Cook; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hirschi; Hochberg; Hudson; Johnson; Jones, J.; Junell; Kamel; King; Kubiak; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oakley; Oliveira; Patterson; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Seidlits; Serna; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Willis; Wilson; Wolens; Yarbrough.

Nays — Alexander; Allen; Averitt; Brady; Brimer; Carona; Carter; Chisum; Combs; Corte; Crabb; Craddick; Culberson; Dear; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Nixon; Ogden; Park; Pitts; Reyna; Rusling; Sadler; Saunders; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; Walker; West; Williamson; Wohlgemuth; Woolley; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Harris; Rabuck; Zbranek.

### COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Environmental Regulation, on recess today, Desk 98, to consider pending business.

State Affairs, on recess today, speakers committee room, to consider pending business.

Economic Development, on recess today, Desk 61, to consider **HCR 188**.

Higher Education, on recess today, Desk 118, to consider **HB 31**, **HB 2683**, **HB 3119**, and **SB 1228**

Criminal Jurisprudence, on recess today, Desk 5.

Transportation, on recess today, Desk 22.

### RECESS

Representative Price moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:37 p.m., recessed until 2 p.m. today.

### AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

(Harris now present)

### MESSAGE FROM THE SENATE

Austin, Texas, May 5, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HB 686** by Hernandez (Sponsor-Barrientos), relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds (amended).

**HB 1091** by Brimer, Counts, Junell, et al. (Sponsor-Armbrister), relating to the consolidation of the Texas Workers' Compensation Research Center and the Legislative Oversight Committee for workers' compensation and the functions of the new entity (amended).

**HB 2355** by Siebert (Sponsor-Wentworth), relating to the shipment of alcoholic beverages.

**HJR 50** by Hernandez (Sponsor-Barrientos), proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Higher Education Coordinating Board (amended).

Respectfully,  
Betty King  
Secretary of the Senate

### CSSB 1 - (pending business)

#### Amendment No. 71

Representative Bailey offered the following amendment to **CSSB 1**:  
Floor No. 12-13

Amend **CSSB 1** as follows:

Amend SECTION 1 of the bill, Section 12.013(b)(2), on page 71, by deleting "and" on line 10, deleting the period on line 12 and substituting "; and", and adding the following after line 12:

"(G) curriculum essential elements and minimum graduation requirements under Section 28.001;

(H) health and safety under Chapter 38;

(I) competitive bidding under Subchapter B, Chapter 44;

(J) elementary school class size limits, except as provided by Section 25.112;

(K) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(L) at-risk programs under Subchapter C, Chapter 29;

(M) prekindergarten programs under Subchapter E, Chapter 29;

(N) rights and benefits of school employees;

(O) special education programs under Subchapter A, Chapter 29;

(P) bilingual education programs under Subchapter B, Chapter 29; and

(Q) requirements for the creation and maintenance of site-based decision-making committees at the district and campus level."

(Speaker pro tempore in the chair)

Representative Sadler moved to table Amendment No. 71.

(Speaker in the chair)

A record vote was requested.

The motion to table prevailed by (Record 317): 86 Yeas, 54 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Crabb; Craddick; Culberson; Dear; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Gallego; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Junell; Kamel; King; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Nixon; Oakley; Ogden; Park; Patterson; Pitts; Reyna; Rhodes; Rusling; Sadler; Seidlits; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Tillery; Turner, B.; Walker; West; Williamson; Wohlgenuth; Wolens; Woolley; Yost.

Nays — Alonzo; Bailey; Berlanga; Bosse; Coleman; Conley; Counts; Cuellar, H.; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Giddings; Gray; Gutierrez; Hernandez; Hirschi; Hudson; Johnson; Jones, J.; Kubiak; Lewis, G.; Longoria; Luna; Maxey; McDonald; Moreno; Munoz; Naishtat; Oliveira; Pickett; Price; Puente; Ramsay; Rangel; Raymond; Rodriguez; Romo; Serna; Solis; Telford; Thompson; Torres; Turner, S.; Uher; Van de Putte; Willis; Wilson; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Rabuck; Zbranek.

Absent — Clemons; Danburg; Greenberg; Hightower; Place; Saunders.

### STATEMENTS OF VOTE

When Record No. 317 was taken, I was temporarily out of the house chamber. I would have voted no.

Clemons

When Record No. 317 was taken, I was in the house but away from my desk. I would have voted yes.

Danburg

When Record No. 317 was taken, I voted no but my machine did not register. I would have voted no.

Hightower

### Amendment No. 72

Representative Berlanga offered the following amendment to **CSSB 1**:

Floor No. 12-9

Amend **CSSB 1** as follows:

(1) On Sec. 12.013, page 70-71 add the following after (F), "(G) Sec. 29.062. Compliance."

(2) Amend Sec. 12.054, page 78, line 10 after "schools," and before "except" by adding including Sec. 29.062. Compliance."

(3) Amend Sec. 12.102, page 82, line 26 after "schools," and before "except" by adding including Sec. 29.062. Compliance."

### Amendment No. 73

Representative Berlanga offered the following amendment to Amendment No. 72:

Amend amendment no. 72 by Berlanga to read as follows:

1. On page 70 at line 12, strike "and"

2. On page 70 at line 17, strike the period and insert "; and"

3. On page 70, add the following between lines 17 and 18:

(3) all requirements of federal law and applicable court orders relating to eligibility for and the provision of special education and bilingual programs.

Amendment No. 73 was adopted without objection.

Amendment No. 72, as amended, was adopted without objection.

### Amendment No. 74

Representative Thompson offered the following amendment to **CSSB 1**:

Floor No. 12-12

Amend **CSSB 1** as follows:

Amend SECTION 1 of the bill, Section 12.013(b), on page 71, by deleting the period on line 12 and inserting after line 12 the following:

"(3) except that a home-rule school district may elect to be exempted from



provisions of this code that establish employee rights and benefits only if the home-rule school district negotiates and enters into a binding agreement over wages, hours, and conditions of employment with an exclusive representative organization elected by employees. The exclusive representative organization shall have a duty of fair representation toward all employees.

(A) In order to negotiate and enter into an agreement under this Subsection, the parties must meet at reasonable times and confer in good faith, and neither party is compelled to agree to a proposal or make a concession. A request for collective bargaining must be presented to the school district whenever wages or other matters requiring the appropriation of money are included as a bargaining matter. The notice must be given at least 120 days before the conclusion of the current fiscal operating budget. A mediator may be appointed by mutual agreement to assist the parties in reaching a voluntary agreement.

(B) An impasse exists when the parties fail to arrive at a written agreement within 60 days after the initiation of negotiations. An impasse also exists if a settlement is not reached because the governing body of the home-rule school district has failed to approve a contract. If the parties have made every reasonable effort to settle their dispute through good-faith bargaining, the parties may voluntarily invoke arbitration.

(C) Arbitration must be conducted by a three-member panel. The panel may conduct hearings, make written findings, and render a written award on the issues presented.

(D) Agreements or arbitration awards under this Subsection are binding and enforceable. Enforcement of agreements or arbitration awards shall be by the state district court of the judicial district in which the home-rule school district is located. The court shall have power to issue all proper restraining orders, injunctions, and other orders necessary to effectuate this Subsection.

(E) Strikes, lockouts, work stoppages, and slowdowns of school employees are prohibited.

(F) Actions authorized for home-rule school districts and employees under this Subsection are exempted from Government Code Section 617.002. All other provisions of Government Code Chapter 617 apply fully to home-rule districts."

Representative Sadler moved to table Amendment No. 74.

A record vote was requested.

The motion to table prevailed by (Record 318): 91 Yeas, 53 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Culberson; Dear; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Gallego; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Nixon; Ogden; Park; Patterson; Pitts;

Place; Ramsay; Reyna; Rhodes; Rusling; Sadler; Saunders; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Walker; West; Williamson; Wohlgenuth; Wolens; Woolley; Yost.

Nays — Alonzo; Bailey; Berlanga; Coleman; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Giddings; Gray; Greenberg; Gutierrez; Hernandez; Hirschi; Hudson; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; McDonald; Moreno; Munoz; Naishtat; Oakley; Oliveira; Pickett; Price; Puente; Rangel; Raymond; Rodriguez; Romo; Seidlits; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Willis; Wilson; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Rabuck; Zbranek.

Absent — Hochberg; Uher.

### MESSAGE FROM THE SENATE

Austin, Texas, May 5, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**SCR 140** by Turner, Jim, designating the week beginning November 5, 1995, as "Texas Women Veterans Recognition Week."

**SB 439** by Wentworth, relating to an additional sales tax in certain municipalities for ad valorem property tax relief.

**SB 1009** by Brown, relating to the sanctions for acting as a life insurance counselor without a license or violating certain laws applicable to life insurance counselors; providing a criminal penalty.

**SB 1074** by Brown, Sibley, Patterson, Jerry, Nelson, Ratliff, et al., relating to the operations of a grand jury; providing penalties.

**SB 1338** by Moncrief, et al., relating to the administration of the judicial and court personnel training fund.

**SB 1611** by Henderson, relating to the unsuitability of certain solid waste facility sites.

**SB 1613** by Henderson, relating to a clarification of the authority for denial, amendment, suspension, or revocation of permits under the Solid Waste Disposal Act.

**SB 1619** by Brown, relating to the authority of the Texas Natural Resource Conservation Commission to enter property, remediate certain conditions related to hazardous substances, and recover costs associated with remediation, to the authority of commission contractors to enter property, and to the liability of certain contractors who sign a waste manifest.

Respectfully,  
Betty King  
Secretary of the Senate

**CSSB 1 - (consideration continued)****Amendment No. 75**

Representative Rangel offered an amendment (Floor No. 12-15) to **CSSB 1**:

Amendment No. 75 was withdrawn.

**Amendment No. 76**

Representative Coleman offered the following amendment to **CSSB 1**:  
Floor No. 12-16

Amend SECTION 1 of the bill, Chapter 12, Subchapter B, Section 12.013(b)(2), at page 71, by inserting the following after line 12:

"(G) at-risk programs under Subchapter C, Chapter 29."

Representative Sadler moved to table Amendment No. 76.

The motion to table prevailed.

**Amendment No. 77**

Representative Luna offered the following amendment to **CSSB 1**:  
Floor No. 12-19

Amend SECTION 1 of the bill, Chapter 12, Subchapter B, Section 12.013(b)(2), at page 71, by inserting the following after line 12:

"(G) special education programs under Subchapter A, Chapter 29."

**Amendment No. 78**

Representative Danburg offered the following amendment to Amendment No. 77:

Amend Amendment No. 77 by Luna to **CSSB 1** by striking all text following "AMEND" and substituting "**CSSB 1**" as follows:

(1) In proposed Section 12.012, Education Code (House Committee Report, page 70, line 7), between "DISTRICT." and "A", insert "(a)".

(2) In proposed Section 12.012, Education Code (House Committee Report, page 70, between lines 17 and 18), insert the following:

(b) This section does not permit a home-rule school district to discriminate against a student who has been diagnosed as having a learning disability, including dyslexia, attention deficit/hyperactivity disorder, or another behaviorally-manifested learning disability. Discrimination prohibited by this subsection includes denial of placement in a vanguard or gifted and talented program if the student would otherwise be qualified for the program but for the student's learning disability. This section does not permit a home-rule school district to, on the basis of race, socioeconomic status, learning disability, or family support status, place a student in a program other than the highest-level program necessary to ensure the student's success.

(3) In proposed Section 12.013(b)(2)(E), Education Code (House Committee Report, page 71, line 10), strike "and".

(4) In proposed Section 12.013(b)(2)(F), Education Code (House Committee Report, page 71, line 12), strike the period and substitute "; and".

(5) In proposed Section 12.013(b)(2), Education Code (House Committee Report, page 71, between lines 12 and 13), insert the following:

(G) special education programs under Subchapter A, Chapter 29."

Amendment No. 78 was adopted without objection.

Amendment No. 77, as amended, was adopted without objection.

**Amendment No. 79**

Representative Coleman offered the following amendment to **CSSB 1**:  
Floor No. 12-26

Amend SECTION 1 of the bill, Chapter 12, Subchapter B, Sec. 12.014, at page 72, line 1, by deleting the period, inserting "; and", and adding the following after line 1:

"(3) the appointment of a charter commission is approved by a majority of the parents and elected professional staff representatives serving on the district-level committee established under Section 11.201."

Representative Sadler moved to table Amendment No. 79.

The motion to table prevailed.

**Amendment No. 80**

Representative Wohlgemuth offered the following amendment to **CSSB 1**:  
Floor No. 12-27

Amend **CSSB 1** on page 72, line 13 by adding the following after the word "children.":

Additionally, at least 25% of the commission must be classroom teachers selected by the representatives of the professional staff pursuant to Section 11.201(e).

Amendment No. 80 was adopted without objection.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Conference Committee on HB 1, 8:30 p.m. today, speakers committee room, to consider Article 2 of the Appropriations Act.

**CSSB 1 - (consideration continued)**

**Amendment No. 81**

Representative Gallego offered the following amendment to **CSSB 1**:  
Floor No. 12-28

Amend **CSSB 1** Section 12.016 as follows:

(1) On page 72, line 23, after "performance," insert, "including all students as well as all subgroups of students to include groupings by race, ethnicity, English language proficiency, eligibility for the national free or reduced lunch program, gifted and talented and special education program participants."

(2) On page 72, line 27, after "charter" add "but no later than twelve (12) months from the date the charter school begins providing instructional services to its students."

#### **Amendment No. 82**

Representative Price offered the following amendment to Amendment No. 81:

Amend Amendment No. 81 by Gallego to **CSSB 1**, by adding a new provision to read as follows:

( ) In SECTION 1 of the bill, in proposed Section 12.016, Education Code (House Committee Report, page 73, line 21), by striking "and".

(2) In SECTION 1 of the bill, in proposed Section 12.016, Education Code (House Committee Report, page 73, between lines 21 and 22), by inserting a new Subdivision to read as follows:

"(11) require the district to submit to the commissioner an annual report in which the district demonstrates that schools in the district are, on a per student basis, substantially equal in quality and quantity of facilities, staff, textbooks, equipment, technology, and library books and in the quality of the curriculum, under standards adopted by the Southern Association of Colleges and Schools; and".

(3) In SECTION 1 of the bill, in proposed Section 12.016, Education Code (House Committee Report, page 73, line 22), strike "(11)" and substitute "(12)".

Representative Sadler moved to table Amendment No. 82.

The motion to table prevailed.

Amendment No. 81 was withdrawn.

#### **Amendment No. 83**

Representative H. Cuellar offered the following amendment to **CSSB 1**:  
Floor No. 12-29

Amend **CSSB 1**, Ch. 12, sec. 12.016(b), p. 73, line 5 to read as follows:  
and campuses; however the district may not:

(A) reduce the number of trustees on the board of trustees of the school district or

(B) reduce the percentage of the members of the board of trustees who are elected from single member districts.

#### **Amendment No. 84**

Representatives H. Cuellar and Smithee offered the following amendment to Amendment No. 83:

Amend Amendment No. 83 by H. Cuellar to **CSSB 1** by striking all text following "Amend" and substituting "C.S.S.B. 1 in Subchapter B, Chapter 12, Education Code (House Committee Report, page 73, between lines 23 and 24), insert the following:

Sec. 12.0161. DETERMINATION OF COMPLIANCE WITH VOTING RIGHTS ACT. (a) The secretary of state shall determine whether a proposed charter contains a change in the governance of the school district.

(b) If the secretary of state determines that a proposed charter contains a change in the governance of the school district, the secretary of state shall determine whether the change has been submitted to the United States Department of Justice or the United States District Court for the District of Columbia for preclearance under the Voting Rights Act (42 U.S.C. Sec. 1973c et seq.).

(c) If the secretary of state determines that a proposed charter contains a change in the governance of the school district and the change has not been submitted to the United States Department of Justice or the United States District Court for the District of Columbia for preclearance, not later than the 2nd working day after the date the secretary of state makes that determination, the secretary of state shall:

(1) submit the proposed change to the United States Department of Justice or the United States District Court for the District of Columbia; and

(2) publish notice in the Texas Register of the failure to submit the change for preclearance."

Amendment No. 84 was adopted without objection.

Amendment No. 83, as amended, was adopted without objection.

#### **Amendment No. 85**

Representative Hochberg offered the following amendment to **CSSB 1**:  
Floor No. 12-30

Amend **CSSB 1** as follows: On page 73, line 26, replace "school district's legal counsel" with "commissioner".

On page 74, lines 16 and 17, replace "order an election on" with "submit".

On page 74, line 18, between "subchapter" and ".", insert "to the commissioner for legal review".

On page 74, line 19, replace "order an election on" with "submit".

On page 74, line 20, between "subchapter" and "if", insert "to the commissioner for legal review".

On page 74, line 26, between "(c)" and "An", insert:

"The commissioner shall review a proposed amendment to insure that the proposed amendment complies with any applicable laws and shall recommend any modifications necessary.

(d) As soon as practicable after commissioner review under Subsection (c), the board of trustees of the district shall order an election on the proposed amendment.

(e)".

On page 75, line 2, replace "(d)" with "(f)".

On page 75, line 2, replace "(e)" with "(g)".

On page 75, line 2, replace "(f)" with "(h)".

On page 75, line 2, replace "(g)" with "(i)".

#### **Amendment No. 86**

Representative Hochberg offered the following amendment to Amendment No. 85:

Amend Amendment No. 85 by Hochberg to **CSSB 1** as follows:

(1) Insert the following new provisions:

In SECTION 1 of the bill, in proposed Section 12.017, Education Code (House Committee Report, page 73, line 24), strike "after" and substitute ", but not later than 30th day after the date".

In SECTION 1 of the bill, at the end of proposed Section 12.017, Education Code (House Committee Report, page 74, line 2), insert "If the commissioner does not act within the prescribed time, the proposed charter is approved."

(2) Strike "The commissioner shall review a proposed amendment to insure that the proposed amendment complies with any applicable laws and shall recommend any modifications necessary." and substitute "As soon as practicable, but not later than the 30th day after the date on which the requirements for an election under Subsection (a) or (b) are satisfied, the commissioner shall review the proposed amendment to insure that the proposed amendment complies with any applicable laws and shall recommend any modifications necessary. If the commissioner does not act within the prescribed time, the proposed charter amendment is approved."

Amendment No. 86 was adopted without objection.

Amendment No. 85, as amended, was adopted without objection.

#### **Amendment No. 87**

Representative Hochberg offered the following amendment to **CSSB 1**:  
Floor No. 12-32

Amend **CSSB 1** as follows:

On page 74, line 8, between "date" and "that", insert "that is also an election date for United States president or governor".

On page 74, between lines 14 and 15, add a new subsection as follows:  
"(d) The ballot shall include a summary of the proposed charter."

On page 74, line 27, between "date" and "that", insert "that is also an election date for United States president or governor."

#### **Amendment No. 88**

Representative Hochberg offered the following amendment to Amendment No. 87:

Amend Amendment No. 87 by Hochberg to **CSSB 1** by inserting the following new provisions:

( ) In SECTION 1 of the bill, in proposed Section 12.015, Education Code (House Committee Report, page 72, between lines 15 and 16), insert a new subsection to read as follows:

(d) A charter commission appointed under this section is considered a governmental body for purposes of Chapters 551 and 552, Government Code.

( ) In SECTION 1 of the bill, in proposed Section 12.020(a), Education Code (House Committee Report, page 75, line 13), strike "A" and Substitute "Subject to Section 12.0201, a".

( ) In SECTION 1 of the bill, in proposed Subchapter B, Chapter 12,

Education Code (House Committee Report, page 75, between lines 21 and 22), insert the following new section:

Sec. 12.0201. MINIMUM VOTER TURNOUT REQUIRED. (a) An election on the adoption of a proposed home-rule school district charter has no effect unless at least 25 percent of the registered voters of the district vote in the election in which the adoption of the charter is on the ballot.

(b) An election on the adoption of a proposed amendment to a home-rule school district charter has no effect unless at least 20 percent of the registered voters of the district vote in the election in which the adoption of the amendment is on the ballot.

(c) If the required number of voters prescribed by Subsection (a) or (b) do not vote in the election, the board of trustees shall order an election on the issue to be held on the first uniform election date:

(1) that occurs at least 45 days after the date the election is ordered; and

(2) on which one or more elections are to be held, the combination of which covers all of the territory of the school district.

(d) If the required number of voters prescribed by Subsection (a) or (b) do not vote at an election ordered as required by Subsection (c), the board of trustees shall continue to order elections on the issue in accordance with Subsection (c) until the required minimum voter turnout is achieved.

( ) Insert a new section, appropriately numbered, to read as follows, and renumber the subsequent sections appropriately:

SECTION \_\_\_\_\_. CONFORMING AMENDMENT. Section 41.003, Election Code, is amended to read as follows:

Sec. 41.003. AUTHORIZED NOVEMBER ELECTIONS IN EVEN-NUMBERED YEAR. Only the following elections may be held on the date of the general election for state and county officers:

(1) a general or special election for officers of the federal, state, or county government;

(2) a general or special election of officers of a general-law city if the city's governing body determines that the religious beliefs or more than 50 percent of the registered voters of the city prohibit voting on Saturday;

(3) a general or special election of officers of a home-rule city with a population under 30,000, if before 1975 the general election of the city's officers was held on that date in even-numbered years;

(4) an election on a proposed amendment to the state constitution or on another statewide measure submitted by the legislature;

(5) a countywide election on a measure that is ordered by a county authority and that affects county government;

(6) an election on a measure submitted by order of an authority of a city described by Subdivision (2) or (3); ~~and~~

(7) a commissioners' election of a self-liquidating navigation district held under Section 63.0895, Water Code; and

(8) an election on a proposed home-rule school district charter or on a proposed amendment to a home-rule school district charter that is held under Section 12.0201(c) or (d), Education Code.

Amendment No. 88 was adopted without objection.



Amendment No. 87, as amended, was adopted without objection.

**Amendment No. 89**

Representative H. Cuellar offered an amendment (Floor No. 12-34) to **CSSB 1**.

Amendment No. 89 was withdrawn.

**Amendment No. 90**

Representative Maxey offered the following amendment to **CSSB 1**:  
Floor No. 12-35

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Chapter 12, Subchapter C, Education Code (House Committee Report page 77, line 13), insert the following new subsection 12.051, and renumber subsequent Subsections accordingly:

"Sec. 12.051. DEFINITIONS. In this subchapter, "parent" means the parent who is indicated on the student registration form at that school campus."

Amendment No. 90 was adopted without objection.

**Amendment No. 91**

Representative Krusee offered an amendment (Floor No. 12-36) to **CSSB 1**.

Amendment No. 91 was withdrawn.

**Amendment No. 92**

Representative Krusee offered the following amendment to **CSSB 1**:  
Floor No. 12-37

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Subchapter C, Chapter 12, Education Code (House Committee Report, page 77, lines 14-25), by striking Sections 12.051 and 12.052 and substituting the following:

Sec. 12.051. AUTHORIZATION, APPLICATION, AND APPEAL. (a) The board of trustees of a school district shall grant a charter to parents and teachers for a school campus or for a separately operating program on a regularly operating school campus if the board is presented with a petition signed by at least one parent from a majority of the students at that campus and a majority of the classroom teachers at that school campus.

(b) The board of trustees of a school district may grant a charter to parents and teachers for a separately operating program on a regularly operating school campus if the board is presented with a petition signed by less than the number of parents and classroom teachers required under Subsection (a).

(c) A petition submitted under Subsection (b) must be accompanied by an application and must be submitted to the board of trustees of the school district not later than December 15 preceding the school year the campus or program is proposed to begin operating under a charter. Not later than the following February 15, the board of trustees shall approve or disapprove the application. If the board disapproves the application, the board shall provide to the applicant a written explanation of each of the board's objections to the application, and the applicant may:

(1) amend the application to address the board's objections and resubmit the amended application to the board; or

(2) appeal to the commissioner.

(d) Not later than the 30th day after the date on which an amended application is submitted to the board of trustees, the board shall approve or disapprove the amended application. If the board disapproves the amended application, the applicant may appeal to the commissioner.

(e) The failure of a board of trustees to act within the time prescribed by Subsection (c) or (d) is considered a disapproval of an application.

(f) Not later than the 45th day after the date on which an appeal is filed, the commissioner shall uphold or overrule the board of trustees' decision. If the commissioner upholds the board of trustees' decision, the decision of the commissioner is final and may not be appealed. If the commissioner overrules the board's decision, it shall notify the governor of its decision. The governor may overrule the decision of the commissioner not later than the 45th day after the date on which the governor receives notice of the decision. If the governor does not timely overrule the decision of the commissioner, the board of trustees must grant a charter under this subchapter as soon as practicable.

(g) If the final action required under this section for granting of a charter does not take place at least 90 days before the date on which the next school year begins, the campus or program may not operate under the charter until the beginning of the school year following the next school year.

Sec. 12.052. COOPERATIVE CAMPUS CHARTER. Parents and teachers at two or more campuses in a school district may be granted a charter for a cooperative charter program under the procedure provided by Section 12.051, except that the petition submitted must be signed by at least one parent from a majority of the students at each school campus and a majority of the classroom teachers at each school campus.

(Brimer in the chair)

### RESOLUTIONS CALENDAR

The chair laid before the house the following resolution on committee report:

By Saunders, et al.,

**HCR 4**, Authorizing the State Preservation Board to provide for the planting of a tree on the Capitol grounds in memory of Dorothy Sanders.

**HCR 4** was on the calendar Wednesday, May 3, and was postponed until 10 a.m. today.

The resolution was read and was unanimously adopted by a rising vote.

On motion of Representative Swinford, the names of all the members of the house were added to **HCR 4** as signers thereof.

### INTRODUCTION OF GUESTS

The chair recognized Representative Saunders, who introduced the family of Dorothy Sanders.

(Speaker in the chair)

**CSSB 1 - (consideration continued)**

**Amendment No. 93**

Representative De La Garza offered an amendment to Amendment No. 92.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today because of important business:

Alexander on motion of T. Hunter.

**CSSB 1 - (consideration continued)**

Amendment No. 93 was withdrawn.

**Amendment No. 94**

Representative De La Garza offered the following amendment to Amendment No. 92:

Substitute the following for the Krusee amendment.

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Subchapter C, Chapter 12, Education Code (House Committee Report, page 77, lines 14-25), by striking Sections 12.051 and 12.052 and substituting the following:

Sec. 12.051. AUTHORIZATION, APPLICATION, AND APPEAL. (a) The board of trustees of a school district shall grant a charter to parents and teachers for a school campus or for a separately operating program on a regularly operating school campus if the board is presented with a petition signed by at least one parent from a majority of the students at that campus and a majority of the classroom teachers at that school campus.

(b) The board of trustees of a school district may grant a charter to parents and teachers for an existing campus if the board is presented with a petition signed by less than the number of parents and classroom teachers required under Subsection (a).

(c) A petition submitted under Subsection (b) must be accompanied by an application and must be submitted to the board of trustees of the school district not later than December 15 preceding the school year the campus or program is proposed to begin operating under a charter. Not later than the following February 15, the board shall approve or disapprove the application. If the board disapproves the application, the board shall provide to the applicant a written explanation of each of the board's objections to the application, and the applicant may:

(1) amend the application to address the board's objections and resubmit the amended application to the board; or

(2) appeal to district court in the county in which the district is located.

(d) Not later than the 30th day after the date on which an amended application is submitted to the board of trustees, the board shall approve or disapprove the amended application. If the board disapproves the amended application, the applicant may appeal to the commissioner.

Sec. 12.052. COOPERATIVE CAMPUS CHARTER. Parents and teachers at two or more campuses in a school district may be granted a charter for a

cooperative charter program under the procedure provided by Section 12.051, except that the petition submitted must be signed by at least one parent from a majority of the students at each school campus and a majority of the classroom teachers at each school campus.

Amendment No. 94 was adopted without objection.

Representative Sadler moved to table Amendment No. 92, as amended.

The motion to table prevailed.

**Amendment No. 95**

Representative Krusee offered the following amendment to **CSSB 1**:

Floor No. 12-39

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 12.051, Education Code (House Committee Report, page 77, lines 17-19), strike "a petition signed by a majority of parents and a majority of the classroom teachers at that school campus" and substitute:

"a petition signed by:

(1) at least one parent from a majority of the students at that school campus; and

(2) a majority of the classroom teachers at that school campus".

(2) In SECTION 1 of the bill, in proposed Section 12.052, Education Code (House Committee Report, page 77, lines 23-25), strike "a petition signed by a majority of parents and a majority of the classroom teachers at each school campus" and substitute:

"a petition signed by:

(1) at least one parent from a majority of the students at each school campus; and

(2) a majority of the classroom teachers at each school campus".

Amendment No. 95 was adopted without objection.

**Amendment No. 96**

Representative Uher offered the following amendment to **CSSB 1**:

Floor No. 12-41

Amend **CSSB 1**, as follows:

(1) SECTION 1, Section 12.051, on page 77, line 15, by striking "shall" and substituting "may".

(2) SECTION 1, Section 12.052, on page 77, line 21, by striking "shall" and substituting "may".

(Black in the chair)

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Stiles moved to suspend all necessary rules to allow the Committee on Calendars to meet while the house is in session.

The motion prevailed without objection.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Calendars, 6 p.m. today, speakers committee room.

(Speaker in the chair)

**CSSB 1 - (consideration continued)****Amendment No. 97**

Representative S. Turner offered the following amendment to Amendment No. 96:

Amend Amendment No. 96 by Uher by inserting the following:

( ) In SECTION 1 of the bill, in proposed Section 12.051, Education Code (House Committee Report, page 77, lines 16-17), strike "school campus or for a separately operating program on a regularly operating school campus" and substitute "school charter campus".

( ) In SECTION 1 of the bill, in proposed Section 12.051, Education Code (House Committee Report, page 77, line 19), after the period insert "The board of trustees may not arbitrarily deny a charter under this section."

( ) In SECTION 1 of the bill, in proposed Section 12.053(1), Education Code (House Committee Report, page 78, line 1), between "the" and "rules", insert "instructional and academic".

( ) In SECTION 1 of the bill, in proposed Section 12.058, Education Code (House Committee Report, page 80, line 10), between "form" and "of", insert "and substance".

Amendment No. 97 was adopted without objection.

Amendment No. 96, as amended, was adopted without objection.

**Amendment No. 98**

Representative Hernandez offered the following amendment to **CSSB 1**:  
Floor No. 12-44

Amend **CSSB 1** as follows:

(1) On page 78, line 22, strike "and".

(2) On page 78, between lines 22 and 23, insert "(2) public school accountability under Chapter 39; and" and renumber the subsequent subdivisions accordingly.

(3) On page 83, line 10, strike "and".

(4) On page 83, between lines 10 and 11, insert "(2) public school accountability under Chapter 39; and" and renumber the subsequent subdivisions accordingly.

Amendment No. 98 was adopted without objection.

**Amendment No. 99**

Representative S. Turner offered an amendment (Floor No. 12-46) to **CSSB 1**.

Amendment No. 99 was withdrawn.

**Amendment No. 100**

Representative Krusee offered the following amendment to **CSSB 1**:  
Floor No. 12-47

Amend **CSSB 1** in SECTION 1 of the bill by striking proposed Section 12.060, Education Code (House Committee Report, page 80, lines 20-22), and substituting the following:

Sec. 12.060. REVISION. A charter granted under this subchapter may be revised:

(1) with the approval of the board of trustees that granted the charter;  
or

(2) on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

Amendment No. 100 was adopted.

**Amendment No. 101**

Representative Uher offered an amendment (Floor No. 12-49) to **CSSB 1**.

Amendment No. 101 was withdrawn.

**Amendment No. 102**

Representative Krusee offered an amendment (Floor No. 12-51) to **CSSB 1**.

Amendment No. 102 was withdrawn.

**Amendment No. 103**

Representative Krusee offered the following amendment to **CSSB 1**:  
Floor No. 12-52

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 12.109(d), Education Code (House Committee Report, page 86, line 4), between "a" and "limit", by inserting "reasonable".

Amendment No. 103 was adopted without objection.

**Amendment No. 104**

Representative De La Garza offered the following amendment to **CSSB 1**:  
Floor No. 13-1

**CSSB 1** is amended as follows:

On page 100, Section 13.051. DETACHMENT AND ANNEXATION OF TERRITORY. add subsections (1) and (m) to read as follows:

(1) Provided however, that no territory may be detached from a school district if that school district provides an elementary school within two miles of any portion of the proposed detached territory, or said school district from which territory is sought to be detached, agrees to provide an elementary school within three years which shall be located within two miles of some portion of the area sought to be detached.

(m) A school district utilizing subsection (1) shall file a resolution in its minutes and the minutes of the Commissioners Court in which the school district is situated. This resolution shall be prima facie evidence of the facts and findings contained therein.

Amendment No. 104 was adopted without objection.

**Amendment No. 105**

Representative Williamson offered the following amendment to **CSSB 1**:  
Floor No. 13-2

Amend **CSSB 1** in SECTION 1 of the bill as follows:

(1) In proposed Section 13.103, Education Code (House Committee Report, page 103, lines 23), strike "AREA REQUIREMENT" and substitute "AREA AND ATTENDANCE REQUIREMENTS".

(2) In proposed Section 13.103, Education Code (House Committee Report, page 103, lines 23-26), strike "nine square miles" in both places it appears and substitute "nine square miles or fewer than 5,000 students in average daily attendance".

**MESSAGE FROM THE SENATE**

Austin, Texas, May 5, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**SB 1582** by Turner, Jim, relating to creating the offense of obstruction of justice and the imposition of criminal penalties.

**SB 1612** by Henderson, relating to the review of certain permitted solid waste facilities.

**SB 1675** by Zaffirini, et al., relating to powers and duties of the Health and Human Services Commission.

**SB 1697** by Bivins, relating to the storage, processing, and disposal of radioactive waste, low-level waste, and mixed waste.

Respectfully,  
Betty King  
Secretary of the Senate

**CSSB 1 - (consideration continued)**

**Amendment No. 106**

Representative Williamson offered the following amendment to Amendment No. 105:

Amend Amendment No. 105 by Williamson to **CSSB 1** as follows:

(1) On page 1, line 8, strike "5,000" and substitute "8,000".

(2) Add the following items:

( ) Strike proposed Section 13.101, Education Code (House Committee Report, page 103, lines 10-16) and renumber the remaining sections appropriately.

( ) In proposed Section 13.104, Education Code (House Committee Report, page 104, line 8), strike "residing in each territory" and substitute "residing in the proposed area to be detached".

( ) Strike proposed Section 13.105, Education Code (House Committee Report, page 104, line 15 through page 105, line 26) and renumber the remaining sections appropriately.

( ) In proposed Section 13.106(a), Education Code (House Committee Report, page 105, line 27), strike "fifth" and substitute "30th".

( ) In proposed Section 13.106(a), Education Code (House Committee Report, page 106, lines 1 and 2), strike "determines the taxable value of property and wealth per student of each territory" and substitute "receives a petition under this subchapter, the commissioners court shall hold a hearing on the validity of the petition. If the commissioners court determines the petition is valid".

( ) Strike proposed Sections 13.106(b) and (c), Education Code (House Committee Report, page 106, lines 6-18).

( ) In proposed Section 13.106(d), Education Code (House Committee Report, page 106, line 19), strike "(d)" and substitute "(b)".

( ) Immediately following proposed Section 13.106(d), Education Code (House Committee Report, page 106, between lines 24 and 25), insert the following:

(c) An election on the detachment of the territory and creation of a new district has no effect unless at least 25 percent of the registered voters of each district vote in the election in which the issue is on the ballot.

( ) In proposed Section 13.106(e), Education Code (House Committee Report, page 106, line 19), strike "(e)" and substitute "(d)".

( ) In proposed Section 13.106(e)(2), Education Code (House Committee Report, page 107, lines 5 and 6), strike ", if an election in that territory is required under Subsection (c)".

Amendment No. 106 was adopted without objection.

Amendment No. 105, as amended, was adopted without objection.

### **Amendment No. 107**

Representative Hochberg offered the following amendment to **CSSB 1**:  
Floor No. 13-4

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 13.106(a), Education Code (house committee report, page 105, line 27, through page 106, line 4), by striking "Not later than the fifth day after the date the commissioners court determines the taxable value of property and wealth per student of each territory, the commissioners court shall order an election to be held on the same date in each school district from which territory is to be detached" and substituting "Not later than the fifth day after the date the commissioners court determines the taxable value of property and wealth per student of each territory



and certifies its determination to the board of trustees of each school district from which territory is to be detached, each board of trustees shall order an election to be held on the same date in each district".

Amendment No. 107 was adopted without objection.

#### **Amendment No. 108**

Representative Hightower offered the following amendment to **CSSB 1**:

Floor No. 19-1

Amend **CSSB 1** by deleting the proposed Sec. 19.009(a), Education Code, and replacing with a new Sec. 19.009(a) to read as follows:

Sec. 19.009. DISTRICT EMPLOYEES. (a) District employees are not considered employees of the state except as provided for in this section. The board may establish personnel policies as necessary to ensure the effective and efficient operation of the district.

Amendment No. 108 was adopted without objection.

#### **Amendment No. 109**

Representative S. Turner offered the following amendment to **CSSB 1**:

Floor No. 19-2

Amend **CSSB 1** as follows:

On page 119, between lines 10 and 11, insert a new Section 19.011 to read as follows:

**SECTION 19.011. COORDINATION WITH OTHER STATE AGENCIES.** (a) In order to achieve the goal stated in Section 19.003(a), the district with the cooperation of the Texas Health and Human Services Commission, Texas Council on Workforce and Economic Competitiveness, Texas Department of Commerce and the department shall provide persons confined or imprisoned in the department:

(1) Information from Local Workforce and Development Boards on job training and employment referral services;

(2) Information on the Tax Refund Voucher Program under Subsection D, Chapter 31, Human Resources Code; and

(3) Information on the Smart Jobs Fund program.

(b) The district may coordinate vocational education and job training programs with a Local Workforce Development Board authorized by the Texas Council on Workforce and Economic Competitiveness.

Amendment No. 109 was adopted without objection.

#### **Amendment No. 110**

Representative McDonald offered the following amendment to **CSSB 1**:

Floor No. 21-3

Amend **CSSB 1** as follows:

1. On page \_\_\_ line \_\_\_ amend Sec. 21.003(a) by adding the word "school nurse" after the word "administrator," and before the word "or".

2. Amend subsection (c) of Sec. 22.051 by adding subdivision (4) that reads as follows and renumbering current subdivision (4) as (5):

(4) a nurse; and

Amendment No. 110 was adopted without objection.

**Amendment No. 111**

Representative McDonald offered the following amendment to **CSSB 1**:  
Floor No. 21-4

Amend **CSSB 1** as follows:

Amend **CSSB 1** by striking subsection (c), Section 21.003 on page 120, lines 12-18 and substituting the following:

"(c) A person may not be employed by a school district as an audiologist, associate school psychologist, occupational therapist, physical therapist, physician, nurse, school psychologist, social worker, or speech language pathologist unless that person is licensed by the appropriate state agency for that profession. A person may perform specific services within these professions only if they hold the appropriate credential from the appropriate state agency."

Amendment No. 111 was adopted without objection.

(Alvarado now present)

**Amendment No. 112**

Representative Howard offered the following amendment to **CSSB 1**:  
Floor No. 21-5

Amend **CSSB 1** as follows:

1) On page 123, lines 17 through 21, delete subsection (b) and insert the following new subsection:

(b) An accredited teacher education program must include:

1) training in the instruction of direct systemic, intensive phonics within their reading programs;

2) training on recognizing and responding to signs of abuse or neglect in students; and

3) training on recognizing and responding to signs that a student is using alcohol or other drugs.

Amendment No. 112 was adopted without objection.

**Amendment No. 113**

Representative Coleman offered an amendment (Floor No. 21-6) to **CSSB 1**.

Amendment No. 113 was withdrawn.

**Amendment No. 114**

Representative Kamel offered an amendment (Floor No. 21-7) to **CSSB 1**.

Amendment No. 114 was withdrawn.

**Amendment No. 115**

Representative Rodriguez offered an amendment (Floor No. 21-8) to **CSSB 1**.

Amendment No. 115 was withdrawn.

**Amendment No. 116**

Representative Hawley offered the following amendment to **CSSB 1**:  
Floor No. 21-19

Amend **CSSB 1** as follows:

(1) In section 1 of the bill, proposed Section 21.049(a), Education Code add the following: (Committee printing page 135, line 1)

(a) The commissioner may suspend or cancel or deny an educator's certificate issued under this subchapter or under any previous statute relating to the certification of teachers if the commissioner finds that the holder:

Amendment No. 116 was adopted without objection.

**Amendment No. 117**

Representative Wolens offered the following amendment to **CSSB 1**:  
Floor No. 21-10

Amend **CSSB 1** as follows:

On page 135, line 11, Sec. 21.049, insert new (b) as follows and reletter:

(b) Before any certificate shall be suspended or canceled the holder shall be notified and shall have an opportunity to be heard. Any person whose certificate is suspended or canceled by the state commissioner of education may appeal to a district court in Travis County.

Amendment No. 117 was adopted without objection.

**Amendment No. 118**

Representative Thompson offered the following amendment to **CSSB 1**:  
Floor No. 21-11

Amend **CSSB 1** by deleting Section 21.050 on page 135, lines 22 through 27, and page 136, lines 1 through 20.

Representative Sadler moved to table Amendment No. 118.

A record vote was requested.

The motion to table prevailed by (Record 319): 81 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Black; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Danburg; Dear; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; King; Krusee; Kuempel;

Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Nixon; Ogden; Park; Patterson; Pitts; Ramsay; Reyna; Rhodes; Rusling; Sadler; Shields; Siebert; Smith; Solomons; Staples; Stiles; Swinford; Talton; Walker; West; Williamson; Willis; Wohlgemuth; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Coleman; Conley; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hirschi; Hochberg; Hudson; Jones, J.; Kubiak; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oliveira; Pickett; Price; Puente; Rangel; Raymond; Rodriguez; Romo; Seidlits; Serna; Solis; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Wilson; Wolens; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alexander; Rabuck; Zbranek.

Absent — Brady; Harris; Oakley; Place; Saunders.

### STATEMENT OF VOTE

When Record No. 319 was taken, I was in the house but away from my desk. I would have voted yes.

Brady

#### **Amendment No. 119**

Representative Hernandez offered an amendment (Floor No. 21-13) to **CSSB 1**.

Amendment No. 119 was withdrawn.

#### **Amendment No. 120**

Representative Dutton offered an amendment (Floor No. 21-14) to **CSSB 1**.

Amendment No. 120 was withdrawn.

#### **Amendment No. 121**

Representative Berlanga offered the following amendment to **CSSB 1**:  
Floor No. 21-1

SECTION 1. Amend **CSSB 1**, Section 21.002, Subsection (b), page 119, line 21 through page 120, line 2, by substituting the following:

"(b) A school district may employ educators other than administrators under Subchapter C if they so choose."

SECTION 2. Amend **CSSB 1**, Section 21.108, page 140, lines 20-21, by deleting "after being returned to probationary status under Section 21.105".

SECTION 3. Amend **CSSB 1**, Section 21.110, page 141, line 21, through page 142, line 18, by substituting the following:

"If the teacher desires to contest the proposed action, the teacher may do so in accordance with Subsection (b) of Section 21.159, and Sections 21.160 through 21.164."

SECTION 4. Amend **CSSB 1**, Section 21.113, page 143, line 12, through page 144, line 14, by substituting the following:

"If the teacher desires to appeal an action of the board under Sections 21.104 or 21.105, the teacher may do so in accordance with Sections 21.165 through 21.169."

SECTION 5. Amend **CSSB 1**, Section 21.162, Subsection (a), page 150, line 8, by inserting "return to probationary contract under Section 21.105," after "involving the" and before "nonrenewal".

SECTION 6. Amend **CSSB 1**, Section 21.162, Subsection (a), page 150, line 10, by inserting "return to probationary contract," after "rule on the" and before "nonrenewal".

SECTION 7. Amend **CSSB 1**, Section 21.162, Subsection (b), page 150, line 15, by inserting "return to probationary contract under Section 21.105," after "on the" and before "nonrenewal".

SECTION 8. Amend **CSSB 1**, Section 21.166, Subsection (b), page 154, line 22, by inserting "returned the educator to probationary contract under Section 21.105," after "trustees" and before "terminated".

SECTION 9. Amend **CSSB 1**, Section 21.170, page 156, by deleting everything on lines 20-22.

SECTION 10. Amend **CSSB 1**, SECTION 41, page 665, by deleting SECTION 41.

Representative Sadler moved to table Amendment No. 121.

A record vote was requested.

The vote of the house was taken on the motion to table Amendment No. 121 and the vote was announced yeas 74, nays 71.

A verification of the vote was requested and was granted.

The roll of those voting yea was again called and the verified vote resulted, as follows (Record 320): 73 Yeas, 71 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Culberson; Dear; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Nixon; Ogden; Park; Patterson; Pitts; Reyna; Sadler; Saunders; Shields; Siebert; Solomons; Staples; Swinford; Talton; Turner, B.; Walker; West; Williamson; Wohlgenuth; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Coleman; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hirschi; Hochberg; Hudson; Hunter, T.; Jones, J.; Junell; King; Kubiak; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oakley; Oliveira; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Rusling; Seidlits; Serna; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Wilson; Wolens; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alexander; Rabuck; Zbranek.

Absent — Smithee; Willis.

By unanimous consent, the house dispensed with the verification of those voting nay.

The speaker stated that the motion to table Amendment No. 121 prevailed by the above vote.

### STATEMENT OF VOTE

I voted no on Record 320, but my machine did not register.

Willis

### LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Gutierrez on motion of Solis.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Smithee on motion of Averitt.

### CSSB 1 - (consideration continued)

#### Amendment No. 122

Representative Grusendorf offered the following amendment to **CSSB 1**:  
Floor No. 21-16

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, strike proposed Section 21.110, Education Code (House Committee Report, page 141, line 21, through page 142, line 18), and substitute the following:

Sec. 21.110. HEARING. (a) If the teacher desires to protest the action, the teacher must notify the board of trustees in writing not later than the 10th day after the teacher receives the notice under Section 21.109.

(b) A teacher who notifies the board of trustees within the time prescribed by Subsection (a) is entitled to a hearing as provided by Sections 21.160-21.169. For purposes of those sections:

(1) a discharge during the school year under Section 21.104 is subject to the same provisions that apply to the termination of a term contract during its term; and

(2) a release at the end of a school year under Section 21.105 is subject to the same provisions that apply to nonrenewal of a term contract.

(2) In SECTION 1 of the bill, strike proposed Sections 21.112 and 21.113, Education Code (House Committee Report, page 143, line 1, through page 144, line 14), and renumber the subsequent sections appropriately.

(3) In SECTION 1 of the bill, in proposed Section 21.170, Education Code (House Committee Report, page 156, line 20), strike "This" and substitute "Except as provided by Section 21.110, this".

(4) Strike SECTION 40(b) of the bill (House Committee Report, page 665, line 27, through page 666, line 9) and substitute the following:

(b) Subchapter D, Chapter 21, Education Code, as added by this Act, applies only to a termination or suspension of a teacher under Subchapter C, Chapter 21, Education Code, as added by this Act, or to a nonrenewal of a teacher's term contract under Subchapter D, Chapter 21, Education Code, as added by this Act, that is initiated on or after January 1, 1996. A termination or suspension of a teacher under Subchapter C, Chapter 21, Education Code, as added by this Act, or under Subchapter C, Chapter 13, Education Code, as that law existed on January 1, 1995, that is initiated before January 1, 1996, is governed by Subchapter C, Chapter 13, Education Code, as that law existed on January 1, 1995, and that law is continued in effect for that purpose. A nonrenewal of a teacher's term contract under Subchapter D, Chapter 21, Education Code, as added by this Act, or under Subchapter G, Chapter 21, Education Code, as that law existed on January 1, 1995, that is initiated before January 1, 1996, is governed by Subchapter G, Chapter 21, Education Code, as that law existed on January 1, 1995, and that law is continued in effect for that purpose.

Amendment No. 122 was adopted without objection.

#### **Amendment No. 123**

Representative Greenberg offered the following amendment to **CSSB 1**:  
Floor No. 21-23

SECTION 1. Amend **CSSB 1**, Section 21.151, Subsection (c), page 145, by inserting the following at the end of line 26 before ":

", and the educator agrees in writing to accept severance pay in lieu of notice and hearing after receiving the written notice of proposed nonrenewal"

Amendment No. 123 was adopted without objection.

#### **Amendment No. 124**

Representatives Craddick and Chisum offered an amendment (Floor No. 21-25) to **CSSB 1**.

Amendment No. 124 was withdrawn.

#### **Amendment No. 125**

Representative Gray offered the following amendment to **CSSB 1**:  
Floor No. 21-28

SECTION 1. Amend **CSSB 1**, Section 21.154, Subsection (c), page 147, line 6, by substituting "contract period" for "school year".

SECTION 2. Amend **CSSB 1**, Section 21.154, page 147, by adding Subsection (d) between lines 9 and 10 as follows:

"(d) Any teacher who completed a probationary period with the district before September 1, 1995, and who was then on non-probationary status, shall not be placed on initial probationary contract status."

SECTION 3. Amend **CSSB 1**, Section 21.157, Subsection (b), page 148, line 10, by inserting "within the time specified" after "Subsection (a)" and before "constitutes".

SECTION 4. Amend **CSSB 1**, Section 21.158, Subsections (a) and (b), page 148, by inserting the following after "board," and before "or" on line 14, and after "by the board," and before "the board of" on line 16:

"good cause being the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state,"

SECTION 5. Amend **CSSB 1**, Section 21.159, Subsection (b), page 149, line 5, by inserting "proposed" after "the" and before "action."

SECTION 6. Amend **CSSB 1**, Section 21.159, Subsection (c), page 149, line 6, by inserting "the contract nonrenewal of" after "to" and before "an".

SECTION 7. Amend **CSSB 1**, Section 21.160, Subsection (d), page 149, by deleting everything after "used" on line 20, and before "The hearing" on line 22.

SECTION 8. Amend **CSSB 1**, Section 21.162, Subsection (a), page 150, line 10, by inserting ", suspension without pay," after "nonrenewal" and before "or".

SECTION 9. Amend **CSSB 1**, Section 21.162, Subsection (b), page 150, line 23, by substituting "shall" for "may".

SECTION 10. Amend **CSSB 1**, Section 21.162, Subsection (b), page 150, line 26, by deleting "it determines that".

SECTION 11. Amend **CSSB 1**, Section 21.163, Subsection (f), page 152, by adding the following at the end of line 10:

"The educator's consent is not valid unless given after the educator receives written notice of the proposed action."

SECTION 12. Amend **CSSB 1**, Section 21.164, Subsection (b), page 152, by substituting "shall" for "may" on line 21, and by deleting "only in an action that involves a proposed termination of an educator's contract during the contract" on lines 22-24.

SECTION 13. Amend **CSSB 1**, Section 21.164, Subsection (c), page 153, by adding ", after the educator receives the written notice of the proposed action" at the end of line 8 before ".".

SECTION 14. Amend **CSSB 1**, Section 21.164, Subsection (f), page 153, lines 26-27, by deleting ", except as provided by Section 21.168".

SECTION 15. Amend **CSSB 1**, Section 21.165, Subsection (a), page 154, line 10, by inserting the following between "issue." and "The":

"However, if a party alleges that procedural irregularities occurred at the local level that are not reflected in the local record, the commissioner may hold a hearing for the presentation of evidence on that issue."

SECTION 16. Amend **CSSB 1**, Section 21.166, Subsection (c), page 155, line 12, by substituting "if" for "unless", and by inserting "could not have" at the end of line 12.

SECTION 17. Amend **CSSB 1**, Section 21.168, Subsection (d), page 156, by deleting everything on lines 4-7.

SECTION 18. Amend **CSSB 1**, Section 21.168, page 156, by adding a new Subsection (d) between lines 7 and 8 as follows:

"(d) If the commissioner reverses the action of the board, the commissioner shall order the school district to reinstate the educator, and to pay the educator any back pay from the time of nonrenewal, termination, or suspension to reinstatement."



**Amendment No. 126**

Representative Gray offered the following amendment to Amendment No. 125:

Amend Amendment No. 25 by Gray to read as follows:

SECTION 1. Amend **CSSB 1**, Section 21.154, Subsection (c), page 147, line 6, by substituting "contract period" for "school year".

SECTION 2. Amend **CSSB 1**, Section 21.154, page 147, by adding Subsection (d) between lines 9 and 10 as follows:

"(d) Any teacher who completed a probationary period with the district before September 1, 1995, and who was then on non-probationary status, shall not be continued on initial probationary contract status."

SECTION 3. Amend **CSSB 1**, Section 21.157, Subsection (b), page 148, line 10, by inserting "within the time specified" after "Subsection (a)" and before "constitutes".

SECTION 4. Amend **CSSB 1**, Section 21.159, Subsection (b), page 149, line 5, by inserting "proposed" after "the" and before "action."

SECTION 5. Amend **CSSB 1**, Section 21.160, Subsection (d), page 149, by deleting everything after "used" on line 20, and before "The hearing" on line 22.

SECTION 6. Amend **CSSB 1**, Section 21.162, Subsection (a), page 150, line 10, by inserting ", suspension without pay," after "nonrenewal" and before "or".

SECTION 7. Amend **CSSB 1**, Section 21.162, Subsection (b), page 150, line 23, by substituting "shall" for "may".

SECTION 8. Amend **CSSB 1**, Section 21.163, Subsection (f), page 152, by adding the following at the end of line 10:

"The educator's consent is not valid unless given after the educator receives written notice of the proposed action."

SECTION 9. Amend **CSSB 1**, Section 21.164, Subsection (b), page 152, by deleting "only in an action that involves a proposed termination of an educator's contract during the contract" on lines 22-24.

SECTION 10. Amend **CSSB 1**, Section 21.164, Subsection (c), page 153, by adding ", after the educator receives the written notice of the proposed action" at the end of line 8 before ".".

SECTION 11. Amend **CSSB 1**, Section 21.165, Subsection (a), page 154, line 10, by inserting the following between "issue." and "The":

"If a party alleges that procedural irregularities occurred at the local level that are not reflected in the local record, the commissioner may hold a hearing for the presentation of evidence on that issue."

SECTION 12. Amend **CSSB 1**, Section 21.166, Subsection (c), page 155, line 12, by substituting "if" for "unless", and by inserting "could not have" at the end of line 12.

SECTION 13. Amend **CSSB 1**, Section 21.168, page 156, by adding a new Subsection (d) between lines 7 and 8 as follows:

"(d) If the commissioner reverses the action of the board, the commissioner may order the school district to reinstate the educator, and to pay the educator any back pay from the time of nonrenewal, termination, or suspension to reinstatement."

Amendment No. 126 was adopted without objection.

Amendment No. 125, as amended, was adopted without objection.

**Amendment No. 127**

Representative McCall offered an amendment (Floor No. 21-31) to **CSSB 1**.

Amendment No. 127 was withdrawn.

**Amendment No. 128**

Representative Gray offered the following amendment to **CSSB 1**:

Floor No. 21-32

SECTION 1. Amend **CSSB 1**, Section 21.157, Subsection (a), page 148, line 5, by substituting "60th" for "30th".

SECTION 2. Amend **CSSB 1**, Section 21.160, Subsections (b) and (d), page 149, by deleting "or a committee of the board" on lines 13-14, and by deleting ", committee," on line 20.

SECTION 3. Amend **CSSB 1**, Section 21.162, Subsections (a), page 150, by deleting "or a committee of the board" on line 9, by deleting "or committee" on lines 9-10, and by deleting "A ruling by a committee of the board must be confirmed by action of the whole board." on lines 11-13.

SECTION 4. Amend **CSSB 1**, Section 21.166, Subsection (a), page 154, line 17, by inserting the following after "contract," and before "the":

"(1) if the board conducted the hearing and heard the evidence, with or without the assistance of a hearing examiner,"  
and by inserting the following at the end of line 21:

"; or

(2) if a hearing examiner conducted the hearing and issued a recommendation pursuant to Section 21.162(b), the commissioner shall review the board's decision using the standard of review in subsections (b)(1) and (b)(2) of this section."

SECTION 5. Amend **CSSB 1**, Section 21.166, Subsection (b)(3), page 155, lines 9-10, by deleting "by substantial evidence".

SECTION 6. Amend **CSSB 1**, Section 21.168, Subsection (a), page 155, line 20, by substituting "shall" for "may".

SECTION 7. Amend **CSSB 1**, Section 21.168, Subsection (b), page 155, line 25, by substituting "60th" for "30th".

SECTION 8. Amend **CSSB 1**, Section 21.168, Subsection (c), page 156, by inserting "by subject" after "index" and before "decisions" on line 1, and by adding ", and judgments of the district courts under this subchapter" before "." at the end of line 3.

SECTION 9. Amend **CSSB 1**, Section 21.169, Subsection (a), page 156, by deleting everything after "decision to" on line 9 and before "a district court" on line 12.

SECTION 10. Amend **CSSB 1**, SECTION 37, page 664, by substituting "January 1, 1996" for "the effective date of this Act" on lines 5-6, and on line 7.

**Amendment No. 129**

Representatives Gray, Uher, and Eiland offered the following amendment to Amendment No. 128:

Amend Amendment No. 128 by Gray to read as follows:

SECTION 1. Amend **CSSB 1**, Section 21.166, Subsection (b)(3), page 155, lines 9-10, by deleting "or is not supported by substantial evidence".

SECTION 2. Amend **CSSB 1**, Section 21.168, Subsection (a), page 155, line 20, by substituting "shall" for "may".

SECTION 3. Amend **CSSB 1**, SECTION 37, page 664, by substituting "January 1, 1996" for "the effective date of this Act" on lines 25-26, and on line 27.

Amendment No. 129 was adopted without objection.

Amendment No. 128, as amended, was adopted without objection.

**Amendment No. 130**

Representative Giddings offered the following amendment to **CSSB 1**:  
Floor No. 21-40

Amend **CSSB 1** as follows:

On page 157, line 1, after the word "be" and before the word "based", insert the words "student-centered and"

Representative Sadler moved to table Amendment No. 130.

The motion to table prevailed.

**Amendment No. 131**

Representative Rodriguez offered an amendment (Floor No. 21-41) to **CSSB 1**.

Amendment No. 131 was withdrawn.

**Amendment No. 132**

Representative Giddings offered an amendment (Floor No. 21-42) to **CSSB 1**.

Amendment No. 132 was withdrawn.

**Amendment No. 133**

Representative Rodriguez offered the following amendment to **CSSB 1**:  
Floor No. 21-44

In proposed Section 21.272, Education Code (page 158, Line 19), add the following:

(e) A document evaluating the performance of a teacher or administrator is confidential.

Amendment No. 133 was adopted without objection.

**Amendment No. 134**

Representative Swinford offered an amendment (Floor No. 21-47) to **CSSB 1**.

Amendment No. 134 was withdrawn.

**Amendment No. 135**

Representative Johnson offered the following amendment to **CSSB 1**:  
Floor No. 21-48

Amend **CSSB 1**, House Committee Report 1st Printing, Subsection 21.301(b) by inserting the following sentence after the sentence ending with the phrase "days of service." on page 160, line 18:

If an educator employed under a 10-month contract is required to work more than the minimum number of days required by this subsection, the educator shall be paid for each additional day of service an amount not less than the monthly salary to which the employee is entitled pursuant to Section 21.302 of this subchapter multiplied by ten and divided by the minimum number of days required by this subsection.

Representative Sadler moved to table Amendment No. 135.

A record vote was requested.

The motion to table prevailed by (Record 321): 94 Yeas, 48 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Black; Brimer; Carona; Carter; Chisum; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Culberson; Dear; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Gallego; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; McDonald; Moffat; Mowery; Nixon; Oakley; Ogden; Park; Patterson; Pitts; Place; Price; Ramsay; Reyna; Rhodes; Rusling; Sadler; Saunders; Seidlits; Shields; Siebert; Solomons; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Clemons; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Giddings; Gray; Greenberg; Hernandez; Hirschi; Johnson; Jones, D.; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; Moreno; Munoz; Naishtat; Oliveira; Pickett; Puente; Rangel; Raymond; Rodriguez; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Wilson; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alexander; Gutierrez; Rabuck; Smithee; Zbranek.

Absent — Brady; Romo.

**Amendment No. 136**

Representative Sadler offered the following amendment to **CSSB 1**:  
Floor No. 21-50

Strike Section 21.302 and substitute the following:

**"Section 21.302. MINIMUM SALARY SCHEDULE FOR CLASSROOM TEACHERS**

(a) Except as provided by Subsection (b), a school district must pay each classroom teacher not less than the minimum monthly salary, based on the teacher's level of experience, determined by the schedule in Subsection (c).

(b) Each teacher shall advance one step per each year of experience until step 20 is reached. For each year of work experience required for certification in a vocational field, up to a maximum of two years, a vocational teacher who is certified in that field is entitled to salary step credit as if the work experience were teaching experience.

(c) The salary schedule by steps according to years of experience shall be:

Years Experience	0	1	2	3	4	5	6	7
Monthly Salary	1951	2420	2113	2194	2275	2356	2437	2518

Years Experience	8	9	10	11	12	13	14	15
Monthly Salary	2599	2688	2761	2842	2923	3004	3085	3166

Years Experience	16	17	18	19	20
Monthly Salary	3247	3328	3409	3490	3571

(d) For the 1995-96 school year, each teacher shall be placed on the step which corresponds to the years of experience of that teacher at the beginning of the school year. In addition, if the teacher received a career ladder supplement for level two of the career ladder in the 1994-95 school year, the teacher shall advance one additional step on the minimum salary schedule under this section. If the teacher received a career ladder supplement for level three of the career ladder in the 1994-95 school year, the teacher shall advance two additional steps on the minimum salary schedule under this section.

(e) Notwithstanding the minimum salary schedule as provided in this section, a teacher shall be entitled to the same gross monthly salary in the 1995-96 or 1996-97 school years as the teacher received in the 1994-95 school year. In this section, "gross monthly salary" must include the amount a teacher received that represented a career ladder salary supplement under Section 16.057, as that section existed January 1, 1993.

(f) The minimum salary schedule established under this section shall be evaluated by the commissioner and restated in conformance with this section for each school year. Beginning with the 1996-97 school year, the commissioner shall determine a ratio between the total Foundation School Program amount per student in each school year and the total Foundation School Program amount per student in the following school year. For this purpose, the total Foundation School Program amount shall be the amount determined for appropriation purposes under Section 42.251(a), including local ad valorem tax revenue used in financing the program. The number of students shall be the estimated average daily attendance as used for determining the appropriations for the respective years.

(g) If the ratio determined under Subsection (f) is 1 or less than 1, no adjustment shall be made. If the ratio is greater than 1, the commissioner shall multiply the existing salary schedule by that ratio each year and shall distribute the new salary schedule to each school district no later than July 1 preceding the applicable school year, or 10 days after the final adoption of the General Appropriations Act, whichever is later. A school district shall pay each teacher no less than the adjusted minimum as determined by the commissioner."

Amend by adding the following transitional section (not in code): (a) For the 1995-96 and 1996-97 school years, the commissioner shall increase the entitlement of a district which experiences additional salary cost resulting from the change in the minimum salary schedule which is not offset by the increase in the basic allotment for those years. The amount of additional salary cost shall be computed by computing what the district's salary cost would have been had the new minimum salary schedule been in effect for the 1994-95 school year and comparing any required additional salary payment to the additional state funding as a result of the increased state aid resulting from the changes in the basic allotment and teacher compensation allotment as if those changes had been in effect in the 1994-95 school year. For this purpose, the commissioner shall use 1994-95 employment and salary data as reported through PEIMS.

(b) A district which is not entitled to foundation school fund payments under Chapter 42 may not receive an entitlement under this section.

(c) A decision by the commissioner under this section is final and nonappealable.

Amend by adding the following special section: Notwithstanding any other provision to the contrary, for a district that entered into an employment contract with an individual prior to June 15, 1995, if the contract specifies a salary supplement or addition to the salary schedule prescribed by law, the applicable salary schedule shall be the salary schedule contained in Subsection (c), Section 16.056, Education Code, that was in effect at the time the contract was executed; provided, however, that an individual shall be paid at least the minimum salary as prescribed by this Act for the step at which the individual is assigned or a higher amount as provided by Section 21.302(e), Education Code, as added by this Act. No district shall be required to increase the pay of any teacher except as provided by Section 21.302, Education Code.

Strike Section 21.304

Strike Section 42.157

Amend 42.101, page 437, line 19: "...entitled to an allotment of \$2,399 [~~\$2,300~~] or a greater..."

(Wilson in the chair)

### **Amendment No. 137**

Representative Sadler offered the following amendment to Amendment No. 136:

Floor No. 21-50

Amend Sadler salary schedule amendment in the following:

1. On page 1, amend Section 21.302 subsection (c) Minimum Teacher Salary Schedule, Years of Experience/Monthly Salary, step 1 to read: "2032"

2. On page 1, amend Section 21.302 subsection (c) Minimum Teacher Salary Schedule, Years of Experience/Monthly Salary, step 9 to read: "2680"

Amendment No. 137 was adopted without objection.

**Amendment No. 138**

Representative Delisi offered the following amendment to Amendment No. 136:

Amend Sadler salary schedule amendment in the following:

On page 1, amend Section 21.302 subsection (c) Minimum Teacher Salary Schedule, Years of Experience/Monthly Salary, step 0 to read: "2000"

(Speaker in the chair)

Amendment No. 138 was adopted without objection.

**Amendment No. 139**

Representative Price offered an amendment to Amendment No. 136.

Representative Sadler moved to table Amendment No. 139.

The motion to table was withdrawn.

Amendment No. 139 was withdrawn.

**Amendment No. 140**

Representatives McCall, Hill, Combs, Stiles, Smithee, Conley, Madden, Wohlgenuth, Chisum, R. Lewis, Ramsay, Brimer, Walker, Holzheuser, Van de Putte, Siebert, Staples, B. Turner, Raymond, Hilderbran, and Cook offered the following amendment to Amendment No. 136:

Amend Amendment No. 136 by Sadler to **CSSB 1** as follows:

( ) On page 2, in the transitional section, strike Subsection (b), and reletter Subsection (c) as Subsection (b).

( ) Insert the following new item:

Insert the following new section and renumber the subsequent sections appropriately:

SECTION \_\_\_\_\_. (a) For the state fiscal biennium ending August 31, 1997, each school district that does not receive state funds under the foundation school program is entitled to receive an amount equal to the difference between the amount necessary for the district to pay teacher salaries under the minimum teacher salary schedule under Section 21.302, Education Code, as added by this Act, and the amount that would have been necessary for the district to pay teacher salaries under the minimum teacher salary schedule under former Sections 16.055 and 16.056, Education Code, as those sections existed on January 1, 1995.

(b) In addition to other amounts appropriated to the Texas Education Agency or the Central Education Agency, for the state fiscal biennium ending August 31, 1997, the amount necessary to fund teacher salary increases as provided by Subsection (a) of this section are appropriated to the Texas Education Agency from the general revenue fund.

**Amendment No. 141**

Representative McCall offered the following substitute amendment for Amendment 140:

Substitute the following for the McCall Amendment No. 140 to Amendment No. 136:

Amend Amendment No. 136 by Sadler to **CSSB 1** as follows:

( ) On page 2, in the transitional section, strike Subsection (b), and reletter Subsection (c) as Subsection (b).

( ) Insert the following new item:

Insert the following new section and renumber the subsequent sections appropriately:

SECTION \_\_\_\_\_. For the state fiscal biennium ending August 31, 1997, each school district that does not receive state funds under the foundation school program is entitled to receive an amount equal to the difference between the amount necessary for the district to pay teacher salaries under the minimum teacher salary schedule under Section 21.302, Education Code, as added by this Act, and the amount that would have been necessary for the district to pay teacher salaries under the minimum teacher salary schedule under former Sections 16.055 and 16.056, Education Code, as those sections existed on January 1, 1995.

Amendment No. 141 was adopted without objection.

Amendment No. 140, as substituted, was adopted.

A record vote was requested.

Amendment No. 136, as amended, was adopted by (Record 322): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alexander; Gutierrez; Rabuck; Smithee; Zbrank.



**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Conference committee on HB 1, 9 p.m. today, senate chamber.

**CSSB 1 - (consideration continued)****Amendment No. 142**

Representative Thompson offered the following amendment to **CSSB 1**:  
Floor No. 21-51

Amend **CSSB 1**, Sec. 21.302, on page 163, following line 12, by inserting Subsection (e) to read as follows:

(e) a teacher aide or an instructional aide having contact with students five or more hours per school day may not be paid less than fifty percent (50%) of the salary that a certified teacher holding a bachelor's degree with an equal number of years of service is paid by the school district or charter school.

Representative Sadler moved to table Amendment No. 142.

The motion to table prevailed.

**Amendment No. 143**

Representative Thompson offered the following amendment to **CSSB 1**:  
Floor No. 21-52

Amend **CSSB 1**, Sec. 21.302, on page 163, following line 12, by inserting Subsection (e) to read as follows:

(e) Other than a superintendent, assistant superintendent, or deputy superintendent, no school district employee may be paid more than twice as much as the highest paid teacher or classroom instructor in the school district.

**Amendment No. 144**

Representative Thompson offered the following amendment to Amendment No. 143:

Amend the Thompson amendment to read as follows:

Amend **CSSB 1**, Sec. 21.302, on page 163, following line 12, by inserting Subsection (e) to read as follows:

(e) Other than a superintendent, no school district employee may be paid more than twice as much as the highest paid teacher or classroom instructor in the school district.

Amendment No. 144 was adopted without objection.

**LEAVES OF ABSENCE GRANTED**

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on HB 1:

Junell on motion of Solomons.

Coleman on motion of Solomons.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on HB 1:

Ogden on motion of Solomons.

Delisi on motion of Solomons.

Gallego on motion of Solomons.

### **CSSB 1 - (consideration continued)**

Representative Hochberg moved to table Amendment No. 143, as amended.

A record vote was requested.

The motion to table prevailed by (Record 323): 83 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Culberson; Danburg; Dear; Denny; Driver; Duncan; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Nixon; Oakley; Park; Patterson; Pitts; Place; Ramsay; Rhodes; Rusling; Sadler; Saunders; Seidlits; Shields; Siebert; Solomons; Staples; Stiles; Swinford; Talton; Telford; Uher; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Conley; Cuellar, H.; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Gray; Greenberg; Hartnett; Hernandez; Hirschi; Horn; Hudson; Jones, J.; King; Kubiak; Lewis, G.; Longoria; Luna; Maxey; McDonald; Moreno; Naishtat; Oliveira; Pickett; Price; Puente; Rangel; Raymond; Reyna; Rodriguez; Romo; Serna; Solis; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alexander; Gutierrez; Rabuck; Smithee; Zbranek.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Munoz.

### **STATEMENT OF VOTE**

I was shown voting no on Record No. 323. I intended to vote yes.

Greenberg

### **Amendment No. 145**

Representative Bailey offered the following amendment to **CSSB 1**:  
Floor No. 21-58

Amend **CSSB 1**, House Committee Report 1st Printing, page 164, line 7,

by inserting the following phrase after the words "may not be less than 45 minutes" and before the period at the end of the second sentence in Subsection 21.305(a):

and must be provided within the seven-hour school day.

#### **Amendment No. 146**

Representative Kubiak offered the following amendment to Amendment No. 145:

Amend Amendment No. 145 by Bailey as follows:

On line 5, after the period, insert the following:

In addition, amend line 2 of page 164 between the period and "A" by inserting the following:

"A school district may allocate 450 minutes for planning and preparation time requirement, in order to accommodate different campus class scheduling methods."

Amendment No. 146 was adopted without objection.

Amendment No. 145, as amended, was adopted without objection.

#### **Amendment No. 147**

Representative Chisum offered the following amendment to **CSSB 1**:  
Floor No. 21-61

Amend **CSSB 1** as follows:

1) On page 165, line 20, after the word "nation", add the following:

"except that the board may adopt rules prohibiting political activity by employees during the regular school day or at school sponsored activities".

#### **Amendment No. 148**

Representative Chisum offered the following amendment to Amendment No. 147:

Amend Amendment No. 147 by Chisum to **CSSB 1** by striking "or at school sponsored activities".

Amendment No. 148 was adopted without objection.

Amendment No. 147, as amended, was adopted without objection.

#### **Amendment No. 149**

Representative Davila offered the following amendment to **CSSB 1**:  
Floor No. 21-62

Amend **CSSB 1** on page 167, line 25 by inserting the following after the word "resolution":

", parental involvement techniques."

Amendment No. 149 was adopted without objection.

#### **Amendment No. 150**

Representative Kubiak offered an amendment (Floor No. 21-63) to **CSSB 1**.

Amendment No. 150 was withdrawn.

**Amendment No. 151**

Representatives Chisum and Ramsay offered the following amendment to **CSSB 1**:

Floor No. 21-65

Amend **CSSB 1** in SECTION 1 of the bill as follows:

In proposed Section 21.352, Education Code (House Committee Report, page 168, between lines 18 and 19), add Subsection (d) to read as follows:

(d) Staff development training for teachers and for administrators must include instruction as to what is permissible under law, including opinions of the United States Supreme Court, in regard to prayers in public school.

**Amendment No. 152**

Representative Chisum offered the following amendment to Amendment No. 151:

Amend Amendment No. 151 by Chisum and Ramsay by adding a new sentence at the end of Subsection (d) to read as follows:

Course material used in staff development training under this subsection must be approved by the commissioner.

Amendment No. 152 was adopted without objection.

Amendment No. 151, as amended, was adopted without objection.

**Amendment No. 153**

Representative Sadler offered the following amendment to **CSSB 1**:

Floor No. 21-67

Amend **CSSB 1** in SECTION 1 of the bill by striking proposed Section 21.354(h), Education Code (House Committee Report, page 170, line 26 through page 171, line 9).

Amendment No. 153 was adopted without objection.

**Amendment No. 154**

Representative Hernandez offered the following amendment to **CSSB 1**:

Floor No. 21-68

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, proposed Section 21, Education Code (Committee printing page 133) add the following:

Sec 21 \_\_\_\_\_ "CENTERS FOR PROFESSIONAL DEVELOPMENT OF TEACHERS.

(a) The board may develop the process for the establishment of centers for professional development through institutions of higher education for the purpose of integrating technology teachers and administrators. An institution of higher education with a teacher education program may develop a center through a collaborative process involving public schools, regional education

service centers, and other entities or businesses. A center may contract with other entities to develop materials and provide training.

(b) On application by a center, the board shall make grants to the center for its programs from funds derived from gifts, grants and legislative appropriations for that purpose. The board shall award the grants on a competitive basis according to requirements established by the board rules.

(c) A center may develop and implement a comprehensive field-based educator preparation program to supplement the internship hours required in Section 21.047 of this code. This comprehensive field-based teacher program must:

(1) be designed on the basis of current research into state-of-the-art teaching practices, curriculum theory and application, evaluation of student outcomes, and the effective application of technology; and

(2) have rigorous internal and external evaluation procedures that focus on content, delivery systems, and teacher and student outcomes."

(d) The agency shall notify a school district found to be in noncompliance in writing not later than the 30th day after the date of the on-site monitoring. The district shall take immediate corrective action.

(e) If a school district fails to or refuses to comply after proper notification, the agency shall apply sanctions, which may include removal of accreditation, loss of foundation school funds, or both.

#### **Amendment No. 155**

Representative Hernandez offered the following amendment to Amendment No. 154:

Amend Amendment No. 154 by Hernandez by striking:

"(d) The agency shall notify a school district found to be in noncompliance in writing not later than the 30th day after the date of the on-site monitoring. The district shall take immediate corrective action.

(e) If a school district fails to or refuses to comply after proper notification, the agency shall apply sanctions, which may include removal of accreditation, loss of foundation school funds, or both."

Amendment No. 155 was adopted without objection.

Amendment No. 154, as amended, was adopted without objection. (The vote was reconsidered on Saturday, May 6, and Amendment No. 154, as amended, was adopted.)

#### **Amendment No. 156**

Representative Dear offered the following amendment to **CSSB 1**:

Amend **CSSB 1** as follows:

- (1) On page 177, line 6, strike "A professional" and substitute "An".
- (2) On page 177, line 10, strike "a professional" and substitute "an".
- (3) On page 177, line 15, strike "professional".
- (4) On page 177, strike lines 16 and 17.
- (5) On page 177, line 18, strike (2) and substitute (1).
- (6) On page 177, strike lines 20 through 24.

#### **Amendment No. 157**

Representative Wilson offered the following amendment to Amendment No. 156:

Substitute the following for the Amendment No. \_\_\_\_ by Dear:

Amend Amendment No. \_\_\_\_ by Dear to **CSSB 1** by striking all text following "follows:" and substituting the following:

In proposed Section 22.051(a), Education Code (House Committee Report, page 177, line 25), strike "negligence resulting in bodily injury to students" and substitute "in which an employee's negligence causes bodily injury to a student".

Amendment No. 157 was adopted without objection.

Representative Sadler moved to table Amendment No. 156, as amended.

The motion to table was withdrawn.

Representative Duncan moved to table Amendment No. 156, as amended.

A record vote was requested.

The motion to table prevailed by (Record 324): 86 Yeas, 42 Nays, 2 Present, not voting.

Yeas — Allen; Averitt; Black; Brimer; Carona; Carter; Chisum; Cook; Corte; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Dear; Denny; Driver; Duncan; Ehrhardt; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Kamel; King; Krusee; Kubiak; Kuempel; Madden; Marchant; McCall; McCoulskey; McDonald; Moffat; Mowery; Nixon; Oakley; Oliveira; Park; Patterson; Pitts; Ramsay; Reyna; Rusling; Saunders; Serna; Shields; Siebert; Solomons; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Willis; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Brady; Conley; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Eiland; Farrar; Giddings; Gray; Greenberg; Hudson; Jones, J.; Longoria; Luna; Maxey; Moreno; Naishtat; Pickett; Place; Price; Puente; Rangel; Raymond; Rhodes; Romo; Sadler; Seidlits; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Wilson; Yarbrough.

Present, not voting — Mr. Speaker(C); Lewis, G.

Absent, Excused — Alexander; Gutierrez; Rabuck; Smithee; Zbrank.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Berlanga; Bosse; Clemons; Combs; Counts; Johnson; Lewis, R.; Munoz; Rodriguez; Williamson.

### STATEMENTS OF VOTE

When Record No. 324 was taken, I was in the house but away from my desk. I would have voted yes.

Counts

When Record No. 324 was taken, I was in the house but away from my desk and working on the safe schools amendment. I would have voted no.

Williamson

**Amendment No. 158**

Representative Williamson offered an amendment (Floor No. 22-2) to **CSSB 1**.

(Black in the chair)

Amendment No. 158 was withdrawn.

**Amendment No. 159**

Representative Johnson offered the following amendment to **CSSB 1**:  
Floor No. 22-3

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, strike proposed Section 22.051, Education Code (House Committee Report, page 177, line 18, through page 178, line 10), and substitute the following:

Sec. 22.051. EMPLOYEE IMMUNITY FROM LIABILITY FOR CERTAIN ACTS THAT ARE WITHIN SCOPE OF EMPLOYMENT AND REQUIRE EXERCISE OF DISCRETION. (a) An employee of a school district or of a public primary or secondary school is immune from civil liability for an act that is incident to or within the scope of employment and that involves the exercise of the employee's judgment or discretion, except in a circumstance in which the employee uses excessive force in the discipline of a student or is negligent in the discipline of a student and the excessive force or negligence results in bodily injury to the student. An employee does not lose the immunity provided by this subsection for the use of self-defense as provided by Section 9.31, Penal Code, or deadly force in defense of a person as provided by Section 9.32, Penal Code.

(b) A teacher who discusses core ethical and moral values under Section 28.003 is immune from civil liability for any damages resulting from the discussion unless damages were inflicted intentionally, wilfully or wantonly, or with conscious indifference or reckless disregard for the safety of others.

(c) This section does not apply to an employee's operation, use, or maintenance of a motor vehicle.

(2) In SECTION 1 of the bill, immediately following proposed Section 28.002, Education Code (House Committee Report, page 214, line 2), strike "[Sections 28.003-28.020 reserved for expansion]" and substitute the following:

Sec. 28.003. CORE ETHICAL AND MORAL VALUES. In teaching the curriculum required under Section 28.001, a teacher may discuss core ethical and moral values, including:

- (1) assuming personal responsibility;
- (2) having respect for oneself and others and for law and order;
- (3) being honest, trustworthy, caring, courteous, and a good citizen;

and

- (4) appreciating the value of work.

[Sections 28.004-28.020 reserved for expansion]

(3) Add the following SECTION, appropriately numbered, and renumber the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . APPLICABILITY OF SECTION 22.051, EDUCATION

CODE. Section 22.051, Education Code, as added by this Act, applies only to a cause of action that arises on or after the effective date of this Act. A cause of action that arose before the effective date of this Act is governed by the law in effect on the date the cause of action arose, and that law is continued in effect for that purpose.

Representative Duncan moved to table Amendment No. 159.

The motion to table was withdrawn.

Amendment No. 159 was withdrawn.

**Amendment No. 160**

Representative Rodriguez offered the following amendment to **CSSB 1**:  
Floor No. 22-4

Amend **CSSB 1** as follows:

On page 177, line 16, after "supervisor" and before "or" insert "social worker,".

Amendment No. 160 was adopted without objection. (Heflin recorded voting no)

**Amendment No. 161**

Representative Uher offered the following amendment to **CSSB 1**:  
Floor No. 22-5

Amend **CSSB 1**, Section 22.051(c), on page 178, line 3, by adding after the word "counselor" the following:

"nurses and aides."

**Amendment No. 162**

Representative Uher offered the following amendment to Amendment No. 161:

Amend Section 22.051, page 178, line 3, by striking the ";" after "counselor" and adding the following:

"," nurses, and aides;".

Amendment No. 162 was adopted without objection.

Amendment No. 161, as amended, was adopted without objection.

**Amendment No. 163**

Representative Hawley offered the following amendment to **CSSB 1**:  
Floor No. 25-4

Amend **CSSB 1** as follows:

On page 185, line 24, insert the following sentence after "students.":

"The board of trustees is not required to admit a person under this subsection if the person:

(1) has engaged in conduct or misbehavior within the preceding year that has resulted in:



- (A) removal to an alternative education program;
  - (B) suspension, including in-school suspension; or
  - (C) expulsion;
- (2) has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for such conduct; or
- (3) has been convicted of a criminal offense and is on probation or other conditional release."

Amendment No. 163 was adopted without objection.

**Amendment No. 164**

Representative Dutton offered the following amendment to **CSSB 1**:  
Floor No. 25-5

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 25.001, Education Code (House Committee Report, page 186, between lines 25 and 26), by inserting a new subsection to read as follows:

(i) A child who will attain the age of six years after September 1 but before January 1 of a regular school term is entitled to be enrolled in the first grade for that school term on the written request of the child's parent or person standing in parental relation to the child to the board of trustees of the school district in which the child will be enrolled.

(Speaker in the chair)

(Alexander now present)

Amendment No. 164 was adopted.

**Amendment No. 165**

Representative Shields offered the following amendment to **CSSB 1**:  
Floor No. 25-8

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 25.001(g)(1), Education Code (House Committee Report, page 186, line 19), strike "Section 25.038" and substitute "Section 25.035".

(2) In SECTION 1 of the bill, strike proposed Section 25.031, Education Code (House Committee Report, page 189, lines 6-11), and substitute the following:

Sec. 25.031. ASSIGNMENT TO SCHOOL OF CHOICE. A child who is entitled to attend school in a school district under Section 25.001 may attend school at any campus in the district at which the student's grade level is offered.

(3) In SECTION 1 of the bill, strike proposed Sections 25.032 through 25.034, Education Code (House Committee Report, page 189, line 12, through page 191, line 9), and renumber the subsequent sections of Subchapter B, Chapter 25, Education Code, appropriately.

(4) In SECTION 1 of the bill, in proposed Section 25.035, Education Code (House Committee Report, page 191, line 13), strike "may, by agreement and in accordance with Sections 25.032-25.034," and substitute "may by agreement".

(5) In SECTION 1 of the bill, in proposed Section 25.038, Education Code (House Committee Report, page 192, lines 16-17), strike "Section 25.037" and substitute "Section 25.034".

(6) In SECTION 1 of the bill, in proposed Section 25.039(b), Education Code (House Committee Report, page 193, lines 7-8), strike "Section 25.038" and substitute "Section 25.035".

(7) In SECTION 1 of the bill, in proposed Subchapter B, Chapter 25, Education Code (House Committee Report, page 194, line 23), strike "[Sections 25.043-25.080 reserved for expansion]" and substitute "[Sections 25.040-25.080 reserved for expansion]".

(8) In SECTION 1 of the bill, strike proposed Section 26.003(a)(1), Education Code (House Committee Report, page 206, lines 24-26) and substitute the following:

(1) designate the school in the district that the parent's child will attend as provided by Section 25.031;

**Amendment No. 166**

Representative Shields offered the following amendment to Amendment No. 165:

Amend Amendment No. 165 by Shields to **CSSB 1** on page 1, line 11, between "offered" and the period by inserting ", subject to available space at the campus".

Amendment No. 166 was adopted without objection.

Representative Sadler moved to table Amendment No. 165, as amended.

The motion to table prevailed.

**Amendment No. 167**

Representative Chisum offered an amendment (Floor No. 25-9) to **CSSB 1**.

Amendment No. 167 was withdrawn.

**Amendment No. 168**

Representative Kubiak offered the following amendment to **CSSB 1**:  
Floor No. 25-14

Amend **CSSB 1** as follows:

On page 197, strike lines 14-16 and substitute the following:

"(7) is enrolled in the Texas Academy of Mathematics and Science;

(8) is enrolled in the Texas Academy of Leadership in the Humanities;

or

(9) is specifically exempted under another law."

Amendment No. 168 was adopted without objection.

**Amendment No. 169**

Representative Uher offered the following amendment to **CSSB 1**:  
Floor No. 25-15

Amend **CSSB 1**, Section 25.086(b), on page 198, line 3, between the "." and "A" by adding:

"A school district shall excuse a student for temporary absence resulting from health-care professionals if that student commences classes or returns to school on the same day of the appointment."

Amendment No. 169 was adopted without objection.

(Ogden now present)

#### **Amendment No. 170**

Representative Rodriguez offered the following amendment to **CSSB 1**:  
Floor No. 25-17

In proposed Section 25.089, Subsection (b), Education Code (page 199, Line 27) amend as follows:

(b) The board of trustees of each school district shall appoint one or more attendance committees to hear petitions for class credit by students who are in attendance fewer than the number of days required under Subsection (a). Classroom teachers shall comprise a majority of the membership of the committee. A committee may give class credit to a student because of extenuating circumstances. Each board of trustees shall establish guidelines to determine what constitutes extenuating circumstances and shall adopt policies establishing alternative ways for students to make up work or regain credit lost because of absences. A certified public school employee may not be assigned additional instructional duties as a result of this section outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

Amendment No. 170 was adopted without objection.

#### **Amendment No. 171**

Representative Ogden offered the following amendment to **CSSB 1**:  
Floor No. 25-25

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 25.901, Education Code (House Committee Report page 205, lines 18-19), strike "individually, voluntarily, and silently".

(2) In SECTION 1 of the bill, in proposed Section 25.901, Education Code (House Committee Report page 205, line 21), strike ", encourage,".

Representative Hochberg moved to table Amendment No. 171.

A record vote was requested.

The motion to table was lost by (Record 325): 36 Yeas, 101 Nays, 1 Present, not voting.

Yeas — Alonzo; Bailey; Bosse; Danburg; Davila; De La Garza; Dear; Dukes; Dutton; Ehrhardt; Farrar; Glaze; Gray; Greenberg; Hernandez; Hightower; Hirschi; Hochberg; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; Moreno; Mowery; Naishtat; Oliveira; Rangel; Raymond; Rhodes; Romo; Solis; Telford; Uher; Van de Putte; Wolens.

Nays — Alexander; Allen; Alvarado; Averitt; Berlanga; Black; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davis; Denny; Driver; Duncan; Edwards; Eiland; Elkins; Finnell; Giddings; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McDonald; Moffat; Munoz; Nixon; Oakley; Ogden; Park; Patterson; Pickett; Pitts; Place; Puente; Ramsay; Reyna; Rodriguez; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Torres; Turner, B.; Turner, S.; Walker; West; Willis; Wilson; Wohlgemuth; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gutierrez; Rabuck; Smithee; Zbranek.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell.

Absent — Hudson; Price; Tillery; Williamson.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 325. I intended to vote no.

Longoria

When Record No. 325 was taken, I was absent because of conference committee meeting on **HB 1**. Had I been present, I would have voted no.

Delisi

When Record No. 325 was taken, I was absent because of the meeting of the joint house/senate conference committee on appropriations. Had I been present, I would have voted no.

Gallego

When Record No. 325 was taken, I was in the house but away from my desk. I would have voted no.

Tillery

On Record No. 325 my machine did not function. I voted no.

Williamson

Amendment No. 171 was adopted without objection.

#### Amendment No. 172

Representative Cook offered the following amendment to **CSSB 1**:

Floor No. 25-26

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 25.901, Education Code (House Committee Report, page 205, line 19), strike "or meditate".

(2) In SECTION 1 of the bill, in proposed Section 25.901 (House Committee Report, page 205, line 22), strike "or meditation".

(3) In SECTION 1 of the bill, immediately following proposed Section 25.901, Education Code (House Committee Report, page 205, between lines 23 and 24), insert the following:

Sec. 25.902. PERIOD OF QUIET REFLECTION. (a) In each public school classroom the teacher in charge may, at the beginning of each school day, conduct a brief period of quiet reflection for not more than one minute with the participation of each student in the classroom.

(b) The period of quiet reflection authorized by this section is not intended to be and may not be conducted as a religious service or exercise, but shall be considered as an opportunity to reflect on the anticipated activities of the day.

### **Amendment No. 173**

Representatives Cook, Howard, Ramsay, and Edwards offered the following amendment to Amendment No. 172:

Amend Amendment No. 172 by Cook to read as follows:

Amend **CSSB 1** in SECTION 1 of the bill, immediately following proposed Section 25.901, Education Code (House Committee Report, page 205, between lines 23 and 24), by inserting the following:

Sec. 25.902. PERIOD OF SILENT REFLECTION OR MEDITATION. Each school district shall provide for a period of silence at the beginning of the first class of each school day during which a student may reflect or meditate. The period may not exceed one minute.

Amendment No. 173 was adopted without objection.

(Gallego and Delisi now present)

Amendment No. 172, as amended, was adopted without objection.

### **Amendment No. 174**

Representative Edwards offered the following amendment to **CSSB 1**:  
Floor No. 25-28

Amend **CSSB 1** in SECTION 1 of the bill, immediately following proposed Section 25.901, Education Code (House Committee Report, page 205, between lines 23 and 24), by inserting the following:

Sec. 25.902. SCHOOL UNIFORM PILOT PROGRAM. (a) The board of trustees of a school district with 185,000 or more students in average daily attendance shall establish a school uniform pilot program.

(b) The board shall select schools to participate in the program from among schools that volunteer. The board may limit the number of schools that participate in the program but shall select schools so that all grade levels in the district are represented.

(c) Each school participating in the program shall choose a school uniform that satisfies the district dress code. Each student attending the school shall wear the uniform.

(d) The board shall adopt rules necessary to implement the program, including rules for selecting schools to participate in the program and for applying to participate.

(e) The board shall implement the program at the beginning of the 1996-1997 school year. This section expires September 1, 1999.

Representative Sadler moved to table Amendment No. 174.

The motion to table prevailed.

### **RULES SUSPENDED**

Representative Telford moved to suspend the 5-day posting rule to allow the Committee on Pensions and Investments to consider **SB 1231**.

The motion prevailed without objection.

Representative B. Hunter moved to suspend the 5-day posting rule to allow the Committee on State, Federal, and International Relations to consider **HB 2546**.

The motion prevailed without objection.

### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

State Affairs, 9:30 a.m. Saturday, May 6, speakers committee room, to consider pending business.

Public Safety, 9:30 a.m. Saturday, May 6, Desk 43, to consider pending business.

State, Federal, and International Relations, 8 a.m. Monday, May 8, E1.026, Capitol Extension, to consider **HB 2546**.

Pensions and Investments, on recess today, Desk 54, to consider **SB 1231**.

Elections, on recess today, Desk 10, to consider plans for floor action for committee omnibus bills.

Civil Practices, on recess today, Desk 32.

### **RECESS**

Representative Alonzo moved that the house recess until 10 a.m. tomorrow in celebration of Cinco de Mayo.

The motion prevailed without objection.

The house accordingly, at 11:33 p.m., recessed until 10 a.m. tomorrow.

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## **APPENDIX**

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### **STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

Business and Industry - **HB 1009, HB 2530, HB 2670, HB 2771, SB 413, SB 1617**

Civil Practices - **HB 498, HB 2029, HB 2401, HB 2665, HB 2788, SB 172**

Corrections - **HB 2895, SB 40, SB 243, SCR 5**

County Affairs - **HB 1742, HB 3198**

Criminal Jurisprudence - **HB 302, HB 1079, HB 1247, HB 1440, HB 1572, HB 1761, HB 1827, HB 1930, HB 2006, HB 2662, HB 2796, SB 149, SB 187, SB 286**

Elections - **SB 680, SB 888, HJR 131, HCR 185**

Energy Resources - **HB 1715, HB 3086, SB 651, SB 905, SB 1356, SB 1357**

Higher Education - **HB 328, HB 938, HB 2342, SB 397, SB 944**

Human Services - **HB 1649**

Judicial Affairs - **HB 1388, HB 2951, HB 3227, SB 346, SB 375, SB 691, SB 701, SB 1386**

Juvenile Justice and Family Issues - **HB 2384, SB 242, SB 294, SB 384, SB 916**

Land and Resource Management - **HB 396, HB 1815, HB 2152, HB 2489, HB 3229, SB 390, SB 542, SB 1038, SB 1262, SB 1375**

Licensing and Administrative Procedures - **HB 612, HB 667, HB 2713**

Natural Resources - **HB 3096, HB 3212, HB 3216, HB 3221, HB 3225, HB 3230, HB 3231, HB 3232, HB 3234, SB 741, SB 942, SB 1546**

Pensions and Investments - **HB 1793, SB 1148**

Public Health - **SB 979, SB 1190**

Public Safety - **HB 405, SB 130, SB 223, SB 267, SB 964, HJR 69**

State Affairs - **HB 2198, HB 2748**

State, Federal, and International Relations - **HCR 178, HCR 186, SCR 95, SCR 101, HR 705**

Transportation - **HB 1896, SB 437, SB 438, SB 980, SB 1489, SB 1512, SB 1513, SCR 78**

Ways and Means - **HB 467, HB 1847, HB 2129, HB 2185, HB 2623, HB 2883**

#### ENGROSSED

May 4 - **HB 668, HB 1111, HB 1537, HB 2189, HB 2294, HB 2441, HB 3179**

#### ENROLLED

May 4 - **HB 645, HB 767, HB 1090, HB 3168, HCR 25, HCR 58, HCR 143, HCR 163, HCR 181**

May 5 - **HB 637, HB 1235, HB 1294, HB 1486, HB 1503, HB 1689, HB 1737, HB 2028, HB 2066, HB 2068, HB 2183, HCR 161**

**SENT TO THE GOVERNOR**

May 4 - **HB 44, HB 462, HCR 65, HCR 191**