

HOUSE JOURNAL

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-SIXTH DAY (CONTINUED) — SATURDAY, MAY 6, 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 326).

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; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; 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; Zbranek.

Absent, Excused — Jones, D.; Rabuck.

Absent — Hochberg; Smithee.

The invocation was offered by Representative Howard.

LEAVES OF ABSENCE GRANTED

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

Rabuck on motion of Corte.

The following member was granted leave of absence temporarily for today because of a funeral:

D. Jones on motion of Averitt.

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 85, HB 971, HB 1465, HB 2355, HCR 115, HCR 116, HCR 131

LEAVES OF ABSENCE GRANTED

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

Patterson on motion of Black.

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

Smithee on motion of Black.

HR 825 - ADOPTED

Representative B. Hunter moved to suspend all necessary rules to take up and consider at this time **HR 825**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By B. Hunter,

HR 825, Honoring John Holbrook Chalmers.

The resolution was adopted without objection.

HR 826 - ADOPTED

Representative B. Hunter moved to suspend all necessary rules to take up and consider at this time **HR 826**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By B. Hunter,

HR 826, Saluting and congratulating Herbert Lee Butrum for his many years of service to others and especially our great state of Texas.

The resolution was adopted without objection.

HR 827 - ADOPTED

Representative B. Hunter moved to suspend all necessary rules to take up and consider at this time **HR 827**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By B. Hunter,

HR 827, Congratulating Professor Thomas L. Winter for the many honors and academic achievements he has received and accomplished.

The resolution was adopted without objection.

HR 828 - ADOPTED

Representative B. Hunter moved to suspend all necessary rules to take up and consider at this time **HR 828**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By B. Hunter,

HR 828, Congratulating Jerry Love on his exceptional career.

The resolution was adopted without objection.

HR 829 - ADOPTED

Representative B. Hunter moved to suspend all necessary rules to take up and consider at this time **HR 829**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By B. Hunter,

HR 829, Saluting and congratulating Claire A. Johnson for her many notable achievements.

The resolution was adopted without objection.

LEAVE OF ABSENCE GRANTED

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

Ehrhardt on motion of Hawley.

HR 824 - ADOPTED

Representative Romo moved to suspend all necessary rules to take up and consider at this time **HR 824**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Romo,

HR 824, Honoring Agropoli, Italy, the sister city of Leon Valley, Texas.

The resolution was adopted without objection.

MESSAGE FROM THE SENATE

Austin, Texas, May 6, 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 1276 by Montford, relating to the creation and administration of the Crime Victims' Institute and advisory council and the Crime Victims' Institute account.

Respectfully,
Betty King
Secretary of the Senate

SCR 141 - ADOPTED

Representative Holzheuser moved to suspend all necessary rules to take up and consider at this time **SCR 141**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

SCR 141,

WHEREAS, Senate Bill No. 550 has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the senate and the house of representatives is necessary; now, therefore, be it

RESOLVED by the 74th Legislature, That the governor be hereby requested to return Senate Bill No. 550 to the senate for further consideration; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing Senate Bill No. 550 be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

The resolution was adopted without objection.

HOUSE BILL ON FIRST READING

The following house bill was today laid before the house, read first time, and referred to committee:

By Corte, King, Rodriguez, and Conley,

HB 3236, A bill to be entitled An Act relating to the management of the Edwards Aquifer.

To Committee on Natural Resources.

RESOLUTIONS REFERRED TO COMMITTEE

The following resolutions were laid before the house and referred to committee:

By Duncan,

HCR 195, Honoring Major General William Edgar Murphy and naming the Texas Army National Guard/Reserve Center in Lubbock the William Edgar Murphy Guard/Reserve Center.

To Committee on Rules and Resolutions.

By Holzheuser,

HCR 196, Honoring Mayor Ted B. Reed of Victoria.

To Committee on Rules and Resolutions.

By West,

HR 793, Honoring James E. Nelson.

To Committee on Rules and Resolutions.

By Solomons,

HR 794, Honoring Joi Mei Ling Mosely and Jenni Li Moseley as Honorary Texans.

To Committee on Rules and Resolutions.

By Farrar,

HR 809, Commemorating Cinco De Mayo .

To Committee on Rules and Resolutions.

By Farrar,

HR 810, Commemorating the dedication of The Salvation Army William Booth Garden Apartments for the elderly.

To Committee on Rules and Resolutions.

By R. Cuellar,

HR 830, Commending Roberto Perez II.

To Committee on Rules and Resolutions.

By R. Cuellar,

HR 831, In memory of Gloria Champion Cabaza.

To Committee on Rules and Resolutions.

SENATE BILLS ON FIRST READING

The following senate bills were today laid before the house, read first time, and referred to committees:

SB 7 to Committee on Juvenile Justice and Family Issues.

SB 202 to Committee on Insurance.

SB 357 to Committee on Criminal Jurisprudence.

SB 374 to Committee on State Affairs.

SB 392 to Committee on Appropriations.

SB 439 to Committee on Ways and Means.

SB 527 to Committee on County Affairs.

SB 628 to Committee on Insurance.

SB 667 to Committee on Public Health.

SB 673 to Committee on Public Health.

SB 793 to Committee on Juvenile Justice and Family Issues.

SB 840 to Committee on Criminal Jurisprudence.

SB 853 to Committee on Criminal Jurisprudence.

SB 938 to Committee on Judicial Affairs.

SB 949 to Committee on County Affairs.

SB 977 to Committee on Environmental Regulation.

SB 1009 to Committee on Insurance.

SB 1026 to Committee on Insurance.

SB 1029 to Committee on Business and Industry.

SB 1074 to Committee on Criminal Jurisprudence.

SB 1099 to Committee on State Affairs.

SB 1115 to Committee on State Affairs.
SB 1135 to Committee on Public Safety.
SB 1158 to Committee on State Affairs.
SB 1175 to Committee on Public Health.
SB 1198 to Committee on Urban Affairs.
SB 1232 to Committee on Insurance.
SB 1240 to Committee on Civil Practices.
SB 1249 to Committee on Appropriations.
SB 1278 to Committee on Transportation.
SB 1286 to Committee on Judicial Affairs.
SB 1301 to Committee on Public Health.
SB 1319 to Committee on State Affairs.
SB 1338 to Committee on Judicial Affairs.
SB 1361 to Committee on Insurance.
SB 1363 to Committee on Transportation.
SB 1395 to Committee on Land and Resource Management.
SB 1410 to Committee on Insurance.
SB 1416 to Committee on Appropriations.
SB 1417 to Committee on Appropriations.
SB 1418 to Committee on Appropriations.
SB 1453 to Committee on State Affairs.
SB 1491 to Committee on Higher Education.
SB 1500 to Committee on Environmental Regulation.
SB 1530 to Committee on Ways and Means.
SB 1545 to Committee on Ways and Means.
SB 1554 to Committee on Public Health.
SB 1582 to Committee on Criminal Jurisprudence.
SB 1585 to Committee on County Affairs.
SB 1596 to Committee on Human Services.
SB 1611 to Committee on Environmental Regulation.
SB 1612 to Committee on Environmental Regulation.
SB 1613 to Committee on Environmental Regulation.
SB 1618 to Committee on Insurance.
SB 1619 to Committee on Land and Resource Management.

SB 1622 to Committee on Judicial Affairs.

SB 1624 to Committee on County Affairs.

SB 1637 to Committee on Insurance.

SB 1652 to Committee on Judicial Affairs.

SB 1675 to Committee on Public Health.

SB 1687 to Committee on Judicial Affairs.

SB 1697 to Committee on Environmental Regulation.

RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

SCR 124, Directing the Texas Higher Education Coordinating Board to study the feasibility of establishing regional areas of principal responsibility for health professions education.

To Committee on Higher Education.

SCR 128, Commending the Texas Math and Science Hotline.

To Committee on Rules and Resolutions.

SCR 140, Designating the week beginning November 5, 1995, as "Texas Women Veterans Recognition Week."

To Committee on Rules and Resolutions.

(Hochberg now present)

CSSB 1 - (pending business)

Amendment No. 175

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

Amend **CSSB 1**, Chapter 26, as follows:

On page 205, line 11, after the words "PARENTAL RIGHTS" add "AND RESPONSIBILITIES".

On page 210, line 26, add section 26.013, "COMPACT FOR SHARED RESPONSIBILITY":

(a) The commissioner shall develop a model compact for shared responsibility that a school district may use to encourage parental and student commitment to education. The model compact must identify the respective responsibilities of a student, parent, teacher, and school principal in the educational process.

(b) A district that chooses to use the model compact in one or more of its schools shall, at the beginning of the school year:

(1) submit the proposed compact, signed by the student's school principal and the student's teacher or teachers, to each student enrolled in a school using the compact and a parent of each student.

(2) request that each student and parent sign the compact and return it to the school; and

(3) provide a certificate to each student and parent who signs the compact.

(c) The commissioner shall develop the model compact required by this section not later than September 15, 1995 to apply beginning with the 1996-97 school year.

Amendment No. 176

Representative Chisum offered an amendment to Amendment No. 175.

Amendment No. 176 was withdrawn.

Amendment No. 175 was adopted without objection.

Amendment No. 177

Representative Uher offered the following amendment to **CSSB 1**:
Floor No. 26-4

Amend **CSSB 1**, as follows:

(1) SECTION 1, Sec. 26.001, on page 206, lines 5-8, by striking Subsection (c) in its entirety and relettering the subsequent subsections accordingly.

(2) SECTION 1, Sec. 26.001, on page 206, lines 12-15, by striking Subsection (d) and substituting the following:

"(e) Each board of trustees shall provide for procedures to consider complaints that a parents right has been denied."

(3) SECTION 1, Sec. 26.003(a)(3), on page 207, lines 4-5, by striking ", with the expectation that the request will not be unreasonably denied".

(4) SECTION 1, Sec. 26.004, on page 208, line 10, by striking Subdivision (11) in its entirety.

(5) SECTION 1, Sec. 26.007, on page 209, lines 7-9, by striking Subsection (b) in its entirety.

(6) SECTION 1, Sec. 26.010(a), on page 210, lines 9-12, between "beliefs" and the "." insert the following:

". unless the class or other activity is designed to address a part of the essential elements".

(7) SECTION 1, Sec. 26.010(b), on page 210, line 18, by striking "well-established".

Amendment No. 178

Representative Uher offered the following amendment to Amendment No. 177:

Amend Amendment No. 177 by Uher as follows:

I. Delete paragraph (3)

II. Strike paragraph (5) and substitute:

(5) Strike Subsection 26.007(b), on lines 7-9, page 209 and substituting the following:

(b) A board of trustees of a school district must hold each public meeting of the board within the boundaries of the district except as required by law or except to hold a joint meeting with another district. All public meetings must comply with the provisions of the Open Meetings Act.

III. Strike paragraph (6) and substitute the following:

(6) Strike Section 26.010(a) on lines 9-12, page 210, and by substituting the following:

Sec. 26.010 REMOVAL FROM SCHOOL ACTIVITY

(a) A parent is entitled to remove the parent's child temporarily from a class or other school activity that conflicts with the parent's religious or moral beliefs if the parent presents or delivers to the teacher of the parent's child a written statement authorizing the removal of the child from the class or other school activity. A parent shall not be entitled to remove a child from a class or other school activity to avoid a test or to prevent the child from taking a subject for an entire semester.

Amendment No. 178 was adopted without objection.

Amendment No. 177, as amended, was adopted without objection.

Amendment No. 179

Representative Hochberg offered the following amendment to **CSSB 1**:
Floor No. 26-7

Amend **CSSB 1** as follows:

On page 206, line 27, through page 207, line 3, strike "request the class and teacher to which the parent's child will be assigned, if the assignment does not negatively affect the quality of education in the class or in the other classes" and substitute "reasonable access to the school principal, or to a designated administrator with the authority to re-assign a student, to request a change in the class or teacher to which the parent's child has been assigned"

On page 207, lines 6 through 8, strike "the addition of a specific academic class in the course of study of the parent's child in keeping with the essential elements" and substitute "the addition of a specific academic class in the course of study of the parent's child in keeping with the essential elements if sufficient interest is shown in the addition of the class to make it economically practical to offer the class"

Amendment No. 180

Representative R. Lewis offered the following amendment to Amendment No. 179:

Substitute the following for Hochberg Amendment No. 179:

Amend **CSSB 1** as follows:

On page 206, line 27, through page 207, line 3, strike "request the class and teacher to which the parent's child will be assigned, if the assignment does not negatively affect the quality of education in the class or in the other classes" and substitute "reasonable access to the school principal, or to a designated administrator with the authority to re-assign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student."

On page 207, lines 6 through 8, strike "the addition of a specific academic class in the course of study of the parent's child in keeping with the essential elements" and substitute "the addition of a specific academic class in the course

of study of the parent's child in keeping with the essential elements if sufficient interest is shown in the addition of the class to make it economically practical to offer the class"

Amendment No. 180 was adopted without objection.

Amendment No. 179, as amended, was adopted without objection.

Amendment No. 181

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

Floor No. 26-9

Amend **CSSB 1** as follows:

On page 208, line 15, between "to" and "each", insert "a copy of".

Amendment No. 181 was adopted without objection.

Amendment No. 182

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

Floor No. 26-10

Amend **CSSB 1** as follows:

1) On page 209, line 14, after the word "by", delete the words "~~an educator~~" and in its place, insert the words "any school district employees"

Amendment No. 182 was adopted without objection.

Amendment No. 183

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

Floor No. 26-13

Amend **CSSB 1** as follows:

1) On page 210, line 17, after the word "the", delete the phrase "~~religious teachings of a well established church or denomination to which the parent and the child belong~~" and insert in its place the phrase "sincerely held religious beliefs of the parent".

Amendment No. 184

Representative Chisum offered an amendment to Amendment No. 183.

Amendment No. 184 was withdrawn.

Amendment No. 185

Representative Chisum offered the following amendment to Amendment No. 183:

Amend Amendment No. 183 by Chisum to **CSSB 1** by striking "sincerely held religious beliefs of the parent" and substituting "sincerely held religious beliefs of the parent and the child".

Amendment No. 185 was adopted without objection.

Amendment No. 183, as amended, was adopted without objection.

Amendment No. 186

Representative Chisum offered the following amendment to **CSSB 1**:
Floor No. 26-15

Amend **CSSB 1** as follows:

1) On page 211, after line 11, insert new sections as follows:

Sec. 26.013 PROHIBITION OF OFF-CAMPUS ACTIVITIES WITHOUT PARENTAL PERMISSION. No school district employee may grant a student premission to leave campus for any reason during the school day without obtaining permission from the student's parent.

Sec. 26.014 OBSERVATION OF SCHOOL ACTIVITIES. A parent of a child enrolled in a school district may attend and observe any class or activity in which the parent's child is engaged without advance notice to the school.

Sec. 26.015 NOTICE OF MORALLY SENSITIVE PRESENTATIONS. (a) A parent is entitled to advance notice when topics of a morally sensitive nature are being presented to the parent's child. Topics would include, but not be limited to sexuality and sexual behavior, contraception, abortion, homosexuality, death and dying, euthanasia and suicide, and the occult. Such notice must include:

(1) a description of the program or instructional material, and

(2) the name and professional affiliation of any person not regularly employed by the school district who will be providing instruction or participating in a presentation. For purposes of this section, a substitute teacher is considered to be regularly employed by the district.

(b) A parent is entitled to advance notice before audio-visual material containing profane or obscene language, excessive or remorseless violence, nudity, or other potentially objectionable material is presented to the parent's child.

Sec. 26.016 BALANCED PRESENTATION OF MATERIAL. Parents have the right to expect that the school will provide a balanced presentation on issues of a political or controversial nature.

Sec. 26.017 COMMUNITY SERVICE AS A CONDITION OF GRADUATION. A parent's child may not be required to perform community service as a graduation requirement or as a school assignment.

(Smithee now present)

(Black in the chair)

Representative Sadler moved to table Amendment No. 186.

A record vote was requested.

The motion to table was lost by (Record 327): 66 Yeas, 76 Nays, 2 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Bailey; Berlanga; Coleman; Conley; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Dukes; Dutton; Edwards; Eiland; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Grusendorf; Gutierrez; Hernandez; Hightower; Hirschi; Hochberg; Hudson; Hunter, T.; Janek; Jones, J.; King; Lewis, G.; Longoria; Luna; Maxey; McCall;

McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oliveira; Place; Price; Puente; Rangel; Raymond; Rhodes; Rodriguez; Romo; Sadler; Saunders; Seidlits; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Williamson; Willis; Wolens.

Nays — Allen; Averitt; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Delisi; Denny; Driver; Duncan; Elkins; Finnell; Goodman; Goolsby; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Johnson; Junell; Kamel; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; Moffat; Nixon; Oakley; Ogden; Park; Pickett; Pitts; Ramsay; Reyna; Rusling; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Wilson; Wohlgenuth; Woolley; Yarbrough; Yost.

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

Absent, Excused — Ehrhardt; Jones, D.; Patterson; Rabuck.

Absent — Mowery; Zbranek.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 327. I intended to vote no.

Gallego

I was shown voting yes on Record No. 327. I intended to vote no.

T. Hunter

When Record No. 327 was taken, I was temporarily out of the house chamber. I would have voted yes.

Zbranek

Amendment No. 186 was withdrawn.

Amendment No. 187

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

Floor No. 28-2

Amend **CSSB 1** as follows:

Sec. 28.001(a)(5), is amended to read as follows:

On page 211, line 27, after the word "health" and before the semi-colon, insert the words "with specific instruction in the principles and techniques of cardiopulmonary resuscitation (CPR) given at least once at the seventh grade level or above"

Sec. 28.001, is amended by inserting a new subsection (i) to read as follows:

On page 213, line 22, insert the words "(i) A school district may contract with or accept services from a qualified public or private entity to provide the instruction in cardiopulmonary resuscitation required by Subsection (a)(5). The public or private entity must meet the cardiopulmonary resuscitation training standards of the American Red Cross or the American Heart Association."

Representative Sadler moved to table Amendment No. 187.

The motion to table prevailed.

Amendment No. 188

Representative Chisum offered the following amendment to **CSSB 1**:
Floor No. 28-3

1. Amend **CSSB 1** by amending the Section 28.001 on page 211, line 27, as follows:

(5) health, as provided by the essential elements with the exception of Section 28.0011;

2. Add a new Section 28.0011 on page 213, between lines 21 and 22, to read as follows:

Section 28.0011. HUMAN SEXUALITY INSTRUCTION. (a) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the local school district's board of trustees and must:

(1) present abstinence from sexual activities as the preferred choice of behavior in relationship to all sexual activity for school-age unmarried persons;

(2) devote substantially more attention to abstinence from sexual activity than to any other behavior;

(3) emphasize that abstinence from sexual activity is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;

(4) direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage and fidelity in marriage is the expected standard in terms of public health and the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and

(5) teach contraception and condom use in terms of human use reality rates instead of in theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

(b) A school district may not distribute condoms in connection with instruction relating to human sexuality.

(c) A school district that provides human sexuality instruction may separate students according to sex for instructional purposes so that each sex may receive information specifically appropriate for that sex.

(d) A school district's board of trustees shall determine the specific content of the district's instruction in human sexuality, consistent with the state guidelines adopted under Subsection (a), (b), and (c). After the beginning of the 1995-1996 school year, no change in health curriculum content or instruction shall be made until considering the recommendations of a local health education advisory council created under Subsection (e).

(e) A school district shall establish a local health education advisory council to assist the district in ensuring that local community values and health issues are reflected in the district's human sexuality instruction.

(f) The council's duties shall include:

(1) recommending appropriate grade levels for human sexuality instruction;

(2) recommending the methods of instruction to be used by a teacher in the area of human sexuality instruction education; and

(3) recommending the number of hours of instruction to be provided in health education.

(g) The council:

(1) must include persons who represent diverse views in the community about human sexuality instruction;

(2) must include parents of students enrolled in the district as a majority of the council; and

(3) may include teachers, school administrators, students, health care professionals, members of the business community, law enforcement representatives, senior citizens, clergy or other interested persons.

(h) A school district shall notify a parent of each student enrolled in the district of:

(1) the basic content of the district's human sexuality instruction to be provided to the student; and

(2) the parent's right to remove the student from any part of the district's human sexuality instruction.

(i) A school district shall make all curriculum materials used in the district's human sexuality instruction available for reasonable public inspection.

Amendment No. 189

Representative Coleman offered an amendment to Amendment No. 188.

Amendment No. 189 was withdrawn.

Amendment No. 190

Representative Coleman offered the following amendment to Amendment No. 188:

Amend Amendment No. 188 as follows:

() On page 1, line 15, strike "substantially".

() On page 1, line 12, between "trustees" and "and", insert "with the input of the health education advisory committee".

() On page 1, line 17, between "activity" and "is" insert "if used consistently and correctly".

() On page 1, lines 22 and 23, strike "and fidelity in marriage is the expected standard in terms of public health and the" and substitute "is the".

Amendment No. 190 was adopted without objection.

A record vote was requested.

Amendment No. 188, as amended, was adopted by (Record 328): 110 Yeas, 30 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts;

Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; De La Garza; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Gallego; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Nixon; Oakley; Ogden; Oliveira; Park; Pickett; Pitts; Place; Puente; Ramsay; Raymond; Reyna; Rhodes; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Turner, B.; Uher; Walker; West; Willis; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost.

Nays — Alonzo; Bailey; Conley; Danburg; Davila; Davis; Dear; Dukes; Dutton; Edwards; Farrar; Giddings; Gray; Hernandez; Hightower; Hochberg; Hudson; Luna; Maxey; Moreno; Naishtat; Price; Rangel; Romo; Sadler; Torres; Turner, S.; Van de Putte; Williamson; Wilson.

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

Absent, Excused — Ehrhardt; Jones, D.; Patterson; Rabuck.

Absent — Berlanga; Jones, J.; Rodriguez; Zbranek.

STATEMENTS OF VOTE

When Record No. 328 was taken, I was in the house but away from my desk. I would have voted yes.

Berlanga

When Record No. 328 was taken, I was in the house but away from my desk. I would have voted no.

Rodriguez

When Record No. 328 was taken, I was temporarily out of the house chamber. I would have voted yes.

Zbranek

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Higher Education, on recess today, Desk 118, to consider **SB 727**.

Appropriations, on recess today, back hall, to consider **HB 3050**.

Civil Practices, on recess today, Desk 32.

Juvenile Justice and Family Issues, on recess today, Desk 31.

RECESS

The chair moved that the house recess until 1:30 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:31 p.m., recessed until 1:30 p.m. today.

AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker.

CSSB 1 - (pending business)**Amendment No. 191**

Representative R. Cuellar offered an amendment (Floor No. 28-4) to **CSSB 1**.

Amendment No. 191 was withdrawn.

Amendment No. 192

Representatives Longoria and Shields offered the following amendment to **CSSB 1**:

Floor No. 28-5

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 28.001, Education Code (House Committee Report, page 213, between lines 16 and 17), insert the following:

(h) The State Board of Education shall designate instruction in basic values of the United States as an essential element of social studies. The values studied shall include respect for oneself and other people, including family, cooperation with and respect for law enforcement officials, respect for authority, the work ethic, the dignity of all work, and respect for the property of others.

(2) In SECTION 1 of the bill, in proposed Section 28.001(h), Education Code (House Committee Report, page 213, line 17), strike "(h)" and substitute "(i)".

(3) Add the following SECTION, appropriately numbered, and renumber the existing SECTIONS of the bill accordingly:

SECTION _____. EFFECTIVE DATE OF SECTION 28.001(h), EDUCATION CODE. Beginning with the 1996-1997 school year, each school district shall provide instruction in basic values of the United States, as provided by Section 28.001(h), Education Code, as added by this Act.

Representative Sadler moved to table Amendment No. 192.

The motion to table was lost.

Amendment No. 192 was adopted. (The vote was reconsidered later today, and Amendment No. 192 was withdrawn.)

Amendment No. 193

Representative Longoria offered the following amendment to **CSSB 1**:
Floor No. 28-6

Amend **CSSB 1** by striking the period after the word "district" and adding"; also the State Board of Education shall allow, as approved by a school district, instruction in basic values of the United States as an essential element of social studies. The values studied shall include respect for oneself and other people, including family, cooperation with and respect for law enforcement officials,

respect for authority, the work ethic, the dignity of all work and respect for the property of others." on Page 212 line 12.

Amendment No. 193 was adopted without objection. (The vote was reconsidered later today, and Amendment No. 193, as amended, was adopted.)

Amendment No. 194

Representative Dutton offered the following amendment to **CSSB 1**:
Floor No. 28-9

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, strike proposed Section 11.108(d), Education Code (House Committee Report, page 55, lines 15-19), and substitute the following:

(d) The board may not charge a fee under Subsection (a)(12) for a course to which Section 28.003 applies.

(2) In SECTION 1 of the bill, in proposed Subchapter A, Chapter 28, 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. PROGRAM ACCESS. If 15 or more students at a school request a transfer for the same school year to another school in the district for the purpose of enrolling in an educational program offered at that school, beginning with the following school year the district shall offer the program at the school from which the transfers were requested.

[Sections 28.004-28.020 reserved for expansion]

Representative Sadler moved to table Amendment No. 194.

The motion to table prevailed.

Representative Longoria moved to reconsider the vote by which Amendment No. 192 was adopted.

The motion to reconsider prevailed.

Amendment No. 192 was withdrawn.

Amendment No. 195

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

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Subchapter B, Chapter 28, Education Code (House Committee Report, page 216, line 22), by striking "[Sections 28.026-28.050 reserved for expansion]" and substituting the following:

Sec. 28.026. CERTIFICATE OF COURSEWORK COMPLETION. Notwithstanding Section 39.025, a school district may:

(1) issue a certificate of coursework completion to a student who has satisfactorily completed each course required for high school graduation; and

(2) permit a student who receives a certificate of coursework completion to participate in a graduation ceremony with students receiving diplomas.

[Sections 28.027-28.050 reserved for expansion]

Amendment No. 195 was adopted without objection.

Amendment No. 196

Representatives Goolsby and Gutierrez offered the following amendment to **CSSB 1**:

Floor No. 28-13

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Subchapter B, Chapter 28, Education Code (House Committee Report, page 216, line 22), by striking "[Sections 28.026-28.050 reserved for expansion]" and substituting the following:

Sec. 28.026. ALTERNATIVE GRADUATION CERTIFICATE.

(a) Notwithstanding Section 39.025, a school district shall issue a high school diploma to a student who has completed all requirements for graduation but has not performed satisfactorily on all sections of the secondary exit-level assessment instrument. The diploma must state that it is an "alternative graduation certificate."

(b) A diploma issued under this section is the equivalent of a high school diploma and must be treated as a diploma for all purposes.

[Sections 28.027-28.050 reserved for expansion]

Representative Sadler moved to table Amendment No. 196.

The motion to table prevailed.

Amendment No. 197

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

Floor No. 29-1

Amend **CSSB 1**, Section 29.062 as follows by striking Section 29.062 and substituting the following:

Sec. 29.062 COMPLIANCE.

(a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore, pursuant to the policy of the state, the agency shall monitor compliance with state rules by inspecting each school district, home-rule school district charter, campus or campus program charter, and program charter for program outside of school district facility on site at least every three years.

(b) The areas to be monitored shall include:

- (1) program content and design;
- (2) program coverage;
- (3) identification procedures;
- (4) classification procedures;
- (5) staffing;
- (6) learning materials;
- (7) testing materials;

(8) reclassification of students for either entry into regular classes conducted exclusively in English or for reentry into a bilingual education or special education program; and

(9) activities of the language proficiency assessment committees.

(c) Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district, home-rule school district charter, campus or campus program charter, and program charter for program outside of school district facility and to the division of accreditation.

(d) The agency shall notify a school district, home-rule school district charter, campus or campus program charter, and program charter for program outside of school district facility found 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, and program charter for program outside of school district facility fails or refuses to comply after proper notification, the agency shall apply sanctions, which may include the revocation of charter, loss of foundation school funds, or both.

Amendment No. 197 was adopted without objection.

Amendment No. 198

Representative Dutton offered an amendment (Floor No. 29-3) to **CSSB 1**.

Amendment No. 198 was withdrawn.

Amendment No. 199

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

Floor No. 29-4

Amend **CSSB 1** on Section 29.081 by adding Section (e) "Each district shall appoint an at risk coordinator."

Amendment No. 200

Representative Davila offered the following amendment to Amendment No. 199:

Amend Amendment No. 199 by Davila to **CSSB 1** by striking all text following "Amend" and substituting "**CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 29.081(c), Education Code (House Committee Report, page 245, line 18), strike "Subsection (d)" and substitute "Subsection (e)".

(2) In SECTION 1 of the bill, immediately following proposed Section 29.081(c), Education Code (House Committee Report, page 245, between lines 18 and 19), insert the following:

(d) Each district is encouraged to designate one or more employees to serve as at-risk coordinators. The number of at-risk coordinators shall correspond to the size of the district. Each at-risk coordinator shall collect and disseminate data regarding dropouts in the district and shall coordinate programs in the district for students who are at risk of dropping out of school.

(3) In SECTION 1 of the bill, in proposed Section 29.081(d), Education Code (House Committee Report, page 245, line 19), strike "(d)" and substitute "(e)".

Amendment No. 200 was adopted without objection.

Amendment No. 199, as amended, was adopted without objection.

Amendment No. 201

Representative Gallego offered the following amendment to **CSSB 1**:
Floor No. 29-7

Amend **CSSB 1**, Section 29.082 as follows:

On page 247, line 2, between "district" and "may" insert "may set aside an amount from the district's allotment under Section 42.152 or".

On page 247, line 9, delete "12" and insert "18".

On page 247, line 15, delete "80" and insert "90", and between "days" and "of", insert "and who meets appropriate academic standards".

On page 248, delete (g).

Amendment No. 201 was adopted without objection. (The vote was reconsidered later today, and Amendment No. 201, as amended, was adopted.)

Amendment No. 202

Representative Chisum offered the following amendment to **CSSB 1**:
Floor No. 29-8

Amend **CSSB 1** as follows:

1) On page 248, line 19, after the word "district", delete the word "~~shall~~" and insert the word "may".

Amendment No. 202 was adopted without objection.

Amendment No. 203

Representative Kubiak offered an amendment (Floor No. 29-10) to **CSSB 1**.

Amendment No. 203 was withdrawn.

Amendment No. 204

Representative Johnson offered an amendment (Floor No. 29-11) to **CSSB 1**.

Amendment No. 204 was withdrawn.

Amendment No. 205

Representative Gallego offered the following amendment to **CSSB 1**:
Floor No. 29-16

Amend **CSSB 1**, Section 29.203 as follows:

(1) On page 256 line 16, in Subsection (c) add a coma after "student" and insert the following:

"nor utilize criteria that discriminates on the basis of student's race, ethnicity, academic achievement, athletic abilities, language proficiency, gender, or socioeconomic status."

Amendment No. 206

Representative Gallego offered the following amendment to Amendment No. 205:

Amend Amendment No. 205 by Gallego to **CSSB 1** on line 4 by striking "student" and substituting "grant".

Amendment No. 206 was adopted without objection.

Amendment No. 205, as amended, was adopted without objection.

Representative Gallego moved to reconsider the vote by which Amendment No. 201 was adopted.

The motion to reconsider prevailed.

Amendment No. 207

Representative Gallego offered the following amendment to Amendment No. 201:

Amend Amendment No. 201 by Gallego in the third item by striking "On page 247, line 15, delete "80"" and substituting "On page 247, lines 15-16, delete "85"".

Amendment No. 207 was adopted without objection.

Amendment No. 201, as amended, was adopted without objection.

Amendment No. 208

Representative Hochberg offered an amendment (Floor No. 29-18) to **CSSB 1**.

Amendment No. 208 was withdrawn.

(Speaker pro tempore in the chair)

Amendment No. 209

Representatives Grusendorf, Wilson, and H. Cuellar offered the following amendment to **CSSB 1**:

Floor No. 29-23

Amend **CSSB 1** in SECTION 1 of the bill in proposed Chapter 29, Education Code (House Committee Report, page 265, line 2), by striking "[Sections 29.258-29.900 reserved for expansion]" and substituting the following:

[Sections 29.258-29.300 reserved for expansion]

**SUBCHAPTER I. PUBLIC EDUCATION SCHOLARSHIP
PILOT PROGRAM**

Sec. 29.301. PURPOSE. A system of public free schools shall be established to allow parents of eligible children the freedom to choose between a public or a free school for their children and to financially support that choice.

Sec. 29.302. DEFINITIONS. In this subchapter:

(1) "Eligible child" means a child who:

(A) is eligible to attend school under Section 25.001 in a school district participating in the public education scholarship pilot program;

(B) was enrolled in a public school, or in a free school under the public education scholarship pilot program, the preceding year or is enrolling in prekindergarten, kindergarten, or first grade for the first time; and

(C) is eligible to participate in the federal school lunch program of free or reduced-price lunches under law and regulations as those laws and regulations existed on January 1, 1995.

(2) "Free school" means a nongovernmental educational establishment that exists for the general education of elementary or secondary students and that accepts funding from state and local sources as provided by this subchapter in lieu of tuition for some or all of its students. A "free school" does not include a school that:

(A) provides education in a home setting or by a parent; or

(B) limits enrollment to relatives of the staff of the school.

(3) "Parent" includes a person standing in parental relation to a child.

(4) "Private school" means a nongovernmental educational establishment that does not accept funding from state and local sources as provided by this subchapter in lieu of tuition.

Sec. 29.303. PUBLIC EDUCATION SCHOLARSHIP PILOT PROGRAM; PARENTAL CHOICE. (a) The Center for the Study of Educational Reform at the University of North Texas in Denton, Texas, shall designate 60 school districts in the state to participate in a public education scholarship pilot program. The group of school districts selected must provide a reasonable representation of districts in this state. Some of the districts selected must be rated academically unacceptable and some must contain campuses that are low-performing. Other factors to be considered must include:

(1) interest by the school district or by parents of eligible children in the school district in having the district participate in the public education scholarship pilot program;

(2) interest by one or more nongovernmental educational establishments in the area of the school district in being a free school in the public education scholarship pilot program; and

(3) categories important to program assessment, including family income, ethnic composition, district expenditures, property wealth, and number of students residing in the district.

(b) A school district participating in the public education scholarship pilot program shall notify the parent of each eligible child of the child's eligibility to attend a free school as provided by this subchapter.

(c) Notwithstanding any other provision of this code, in accordance with this subchapter each eligible child in a participating school district may attend either a public school in the district of the child's residence, a public school in a district outside of the child's district of residence, or the free school chosen for the child by the child's parent, subject to availability, and, in the case of a child attending a public school in a district outside of the child's district of residence, subject to the consent of the other district.

(d) A child may attend private school but may not receive funding from state and local sources for that purpose under this subchapter. A child attending

a private school or free school without a public education scholarship may not be required to register with the district in which the child resides.

Sec. 29.304. FINANCING. (a) Each school district that has free school students residing in the district is entitled to receive state funding as provided by Chapter 42 and other law.

(b) A child eligible under Section 25.001 to attend school in a participating school district but who attends a free school or a school in a district outside of the child's district of residence under this subchapter and who voluntarily registers that choice with the district is considered in determining the district's average daily attendance under Section 42.005. The district in which the child resides shall adopt a procedure that a free school or another school district shall use to report the average daily attendance of any student for whom the free school or other school district is receiving public education scholarship funds under this subchapter.

(c) A child's public education scholarship is the average per student funding from local and state sources other than the available school fund for maintenance and operations, including funding based on special categories of students, for the preceding school year in the district in which the student resides.

(d) Each school district designated under Section 29.303 shall distribute to each eligible child's parent a voucher detailing the amount of each eligible child's scholarship. The voucher shall be presented to the child's school of choice in lieu of direct payment.

(e) The free school or the public school that the child attends in a district outside of the district in which the child resides must present the child's voucher to the district in which the child resides to receive payment. The child's public education scholarship is the entitlement of the child, under the supervision of the child's parent, and not that of any school. Solely as a means of administrative convenience, the district in which the child resides shall pay the public education scholarship to a free school or school district in which is located the school the child attends outside of the district in which the child resides on presentation of the voucher by the free school or school district. The district in which the child resides shall pay the free school or the district in which is located the school the child attends on a monthly pro rata basis after educational services have been provided.

(f) A school district shall retain 100 percent of the public education scholarship of a child who resides in the district and attends a public school of the district. If a child resides in a school district and attends a public school of another school district, the district in which the child resides shall transfer 100 percent of the child's public education scholarship to the district in which the child attends school. If a child resides in a school district and attends a free school, the district in which the child resides shall:

- (1) retain 20 percent of the child's public education scholarship; and
- (2) transfer 80 percent of the child's public education scholarship to the free school the child attends.

(g) A free school may not share, refund, or rebate a child's public education scholarship with the parent or child in any manner. A free school may not charge an eligible child attending the school under this subchapter tuition in addition to the public education scholarship.

Sec. 29.305. **CONDITIONS FOR RECEIPT OF FUNDS BY FREE SCHOOLS.** (a) To receive a child's public education scholarship funds, the free school selected by the child's parent must certify to the school district in which the child resides that, with respect to public education scholarship students, the free school does not refuse to admit a student on the basis of the student's residence, race, national origin, ethnic background, religion, or academic performance, except that continued enrollment may be based on academic or disciplinary standards the free school establishes.

(b) A free school that has more applicants than available positions must fill the available positions by a random selection process, except that for purposes of continuity in education, a free school may give preference to enrolled students and, for the convenience of parents, a free school may give preference to siblings of enrolled students residing in the same household as enrolled students. Each year, a free school must declare the number of available positions and conduct the selection for the next school year.

(c) Each public or free school shall administer assessment instruments to public education scholarship students in accordance with Sections 39.023(a) and (b) under rules uniformly applied to public and free schools. The results of the assessment instruments shall be published and copies of the statewide scores shall be made available for parental inspection at each public or free school.

Sec. 29.306. **TRANSPORTATION.** Each school district shall offer transportation free of charge to a public education scholarship student to and from the public school the student would otherwise attend to the same extent that the child would be offered transportation free of charge if the child was attending public school in the child's district of residence.

Sec. 29.307. **NONSTATE ACTION AND FREE SCHOOL AUTONOMY.**

(a) A free school that accepts a public education scholarship as provided by this subchapter is not an agent or arm of the government, and the conduct of the free school is governed by the law governing private schools.

(b) The purpose of this subchapter is to allow maximum freedom to the private sector to respond to educational needs without excessive government control, and this subchapter shall be liberally construed to achieve that purpose.

(c) Except as provided by Section 29.305(c), the State Board of Education or the commissioner may not regulate the educational program of a free school.

Sec. 29.308. **FREE EXERCISE OF RELIGION.** (a) The United States Constitution and the Texas Constitution guarantee the right to the free exercise of religion, and that right may not be abridged by the state or any government official. The purpose of this legislation is neither to aid or inhibit religious education nor to prohibit the free exercise of religion, but to neutrally provide equal educational benefits to all citizens, regardless of religious affiliation.

(b) Use of a public education scholarship at a religious or parochial school does not constitute aid to any church, sect, religious denomination, or sectarian institution. A decision by a parent for a child to attend a religious or parochial school must be made without coercion or encouragement by a government employee.

Sec. 29.309. **STUDENTS WITH DISABILITIES.** Each free school shall reasonably accommodate, either directly or contractually with other free schools or public schools, the educational needs of each student with a disability attending the school. The cost of reasonable accommodation of those

educational needs, as those needs are determined by the child's school district of residence, shall be added to the child's public education scholarship. Except as required by applicable federal law, if any, the free school is responsible for providing only those reasonable accommodations whose costs are provided for by the child's public education scholarship.

Sec. 29.310. The Center for the Study of Educational Reform at the University of North Texas shall report to the legislature on the success of the public education scholarship pilot program the first time, not later than January 1, 1997, and a second time, not later than January 1, 1999. This section expires September 1, 1999.

[Sections 29.311-29.900 reserved for expansion]

(Ehrhardt and Rabuck now present)

(Speaker in the chair)

Representative Sadler moved to table Amendment No. 209.

A record vote was requested.

The motion to table prevailed by (Record 329): 83 Yeas, 63 Nays, 1 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Bailey; Black; Bosse; Clemons; Coleman; Conley; Counts; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Gallego; Giddings; Glaze; Goolsby; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hirschi; Hochberg; Hudson; Hunter, T.; Johnson; Jones, J.; Junell; King; Lewis, R.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oakley; Oliveira; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Sadler; Saunders; Seidlits; Serna; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Williamson; Willis; Wolens; Yarbrough; Yost; Zbranek.

Nays — Allen; Averitt; Berlanga; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Crabb; Craddick; Cuellar, H.; Delisi; Denny; Elkins; Goodman; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Janek; Kamel; Krusee; Kubiak; Kuempel; Lewis, G.; Madden; Marchant; McCall; Moffat; Mowery; Nixon; Ogden; Park; Pitts; Rabuck; Reyna; Rusling; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; Van de Putte; Walker; West; Wilson; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Jones, D.; Patterson.

Absent — Culberson.

Amendment No. 210

Representative De La Garza offered the following amendment to **CSSB 1**:
Floor No. 30-3

CSSB 1 is amended as follows:

(1) On page 296, between lines 13 and 14, insert a new Section to read as follows:

"Sec. 30.103. The Texas Youth Commission with the assistance of the Texas Employment Commission and the Texas Council on Workforce and Economic Competitiveness shall by rule adopt a memorandum of understanding that establishes the respective responsibility of those entities to provide through local workforce development boards job training and employment assistance programs to children committed or formerly sentenced to the Texas Youth Commission. The Texas Youth Commission shall coordinate the development of the memorandum of understanding and include in their annual report information describing the number of children in the preceding year receiving services under the memorandum."

(2) On page 341, between lines 23 and 24, insert a new Subsection (f) to read as follows:

"(f) A local juvenile justice department with the assistance of the Texas Employment Commission and the Texas Council on Workforce and Economic Competitiveness shall by rule adopt a memorandum of understanding that establishes the respective responsibility of those entities to provide through local workforce development boards job training and employment assistance programs within the juvenile justice system alternative education program."

(3) On page 341, line 24 between the words "Sec. 37.009." and "funding" insert "(a)".

(4) On page 341, between lines 4 and 5, insert a new Subsection (b) to read as follows:

"(b) The Texas Office of State and Federal Relations shall assist the local juvenile probation department in identifying additional state or federal funds to assist local juvenile justice departments conducting educational or job training programs within juvenile justice system alternative education programs."

Amendment No. 211

Representative De La Garza offered the following amendment to Amendment No. 210:

Amend Amendment No. 210 by De La Garza to **CSSB 1** as follows:

(1) Strike items (3) and (4) and substitute the following:

(3) On page 341, line 25, between "PROGRAMS." and "The", insert "(a)".

(4) On page 342, between lines 4 and 5, insert the following:

(b) The Office of State-Federal Relations shall assist the local juvenile probation department in identifying additional state or federal funds to assist local juvenile probation departments conducting educational or job training programs within juvenile justice alternative education programs.

Amendment No. 211 was adopted without objection.

Amendment No. 210, as amended, was adopted without objection.

Amendment No. 212

Representative Sadler offered the following amendment to **CSSB 1**:
Floor No. 31-1

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 31.021(d), Education Code (House Committee Report, page 299, line 1), strike "Money" and substitute "Only money".

(2) In SECTION 1 of the bill, in proposed Section 31.021(d), Education Code (House Committee Report, page 299, line 2), strike "only".

(3) In SECTION 1 of the bill, strike proposed Section 31.022(a), Education Code (House Committee Report, page 299, lines 16-21), and substitute the following:

(a) The State Board of Education shall establish a cycle, not to exceed six years, for adopting:

(1) textbooks other than electronic textbooks;

(2) electronic textbooks; or

(3) any system that combines textbooks other than electronic textbooks and electronic textbooks.

(4) In SECTION 1 of the bill, in proposed Section 31.023(a), Education Code (House Committee Report, page 300, lines 5-10), strike "The nonconforming list includes each textbook, other than an electronic textbook, submitted for the subject and grade level that meets applicable physical specifications adopted by the National Association of School Textbook Administrators but does not contain each essential element of the subject and grade level." and substitute "The nonconforming list includes each textbook, other than an electronic textbook, submitted for the subject and grade level that:

(1) meets applicable physical specifications adopted by the National Association of School Textbook Administrators; and

(2) contains at least half of the essential elements of the subject and grade level but not each essential element of the subject and grade level."

(5) In SECTION 1 of the bill, in proposed Section 31.023(b), Education Code (House Committee Report, page 300, lines 16-19), strike "The nonconforming list includes each electronic textbook submitted for the subject and grade level that does not contain each essential element of the subject and grade level." and substitute "The nonconforming list includes each electronic textbook submitted for the subject and grade level that contains at least half of the essential elements of the subject and grade level but not each essential element of the subject and grade level."

Amendment No. 212 was adopted without objection.

Amendment No. 213

Representative Hernandez offered the following amendment to **CSSB 1**:
Floor No. 31-2

Amend **CSSB 1** as follows:

(1) On page 297, line 8, strike "textbook" and substitute "technological".

(2) On page 297, line 9, between "necessary" and "to", insert "for use in the classroom, including".

(3) On page 299, line 4, strike "textbook" and substitute "technological".

(4) On page 299, line 9, strike "textbook" and substitute "technological".

Amendment No. 213 was adopted without objection.

Amendment No. 214

Representative Williamson offered the following amendment to **CSSB 1**:
Floor No. 31-3

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

(1) In proposed Section 31.021(d)(3), Education Code (House Committee Report, page 299, line 9), strike "by educational personnel" and substitute "for professional use by teachers or instructional personnel".

(2) In proposed Section 31.101, Education Code (House Committee Report, page 304, lines 9 and 10), strike "to be used for the entire period of the adoption" and substitute ". A textbook shall be used for the entire period of adoption, except that during an adoption period a school district may select from the applicable list and use an upgrade of an electronic textbook that is in use by the school district".

Amendment No. 215

Representative Sadler offered the following amendment to Amendment No. 214:

Amend Amendment No. 214 by Williamson by adding a new provision to read as follows:

(3) On page 299, strike line 3 and renumber subsequent subdivisions accordingly.

Amendment No. 215 was adopted without objection.

Amendment No. 214, as amended, was adopted without objection.

Amendment No. 216

Representative Grusendorf offered the following amendment to **CSSB 1**:
Floor No. 31-4

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 31.024(b), Education Code (House Committee Report, page 301, line 6), strike "must certify that the textbook is factually accurate and".

(2) In SECTION 1 of the bill, in proposed Section 31.024, Education Code (House Committee Report, page 301, between lines 17 and 18), insert a new Subsection (d) to read as follows:

(d) Before a textbook may be adopted by the State Board of Education, the publisher must:

(1) certify in writing to the board that the textbook has been reviewed for factual accuracy by an independent expert who:

(A) holds a doctorate degree in the subject to which the textbook relates;

(B) is not affiliated with the publisher other than employment for purposes of reviewing the factual accuracy of textbooks; and

(C) is not affiliated with the author of the textbook; and

(2) provide the board with a copy of the certification of factual accuracy made by the independent expert.

Amendment No. 216 was adopted without objection.

Amendment No. 217

Representative Williamson offered the following amendment to **CSSB 1**:
Floor No. 31-5

Amend **CSSB 1** as follows:

(1) On page 302, line 7 in Section 31.027(a) of the bill, strike "other than" and substitute "and".

(2) On page 302, line 11 in Section 31.027(a) of the bill following "textbooks" at the end of the line insert the following: "other than on-line services".

(3) On page 302, line 14 in Section 31.027(b) of the bill strike the following: "for each electronic medium" and "the storage and".

(4) On page 302, line 15 in Section 31.027(b) of the bill strike "textbooks" and substitute "on-line services".

Amendment No. 218

Representative Williamson offered the following amendment to Amendment No. 217:

Amend Amendment No. 217 by Williamson to **CSSB 1** as follows:

(1) In item "(1)", strike "line 7" and substitute "line 18".

(2) In item "(1)", strike "and" and substitute "or".

(3) In item "(2)", strike "line 11" and substitute "line 22".

(4) In item "(3)", strike "line 14" and substitute "line 25".

(5) In item "(4)", strike "line 15" and substitute "line 26".

Amendment No. 218 was adopted without objection.

Amendment No. 217, as amended, was adopted without objection.

Amendment No. 219

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

Amend **CSSB 1** as follows:

In Subsection 31.029(a), on page 303, line 14, after "students.", add the following: "The teacher edition must be available at the same time the student textbooks become available."

Amendment No. 219 was adopted without objection.

Amendment No. 220

Representative Naishtat offered the following amendment to **CSSB 1**:
Floor No. 31-6

Amend **CSSB 1** as follows:

In Section 31.029, on page 303, insert a new Subsection (b) as follows and renumber the subsequent subsections appropriately: "(b) The publisher of a textbook that is adopted for use in the state shall furnish the agency with computerized textbook files for the production of Braille textbooks or other versions of textbooks to be used by students with disabilities, upon request of

the State Board of Education. Publishers will arrange the computerized textbook files in one of several optional formats specified by the State Board of Education."

Amendment No. 220 was adopted without objection.

Amendment No. 221

Representative Howard offered the following amendment to **CSSB 1**:
Floor No. 31-9

Amend **CSSB 1** as follows:

On page 304, before line 20 insert the following new section:

"(d) A school district or state-granted charter school is entitled to receive a waiver from the requirement to select a textbook for a subject and grade level from the state-adopted multiple list. The district must submit a statement to the State Board of Education indicating the district's or school's alternative textbook choice, the cost per textbook of the alternative, and the reason for rejecting the textbooks from the state-adopted multiple list. The textbook shall be purchased by the district and shall be used for the same number of years for which the textbooks for the subject or course are adopted by the State Board of Education. The amount the state shall pay for the unit cost of the alternative textbooks shall not exceed the unit cost of the costliest textbook on the multiple list for that subject or course. The State Board of Education or its designee shall calculate the allowable cost and transmit from the state textbook fund that amount to the district for purchase of the textbooks."

Representative Sadler moved to table Amendment No. 221.

The motion to table prevailed.

Amendment No. 222

Representative Hill offered the following amendment to **CSSB 1**:
Floor No. 31-10

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 31.104(b), Education Code (House Committee Report, page 305, line 26), between the period and "A", insert "Each textbook, other than an electronic textbook, must be covered by the student under the direction of the teacher."

Amendment No. 222 was adopted without objection.

Amendment No. 223

Representative Dutton offered the following amendment to **CSSB 1**:
Floor No. 31-13

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 31.104(b), Education Code (House Committee Report, page 305, line 26), by inserting between the period and "A" the following: Subject to availability, each district shall, at the request of a parent or guardian of a student enrolled in the district, allow the student to take home any textbook, other than an electronic textbook, used by the student. The student must return the textbook to school at the beginning of the next school day.

Amendment No. 223 was adopted without objection.

Amendment No. 224

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

Floor No. 32-1

Amend **CSSB 1** as follows:

In Section 32.001, on page 308, add Subsection (d) as follows:

"(d) In developing the plan, the State Board of Education must consider accessibility of technology to students with disabilities."

Amendment No. 224 was adopted without objection.

Amendment No. 225

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

Floor No. 32-2

Amend **CSSB 1** as follows:

(1) In Section 32.031, on page 309, line 1, between "appropriate" and "technology", insert ", accessible".

(2) In Subsection 32.032(a), on page 309, line 4, between "an" and "electronic", insert "accessible".

(3) In Subsection 32.032(b), on page 309, line 11, between "provide" and "goods", insert "accessible".

(4) In Subsection 32.033(b), on page 309, line 24, between "to" and "telecommunications", insert "accessible".

Amendment No. 225 was adopted without objection.

Amendment No. 226

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

Floor No. 32-5

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Chapter 32, Education Code (House Committee Report, page 312, between lines 2 and 3), by inserting the following:

[Sections 32.037-32.100 reserved for expansion]

SUBCHAPTER C. DISTANCE LEARNING CLEARINGHOUSE

Sec. 32.101. DEFINITIONS. In this subchapter:

(1) "Clearinghouse" means the distance learning clearinghouse.

(2) "Distance learning" means the transmission of educational information and interaction of geographically dispersed persons through a single medium or a combination of audio, video, and data.

Sec. 32.102. DISTANCE LEARNING CLEARINGHOUSE. The agency shall establish a distance learning clearinghouse to:

(1) develop statewide distance learning programs and applications; and

(2) assist the agency in providing technical assistance to potential distance learning providers.

Sec. 32.103. ADVISORY COMMITTEE. (a) The distance learning advisory committee consists of 18 members. Seventeen members are appointed by the commissioner as follows:

(1) one member must represent regional education service centers;
(2) one member must be a practicing public school administrator, selected from a list submitted by a statewide organization of school administrators;

(3) three members must represent businesses in this state and be experienced in technology applications;

(4) one member must be a practicing public school teacher, selected from a list submitted by a statewide organization of teachers;

(5) one member must be a library media specialist, selected from a list submitted by a statewide organization of library media specialists;

(6) one member must represent the public;

(7) one member must be a faculty member of an institution of higher education;

(8) one member must be a public secondary school teacher and represent educators who use technology;

(9) one member must be a practicing public elementary school teacher;

(10) one member must be a practicing public school educator specializing in curriculum development;

(11) one member must be experienced in telecommunications regulation, selected from a list submitted by an association representing local exchange companies in this state;

(12) one member must represent consumers;

(13) one member must represent local exchange companies;

(14) one member must represent interexchange telecommunications carriers; and

(15) one member must represent the computer industry.

(b) The comptroller or the comptroller's representative shall serve as presiding officer of the advisory committee.

(c) A private business entity, school district, or statewide organization may not have more than one officer or employee serve on the advisory committee.

(d) A member must be knowledgeable about application of technology for learning experiences and be selected based on documentation of that knowledge.

(e) The advisory committee shall advise the distance learning clearinghouse in the development of the distance learning policy as provided by Section 32.104.

(f) The advisory committee may request the advice and cooperation of appropriate state agencies.

(g) A member is not entitled to compensation for serving on the advisory committee but is entitled to reimbursement for expenses as provided by Section 4, Article 6252-33, Revised Statutes.

(h) The commissioner shall appoint the initial members of the advisory committee not later than November 1, 1995. In the event of a vacancy on the advisory committee, the commissioner shall appoint a replacement who meets the qualifications of the vacated position.

(i) In this section, "local exchange company" has the meaning assigned by Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes).

(j) This section expires and the advisory committee is abolished August 31, 1997.

Sec. 32.104. DISTANCE LEARNING POLICY. The clearinghouse shall adopt a comprehensive long-term distance learning policy that:

- (1) identifies existing available resources for distance learning;
- (2) identifies the distance learning educational and professional development needs of various educational, community, and business organizations;
- (3) identifies the role of the state in implementing the policy and in including distance learning in the state and local curricula;
- (4) encourages the development of local and regional distance learning applications;
- (5) encourages active participation in the full development and use of the distance learning infrastructure and technology; and
- (6) encourages interaction between public and private nonprofit distance learning providers and users.

Sec. 32.105. ADDITIONAL DUTIES OF CLEARINGHOUSE. (a) The clearinghouse shall compile and maintain a database of information and research relating to distance learning programs and applications. The clearinghouse shall make the database available to the public, state agencies, and local governments in electronic form.

(b) The clearinghouse may develop methods of:

- (1) providing technical assistance to entities that are developing distance learning programs; and
- (2) assisting those entities in assessing distance learning needs.

(c) The clearinghouse may advise a school district of ways in which the district may save money when using distance learning programs.

Amendment No. 227

Representative Finnell offered the following amendment to Amendment No. 226:

Amend Amendment No. 226 by Finnell to read as follows:

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Chapter 32, Education Code (House Committee Report, page 312, between lines 2 and 3), by inserting the following:

[Sections 32.037-32.100 reserved for expansion]

SUBCHAPTER C. DISTANCE LEARNING CLEARINGHOUSE

Sec. 32.101. DEFINITIONS. In this subchapter:

- (1) "Clearinghouse" means the distance learning clearinghouse.
- (2) "Distance learning" means the transmission of educational information and interaction of geographically dispersed persons through a single medium or a combination of audio, video, and data.

Sec. 32.102. DISTANCE LEARNING CLEARINGHOUSE. The agency shall establish a distance learning clearinghouse to:

- (1) develop statewide distance learning programs and applications; and
- (2) assist the agency in providing technical assistance to potential distance learning providers.

~~Sec. 32.103. ADVISORY COMMITTEE. (a) The distance learning advisory committee consists of 18 members. Seventeen members are appointed by the commissioner as follows:~~

~~(1) one member must represent regional education service centers;~~
~~(2) one member must be a practicing public school administrator, selected from a list submitted by a statewide organization of school administrators;~~

~~(3) three members must represent businesses in this state and be experienced in technology applications;~~

~~(4) one member must be a practicing public school teacher, selected from a list submitted by a statewide organization of teachers;~~

~~(5) one member must be a library media specialist, selected from a list submitted by a statewide organization of library media specialists;~~

~~(6) one member must represent the public;~~

~~(7) one member must be a faculty member of an institution of higher education;~~

~~(8) one member must be a public secondary school teacher and represent educators who use technology;~~

~~(9) one member must be a practicing public elementary school teacher;~~

~~(10) one member must be a practicing public school educator specializing in curriculum development;~~

~~(11) one member must be experienced in telecommunications regulation, selected from a list submitted by an association representing local exchange companies in this state;~~

~~(12) one member must represent consumers;~~

~~(13) one member must represent local exchange companies;~~

~~(14) one member must represent interexchange telecommunications carriers; and~~

~~(15) one member must represent the computer industry.~~

~~(b) The comptroller or the comptroller's representative shall serve as presiding officer of the advisory committee.~~

~~(c) A private business entity, school district, or statewide organization may not have more than one officer or employee serve on the advisory committee.~~

~~(d) A member must be knowledgeable about application of technology for learning experiences and be selected based on documentation of that knowledge.~~

~~(e) The advisory committee shall advise the distance learning clearinghouse in the development of the distance learning policy as provided by Section 32.104.~~

~~(f) The advisory committee may request the advice and cooperation of appropriate state agencies.~~

~~(g) A member is not entitled to compensation for serving on the advisory committee but is entitled to reimbursement for expenses as provided by Section 4, Article 6252-33, Revised Statutes.~~

~~(h) The commissioner shall appoint the initial members of the advisory committee not later than November 1, 1995. In the event of a vacancy on the advisory committee, the commissioner shall appoint a replacement who meets the qualifications of the vacated position.~~

~~(i) In this section, "local exchange company" has the meaning assigned by Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes).~~

~~(j) This section expires and the advisory committee is abolished August 31, 1997.~~

Sec. 32.104. DISTANCE LEARNING POLICY. The clearinghouse shall adopt a comprehensive long-term distance learning policy that:

- (1) identifies existing available resources for distance learning;
- (2) identifies the distance learning educational and professional development needs of various educational, community, and business organizations;
- (3) identifies the role of the state in implementing the policy and in including distance learning in the state and local curricula;
- (4) encourages the development of local and regional distance learning applications;
- (5) encourages active participation in the full development and use of the distance learning infrastructure and technology; and
- (6) encourages interaction between public and private nonprofit distance learning providers and users.

Sec. 32.105. ADDITIONAL DUTIES OF CLEARINGHOUSE. (a) The clearinghouse shall compile and maintain a database of information and research relating to distance learning programs and applications. The clearinghouse shall make the database available to the public, state agencies, and local governments in electronic form.

(b) The clearinghouse may develop methods of:

- (1) providing technical assistance to entities that are developing distance learning programs; and
- (2) assisting those entities in assessing distance learning needs.

(c) The clearinghouse may advise a school district of ways in which the district may save money when using distance learning programs.

Amendment No. 227 was adopted without objection.

Amendment No. 226, as amended, was adopted without objection.

Amendment No. 228

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

Amend **CSSB 1** as follows:

- (1) On page 319, line 16, strike "private school or".
- (2) On page 319, line 19, strike "or".
- (3) On page 319, lines 20-22, strike "only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled".
- (4) On page 322, strike lines 20-23 and renumber the subsequent subsection appropriately.

Amendment No. 229

Representative Williamson offered the following amendment to Amendment No. 228:

Amend Amendment No. 228 by Stiles by striking item (3) and substituting the following:

- (3) On page 319, line 22, between "enrolled" and the period, insert "or at any other time specified by resolution of the board of trustees of the district".

Amendment No. 229 was adopted without objection.

Representative Nixon moved to table Amendment No. 228, as amended.

The motion to table was lost.

Amendment No. 228, as amended, was adopted without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Rodriguez moved to suspend all necessary rules to allow the Committee on Local and Consent Calendars to meet while the house is in session.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Local and Consent Calendars, at this time, speakers committee room.

CSSB 1 - (consideration continued)

Amendment No. 230

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

Floor No. 33-1

Amend **CSSB 1**, Chapter 33, Subchapter A, Sec. 33.003, page 312, line 15 as follows:

Sec. 33.003. Parental Involvement. (a) Each school ~~may~~ shall

Amendment No. 231

Representatives Swinford and Dutton offered the following amendment to Amendment No. 230:

Amend Amendment No. 230 by Heflin to **CSSB 1** by adding the following item:

() Immediately following proposed Section 33.003(b), Education Code (House Committee Report, page 313, between lines 11 and 12), insert the following:

(c) If parents of students at a school request a transfer of the students for the same school year to another school in the district for the purpose of enrolling in an educational program offered at that school, beginning with the following school year the district shall:

(1) offer the program at the school from which the transfers were requested if offering the program would be economically neutral or beneficial to the district; or

(2) offer the program at the school from which the transfers were requested by teleconference, if available to the district.

Amendment No. 231 was adopted without objection.

Amendment No. 230, as amended, was adopted without objection.

Amendment No. 232

Representative Chisum offered an amendment (Floor No. 33-2) to **CSSB 1**.
Amendment No. 232 was withdrawn.

(Speaker pro tempore in the chair)

Amendment No. 233

Representative Naishtat offered the following amendment to **CSSB 1**:
Floor No. 34-1

Amend **CSSB 1** as follows:

In Section 34.008, on page 329, add Subsection (c) as follows:

"(c) A public transportation company or system contracting under this section for daily transportation of pre-primary, primary or secondary students to or from school shall conduct, in a manner and on a schedule approved by the county or district school board, the following education programs:

(1) a program to inform the public that public school students will be riding on the company's or system's buses;

(2) a program to educate the drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and

(3) a program to educate public school students on bus riding safety and any special considerations arising from the use of the company's or system's buses."

Amendment No. 233 was adopted without objection.

LEAVE OF ABSENCE GRANTED

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

Culberson on motion of Finnell.

CSSB 1 - (consideration continued)**Amendment No. 234**

Representative Swinford offered the following amendment to **CSSB 1**:
Floor No. 34-2

Amend **CSSB 1** as follows:

On page 332, after subsection (b), add subsection (c) as follows:

(c) A school district board of trustees or board of county school trustees governing a countywide transportation system may use school vehicles other than buses for transportation involving extracurricular activities, field trips, and other related school activities.

Amendment No. 234 was adopted without objection.

Amendment No. 235

Representative Williamson offered an amendment (Floor No. 37-3) to **CSSB 1**.

Amendment No. 236

Representatives Williamson, Van de Putte, De La Garza, and Goodman offered an amendment to Amendment No. 235.

Amendment No. 236 was withdrawn.

Amendment No. 235 was withdrawn.

Amendment No. 237

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

Floor No. 37-6

Amend **CSSB 1** on page 333 on line 18 by inserting the following between the words "district" and "that":

, except elementary school campuses

Add the following language on page 333 on 19 following the word "program."

Elementary campuses may share facilities for on-campus alternative education.

Amendment No. 237 was adopted without objection.

Amendment No. 238

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

Floor No. 37-7

Amend **CSSB 1** as follows:

On page 334, line 2 and on page 336, line 15 after "requirements" insert ", requirements regarding parental rights."

Amendment No. 238 was adopted without objection.

Amendment No. 239

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

Floor No. 37-9

In proposed Section 37.002, subsection (g), Education Code (page 335, Line 1), amend as follows:

(g) A student transferred to an on-campus alternative education program or the parents and guardians of the student may, not later than 24 hours after receiving notice of the transfer appeal the transfer to the principal. The student remains in the on-campus alternative education program while the appeal is pending. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 11.203 or if such a committee has not been established, than a three-member committee composed of two teachers and a professional staff member determines that such placement is the best or only alternative available.

Amendment No. 239 was adopted without objection.

Amendment No. 240

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

Floor No. 37-12

Amend **CSSB 1** as follows:

1) On page 336, line 15, after the word "requirements", insert "provisions of Chapter 26".

Amendment No. 240 was adopted without objection.

Amendment No. 241

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

Floor No. 37-13

In proposed Section 37.004, Subsection (i), Education Code (page 338, Line 2), amend as follows:

(i) If the objection is reasonable as determined by the committee established under Section 11.203 or a three-member committee, the principal shall place the student in another class ~~if practicable~~.

Amendment No. 241 was adopted without objection.

Amendment No. 242

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

Floor No. 37-14

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 37.004(i), Education Code (House Committee Report, page 338, line 3), after the period, insert "Notwithstanding any other provision of this subsection, the student may not return to the teacher's classroom without the teacher's consent earlier than the fifth day after the date on which the student was removed."

(2) In SECTION 1 of the bill, in proposed Section 37.006(h), Education Code (House Committee Report, page 340, line 18), after the period, insert "Notwithstanding any other provision of this subsection, the student may not return to the teacher's classroom without the teacher's consent earlier than the fifth day after the date on which the student was removed."

Amendment No. 242 was adopted without objection.

Amendment No. 243

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

Floor No. 37-16

In proposed Section 37.006, Subsection (h), Education Code (page 340, Line 17), amend as follows:

(h) If the objection is reasonable as determined by the committee established under Section 11.203 or a three-member committee, the principal shall place the student in another class ~~if practicable~~.

Amendment No. 243 was adopted without objection.

Amendment No. 244

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

Floor No. 37-19

Amend **CSSB 1** as follows:

1) Page 341, line 16, after the word "requirements", insert "provisions of Chapter 26".

Amendment No. 244 was adopted without objection.

Amendment No. 245

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

Floor No. 37-18

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 37.008(a), Education Code (House Committee Report, page 341, line 4), between "court" and the period, insert "that has jurisdiction over the student".

(2) In SECTION 1 of the bill, in proposed Section 37.008(e), Education Code (House Committee Report, page 341, line 23), after the period, insert a new sentence to read as follows: "The juvenile court may not order a period of transfer under this subsection that exceeds the term of any probation ordered by the juvenile court."

(3) In SECTION 1 of the bill, in proposed Subchapter B, Chapter 37, Education Code (House Committee Report, page 346, line 27, through page 347, line 20), strike proposed Section 37.056, Education Code.

(4) In SECTION 1 of the bill, in proposed Subchapter B, Chapter 37, Education Code (House Committee Report, page 347, line 21), strike "[Sections 37.057-37.080 reserved for expansion]" and substitute "[Sections 37.056-37.080 reserved for expansion]".

Amendment No. 246

Representative Goodman offered the following amendment to Amendment No. 245:

Amend Amendment No. 245 by Goodman to read as follows:

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 37.008(a), Education Code (House Committee Report, page 341, line 4), between "court" and the period, insert "that has jurisdiction over the student".

(2) In SECTION 1 of the bill, in proposed Section 37.008(e), Education Code (House Committee Report, page 341, line 23), after the period, insert a new sentence to read as follows: "The juvenile court may not order a period of transfer under this subsection that exceeds the term of any probation ordered by the juvenile court."

(4) In SECTION 1 of the bill, in proposed Subchapter B, Chapter 37, Education Code (House Committee Report, page 347, line 21), strike "[Sections 37.057-37.080 reserved for expansion]" and substitute "[Sections 37.056-37.080 reserved for expansion]".

Amendment No. 246 was adopted without objection.

Amendment No. 245, as amended, was adopted without objection.

Amendment No. 247

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

Floor No. 37-20

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 37.010, Education Code (House Committee Report, page 343, between lines 12 and 13), by inserting the following:

(f) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

Amendment No. 247 was adopted without objection.

Amendment No. 248

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

Floor No. 37-5

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 37.001, Education Code (House Committee Report, page 333, between lines 15 and 16), by inserting a new subsection to read as follows:

(c) Notwithstanding any other provision of this subchapter, the board of trustees of a district may adopt a policy under which a student may be expelled from school if:

(1) the number of students the district has expelled in the three school years prior to July 1, 1995, has been an average of 0.25 percent or less of the district's average daily membership;

(2) the commissioner approves the policy;

(3) the policy provides that student with due process as required under federal law; and

(4) the student:

(A) engages in conduct that contains the elements of an offense listed under Section 8(c), Article 42.18, Code of Criminal Procedure;

(B) engages in conduct that is considered deadly conduct under Section 22.05, Penal Code;

(C) engages in conduct that contains the elements of the offense of a terroristic threat under Section 22.07, Penal Code;

(D) uses, sells, or possesses a controlled substance, marihuana, or drug paraphernalia as defined by Chapter 481, Health and Safety Code;

(E) possesses any weapon or device listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code; or

(F) engages in conduct that contains the elements of an offense under Section 71.02, Penal Code.

Amendment No. 248 was adopted without objection.

Amendment No. 249

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

Floor No. 37-22

Amend **CSSB 1** as follows:

Strike the sentence beginning on p. 344, line 3 and substitute the following:

"Upon request, each school district shall make available to any teacher or administrator employed by the district a copy of this subchapter and a copy of the local policy relating to this subchapter."

Amendment No. 249 was adopted without objection.

Amendment No. 250

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

Floor No. 37-24

Amend **CSSB 1** in Section 1 of the bill, in proposed Section 37.081, Education Code (House Committee Report, page 348, lines 2 and 7), by deleting the following:

page 348, line 2, after the word "officer" delete "or security personal"

page 348, line 7, delete "or security personal" after the word "officer"

Amendment No. 250 was adopted without objection.

Amendment No. 251

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

Floor No. 37-26

Amend **CSSB 1** on page 350, lines 4 and 5 by deleting the words, "not earlier than the seventh day after the date the device was confiscated" and inserting in lieu thereof the words, "after having provided the student's parent and the company whose name, and address or telephone number appears on the device thirty days prior notice of its intent to dispose of such device. Such notice shall include the serial number of such device and may be made by telephone, telegraph, or in writing"

Amendment No. 252

Representatives Davis and West offered the following amendment to Amendment No. 251:

Amend Amendment No. 251 by McCall by inserting new provisions to read as follows:

() In proposed Section 37.082(a), Education Code (House Committee Report, page 350, line 1), after the period, insert "The board must prohibit a student, while on school property or while attending a school-sponsored or school-related activity on or off school property, from using a paging device to engage in conduct that contains the elements of an offense under the Penal Code."

() In proposed Section 37.082, Education Code (House Committee Report, page 350, between lines 8 and 9), insert a new Subsection to read as follows:

(c) A person commits an offense if the person activates a paging device for a minor or gives or loans a paging device to a minor knowing that the minor intends to use the device on school property or while attending a school-sponsored or school-related activity on or off school property to engage in conduct that contains the elements of an offense under the Penal Code. An

offense under this Section is a Class B misdemeanor. This subsection does not apply to the parent or guardian of the minor.

() In proposed Section 37.082, Education Code (House Committee Report, page 350, line 9), strike "(c) In this section, "paging device" and substitute "(d) In this section:

(1) "Paging device"".

() In proposed Section 37.082, Education Code (House Committee Report, page 350, between lines 12 and 13), insert the following:

(2) "Minor" has the meaning assigned by Section 11.01, Family Code.

Representative McCall moved to table Amendment No. 252.

The motion to table prevailed.

Amendment No. 251 was adopted without objection.

Amendment No. 253

Representative Yarbrough offered the following amendment to **CSSB 1**:
Floor No. 37-28

Amend **CSSB 1** in Section 1 of the bill, in proposed SUBCHAPTER D., Education Code (House Committee Report, page 352, between lines 11 and 12), by inserting Section 37.107 to read as follows:

Sec. 37.107. TRESPASS ON SCHOOL GROUNDS. It is unlawful for any unauthorized person to trespass on the grounds of any school district of this state. An offense under this section is a Class C Misdemeanor.

Amendment No. 253 was adopted without objection.

(D. Jones now present)

Amendment No. 254

Representative Giddings offered the following amendment to **CSSB 1**:
Floor No. 38-2

Amend **CSSB 1** as follows:

On page 364, between lines 22 and 23, add a new Sec. 38.007 and appropriately renumber subsequent Sections, to read as follows:

Sec. 38.007 ALCOHOL FREE SCHOOL ZONES. (a) The board of trustees of a school district shall prohibit the use of alcoholic beverages at any school-related or school-sanctioned activity on or off school property and ensure that school personnel enforce the policies on or off school property.

(b) The board of trustees shall attempt to provide a safe alcohol-free environment for children coming to or going from school. The board of trustees may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment.

(c) The board of trustees of each school district shall report to the Texas Alcoholic Beverage Commission incidents of harassment or other illegal activities observed by school personnel or school students that the board of trustees reasonably believes is related to the sale or service of alcoholic beverages. The commission shall investigate these reports, take appropriate action, and report back to the board of trustees on its findings.

(d) The Texas Alcoholic Beverage Commission shall prohibit, or allow through the issuance of a five-year, renewable specific use permit, the sale of alcoholic beverages by the holder of a permit or license issued by the commission whose place of business is located within 1,000 feet of a public school, who was investigated under the provisions of Subsection (c), and whose permit or license was issued before the effective date of this Act.

(e) The commission, by rule, shall set up procedures for the issuance and renewal of specific use permits.

(f) The measurement of the distance between the place of business where alcoholic beverages are sold and the public school shall be in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.

(g) If a permit or license issued to a permittee or licensee subject to the distance requirements under Subsection (b) of this section expires or is canceled by the commission or administrator for cause, no permit or license may be issued for or transferred to the same premises.

(h) A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a public school.

On page 629, between lines 2 and 3, add a new SECTION 6, a new SECTION 7, and a new SECTION 8 of the bill and appropriately renumber subsequent SECTIONS, to read as follows:

SECTION 6. CONFORMING AMENDMENT. Section 11.44, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.44. PREMISES INELIGIBLE FOR PERMIT OR LICENSE. (a) If an order of suspension against a permit or license is pending or unexpired, or if the commission has initiated action to cancel or suspend a permit or license, no permit or license may be issued for or transferred to the same licensed premises.

(b) If a permit or license issued to a permittee or licensee subject to the distance requirements under Section 109.33(d), Alcoholic Beverage Code, expires or is canceled by the commission or administrator for cause, no permit or license may be issued for or transferred to the same premises.

SECTION 7. CONFORMING AMENDMENT. Subsection (a), Section 101.75, Alcoholic Beverage Code, is amended to read as follows:

Sec. 101.75. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR SCHOOLS. (a) A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 [600] feet of the property line of [a facility that the person knows is] a public or private school [that provides all or any part of kindergarten through twelfth grade].

SECTION 8. CONFORMING AMENDMENT. Section 109.33, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.33. SALES NEAR SCHOOL, CHURCH, OR HOSPITAL. (a) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church[, public school,] or public hospital.

(b) The Texas Alcoholic Beverage Commission shall prohibit, or allow through the issuance of a five-year, renewable specific use permit, the sale of alcoholic beverages by the holder of a permit or license issued by the commission whose place of business is located within 1,000 feet of a public school and whose permit or license was issued before the effective date of this Act.

(c) The commission, by rule, shall set up procedures for the issuance and renewal of specific use permits.

(d) ~~[(b)]~~ The measurement of the distance between the place of business where alcoholic beverages are sold and the church, or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(e) The measurement of the distance between the place of business where alcoholic beverages are sold and the public school ~~[schools]~~ shall be in a direct line from the [nearest] property line of the public school to the property line of [nearest doorway by which the public may enter] the place of business, ~~[along street lines]~~ and in a direct line across intersections. ~~[For any permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.]~~

(f) ~~[(e)]~~ Every applicant for an original alcoholic beverage license or permit for a location subject to the distance requirements under Subsection (d) ~~[with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public school; measured along street lines and directly across intersections;]~~ must give written notice of the application to the principal or superintendent ~~[officials]~~ of the public school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. ~~[This Subsection (c) does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53.]~~

~~[(d)]~~ As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of Subsection (a), but not Subsection (c), of this section, the measurement of the distance between the place of business of the dealer and a public school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. This subsection applies only as long as the place of business is continuously in operation from that date, whether or not under the same license or permit.

~~[(e)]~~ The commissioners court of a county or the governing board of a city or town that has enacted a regulation under Subsection (a) of this section may also allow variances to the regulation if the commissioners court or governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board, after consideration of the health,

safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.]

(g) The commissioners court of a county or the governing board of an incorporated city or town may compensate the holder of the permit or license and the property owner of the premise of the place of business for the relocation or discontinuance of the establishment described in Subsection (a) of this section, using revenue from a hotel-motel tax or automobile rental sales tax.

(1) Compensation shall be based on the local property tax appraised value.

(2) This subsection does not require compensation for a business or premises for a business whose permit or license is suspended or canceled by order of the commission or administrator.

(h) As an alternative to direct compensation under Subsection (f), the commissioners court of a county or a governing board of an incorporated city or town may hold a hearing to establish a compliance date whereby the actual investment on the date of enactment of the regulation of the holder of the permit or license or the property owner of the premise of the place of business where alcoholic beverages are sold can be amortized.

Amendment No. 255

Representative Giddings offered the following amendment to Amendment No. 254:

Amend the Giddings Amendment No. 254 to **CSSB 1** to read as follows:

On page 364, between lines 22 and 23, add a new Sec. 38.007 and appropriately renumber subsequent Sections, to read as follows:

Sec. 38.007 ALCOHOL FREE SCHOOL ZONES. (a) The board of trustees of a school district shall prohibit the use of alcoholic beverages at any school-related or school-sanctioned activity on or off school property and ensure that school personnel enforce the policies on or off school property.

(b) The board of trustees shall attempt to provide a safe alcohol-free environment for children coming to or going from school. The board of trustees may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment.

(c) The board of trustees of each school district shall report to the Texas Alcoholic Beverage Commission incidents of harassment or other illegal activities observed by school personnel or school students that the board of trustees reasonably believes is related to the sale or service of alcoholic beverages. The commission shall investigate these reports, take appropriate action, and report back to the board of trustees on its findings.

(d) The Texas Alcoholic Beverage Commission shall prohibit, or allow through the issuance of a five-year, renewable specific use permit, the sale of alcoholic beverages by the holder of a permit or license issued by the commission whose place of business is located within 1,000 feet of a public school, who was investigated under the provisions of Subsection (c) of this section, and whose permit or license was issued before the effective date of this Act.

(e) The commission, by rule, shall set up procedures for the issuance and renewal of specific use permits.

(f) The measurement of the distance between the place of business where alcoholic beverages are sold and the public school shall be in a direct line from

the property line of the public school to the property line of the place of business, and in a direct line across intersections.

(g) If a permit or license issued to a permittee or licensee subject to the distance requirements under Subsection (d) of this section expires or is canceled by the commission or administrator for cause, no permit or license may be issued for or transferred to the same premises.

(h) A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a public school.

On page 629, between lines 2 and 3, add a new SECTION 6, a new SECTION 7, and a new SECTION 8 of the bill and appropriately renumber subsequent SECTIONS, to read as follow:

SECTION 6. CONFORMING AMENDMENT. Section 11.44, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.44. PREMISES INELIGIBLE FOR PERMIT OR LICENSE. (a) If an order of suspension against a permit or license is pending or unexpired, or if the commission has initiated action to cancel or suspend a permit or license, no permit or license may be issued for or transferred to the same licensed premises.

(b) If a permit or license issued to a permittee or licensee subject to the distance requirements under Section 109.33(b), Alcoholic Beverage Code, expires or is canceled by the commission or administrator for cause, no permit or license may be issued for or transferred to the same premises.

SECTION 7. CONFORMING AMENDMENT. Subsection (a), Section 101.75, Alcoholic Beverage Code, is amended to read as follows:

Sec. 101.75. CONSUMPTION OF ALCOHOLIC BEVERAGES NEAR SCHOOLS. (a) A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 ~~[600]~~ feet of the property line of ~~[a facility that the person knows is]~~ a public or private school ~~[that provides all or any part of kindergarten through twelfth grade].~~

SECTION 8. CONFORMING AMENDMENT. Section 109.33, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.33. SALES NEAR SCHOOL, CHURCH, OR HOSPITAL. (a) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within 300 feet of a church~~[-public school,]~~ or public hospital.

(b) The Texas Alcoholic Beverage Commission shall prohibit, or allow through the issuance of a five-year, renewable specific use permit, the sale of alcoholic beverages by the holder of a permit or license issued by the commission whose place of business is located within 1,000 feet of a public school, who was investigated under the provisions of Section 38.007(c), Education Code, and whose permit or license was issued before the effective date of this Act. The commission, by rule, shall set up procedures for the issuance and renewal of specific use permits.

(c) ~~[(b)]~~ The measurement of the distance between the place of business

where alcoholic beverages are sold and the church, or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(d) The measurement of the distance between the place of business where alcoholic beverages are sold and the public school ~~[schools]~~ shall be in a direct line from the [nearest] property line of the public school to the property line of ~~[nearest doorway by which the public may enter]~~ the place of business, ~~[along street lines]~~ and in a direct line across intersections. ~~[For any permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.]~~

(e) ~~[(e)]~~ Every applicant for an original alcoholic beverage license or permit for a location subject to the distance requirements under Subsection (d) of this section ~~[with a door by which the public may enter the place of business of the applicant that is within 1,000 feet of the nearest property line of a public school, measured along street lines and directly across intersections;]~~ must give written notice of the application to the principal or superintendent ~~[officials]~~ of the public school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. ~~[This Subsection (c) does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53.]~~

~~[(d) As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of Subsection (a), but not Subsection (c), of this section, the measurement of the distance between the place of business of the dealer and a public school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. This subsection applies only as long as the place of business is continuously in operation from that date, whether or not under the same license or permit.]~~

(f) ~~[(e)]~~ The commissioners court of a county or the governing board of a city or town that has enacted a regulation under Subsection (a) of this section may also allow variances to the regulation if the commissioners court or governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

(g) The commissioners court of a county or the governing board of an incorporated city or town may compensate the holder of the permit or license and the property owner of the premise of the place of business for the relocation or discontinuance of the establishment holding a special use permit under Subsection (b), using revenue from a hotel-motel tax or automobile rental sales tax. Compensation shall be based on the local property tax appraised value. This subsection does not require compensation for a business or premises for

a business whose permit or license is suspended or canceled by order of the commission or administrator.

(h) As an alternative to direct compensation under Subsection (g), the commissioners court of a county or a governing board of an incorporated city or town may hold a hearing to establish a compliance date whereby the actual investment on the date of enactment of the regulation of the holder of the permit or license or the property owner of the premise of the place of business where alcoholic beverages are sold can be amortized.

Amendment No. 255 was adopted without objection.

A record vote was requested.

Amendment No. 254, as amended, was adopted by (Record 330): 139 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; 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; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Pickett; Pitts; Price; Puente; Rabuck; 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.; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Dear; Lewis, R.; Saunders.

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

Absent, Excused — Culberson; Patterson.

Absent — Clemons; Harris; Place; Williamson.

STATEMENT OF VOTE

When Record No. 330 was taken, I was in the house but away from my desk. I would have voted yes.

Clemons

Amendment No. 256

Representative Rodriguez offered the following amendment to **CSSB 1:**
Floor No. 38-1

In proposed Section 38.001, Subsection (a), Education Code (page 361, Line 10) amend as follows:

(a) Each student shall be fully immunized against tuberculosis, diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

Amendment No. 257

Representative Naishtat offered the following amendment to Amendment No. 256:

Substitute the following for the Rodriguez Amendment No. ____:

Amend Amendment No. 38-1 by Rodriguez to **CSSB 1** by striking all text following "as follows:" and substituting the following:

(a) Each student, including a student enrolled in a home-rule school district created under Subchapter B, Chapter 12, shall be fully immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

Amendment No. 257 was adopted without objection.

Amendment No. 256, as amended, was adopted without objection.

Amendment No. 258

Representative Ogden offered the following amendment to **CSSB 1**:
Floor No. 39-2

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, strike proposed Sections 39.023(a) and (b), Education Code (House Committee Report, page 367, lines 6-19), and substitute the following:

(a) The agency shall only adopt appropriate criterion-referenced assessment instruments designed to assess competencies in reading, writing, and mathematics. All nonexempt students shall be assessed:

(1) in reading and mathematics, annually in grades three through eight;
and

(2) in writing, in grades four and eight.

(b) The agency shall also adopt secondary exit-level assessment instruments designed to assess competencies in mathematics and English language arts. The English language arts section must include the assessment of writing competencies. The agency shall administer the assessment instruments.

Amendment No. 258 was adopted without objection.

Amendment No. 259

Representative Howard offered the following amendment to **CSSB 1**:
Floor No. 39-3

Amend **CSSB 1** as follows:

On page 367, line 12, insert the following new sections:

"(b) All nonexempt students who have not previously been tested in kindergarten of first grade will be measured for phoneme awareness, letter-sound knowledge and letter knowledge.

(c) All nonexempt students in first and second grade will be assessed for reading competency with a nationally recognized norm-referenced reading test."

Amendment No. 260

Representatives Howard and Kamel offered the following amendment to Amendment No. 259:

Amend Amendment No. 259 by Howard to **CSSB 1** on line 4 by striking "of" and substituting "or".

Amendment No. 260 was adopted without objection.

Representative Sadler moved to table Amendment No. 259, as amended.

The motion to table prevailed.

Amendment No. 261

Representative Alonzo offered the following amendment to **CSSB 1**:
Floor No. 39-5

Amend **CSSB 1** in SECTION 1 of the bill, immediately following proposed Section 39.023(h), Education Code (House Committee Report, page 368, between lines 24 and 25), by inserting a new subsection to read as follows:

(i) An assessment instrument administered under Subsection (a) or (b) may not be administered during the period beginning April 25 and ending May 6 of a school year.

Representative Sadler moved to table Amendment No. 261.

The motion to table prevailed.

Amendment No. 262

Representative Hochberg offered the following amendment to **CSSB 1**:
Floor No. 39-6

Amend **CSSB 1** as follows:

On page 368, lines 26 and 27, strike "the level of performance considered to be satisfactory on the assessment instruments." and substitute "the levels of performance considered to be satisfactory, high-performing and excellent on the assessment instruments."

Amendment No. 262 was adopted without objection.

Amendment No. 263

Representatives Hernandez offered the following amendment to **CSSB 1**:
Floor No. 39-7

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, proposed Section 39.027(b), Education Code (Committee printing page 370, line 21) strike "Subsection (a)" and replace with "this Section".

Amendment No. 263 was adopted without objection.

Amendment No. 264

Representative Sadler offered the following amendment to **CSSB 1**:
Floor No. 39-8

Amend **CSSB 1** as follows:

(1) On page 373, line 26 of Section 39.032(c) delete the word "two" and substitute the word "six".

Amendment No. 264 was adopted without objection.

Amendment No. 265

Representative Hochberg offered the following amendment to **CSSB 1**:
Floor No. 39-13

Amend **CSSB 1** as follows:

On page 382, line 2, after "." add "and"

On page 382, line 4, replace "; and" with "."

On page 382, delete lines 5 and 6.

On page 384, line 24, delete ":"

On page 384, line 25, delete "(A)".

On page 384, delete line 27.

On page 385, delete line 1.

On page 385, between lines 11 and 12, add a new section as follows:

"Sec. 39.077 CONDUCT OF INVESTIGATIONS (a) The agency may investigate an allegation involving a conflict between members of the board of trustees or between the board and the district administration only if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code.

(b) If the agency's findings in an investigation indicate that the board of trustees has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board.

(c) The agency shall adopt written procedures for conducting on-site investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.

(d) After completing an investigation, the agency shall present preliminary findings to any person the agency finds has violated a law, rule, or policy. Before issuing a report with its final findings, the agency must provide a person the agency finds has violated a law, rule, or policy an opportunity for an informal review by the commissioner or a designated hearing examiner.

Amendment No. 265 was adopted without objection.

Amendment No. 266

Representative Johnson offered an amendment (Floor No. 39-15) to **CSSB 1**.

(Speaker in the chair)

Amendment No. 266 was withdrawn.

Amendment No. 267

Representative Raymond offered the following amendment to **CSSB 1**:
Floor No. 39-16

Amend **CSSB 1**, SECTION 1, Sec. 39.1111, to read as follows:

Sec. 39.1111. RECOGNITION AND REWARDS. The State Board of Education shall develop a plan for recognizing and rewarding school districts and campuses that are rated exemplary or recognized and for developing a network for sharing proven successful practices statewide and regionally. The reward may be used to provide educators with summer stipends to develop curricula based on the cited successful strategies. The educators may copyright the curricula they develop.

Amendment No. 267 was adopted without objection.

Amendment No. 268

Representative H. Cuellar offered an amendment (Floor No. 39-17) to **CSSB 1**.

Amendment No. 268 was withdrawn.

Amendment No. 269

Representative Ogden offered the following amendment to **CSSB 1**:
Floor No. 42-1

Amend **CSSB 1** as follows:

(1) Strike proposed Sections 42.152(f), (g), (h), (i), (j) and (k), Education Code (House Committee Report page 444, lines 25-27, page 445, lines 1-26 and page 446, lines 1-21).

Representative Sadler moved to table Amendment No. 269.

The motion to table prevailed.

Amendment No. 270

Representative Grusendorf offered the following amendment to **CSSB 1**:
Floor No. 42-2

Amend **CSSB 1** in SECTION 1 of the bill, in proposed Section 42.156(f), Education Code (House Committee Report, page 453, line 21), between "as" and "Future", insert "MATHCOUNTS,".

Amendment No. 270 was adopted without objection.

Amendment No. 271

Representative Raymond offered the following amendment to **CSSB 1**:
Floor No. 42-3

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, strike proposed Sections 42.259(b)-(d) (House Committee Report, page 467, line 27, through page 469, line 13), and substitute the following:

(b) Payments from the foundation school fund to each category 1 school district shall be made as follows:

(1) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 80 percent of the yearly entitlement of the district shall be paid in eight equal installments to be made on or before the 25th day of October, November, December, January, March, May, June, and July; and

(3) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of February.

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(3) 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(4) 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(5) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(6) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(7) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(8) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August.

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) 45 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 35 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October; and

(3) 20 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August.

(2) In SECTION 1 of the bill, immediately following proposed Section 42.259(e), Education Code (House Committee Report, page 469, between lines 21 and 22), insert the following:

(f) This section takes effect September 1, 1995. A payment from the foundation school fund made before September 1, 1995, is governed by former Section 16.260, as that section existed May 1, 1995. This subsection expires September 2, 1995.

Amendment No. 272

Representative Hochberg offered the following amendment to Amendment No. 271:

Amend Amendment No. 271 by Raymond by adding a new provision:

Amend SECTION 1 of **CSSB 1** by: adding a new subsection (f) to Sec. 42.259 on page 469 between lines 21 and 22 to read as follows:

"(f) Any previously unpaid additional funds from prior years owed to a

district shall be paid to the district together with the September payment of the current year entitlement.

Amendment No. 272 was adopted without objection.

Amendment No. 271, as amended, was adopted without objection.

Amendment No. 273

Representative Hochberg offered the following amendment to **CSSB 1**:
Floor No. 42-4

Amend **CSSB 1** as follows:

On page 474, line 5, Sec. 42.404, strike subsections (a) and (b) replace it with the following:

In addition to the amount specified in Section 42.403, districts of fewer than 500 students in average daily attendance are entitled to an amount of supplemental state assistance determined by the following formula:

$$SSA = PC - SA - (.0010 \times DPV \times PC/100,000)$$

where:

"SSA" is the amount of supplemental state assistance.

On page 476, line 2, strike "\$500,000" and replace it with "\$100,000".

Amendment No. 273 was adopted without objection.

Amendment No. 274

Representative Raymond offered an amendment (Floor No. 42-5) to **CSSB 1**.

Amendment No. 274 was withdrawn.

Amendment No. 275

Representative Hochberg offered the following amendment to **CSSB 1**:
Floor No. 42-6

Amend **CSSB 1** as follows:

On page 478, strike lines 9 through 16 and replace with the following:

"PTR" is the project tax rate of the district, which is calculated by dividing the amount necessary for annual payments:

(1) on the principal and interest of bonds issued to finance the local share of the project; or

(2) under a lease purchase agreement for the local share of the project; by the DPV as defined in Sec. 42.404 of this subchapter

On page 522, line 5, strike "to impose a tax" and replace with "by the project tax rate necessary"

Amendment No. 275 was adopted without objection.

Amendment No. 276

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

Floor No. 42-7

Amend **CSSB 1** on page 479, line 5, by adding the following new section:

42.411 PROJECTS BY MORE THAN ONE DISTRICT (a) Two or more districts may submit a proposal for a joint project at single location.

(b) The state assistance for a joint project shall be the amount specified by Sec. 42.403, where wealth per student is calculated as the sum of the taxable values of property of the districts divided by the sum of the districts' weighted average daily attendances.

(c) The supplemental state assistance for a joint project shall be the sum of the assistance for each district specified by Sec. 42.404, where the result of the formula is in that section for each district is multiplied by the ratio of the district's weighted students in average daily attendance to the total weighted students in average daily attendance for all the districts in the project, and "100,000" is replaced by $(\$120,000 \times N)$, when "N" is the number of districts in the project.

(d) The limitation on assistance for a joint project shall be 20% greater than the sum of the limitations for each district specified in Sec. 42.406.

Amendment No. 276 was adopted without objection.

Amendment No. 277

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

Floor No. 42-8

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, strike the heading to proposed Subchapter I, Chapter 42, Education Code (House Committee Report, page 479, line 6), and substitute the following:

SUBCHAPTER I. ALTERNATIVE EDUCATION PROGRAM ASSISTANCE

(2) In SECTION 1 of the bill, in proposed Section 42.451(a), Education Code (House Committee Report, page 479, line 11), between "Section 37.004" and the period, insert "or an alternative program for students who have dropped out of school".

(3) In SECTION 1 of the bill, in proposed Section 42.451(b), Education Code (House Committee Report, page 480, line 3), between "Section 37.004" and the period, insert "or an alternative program for students who have dropped out of school".

Amendment No. 277 was adopted without objection.

Amendment No. 278

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

Floor No. 44-1

Amend **CSSB 1** as follows:

1) On page 500, line 20, delete the word "superintendent" and insert in its place, the words "board president".

Amendment No. 278 was adopted without objection.

Amendment No. 279

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

Floor No. 44-2

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, in proposed Section 44.031, Education Code (House Committee Report, page 508, between lines 12 and 13), insert the following new subsection to read as follows:

(n) A contract proposed to be made by the board of trustees of a school district for insurance must be submitted to competitive bidding if the contract is valued at more than \$5,000.

(2) Insert an appropriately numbered section to read as follows and renumber subsequent sections accordingly:

SECTION _____. TRANSITION PROVISION RELATING TO SCHOOL DISTRICT CONTRACTS FOR INSURANCE. Section 44.031(n), Education Code, as added by this Act, applies only to a contract for insurance the board of trustees of a school district enters into on or after September 1, 1995.

Amendment No. 279 was adopted without objection.

Amendment No. 280

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

Floor No. 44-3

Amend **CSSB 1** as follows:

(1) In SECTION 1 of the bill, immediately following proposed Section 44.033, Education Code (House Committee Report, page 511, line 16), strike "[Sections 44.034 to 44.050 reserved for expansion]" and substitute the following:

Sec. 44.034. NOTIFICATION OF CRIMINAL HISTORY OF CONTRACTOR. (a) A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.

(b) A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.

(c) This section does not apply to a publicly held corporation.

[Sections 44.035 to 44.050 reserved for expansion]

(2) Add the following section, appropriately numbered, and renumber the existing sections of the bill accordingly:

SECTION _____. APPLICABILITY OF SECTION 44.034, EDUCATION CODE. Section 44.034, Education Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act.

Amendment No. 280 was adopted without objection.

(Stiles in the chair)

Amendment No. 281

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

Floor No. 45-2

Amend **CSSB 1** (page 522, line 11) by striking the expansion clause and substituting the following:

Sec. 45.007. MAINTENANCE TAX REQUIRED FOR JUDGMENT ORDERING AD VALOREM TAX REFUND; BONDS. (a) This section applies only to a school district that:

(1) has an average daily attendance of less than 10,000; and

(2) is located in whole or part in a municipality with a population of less than 25,000 that is located in a county with a population of 200,000 or more bordering another county with a population of 2.8 million or more.

(b) Notwithstanding Sections 45.003 and 45.006, a school district may levy, assess, and collect maintenance taxes at a rate that exceeds \$1.50 per \$100 valuation of taxable property if:

(1) additional ad valorem taxes are necessary to pay a debt of the district that:

(A) results from the rendition of a judgment against the district;

(B) is greater than \$5 million;

(C) decreases a property owner's ad valorem tax liability;

(D) requires the district to refund to the property owner the difference between the amount of taxes paid by the property owner and the amount of taxes for which the property owner is liable; and

(E) is payable according to the judgment in more than one of the district's fiscal years; and

(2) the additional taxes are approved by the voters of the district at an election held for that purpose.

(c) Except as provided by Subsection (e), any additional maintenance taxes that the district collects under this section may be used only to pay the district's debt under Subsection (b)(1).

(d) Except as provided by Subsection (e), the authority of a school district to levy the additional ad valorem taxes under this section expires when the judgment against the district is paid.

(e) The governing body of a school district may issue bonds under this subchapter to pay all or part of the district's debt under Subsection (b)(1). If bonds are issued:

(1) the district may use any additional maintenance taxes collected by the district under this section to pay debt service on the bonds; and

(2) the authority of the district to levy the additional ad valorem taxes expires when the bonds are paid in full or the judgment is paid, whichever occurs later.

(f) The governing body of a school district that adopts a tax rate that exceeds \$1.50 per \$100 valuation of taxable property may set the amount of the exemption from taxation authorized by Section 11.13(n), Tax Code, at any time before the date the governing body adopts the district's tax rate for the tax year in which the election approving the additional taxes is held.

[Sections 45.008 to 45.030 reserved for expansion]

Amendment No. 281 was adopted without objection.

Amendment No. 282

Representative Telford offered the following amendment to **CSSB 1**:
Floor No. 45-3

Amend **CSSB 1** in Sec. 45.082(a) on page 530, line 3, by inserting the following between "section" and the period:

" , unless the sale is to a corporation established by the district pursuant to the provisions of Chapter 717s, Vernon's Revised Civil Statutes and subject to a lease-purchase agreement by the district"

Amendment No. 282 was adopted without objection.

Amendment No. 283

Representative Johnson offered the following amendment to **CSSB 1**:
Floor No. 45-4

Amend **CSSB 1** in SECTION 1 of the bill in proposed Section 45.103(c), Education Code (House Committee Report, page 538, line 20), by striking "\$120,000" and substituting "\$500,000".

Amendment No. 283 was adopted without objection.

Amendment No. 284

Representative Seidlits offered the following amendment to **CSSB 1**:
Floor No. C-1

Amend **CSSB 1** by inserting the following new section, appropriately numbered, and renumbering the subsequent sections appropriately:

SECTION ____ . AMENDMENT. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 13A to read as follows:

Sec. 13A. WAIVER OF LICENSING REQUIREMENTS FOR CERTAIN APPLICANTS. (a) The board shall waive the licensing requirements imposed under this Act and issue a limited license to practice in the public schools as a fully licensed speech-language pathologist to a person who:

(1) was eligible for a waiver of licensing requirements under Section 13(a) of this Act, as amended by Chapter 448, Acts of the 69th Legislature, Regular Session, 1985;

(2) for the two years preceding January 1, 1996, has been employed by a school district as a speech-language therapist;

(3) submits with the person's application a written statement by the superintendent of the school district employing the person, certifying that the district has not been able to employ as a speech-language pathologist a person who meets the licensing requirements imposed under this Act;

(4) holds a baccalaureate degree in communication disorders (speech-language) from an accredited institution of higher education and is certified by the Central Education Agency in speech and hearing therapy or, in the judgement of the board, satisfies equivalent requirements; and

(5) successfully completes the examination required under Section 12 of this Act.

(b) The board shall waive the licensing requirements imposed under this Act and issue a limited license to practice in the public schools as a fully licensed speech-language pathologist to a person who:

(1) meets the requirements of Subsection (a) (2)-(5) of this section; and

(2) is enrolled in a program of study towards a master's degree with a major in one of the areas of communicative sciences or disorders from a program accredited by the American Speech-Language-Hearing Association in a regionally accredited college or university.

(c) Beginning September 1, 1998, and biannually after that date, a person licensed under Subsection (b) must demonstrate in a manner provided by the board that the person has successfully completed in the preceding two-year period not less than 12 hours of coursework towards completing a master's degree as provided by Subsection (b)(2).

(d) On completion of the licensing requirements of this Act, a person who holds a limited license under Subsections (a) or (b) of this Act may apply for full licensure as provided by this Act.

(e) An applicant for a license under this section must apply on or before September 1, 1996, and provide proof satisfactory to the board that the person satisfies the requirements of this section.

(f) The board shall adopt rules to implement this section not later than January 1, 1996.

(g) A person must complete the requirements for a license under this section on or before January 1, 2003.

(h) This section expires on the effective date of any federal requirement that a speech-language pathologist hold a master's degree as a condition for receipt of federal funding by the entity employing the person.

Amendment No. 284 was adopted without objection.

Amendment No. 285

Representative Seidlits offered an amendment (Floor No. C-2) to **CSSB 1**.

Amendment No. 285 was withdrawn.

Amendment No. 286

Representative Yarbrough offered the following amendment to **CSSB 1**:
Floor No. C-3

Amend **CSSB 1** to read as follows:

(1) In SECTION 2 of the bill, in proposed Section 132.002, Education Code (House Committee Report, page 570, line 18), strike "and" and substitute "[and]".

(2) In SECTION 2 of the bill, in proposed Section 132.002, Education Code (House Committee Report, page 570, line 23), between "licenses" and the period, insert the following:

; and

(12) a course of instruction by a plumbing trade association to prepare students for a plumbing test or program required for licensing, certification, or

endorsement or to provide continuing education approved by the Texas State Board of Plumbing Examiners

Amendment No. 286 was adopted without objection.

Amendment No. 287

On behalf of Representative Carona, Representative Yarbrough offered the following amendment to **CSSB 1**:

Floor No. C-4

Amend **CSSB 1** as follows:

(1) In SECTION 2 of the bill, in transferred and amended Section 132.002(a)(10), immediately after the semicolon (House Committee Report, page 570, line 18), strike "and".

(2) In SECTION 2 of the bill, in transferred and amended Section 132.002(a)(11), immediately before the period (House Committee Report, page 570, line 23), insert:

; and

(12) a course or training program conducted by a nonprofit association of air conditioning and refrigeration contractors approved by the Air Conditioning and Refrigeration Contractors Advisory Board to provide instruction for technical, business, or license examination preparation programs relating to air conditioning and refrigeration contracting, as that term is defined by the Air Conditioning and Refrigeration Contractor License law (Article 8861, Vernon's Texas Civil Statutes)

(3) Add a new section to the bill, to be numbered appropriately to read as follows and renumber the remaining sections of the bill appropriately:

SECTION _____. Section 132.002(12), Education Code, as added by this Act, takes effect September 1, 1995, and applies only to a course or training program conducted by a nonprofit association of air conditioning and refrigeration contractors that is offered on or after that date. A course or training program offered before that date is governed by the law in effect on the date that the course or program is offered, and the former law is continued in effect for that purpose.

Amendment No. 287 was adopted without objection.

Amendment No. 288

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

Floor No. C-5

Amend **CSSB 1** as follows:

(1) In SECTION 2 of the bill, in transferred and amended Section 132.002(a)(10), Education Code, immediately after the semicolon (House Committee Report, page 570, line 18), strike "and".

(2) In SECTION 2 of the bill, in transferred and amended Section 132.002(a)(11), Education Code, immediately before the period (House Committee Report, page 570, line 23), insert:

; and

(12) a nonprofit arts organization that has as its primary purpose the

provision of instruction in the dramatic arts and the communications media to persons younger than 19 years of age

Amendment No. 288 was adopted without objection.

Amendment No. 289

Representative Kubiak offered the following amendment to **CSSB 1**:
Floor No. C-6

Amend **CSSB 1** as follows:

(1) Add a new section to the bill to be numbered appropriately to read as follows and renumber the remaining sections of the bill appropriately:

SECTION _____. Subchapter C, Chapter 202, Labor Code, is amended by adding Section 202.044 to read as follows:

Sec. 202.044. DIVISION OF EDUCATION. (a) The division of education is a division in the commission. The division shall assist the agency administrator and commission in administering their functions under Chapter 132, Education Code.

(b) The agency administrator shall assign sufficient staff to the division to enable it to perform its functions.

(2) Strike SECTION 2 of the bill (House Committee Report, page 565, line 18, through page 610, line 20) and substitute the following:

SECTION 2. TRANSFER, REDESIGNATION, AND AMENDMENT.
Chapter 32, Education Code, is transferred to Subtitle G, Title 3, Education Code, is redesignated as Chapter 132, Education Code, and is amended to read as follows:

CHAPTER 132 [32]. ~~[TEXAS]~~ PROPRIETARY SCHOOLS [SCHOOL ACT]

[SUBCHAPTER A. TITLE AND PURPOSE]

[Sec. 32.01. SHORT TITLE. This Act shall be known as the "Texas Proprietary School Act."

~~[Sec. 32.02. PURPOSE AND OBJECTIVES. The aim in adopting this Chapter is to provide certification and regulation of proprietary schools in Texas.]~~

SUBCHAPTER A [B]. GENERAL PROVISIONS

Sec. 132.001 [32.11]. DEFINITIONS. In this chapter: ~~[The following words, terms, and phrases shall have the meaning ascribed to them in this section:]~~

(1) "Proprietary school" ~~[School, referred to as "school,"]~~ means any business enterprise operated for a profit, or on a nonprofit basis, that [which] maintains a place of business within this state ~~[the State of Texas]~~, or solicits business within this state ~~[the State of Texas]~~, and that [which] is not specifically exempted by ~~[the provisions of]~~ this chapter ~~[Chapter]~~ and: [;]

(A) that [which] offers or maintains a course or courses of instruction or study; or

(B) at which place of business such a course or courses of instruction or study is available through classroom instruction or by correspondence, or both, to a person ~~[or persons]~~ for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical,

or industrial occupation, or for avocational or personal improvement[~~except as hereinafter excluded~~].

(2) "Owner" of a proprietary school means:

(A) in the case of a school owned by an individual, that individual;

(B) in the case of a school owned by a partnership, all full, silent, and limited partners;

(C) in the case of a school owned by a corporation, the corporation, its directors, officers, and each shareholder owning shares of issued and outstanding stock aggregating at least 10 percent [~~ten per cent (10%)~~] of the total of the issued and outstanding shares.

(3) "School employee" means any person, other than an owner, who directly or indirectly receives compensation from a proprietary [~~the~~] school for services rendered.

(4) "Representative" means a person employed by a proprietary [~~the~~] school [~~as defined herein~~], whether the school is located within or without this state [~~the State of Texas~~], to act as an agent, solicitor, broker, or independent contractor to directly procure students [~~or enrollees~~] for the school by solicitation within or without this state [~~State~~] at any place.

(5) "Agency administrator" [~~"Administrator"~~] means the agency administrator of the Texas Employment Commission [~~State Commissioner of Education~~] or a person, knowledgeable in the administration of regulating proprietary schools, designated by the agency administrator [~~Commissioner~~] to administer [~~the provisions of~~] this chapter.

(6) "Notice to the proprietary school" means written correspondence sent to the address of record for legal service contained in the application for a certificate of approval. "Date of Notice" means the date the notice is mailed by the commission [~~administrator~~].

(7) "Support" or "supported" means the primary source and means by which a proprietary school derives revenue to perpetuate its operation.

(8) "Person" means any individual, firm, partnership, association, corporation, or other private entity or combination thereof.

(9) "Unearned tuition" means total tuition and fees subject to refund under Section 132.061 [~~32.39~~], total tuition and fees collected from students currently enrolled, and total tuition and fees collected from prospective students.

(10) "Small proprietary school" means a proprietary school that does not receive any payment from federal funds under 20 U.S.C. Section 1070 et seq. and its subsequent amendments or a prepaid federal or state source as compensation in whole or in part for any student tuition and fees or other charges and either:

(A) has an annual gross income from student tuition and fees that is less than or equal to \$100,000 for programs regulated by the agency;

(B) exclusively offers programs to assist students to prepare for an undergraduate or graduate course of study at a college or university; or

(C) exclusively offers programs to assist students, who have obtained, or who are in the process of obtaining, degrees after completing an undergraduate or graduate course of study at a college or university, to prepare for an examination.

(11) "Commission" means the Texas Employment Commission.

(12) "Division" means the division of education in the commission.

Sec. 132.002 [32-12]. EXEMPTIONS. (a) The following schools or educational institutions are specifically exempt from ~~[the provisions of]~~ this chapter and are not within the definition of "proprietary school":

(1) a school or educational institution supported by taxation from either a local or state [State] source;

(2) nonprofit schools owned, controlled, operated, and conducted by bona fide religious, denominational, eleemosynary, or similar public institutions exempt from property taxation under the laws of this state [State], but such schools may choose to apply for a certificate of approval hereunder, and upon approval and issuance, are ~~[shall be]~~ subject to ~~[the provisions of]~~ this chapter as determined by the commission [administrator];

(3) a school or training program that ~~[which]~~ offers instruction of purely avocational or recreational subjects as determined by the commission [administrator];

(4) a course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student;

(5) a course or courses of study or instruction sponsored by a recognized trade, business, or professional organization for the instruction of the members of the organization with a closed membership;

(6) private colleges or universities that ~~[which]~~ award a recognized baccalaureate, or higher degree, and that ~~[which]~~ maintain and operate educational programs for which a majority of the credits given are transferable to a college, junior college, or university supported entirely or partly by taxation from either a local or state [State] source;

(7) a school or course that ~~[which]~~ is otherwise regulated and approved under and pursuant to any other law or rulemaking process of this state [the State] or approved for continuing education credit by an organization that accredits courses for the maintenance of a license, except as provided by Subsection (c) ~~[of this section]~~;

(8) aviation schools or instructors approved by and under the supervision of the Federal Aviation Administration;

(9) a school that ~~[which]~~ offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations, or medical college admissions tests;

(10) a private school offering primary or secondary education, which may include a kindergarten or prekindergarten program, and that ~~[which]~~ satisfies the compulsory attendance requirements of Section 25.085 ~~[21.032 of this code]~~ pursuant to Section 25.086(a)(1) ~~[21.033(a)(1) of this code]~~; and

(11) a course or courses of instruction by bona fide electrical trade associations for the purpose of preparing students for electrical tests required for licensing and for the purpose of providing continuing education to students for the renewal of electrical licenses.

(b) Schools offering a course or courses of special study or instruction financed or ~~[and/or]~~ subsidized by local, state, or federal funds or by any person, firm, association, or agency other than the student involved, on a

contract basis and having a closed enrollment, may apply to the commission [~~Administrator~~] for exemption of such course or courses from [~~the provisions of~~] this chapter [~~Chapter~~] and such course or courses may be declared exempt by the commission [~~Administrator~~] where the commission [~~he~~] finds the course or courses to be outside the purview of this chapter [~~Chapter~~].

(c) If a state [~~State~~] agency that issues a license or other authorization for the practice of an occupation elects not to regulate or approve course hours that exceed the minimum education requirements for the issuance of the license or other authorization, the licensing agency shall enter into a memorandum of understanding with the commission [~~Central Education Agency~~] for the regulation of those excess course hours under this chapter. Any course taught under a letter of approval or other written authorization issued by the licensing agency before the effective date of the memorandum is authorized under state [~~State~~] law until the course is reviewed by the commission [~~Central Education Agency~~]. The licensing agency may terminate the memorandum of understanding on notice to the commission [~~Central Education Agency~~].

(d) Notwithstanding the exemptions listed in Subsection (a) [~~above~~], a dispute resolution organization, as defined by Section 154.001, Civil Practice and Remedies Code, may [~~elect to~~] seek a certificate of approval pursuant to Subchapter C [~~D of the Texas Proprietary School Act~~].

SUBCHAPTER B [~~C~~]. GENERAL POWERS AND DUTIES

Sec. 132.021 [~~32.21~~]. TEXAS EMPLOYMENT COMMISSION [~~CENTRAL EDUCATION AGENCY~~]. (a) The commission [~~Central Education Agency~~] shall exercise jurisdiction and control of the system of proprietary schools, and [~~it shall be the duty of~~] the commission shall [~~Commissioner of Education to~~] carry out supervision of the provisions of this chapter, and [~~to~~] enforce minimum standards for approval of proprietary schools under the operating regulations and policies hereinafter set forth and as may [~~from time to time~~] be adopted pursuant to [~~the provisions of~~] this chapter.

(b) The commission [~~Central Education Agency~~] shall prepare a comparison of the cost to a student of courses of instruction or training programs at proprietary schools to the cost to a student of similar courses or programs at schools that are exempt from this chapter under Section 132.002 [~~32.12 of this code~~].

(c) The commission [~~agency~~] may consult a recognized expert in a field of study for assistance in determining minimum program standards under this chapter for that field.

(d) [~~The Central Education Agency and the Texas Higher Education Coordinating Board shall adopt a memorandum of understanding which develops guidelines for coordinating the regulation of proprietary schools and courses that are subject to Sections 61.301 through 61.317 and Chapter 32 of this code. The memorandum shall include provisions which:~~

[~~(1) clearly identify the responsibilities of each agency in regulating proprietary schools;~~

[~~(2) ensure that the rules adopted by both agencies pursuant to the memorandum of understanding are not duplicative or in conflict; and~~

[~~(3) establish procedures for ensuring that information affecting the proprietary school regulatory activities of both agencies is shared between the agencies.~~

~~[Sec. 32.22. THE STATE BOARD OF EDUCATION:]~~ The commission ~~[State Board of Education]~~ shall adopt policies~~[- regulations]~~ and rules necessary for carrying out ~~[the provisions of]~~ this chapter ~~[after consultation with the commissioner]~~.

Sec. 132.022 [32.24]. DUTIES OF COMMISSION ~~[ADMINISTRATOR]~~. ~~[(a)]~~ The commission ~~[administrator]~~ shall carry out the policies of this chapter and enforce the rules ~~[and regulations]~~ adopted under this chapter ~~[by the State Board of Education]~~. The commission ~~[He]~~ shall also certify the names of those proprietary schools meeting the requirements for a certificate of approval.

~~[(b)]~~ The ~~administrator may adopt and enforce temporary rules and regulations pursuant to the provisions of this chapter but the temporary rules and regulations are valid only until the next meeting of the State Board of Education.]~~

Sec. 132.0225. DIVISION OF EDUCATION. To the extent possible, the agency administrator and commission shall administer their functions under this chapter through the division.

~~[Sec. 32.241. COMPREHENSIVE REVIEW. The administrator shall conduct a comprehensive review of the existing rules and policies governing proprietary schools and reduce regulation of small proprietary schools by January 1, 1995. This section expires February 1, 1995.]~~

Sec. 132.023 [32.25]. MEMORANDUM OF UNDERSTANDING FOR REGULATION OF PROPRIETARY SCHOOLS. (a) The commission ~~[Central Education Agency]~~ shall develop, in consultation with the Texas Guaranteed Student Loan Corporation and each state agency that regulates proprietary schools in this state, a comprehensive strategy to reduce default rates at the regulated proprietary schools and to improve the overall quality of the programs operated by these schools.

(b) The commission ~~[Central Education Agency]~~ shall execute a memorandum of understanding outlining the strategy with the corporation and each state agency regulating proprietary schools and shall adopt rules to carry out its duties under this section. The Texas Guaranteed Student Loan Corporation shall adopt the memorandum of understanding as procedures of the corporation, and each agency by rule shall adopt the memorandum of understanding.

(c) The memorandum of understanding shall:

(1) require the development and monitoring of indicators that identify proprietary schools that have excessive loan default rates, poor program performance, or both;

(2) require the sharing of specific information relating to the indicators between the commission ~~[Central Education Agency]~~ and the Texas Guaranteed Student Loan Corporation or other agency; and

(3) require the application of specific sanctions by the commission ~~[Central Education Agency]~~ or by the Texas Guaranteed Student Loan Corporation or other agency, as appropriate, to lower the default rates, improve program performance, or both.

(d) If the commission ~~[Central Education Agency]~~ enters a memorandum of understanding with the Texas Guaranteed Student Loan Corporation related to the regulation of proprietary schools, the commission ~~[agency]~~ may require

each proprietary school governed by this chapter to provide information to the commission [agency] that is necessary for the purposes of the memorandum of understanding.

SUBCHAPTER C [D]. AUTHORIZED OPERATION OF PROPRIETARY SCHOOLS

Sec. 132.051 [32.31]. CERTIFICATE OF APPROVAL. (a) A proprietary school may not maintain, advertise, solicit for, or conduct any course of instruction in this state [Texas] before the later of:

(1) the 30th day after the date the school applies for a certificate of approval under this chapter; or

(2) the date the school receives a certificate of approval from the commission [administrator].

(b) Any contract entered into with any person for a course of instruction [after the effective date of this chapter] by or on behalf of any person operating any proprietary school to which a certificate of approval has not been issued pursuant to [the provisions of] this chapter is [shall be] unenforceable in any action brought thereon.

Sec. 132.052 [32.32]. APPLICATION FOR CERTIFICATE OF APPROVAL. Every proprietary school desiring to operate in this state [the State of Texas] or do business in this state [the State] shall make written application to the commission [administrator] for a certificate of approval. Such application shall be verified, be in such form as may be prescribed by the commission [State Board of Education], and shall furnish the commission [administrator] such information as the commission [he] may require.

Sec. 132.053 [32.32]. STATUTORY WAIVER AUTHORITY. (a) The commission [State Board of Education after consultation with the Proprietary School Advisory Commission] may establish rules that waive, alter, suspend, or replace any of the following provisions governing small proprietary schools:

(1) the fee schedule authorized under Section 132.201 [32.71 of this code], provided that fees under a fee schedule established by rule may not be less than the reasonable administrative cost for regulation or more than the amount that a small proprietary school would otherwise pay if it were not classified as a small proprietary school;

(2) participation in the proprietary school tuition protection fund required by Section 132.241 [32.91 of this code];

(3) the refund policy provisions of Section 132.061 [32.39 of this code];

(4) the bonding requirements of Section 132.060 [32.38 of this code];

(5) the examination of a school for compliance under Section 132.056(f) [32.34(f) of this code];

(6) the reporting requirements of Section 132.055(o) [32.33(o) of this code]; and

(7) the term for which a certificate of approval is issued under Section 132.056(b) [32.34(b) of this code], provided that a rule adopted under this section may not provide for a term that exceeds three years or is less than one year.

(b) A rule proposed under this section may be adopted only if it will reduce the regulatory burden for small proprietary schools and will adequately

safeguard the interests of the students of small proprietary schools to receive either the education for which they have contracted or an appropriate refund.

Sec. ~~132.054~~ [32.322]. SMALL SCHOOL EXEMPTION. The commission [administrator] may exempt small proprietary schools from any requirement of this chapter to reduce the cost to small schools of receiving a certificate of approval.

Sec. ~~132.055~~ [32.33]. CRITERIA. The commission [administrator] may approve the application of such proprietary school when the school is found, upon investigation at the premises of the school, to have met the following criteria:

(a) The courses, curriculum, and instruction are of such quality, content, and length as may reasonably and adequately achieve the stated objective for which the courses, curriculum, or instruction are offered. Before a school conducts a course of instruction in court reporting, the school must produce evidence that the school has obtained approval for the curriculum from the Court Reporters Certification Board.

(b) There is in the school adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(c) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(d) The school maintains a written record of the previous education and training of the applicant student and clearly indicates that appropriate credit has been given by the school for previous education and training, with the new training period shortened where warranted through use of appropriate skills or achievement tests and the student so notified.

(e) A copy of the course outline; schedule of tuition, fees, refund policy, and other charges; regulations pertaining to absence, grading policy, and rules of operation and conduct; regulations pertaining to incomplete grades; the name, mailing address, and telephone number of the commission [Central Education Agency] for the purpose of directing complaints to the agency; the current rates of job placement and employment of students issued a certificate of completion; and notification of the availability of the cost comparison information prepared under Section ~~132.021(b)~~ [32.21(b) of this code] through the commission [Central Education Agency] will be furnished the student prior to enrollment.

(f) Except as provided by Section ~~132.062~~ [32.40 of this code], on completion of training, the student is given a certificate by the school indicating the course and that training was satisfactorily completed.

(g) Adequate records as prescribed by the commission [administrator] are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(h) The school complies with all local, city, county, municipal, state, and federal regulations, such as fire, building, and sanitation codes. The commission [administrator] may require such evidence of compliance as is deemed necessary.

(i) The school is financially sound and capable of fulfilling its commitments for training.

(j) The school's administrators, directors, owners, and instructors are of good reputation and character.

(k) The school has, maintains, and publishes in its catalogue and enrollment contract[.] the proper policy for the refund of the unused portion of tuition, fees, and other charges in the event the student enrolled by the school fails to take the course or withdraws or is discontinued therefrom at any time prior to completion.

(l) The school does not utilize erroneous or misleading advertising, either by actual statement, omission, or intimation as determined by the commission [~~State Board of Education~~].

(m) Such additional criteria as may be required by the commission [~~State Board of Education~~].

(n) The school does not use a name like or similar to an existing tax supported school in the same area.

(o) The school furnishes to the commission [~~Central Education Agency~~] the current rates of students who receive a certificate of completion and of job placement and employment of students issued a certificate of completion.

(p) The school furnishes to the commission [~~Central Education Agency~~] for approval or disapproval student admission requirements for each course or program offered by the school.

(q) The school furnishes to the commission [~~Central Education Agency~~] for approval or disapproval the course hour lengths and curriculum content for each course offered by the school.

(r) The school does not owe a [~~civil~~] penalty under Section 132.152, 132.155, or 132.157 [~~32.611 of this code~~].

Sec. 132.056 [~~32.34~~]. ISSUANCE OF CERTIFICATE OF APPROVAL;[.] RENEWAL. (a) The commission [~~administrator~~], upon review of an application for a certificate of approval duly submitted in accordance with [~~the provisions of~~] Section 132.052 [~~32.32~~] and meeting the requirements of Section 132.055 [~~32.33 of this chapter~~], shall issue a certificate of approval to the applicant proprietary school. The certificate of approval shall be in a form prescribed [~~recommended by the commission and approved~~] by the commission [~~State Board of Education~~] and shall state in a clear and conspicuous manner at least the following information:

- (1) date of issuance, effective date, and term of approval;
- (2) correct name and address of the school;
- (3) authority for approval and conditions of approval, if any, referring specifically to the approved catalogue or bulletin published by the school;
- (4) signature of the agency administrator [~~or such person as may have been designated by him to administer the provisions of this chapter~~]; and
- (5) any other fair and reasonable representations that are consistent with this chapter and deemed necessary by the commission [~~administrator~~].

(b) The term for which a certificate of approval shall be issued may [~~shall~~] not exceed one year.

(c) The certificate of approval shall be issued to the owner of the applicant proprietary school and is [~~shall be~~] nontransferable. In the event of a change in ownership of the school, a new owner must, at least 30 [~~thirty (30)~~] days prior to the change in ownership, apply for a new certificate of approval.

(d) At least 30 [~~thirty (30)~~] days prior to expiration of a certificate of approval, the proprietary school shall forward to the commission [~~administrator~~]

an application for renewal. The commission ~~[administrator]~~ shall reexamine the school at the premises of the school and either renew or cancel the school's certificate of approval. If a school fails to file a complete application for renewal at least 30 ~~[thirty (30)]~~ days before the expiration date of the certificate of approval, the school, as a condition of renewal, must pay, in addition to the annual renewal fee, a late renewal fee in an amount established by commission ~~[State Board of Education]~~ rule of at least \$100.

(e) A proprietary school not yet in operation when its application for certificate of approval is filed may not begin operation until receipt of certificate of approval.

(f) The commission ~~[administrator]~~ shall visit a proprietary school to reexamine the school for compliance with the criteria provided by Section 132.055 ~~[32.33 of this code]~~ not later than three months after the date a school begins operation or after a change in ownership of a school.

Sec. 132.057 ~~[32.35]~~. DENIAL OF CERTIFICATE OF APPROVAL.

(a) If the commission ~~[administrator]~~, upon review and consideration of an application for certificate of approval, shall determine the applicant to be unacceptable, the commission ~~[administrator]~~ shall set forth the reasons for denial, in writing, to the applicant.

(b) Any applicant whose certificate of approval is denied has ~~[shall have]~~ the right of appeal under Subchapter D ~~[E of this chapter]~~.

Sec. 132.058 ~~[32.36]~~. REVOCATION OF CERTIFICATE OF APPROVAL. (a) The commission ~~[Administrator]~~ may revoke an issued certificate of approval or place reasonable conditions upon the continued approval represented by the certificate. Prior to revocation or imposition of conditions upon a certificate of approval, the commission ~~[Administrator]~~ shall notify the holder of the certificate, in writing, of the impending action and set forth the grounds for the action. The commission ~~[Administrator]~~ may reexamine a proprietary school two or more times during each year in which a notice relating to the school has been issued or conditions have been imposed on the school under this subsection.

(b) A certificate of approval may be revoked or made conditional if the commission ~~[Administrator]~~ has reasonable cause to believe that the proprietary school is guilty of a violation of this chapter or of any rules adopted under this chapter ~~[and regulations promulgated hereunder]~~.

Sec. 132.059 ~~[32.37]~~. REGISTRATION OF REPRESENTATIVES. (a) All representatives employed by a proprietary school shall register with the commission ~~[administrator]~~. Application for registration may be made at any time and shall be based on information submitted in accordance with the provisions of Section 132.052 ~~[32.32 of this chapter]~~.

(b) Registration of a representative is ~~[shall be]~~ effective upon receipt of notice from the commission ~~[administrator]~~ and remains ~~[shall remain]~~ in effect for a period not in excess of 12 ~~[twelve (12)]~~ calendar months. Renewal of representative registration shall be in accordance with the renewal application form forwarded to the proprietary school by the commission ~~[administrator]~~.

(c) Denial or revocation of registration of a representative by the commission ~~[administrator]~~ shall be in accordance with the provisions of this chapter applicable to denial or revocation of a certificate of approval. The

commission~~[-; provided, however, the administrator]~~ may deny, suspend, or revoke the registration of a representative who has been convicted of a felony, whether within or without this state ~~[the State of Texas]~~.

(d) Proprietary schools ~~[Schools]~~ domiciled~~[-]~~ or having their principal place of business outside of this state ~~[the State of Texas]~~ that engage representatives to canvass, solicit, or contract with any person within this state ~~[the State of Texas]~~, are ~~[shall be]~~ subject to the requirements for registration of representatives.

(e) The commission ~~[administrator]~~ shall deny registration of a representative who owes a [civil] penalty under Section 132.152 or 132.155 ~~[32.611 of this code]~~.

Sec. 132.060 ~~[32.38]~~. BOND REQUIREMENTS. (a) Before a certificate of approval is issued under this chapter, a bond shall be provided by the proprietary school for the period during which the certificate of approval is issued, and the obligation of the bond shall be that neither ~~[a provision of]~~ this chapter nor any rule ~~[or regulation]~~ adopted pursuant thereto shall be violated by the school or any of its officers, agents, or employees. The bond shall be in the penal sum of \$5,000 or a multiple of \$5,000 that is not greater than \$25,000. The commission ~~[administrator]~~ shall determine the amount based on the evidence the school submits of its projected maximum total unearned tuition during the period of the certificate of approval. The bond shall be a corporate surety bond issued by a company authorized to do business in this state ~~[the State]~~, conditioned that the parties thereto shall pay all damages or expenses that [which] the state ~~[State]~~ or any governmental subdivision thereof~~[-]~~ or any student or potential student may sustain resulting from a violation. The bond shall be to the state ~~[State]~~ to be used only for payment of a tuition refund due to a student or potential student. The bond shall be filed with the commission ~~[administrator]~~ and shall be in such form as shall be approved by the commission ~~[administrator]~~.

(b) ~~[(c)]~~ In lieu of the corporate surety bond required in Subsection (a) ~~[of this Section]~~, the proprietary school may~~[-; in the alternative;]~~ provide any other similar certificate or evidence of indebtedness as may be acceptable to the commission ~~[Administrator]~~, provided that the certificate ~~[Certificate]~~ or evidence of indebtedness meets all the requirements applicable to the corporate surety bond.

(c) ~~[(d)]~~ Proprietary schools ~~[Schools]~~ domiciled~~[-]~~ or having their principal place of business~~[-]~~ outside of this state ~~[the State of Texas;]~~ that engage representatives to canvass, solicit, or contract with any person within this state ~~[the State of Texas; shall be]~~ subject to the bond requirements of Subsection (a) ~~[of this Section]~~.

(d) ~~[(e)]~~ The commission ~~[administrator]~~, for good cause shown, ~~[as recommended by the commission and approved by the State Board of Education;]~~ may waive and suspend the requirements set forth in Subsections (a) and (b) ~~[(c) of this Section]~~ with respect to proprietary schools operating wholly or in part under a federal grant where no tuition fee is charged to the student.

Sec. 132.061 ~~[32.39]~~. REFUND POLICY. (a) Except as provided by Subsection (g) ~~[of this section]~~, as a condition for granting certification each

proprietary school must maintain a cancellation and settlement policy that ~~[which]~~ must provide a full refund of all monies paid by a student if:

(1) the student cancels the enrollment agreement or contract within 72 hours (until midnight of the third day excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student; or

(2) the enrollment of the student was procured as the result of any misrepresentation in advertising, promotional materials of the school, or representations by the owner or representatives of the school.

(b) Except as provided by Subsection (g) ~~[of this section]~~, as a condition for granting certification~~[-]~~ each proprietary school must maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter the course, ~~[or]~~ withdraws, or is discontinued therefrom at any time prior to completion, and such policy must provide:

(1) refunds for resident courses will be based on the period of enrollment computed on the basis of course time expressed in clock hours;

(2) the effective date of the termination for refund purposes in residence schools will be the earliest of the following:

(A) the last date of attendance, if the student is terminated by the school;

(B) the date of receipt of written notice from the student; or

(C) 10 ~~[ten]~~ school days following the last date of attendance;

(3) if tuition and fees are collected in advance of entrance, and if, after expiration of the 72-hour cancellation privilege, the student does not enter the residence school, not more than \$100 shall be retained by the school;

(4) for the student who enters a residence course of not more than 12 months in length, terminates, or withdraws, the school may retain \$100 of tuition and fees and the minimum refund of the remaining tuition and fees will be:

(A) during the first week or one-tenth of the course, whichever is less, 90 percent of the remaining tuition and fees;

(B) after the first week or one-tenth of the course, whichever is less, but within the first three weeks of the course, 80 percent of the remaining tuition and fees;

(C) after the first three weeks of the course, but within the first quarter of the course, 75 percent of the remaining tuition and fees;

(D) during the second quarter of the course, 50 percent of the remaining tuition and fees;

(E) during the third quarter of the course, 10 percent of the remaining tuition and fees; or

(F) during the last quarter of the course, the student may be considered obligated for the full tuition and fees;

(5) for residence courses more than 12 months in length, the refund shall be applied to each 12-month period paid, or part thereof separately, and the student is entitled to a refund as provided by Subdivision (4) ~~[of this subsection]~~;

(6) refunds of items of extra expense to the student, such as instructional supplies, books, student activities, laboratory fees, service charges,

rentals, deposits, and all other such ancillary miscellaneous charges, where these items are separately stated and shown in the data furnished the student before enrollment, will be made in a reasonable manner acceptable to the commission [administrator];

(7) refunds based on enrollment in residence schools will be totally consummated within 60 days after the effective date of termination;

(8) refunds for correspondence courses will be computed on the basis of the number of lessons in the course;

(9) the effective date of the termination for refund purposes in correspondence courses will be the earliest of the following:

(A) the date of notification to the student if the student is terminated;

(B) the date of receipt of written notice from the student; or

(C) the end of the third calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that he wishes to remain enrolled;

(10) if tuition and fees are collected before any lessons have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the course, not more than \$50 shall be retained by the school;

(11) in cases of termination or withdrawal after the student has begun the correspondence course, the school may retain \$50 of tuition and fees, and the minimum refund policy must provide that the student will be refunded the pro rata portion of the remaining tuition, fees, and other charges that the number of lessons completed and serviced by the school bears to the total number of lessons in the course; and

(12) refunds based on enrollment in correspondence schools will be totally consummated within 60 days after the effective date of termination.

(c) In lieu of the refund policy herein set forth, for programs of instruction not regularly offered to the [general] public, the commission [~~State Board of Education~~] may, for good cause shown, amend, modify, or substitute [~~and/or alter~~] the terms of a proprietary school's [~~such~~] policy due to the specialized nature and objective of the [~~subject~~] school's course of instruction.

(d) If a course of instruction is discontinued by the proprietary school and this prevents the student from completing the course, all tuition and fees paid are then due and refundable.

(e) If a refund is not made within the period required by this section, the proprietary school shall pay a penalty. If the refund is made to a lending institution, the penalty shall also be paid to that institution and applied against the student's loan. The commission [~~commissioner of education~~] annually shall establish the level of the penalty at a level sufficient to provide a deterrent to the retention of student funds. The commission [~~Central Education Agency~~] may exempt a school from the payment of the penalty if the school makes a good faith effort to refund the tuition, fees, and other charges but is unable to locate the student. The school shall provide to the commission [~~agency~~] on request documentation of the effort to locate the student.

(f) A proprietary school shall record a grade of "incomplete" for a student who withdraws but is not entitled to a refund under Subsection (b)(4)(F) [~~of~~

~~this section~~] if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status. A student who receives a grade of incomplete may re-enroll in the program during the 12-month period following the date the student withdraws and complete those incomplete subjects without payment of additional tuition.

(g) A program that is 40 hours or less of class time, or a seminar or workshop, is exempt from the 72-hour rule provided by Subsection (a) ~~[(b) of this section]~~. The proprietary school shall maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student fails to enter the course, withdraws from the course, or is discontinued from the class at any time before completion of the course as provided by this section. The policy must provide that:

(1) refunds are based on the period of enrollment computed on the basis of course time expressed in clock hours;

(2) the effective date of the termination for refund purposes is the earlier of:

(A) the last date of attendance; or

(B) the date the school receives written notice from the student that the student is withdrawing from the class; and

(3) the student will be refunded the pro rata portion of tuition, fees, and other charges that the number of class hours remaining in the course after the effective date of the termination bears to the total number of class hours in the course.

Sec. 132.062 [32.40]. WITHHOLDING RECORDS. A proprietary school may withhold a student's transcript or certificate of completion of training until the student has fulfilled the student's ~~[his]~~ financial obligation to the school.

Sec. 132.063 [32.401]. APPROVED DEGREES. ~~[(a)]~~ A proprietary school may offer ~~a [an associate of applied arts or an associate of applied science]~~ degree approved by the Texas Higher Education Coordinating Board.

~~[(b) A proprietary school may offer an applied technology degree, an occupational studies degree, or other degree approved by the Central Education Agency. The Central Education Agency shall have no authority to approve a degree title that uses "associate," "bachelor's," "master's," or "doctor's" in the title and shall consult with the Texas Higher Education Coordinating Board to ensure that the titles of degrees approved by the agency are distinctly different from the titles of degrees approved by the board.]~~

Sec. 132.064 [32.402]. NONQUALIFICATION AS PROPRIETARY SCHOOL. (a) A proprietary school operating as a small proprietary school but that has an annual gross income from tuition and fees that exceeds \$100,000 (other than a test preparation school described by Section 132.001(10)(B) or (C) [as defined in Section 32.11(10)(B) or (C)]) that intends to receive a payment from federal funds under 20 U.S.C. Section 1070 et seq. or intends to receive prepayment of tuition, fees, or other charges from federal or state funds shall send written notice to the commission ~~[administrator]~~. The notice must be sent not later than the following date, as applicable:

(1) the 60th day after the date on which annual gross income is determined to exceed the maximum;

(2) the day before receiving a payment of federal funds under 20 U.S.C. Section 1070 et seq.; or

(3) the day before enrolling a student who will prepay tuition, a fee, or another charge in whole or in part from federal or state funds.

(b) A proprietary school that no longer qualifies as a small proprietary school shall apply for an initial certificate of approval as a proprietary school within 30 days after the date the school has notified the commission [administrator] that it no longer qualifies as a small proprietary school. The commission [administrator] may apply or prorate any fees paid by the school as a small proprietary school.

(c) A proprietary school that no longer qualifies as a small proprietary school shall submit to the commission [administrator] an amount of money equal to the difference between the fee for the small proprietary school certificate of approval submitted by the school and the fee that the school would be required to submit after its qualifications as a small proprietary school cease.

(d) The authority of a proprietary school to operate under a small proprietary school certificate of approval terminates on the final determination of issuance or denial of an initial certificate of approval. If a school fails to file a complete application within the period required by Subsection (b) [of this section], the school, as a condition of issuance, must pay a late fee in an amount established by commission [State Board of Education] rule of at least \$100.

SUBCHAPTER D [E]. APPEAL

Sec. 132.101 [32.41]. HEARING. (a) Should the applicant be dissatisfied with the denial of a certificate of approval by the commission [Administrator], the applicant has [shall have] the right to appeal the decision of the commission [Administrator] and request a hearing with the commission or a hearing officer appointed by the commission [Administrator] within 15 [fifteen-(15)] days after receipt of notice. Upon receipt of the request for a hearing, the commission [Administrator] shall set a time and place for the [said] hearing and then send notice to the school of the [said] time and place.

(b) The [Said] hearing shall be held within 30 [thirty-(30)] days from the receipt of the request for a hearing.

(c) At the [said] hearing, an applicant may appear in person or by counsel and present evidence to the commission or a hearing officer appointed by the commission [Administrator] in support of the granting of the permit specified herein. All interested persons may also appear and present oral and documentary evidence to the commission or a hearing officer appointed by the commission [Administrator] concerning the issuance of a certificate of approval to the applicant school.

(d) Within 10 [ten-(10)] days after the hearing, the commission [Administrator] shall send notice to the school either affirming or revoking the denial of the certificate of approval.

Sec. 132.102 [32.42]. JUDICIAL APPEAL. (a) The commission's [administrator's] decision to deny a certificate of approval may be appealed to a district court [District Court] in Travis County.

(b) [(e)] Unless stayed by the court on [Court upon] a showing of good cause, the commission's [administrator's] decision may not be superseded during the appeal.

(c) On ~~[(d) Upon]~~ the filing of the lawsuit, citation shall be served on ~~upon~~ the commission ~~[administrator]~~. The commission shall prepare ~~[Whereupon, the administrator shall cause to be made]~~ a complete record of all proceedings had before the commission or hearing examiner ~~[administrator,]~~ and shall certify a copy of the proceedings to the court ~~[Court]~~. Trial before the court ~~[Court]~~ shall be on ~~upon~~ the basis of the record made before the commission or hearing examiner ~~[administrator]~~, and the court ~~[Court]~~ shall make its decision based on ~~upon~~ the record. The commission's ~~[administrator's]~~ decision shall be affirmed by the court ~~[Court]~~ if the court ~~[Court]~~ finds substantial evidence in the record to justify the decision, unless the court ~~[Court]~~ finds the order to be:

(1) arbitrary and capricious;[:] or

(2) in violation of the constitution ~~[Constitution]~~ or laws of this state; ~~[the State of Texas,] or~~

(3) in violation of rules ~~[and regulations]~~ promulgated by the commission ~~[State Board of Education]~~ pursuant to this chapter ~~[the provisions of the Act].~~

(d) ~~[(e)]~~ The decision of the trial court is ~~[shall be]~~ subject to appeal in the same ~~[like]~~ manner as any other civil lawsuit under the Texas Rules of Civil Procedure.

Sec. 132.103. APPEAL FOLLOWING REVOCATION OF CERTIFICATE OF APPROVAL. ~~[(f)]~~ Appeals concerning revocation of certificates of approval shall be prosecuted in the same manner and under the same provisions as ~~[herein]~~ provided for appeals from denial of such certificates.

SUBCHAPTER E ~~[F]~~. CLASS ACTION SUITS

Sec. 132.121 [32.51]. CLASS ACTION. (a) Any person ~~[or persons]~~ who is ~~[shall be]~~ injured by any act taken or permitted in violation of this chapter ~~[Act]~~ may, on behalf of the person ~~[himself or themselves]~~ and others similarly situated, maintain an action in a district court in Travis County ~~[any District Court of competent jurisdiction]~~, regardless of the amount in controversy, for temporary or permanent injunctive relief, declaratory relief, or other relief, including damages, such action to be pursued in accordance with ~~[the provisions of]~~ Rule 42, ~~[of the]~~ Texas Rules of Civil Procedure~~[- provided, however, that venue for any such action shall be in Austin, Travis County, Texas].~~

(b) A party filing such an action must give prompt notice to the attorney general ~~[Attorney General]~~, who shall be permitted to join, on ~~upon~~ application within 30 days, as a party plaintiff.

Sec. 132.122 [32.52]. NOTICE. In any class action permitted under this chapter ~~[Act]~~, the court ~~[Court]~~ shall direct the defendant to serve on ~~upon~~ each member of the class the best possible notice. If ~~[- and if]~~ required in the interest of justice, the court ~~[Court]~~ may direct that individual notice be served on ~~upon~~ all members of the class who can be identified through reasonable efforts. Such notice shall inform the recipient that the recipient ~~[he]~~ is thought to be a member of the class and, if so, the recipient ~~[he]~~ may enter an appearance and join in the suit, either in person ~~[for himself]~~ or through counsel.

Sec. 132.123 [32.53]. JUDGMENT AND COSTS. (a) The court ~~[Court]~~ shall enter judgment in each class action brought under this chapter ~~[the~~

~~provisions hereof~~] in such form as shall be justified by the facts and the law applicable thereto. Damages shall be awarded only to those members of the class who joined as parties plaintiff, but all other relief granted by the court [~~Court~~] shall inure to the benefit of all members of the class.

(b) ~~A plaintiff who prevails~~ [~~Should a plaintiff prevail~~] in [~~such~~] a class action[~~he~~] shall be awarded court costs and [~~a~~] reasonable attorney's fees [~~counsel fee~~] in the judgment. A legal aid society or legal services program that [~~which~~] represents the plaintiff or plaintiffs in such an action shall be awarded a service fee in lieu of attorney's fees [~~a counsel fee~~].

SUBCHAPTER F [G]. PROHIBITED ACTS

Sec. 132.151 [32.61]. PROHIBITIONS. ~~A person may not~~ [~~No person shall~~]:

(1) operate a proprietary school without a certificate of approval issued by the commission [~~Administrator~~];

(2) solicit prospective students without being bonded as required by this chapter [~~Chapter~~];

(3) accept contracts or enrollment applications from a representative who is not bonded as required by this chapter [~~Chapter~~];

(4) utilize advertising designed to mislead or deceive prospective students;

(5) fail to notify the commission [~~Administrator~~] of the discontinuance of the operation of any proprietary school within 72 hours of cessation of classes and make available accurate records as required by this chapter [~~Chapter~~];

(6) fail to secure and file within 30 days an increased bond as required by this chapter [~~Chapter~~];

(7) negotiate any promissory instrument received as payment of tuition or other charge prior to completion of 75 percent of the course, provided that prior to such time, the instrument may be transferred by assignment to a purchaser who shall be subject to all the defenses available against the proprietary school named as payee; or

(8) violate any provision of this chapter [~~Chapter~~].

Sec. 132.152 [32.61H]. ADMINISTRATIVE [~~CIVIL~~] PENALTY. (a) If a person violates Section 132.151 [32.61 of this code], the commission [~~administrator~~] may assess an administrative [~~a civil~~] penalty against that person as provided by this section.

(b) The commission [~~administrator~~] may assess the administrative [~~civil~~] penalty in an amount not to exceed \$1,000. In determining the amount of the penalty, the commission [~~administrator~~] shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the facts relating to that possible violation, the commission [~~administrator~~] concludes that a violation has occurred, the commission [~~administrator~~] shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative [~~a civil~~] penalty is recommended [~~to be imposed~~], and the amount recommended [~~to be assessed~~]. Not later than the 10th day after the date on which the commission [~~administrator~~] issues the preliminary report, the commission [~~administrator~~] shall send a copy of the report by certified mail to

the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(d) Not later than the 20th day after the date on which the person receives the report [is sent], the person charged must either make a written request for a hearing or remit the amount of the administrative [civil] penalty to the commission [administrator]. Failure either to request a hearing or to remit the amount of the administrative [civil] penalty within the time provided by this subsection results in a waiver of a right to a hearing under this section. If the person charged requests a hearing, the hearing shall be conducted by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision about the occurrence of the violation and the amount of the proposed penalty. Based on the findings of fact, conclusions of law, and proposal for decision, the commission by order may:

- (1) find that a violation has occurred and impose a penalty; or
- (2) find that a violation has not occurred.

(e) The notice of the commission's order given to the person under Chapter 2001, Government Code, must include a statement of the person's right to judicial review of the order.

(f) Not later than the 30th day after the date the commission's order is final under Section 2001.144, Government Code, the person shall:

- (1) pay the amount of the penalty;
- (2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or
- (3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Within the period prescribed by Subsection (f), a person who acts under Subsection (f)(3) may:

- (1) stay enforcement of the penalty by:
 - (A) paying the amount of the penalty to the court for placement in an escrow account; or
 - (B) giving to the court a supersedeas bond approved by the court that is in the amount of the penalty and that is effective until all judicial review of the commission's order is final; or
- (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and
 - (B) giving a copy of the affidavit to the commission by certified mail.

(h) The commission may file with the court a contest to an affidavit received under Subsection (g)(2) not later than the fifth day after the date the commission receives the copy. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement

of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(i) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commission may refer the matter to the attorney general for collection of the amount of the penalty.

(j) Judicial review of the commission's order:

(1) is initiated by filing a petition for review as provided by Section 2001.176, Government Code; and

(2) is under the substantial evidence rule.

(k) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount. If the court does not sustain the occurrence of the violation, the court shall order that a penalty is not owed.

(l) When the court's judgment becomes final, the court shall:

(1) if the person paid the amount of the penalty and the court did not uphold the imposition of the penalty or reduced the amount of the penalty, order remittance to the person of:

(A) the amount of the penalty that was not upheld; and

(B) interest on the amount described by Paragraph (A) at the rate charged on loans to depository institutions by the Federal Reserve Bank of New York, from the date the penalty was paid until the date it is remitted;

(2) if the person gave a supersedeas bond and the court did not uphold the imposition of the penalty, order release of the bond; or

(3) if the person gave a supersedeas bond and the court reduced the amount of the penalty, order release of the bond after the person pays the reduced amount.

(m) All proceedings under this section are subject to Chapter 2001, Government Code. [in the same manner as a hearing on the denial of certificate of approval under Section 32.41 of this code. If it is determined after a hearing that the person has committed the alleged violation, the administrator shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty:

[(e) Not later than the 30th day after the date on which the notice is received, the person charged must pay the civil penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, remit the assessed amount to the administrator for deposit in an escrow account. If, after judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the administrator shall remit the appropriate amount to the person charged with the violation not later than the 30th day after the date on which the judicial determination becomes final.

[(f) Failure to remit the amount of the civil penalty to the board within the time provided by Subsection (e) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

[(g) A civil penalty owed under this section plus reasonable attorney fees and court costs may be recovered in a civil action brought by the attorney general at the request of the administrator. Civil penalties recovered shall be

~~deposited in the General Revenue Fund. Attorney fees and court costs shall be appropriated to the attorney general.]~~

Sec. 132.153 [32.612]. COMPETITIVE BIDDING; ADVERTISING. The commission [~~State Board of Education~~] may not adopt rules to restrict competitive bidding or advertising by a proprietary school except to prohibit false, misleading, or deceptive competitive bidding or advertising practices. Those rules may not restrict:

- (1) the use of an advertising medium;
- (2) the size or duration of an advertisement; or
- (3) advertisement under a trade name.

Sec. 132.154 [32.62]. INJUNCTIONS. (a) Whenever the commission [~~Administrator~~] has probable cause to believe that any proprietary school has committed any acts that would be in violation of this chapter [~~Chapter~~], the commission [~~Administrator~~] shall apply [~~have the duty to make application to a court of competent jurisdiction~~] for an injunction restraining the commission of such acts.

(b) An action for an injunction under this section shall be brought in Travis County.

Sec. 132.155 [32.63]. CIVIL PENALTY. (a) A person who violates this chapter or a rule adopted under this chapter is liable for a civil penalty in addition to any injunctive relief or other remedy provided by law. The civil penalty may not exceed \$1,000 a day for each violation.

(b) The attorney general, at the request of the commission [~~Central Education Agency~~], may bring a civil action to collect a civil penalty under this section.

~~[(c) Civil penalties recovered in a suit brought under this section shall be deposited in the state treasury to the credit of the General Revenue Fund.]~~

Sec. 132.156 [32.64]. SANCTIONS. (a) If the commission [~~Central Education Agency~~] has reasonable cause to believe that a proprietary school has violated this chapter or a rule adopted under this chapter, the commission [~~agency~~] may:

- (1) order a peer review of the school; or
- (2) suspend the admission of students to the school.

(b) A peer review ordered under this section shall be conducted by a peer review team composed of knowledgeable persons selected by the commission [~~agency~~]. The commission [~~agency~~] shall attempt to provide a balance on each team between members assigned to the team who are from this state and those who are from other states. The team shall provide the commission [~~agency~~] with an objective assessment of the content of the proprietary school's curriculum and its application. The costs of providing a peer review team shall be paid by the school.

Sec. 132.157 [32.65]. PENALTY FOR SMALL PROPRIETARY SCHOOL. (a) If a proprietary school fails to timely comply with the requirements of Section 132.064 [~~32.402 of this code~~], in addition to any other penalties authorized by law, the commission [~~administrator~~] may assess a penalty in an amount not greater than two times the amount that the school would have paid in fees and other charges if the school had complied with the requirements of Section 132.064 [~~32.402~~] or may assess a penalty in the amount

of the tuition or fee charge to any students whose tuition or fees were contracted to be funded by a prepaid federal or state source.

(b) If the commission ~~[administrator]~~ finds that the proprietary school acted intentionally, the commission ~~[administrator]~~ may, in addition to any other remedy available under law, assess a penalty against the owner in an amount not greater than four times the amount of the fees and charges that the school should have paid or four times the amount of the student tuition that was contracted to be funded from a prepaid federal or state source.

(c) The failure to notify the commission ~~[administrator]~~ within four months after the proprietary school's earnings exceed that of a small proprietary school gives rise to a rebuttable presumption of intent for purposes of assessment of a penalty.

(d) The failure to notify the commission ~~[administrator]~~ within 10 days after a proprietary school has enrolled a student whose tuition or fees are paid in whole or in part from a prepaid federal or state source gives rise to a rebuttable presumption of intent for purposes of assessment of a penalty.

(e) A ~~[civil]~~ penalty under this section shall be assessed in accordance with the procedures stated in Section 132.152 ~~[32.611 of this code]~~. ~~[A penalty collected shall be deposited in the state treasury to the credit of the general revenue fund.]~~

SUBCHAPTER G [H]. FEES

Sec. 132.201 ~~[32.71]~~. CERTIFICATE AND REGISTRATION FEES.

(a) Certificate and registration fees, except those charged pursuant to Subsection (d) ~~[of this section]~~, shall be collected by the commission ~~[Administrator and deposited with the State Treasurer]~~. Each fee shall be in an amount set by the commission ~~[Administrator and approved by the State Board of Education]~~ in an amount not to exceed 150 percent of each fee in the following schedule:

(1) the initial fee for a proprietary school:

(A) for a certificate of approval is \$2,000; or

(B) for a small proprietary school certificate of approval is \$1,000;

(2) the first renewal fee and each subsequent renewal fee for a proprietary school is the greater of:

(A) an amount that is determined by applying a percentage, not to exceed 0.2 ~~[0.3]~~ percent, to the gross tuition and fees, excluding refunds as provided by Section 132.061 ~~[32.39 of this code]~~, of the school; or

(B) \$500;

(3) the initial registration fee for a representative is \$60;

(4) the annual renewal fee for a representative is \$30;

(5) the fee for a change of a name of a proprietary school or owner is \$100;

(6) the fee for a change of an address of a proprietary school is \$180;

(7) the fee for a change in the name or address of a representative or a change in the name or address of a proprietary school that causes the reissuance of a representative permit is \$10;

(8) the application fee for an additional course is \$150, except for seminar and workshop courses, for which the fee is \$25;

(9) the application fee for a director, administrative staff member, or instructor is \$15;

(10) the application fee for the authority to grant degrees is \$2,000;
(11) the application fee for an additional degree course is \$250; and
(12) the fee for an inspection required by commission rule ~~[of the State Board of Education]~~ of classroom facilities that are separate from the main campus is \$250.

(b) The commission ~~[commissioner of education]~~ shall periodically review and recommend adjustments in the level of fees to the ~~[State Board of Education and the]~~ legislature.

(c) For purposes of this section, the gross amount of annual student fees and tuition for a proprietary school is the amount determined by the commission ~~[State Board of Education]~~ based on any report submitted by the school to the commission ~~[Central Education Agency]~~ or other information obtained by the commission ~~[agency]~~.

(d) In connection with the regulation of any proprietary school or course through a memorandum of understanding pursuant to Section 132.002(c) ~~[32.12(c) of this code]~~, the commission ~~[Administrator]~~ shall set an application and annual renewal fee, not to exceed \$2,000. The fee shall be ~~[approved by the State Board of Education to be]~~ an amount reasonably calculated to cover the administrative costs associated with assuming the additional regulation.

(e) The fee for an investigation at a proprietary school to resolve a complaint filed against the school is \$400. The fee may be charged only if:

(1) the complaint could not have been resolved by telephone or written correspondence only;

(2) a representative of the commission ~~[Central Education Agency]~~ visits the school as a part of the complaint resolution process; and

(3) the school is found to be at fault.

(f) The commission ~~[administrator]~~ may allow payment of any fee authorized under this section or under Section 132.241 ~~[32.91 of this code]~~ that exceeds \$1,000 to be paid by installment. The commission ~~[administrator]~~ shall provide for appropriate interest charges and late penalties in addition to any other remedy that is provided for by law for the late payment of a fee installment authorized under this section. The commission ~~[administrator]~~ may assess a reasonable service charge or interest to be paid by a proprietary school that pays a fee by installment in an amount not to exceed 10 percent annually of the fee that is to be paid by installment.

(g) All fees, interest, or other charges collected under this section shall be used only for the administration of this chapter ~~[the Texas Proprietary School Act]~~.

(h) The commission ~~[administrator]~~ may apply or prorate a fee paid by a small proprietary school that has complied with the notification requirements of Section 132.064 ~~[32.402 of this code]~~ toward an initial certificate as a proprietary school in the event that a proprietary school has ceased to qualify as a small proprietary school during a certification period.

SUBCHAPTER H [F]. FUNDING

Sec. 132.221 ~~[32.81]~~. FUNDING. (a) The cost of administration of this chapter ~~[Chapter]~~ shall be included in the appropriation ~~[State budget allowance]~~ for the commission ~~[State Board of Education]~~.

(b) Fees collected by the commission ~~[Administrator and deposited with~~

~~the State Treasurer]~~ shall be used to help defray the cost and expense of administering ~~[the provisions of] this chapter [Chapter]~~.

SUBCHAPTER I [J]. PROTECTION OF TUITION

Sec. 132.241 [32.94]. TUITION PROTECTION FUND. (a) Except as provided by Subsection (d) ~~[(e) of this section]~~, at the time that each proprietary school pays its annual renewal fee, in the years provided by Subsection (b) ~~[(e) of this section]~~, the commission ~~[State Board of Education]~~ shall also collect a fee from the school for deposit to the credit of ~~[a special fund in the state treasury to be called]~~ the proprietary school tuition protection fund.

(b) ~~[The amount of the fee is determined by applying a percentage to each school's annual renewal fee. The percentage is the rate as determined by the board that, when applied to the total of all renewal fees, will result in the collection of \$250,000 for deposit in the fund in the first two years that the fee is collected.]~~

~~[(c) Beginning on January 1, 1990, the board shall collect the fee for two years:]~~ If on January 1 ~~of, 1993, or]~~ any ~~[subsequent]~~ year the amount in the fund is less than \$200,000, the commission ~~[board]~~ shall collect a fee during that year by applying a percentage to each proprietary school's annual renewal fee at a rate that will bring the balance of the fund to \$250,000.

(c) ~~[(d)]~~ The state treasurer shall invest the fund in the same manner as other state funds. Sufficient funds from the tuition protection fund shall be appropriated to the commission ~~[Central Education Agency administration]~~ for the administration of ~~[purpose outlined in]~~ this section.

(d) ~~[(e)]~~ A proprietary school is not required to pay the fee for the tuition protection fund under Subsection (a) ~~[of this section]~~ if, at the time the school pays the annual renewal fee, the bond provided by the school under Section 132.060 ~~[32.38 of this code]~~ is greater than the unearned tuition of the school.

Sec. 132.242 [32.92]. CLOSED SCHOOL. (a) If a proprietary school closes, the commission ~~[Central Education Agency]~~ shall attempt to arrange for students of the closed school to attend another proprietary school.

(b) The expense incurred by a proprietary school in providing a teachout that is directly related to educating a student placed in the school under this section, including the applicable tuition for the period ~~[of time]~~ for which the student has paid tuition, shall be paid from the proprietary school tuition protection fund.

(c) If the student cannot be placed in another proprietary school, the student's tuition and fees shall be refunded under Section 132.061(d) ~~[32.39(d) of this code]~~.

(d) If a student does not accept a place that is available and reasonable in another proprietary school, the student's tuition and fees shall be refunded under the refund policy maintained by the closing proprietary school under Section 132.061(b) ~~[32.39(b) of this code]~~.

(e) If the amount of the closed proprietary school's bond under Section 132.060 ~~[32.38 of this code]~~ is less than the amount required for student refunds under Subsections (c) and (d) ~~[of this section]~~, the refunds shall be paid from the proprietary school tuition protection fund in an amount not to exceed \$25,000.

(f) If another proprietary school assumes responsibility for the closed

proprietary school's students with no significant changes in the quality of training, the student is not entitled to a refund under Subsection (c) or (d) [~~of this section~~].

(g) Attorney's fees, court costs, or damages may not be paid from the proprietary school tuition protection fund.

~~[(h) This section takes effect January 1, 1992.]~~

(3) Strike SECTION 43 of the bill (House Committee Report, page 666, line 25, through page 669, line 13) and substitute the following:

SECTION 43. TRANSITION PROVISION RELATING TO PROPRIETARY SCHOOLS. (a) The Texas Education Agency and the Texas Employment Commission shall enter into an interagency contract for the transfer of the regulation of proprietary schools from the Texas Education Agency to the Texas Employment Commission. The transfer shall take effect on the date specified in the contract, but not later than February 1, 1996. On the effective date of the transfer:

(1) all powers, duties, rights, and obligations of the Texas Education Agency relating to the regulation of proprietary schools are transferred to the Texas Employment Commission;

(2) all assets, liabilities, equipment, data, documents, facilities, and other items of the Texas Education Agency relating to the regulation of proprietary schools are transferred to the Texas Employment Commission; and

(3) any appropriation to the Texas Education Agency relating to the regulation of proprietary schools is transferred to the Texas Employment Commission.

(b) The Texas Employment Commission shall publish the contract in the Texas Register.

(c) The officers and employees of the Texas Education Agency shall cooperate fully with the reorganization.

(d) Until the effective date of the transfer under Subsection (a) of this section, a reference in Chapter 132, Education Code, as added by this Act, to the agency administrator of the Texas Employment Commission is considered to be a reference to the commissioner of education, and a reference to the Texas Employment Commission is considered to be a reference to the Texas Education Agency.

(e) This section does not affect the validity of:

(1) any action taken by the Central Education Agency or the Texas Education Agency under Chapter 32, Education Code, before the effective date of the transfer described in Subsection (a) of this section; or

(2) a civil or administrative proceeding completed before the effective date of the transfer.

(f) This section does not affect the validity of a civil or administrative proceeding, including certification or rulemaking, in progress on the effective date of the transfer described in Subsection (a) of this section. A civil or administrative proceeding that is in progress on the effective date of the transfer described in Subsection (a) of this section continues as if it had been initiated by the Texas Employment Commission under the law in effect on that date.

(g) All forms, rules, and procedures adopted by the Central Education Agency or the Texas Education Agency for the administration or enforcement

of Chapter 32, Education Code, and in effect on the effective date of the transfer described in Subsection (a) of this section remain in effect on and after that date as if adopted by the Texas Employment Commission until amended, repealed, withdrawn, or otherwise superseded by the Texas Employment Commission. A certificate of approval issued under Chapter 32, Education Code, and in effect on the effective date of the transfer described in Subsection (a) of this section remains in effect on and after that date as if adopted by the Texas Employment Commission until the certificate expires or is revoked or surrendered.

(h) The change in law made by the amendment to Section 32.611, Education Code, as transferred to Section 132.152, Education Code, by this Act, applies to any proceeding to recover an administrative penalty under that section as to which a petition for judicial review is filed on or after the effective date of this Act. A proceeding to recover an administrative penalty under Section 32.611, Education Code, as that section existed before amendment by this Act, as to which a petition for judicial review is filed before the effective date of this Act is governed by Section 32.611, Education Code, as that section existed before amendment by this Act, and that law is continued in effect for this purpose.

Amendment No. 290

Representative Madden offered the following amendment to Amendment No. 289:

Amend the Kubiak Amendment as follows:

Amend **CSSB 1** as follows:

(1) In amended Section 132.002(a)(10), Education Code, immediately after the semicolon strike "and".

(2) In amended Section 132.002(a)(11), Education Code, immediately before the period insert: ; and

(12) a nonprofit arts organization that has as its primary purpose the provision of instruction in the dramatic arts and the communications media to persons younger than 19 years of age

Amendment No. 290 was adopted without objection.

Amendment No. 291

Representative Yarbrough offered the following amendment to Amendment No. 289:

Amend the Kubiak Amendment as follows:

Amend **CSSB 1** as follows:

(1) amend Section 132.002(a)(11), immediately before the period (House Committee Report, page 570, line 23), insert: ; and

(12) a course or training program conducted by a nonprofit association of air conditioning and refrigeration contractors approved by the Air Conditioning and Refrigeration Contractors Advisory Board to provide instruction for technical, business, or license examination preparation programs relating to air conditioning and refrigeration contracting, as that term is defined by the Air Conditioning and Refrigeration Contractor License law (Article 8861, Vernon's Texas Civil Statutes)

(2) Add a new section to the bill, to be numbered appropriately to read as follows and renumber the remaining sections of the bill appropriately:

SECTION _____. Section 132.002(12), Education Code, as added by this Act, takes effect September 1, 1995, and applies only to a course or training program conducted by a nonprofit association of air conditioning and refrigeration contractors that is offered on or after that date. A course or training program offered before that date is governed by the law in effect on the date that the course or program is offered, and the former law is continued in effect for that purpose.

Amendment No. 291 was adopted without objection.

Amendment No. 292

Representative Yarbrough offered the following amendment to Amendment No. 289:

Amend the Kubiak Amendment as follows:

Amend **CSSB 1** to read as follows:

In Section 132.002, Education Code (House Committee Report, page 570, line 23), between "licenses" and the period, insert the following:
; and

(12) a course of instruction by a plumbing trade association to prepare students for a plumbing test or program required for licensing, certification, or endorsement or to provide continuing education approved by the Texas State Board of Plumbing Examiners

Amendment No. 292 was adopted without objection.

Amendment No. 289, as amended, was adopted without objection.

Amendment No. 293

Representative Raymond offered an amendment to **CSSB 1**.

Amendment No. 293 was withdrawn.

Amendment No. 294

Representative Hernandez offered the following amendment to **CSSB 1**:
Floor No. C-8

Amend **CSSB 1** as follows:

On page 332, strike lines 15 through 22 (new subsection (g) of Section 403.302, Government Code), and substitute the following:

(g) On request of the commissioner of education or a school district, the comptroller may audit a school district to determine the total taxable value of property in the school district, including the productivity values of land only if the land qualifies for appraisal on that basis and the owner of the land has applied for and received a productivity appraisal. The comptroller shall certify the comptroller's findings to the commissioner.

Amendment No. 295

Representative Hernandez offered the following amendment to Amendment No. 294:

Amend the Hernandez Amendment No. 294 to read as follows:

Amend **CSSB 1** as follows:

(1) Strike the text beginning on page 644, line 27 through page 645, line 6, and substitute the following:

(g) On request of the commissioner of education or a school district, the comptroller may audit a school district to determine the total taxable value of property in the school district, including the productivity values of land only if the land qualifies for appraisal on that basis and the owner of the land has applied for and received a productivity appraisal. The comptroller shall certify the comptroller's findings to the commissioner.

Amendment No. 295 was adopted without objection.

Amendment No. 294, as amended, was adopted without objection.

Amendment No. 296

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

Floor No. C-9

On page 649, between lines 25 and 26, add a new subsection (d) as follows:

"(d) If a regional education service center that receives criminal history record information from the department under this section requests such information by providing a list including the name, date of birth, and any other personal descriptive information required by the department for each person to the department, through electronic means, magnetic tape, or disk, as specified by the department, the department shall charge the regional education service center no more than the department's cost for providing the information, notwithstanding any other provision of law, unless the other provision specifies a lesser charge."

Amendment No. 296 was adopted without objection.

Amendment No. 297

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

Floor No. C-13

Amend **CSSB 1** by adding an appropriately numbered section to read as follows and renumber subsequent sections accordingly:

Section _____. (a) The provisions of Section 573.024(b) of the Government Code do not apply to a school district unless a child of the marriage is younger than 21 years of age.

Amendment No. 298

Representative Gallego offered the following amendment to Amendment No. 297:

Amend Amendment No. 297 by Gallego to **CSSB 1** by striking all text following "accordingly:" and substitute the following:

SECTION _____. AMENDMENT. Section 573.024, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

Amendment No. 298 was adopted without objection.

Amendment No. 297, as amended, was adopted without objection.

Amendment No. 299

Representative Madden offered the following amendment to **CSSB 1**:
Floor No. C-15

Amend **CSSB 1** by inserting an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION _____. Section 573.061, Government Code, is amended to read as follows:

Sec. 573.061. GENERAL EXCEPTIONS. Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term; ~~[or]~~

(4) an appointment or employment of a ~~[substitute teacher or]~~ bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000; or

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000; or

(5) an appointment or employment of a substitute teacher by a school district.

Amendment No. 299 was adopted without objection.

Amendment No. 300

Representative Pitts offered the following amendment to **CSSB 1**:
Floor No. C-16

Amend **CSSB 1** by adding a new SECTION 21 as follows:

SECTION 5. Subchapter C, Chapter 2301, Government Code, is amended by adding Section 2301.0635 to read as follows:

Sec. 2301.0635. NOTICE OF CERTAIN LEASES TO TAX APPRAISAL OFFICE. (a) A public entity or state agency that owns real property or a facility acquired under this chapter shall notify the tax appraisal office for the county

in which the property is located of any possessory interest in the property, including a leasehold, that on January 1 is held by another person.

(b) Notice under this section is given by delivering to the tax appraisal office, not later than May 1, a copy of each instrument evidencing the conveyance of a possessory interest in the property.

(c) If after receipt of notice under Subsection (b) the chief appraiser of the tax appraisal office determines that additional information relating to the conveyance of the possessory interest is necessary for the appraisal of that interest for ad valorem tax purposes, the chief appraiser may request the public entity or state agency to provide the additional information. If the chief appraiser requests additional information under this subsection, the public entity or state agency shall deliver the requested information to the tax appraisal office, or notify the chief tax appraisal office that it does not possess the requested information, before the 30th day after the date of the request.

Subsequent sections are renumbered accordingly.

Amendment No. 300 was adopted without objection.

Amendment No. 301

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

Floor No. C-17

Amend **CSSB 1** 1 by adding an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION _____. **NURSING SERVICES FOR CERTAIN SCHOOL DISTRICTS.** Subchapter C, Chapter 281, Health and Safety Code, is amended by adding Section 281.0465 to read as follows:

Sec. 281.0465. **NURSING SERVICES FOR CERTAIN SCHOOL DISTRICTS.** The Harris County Hospital District may contract with a school district included in the hospital district to provide nursing services and assistance to employees or students of the school district.

Amendment No. 302

Representative Price offered the following amendment to Amendment No. 301:

Amend Amendment No. 301 by Dutton to **CSSB 1** as follows:

(1) In proposed Section 281.0465, Health and Safety Code, on line 7, strike "**CERTAIN**".

(2) In proposed Section 281.0465, Health and Safety Code, on line 8, strike "**The Harris County Hospital District**" and substitute "**A hospital district**".

Amendment No. 302 was adopted without objection.

Amendment No. 301, as amended, was adopted without objection. (Shields and Wohlgemuth recorded voting no)

Amendment No. 303

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

Floor No. C-18

Amend **CSSB 1** as follows:

On page 366, insert a new SECTION 2 to the bill, as follows, and renumber the subsequent SECTIONS appropriately:

"SECTION 2. INDOOR AIR QUALITY IN SCHOOL DISTRICT BUILDINGS. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 385 to read as follows:

**CHAPTER 385. INDOOR AIR QUALITY IN
SCHOOL DISTRICT BUILDINGS**

Sec. 385.001. DEFINITIONS. In this chapter:

(1) "Air contaminant" means a gaseous, liquid, or solid substance or combination of substances that is in a form that is transported by or in air and has the potential to be detrimental to human health.

(2) "Board" means the Texas Board of Health.

(3) "Indoor air pollution" means the presence, in an indoor environment, of one or more air contaminants in sufficient concentration and of sufficient duration to be capable of causing adverse effects to human health.

(4) "Public school" means a building owned by a public school district or leased by a public school district for three months or more that is used by the district for a purpose that involves regular occupancy of the building by students.

Sec. 385.002. POWERS AND DUTIES OF BOARD. (a) The board by rule shall establish voluntary guidelines for indoor air quality in public schools, including guidelines for ventilation and indoor air pollution control systems. The board may adopt other rules necessary to implement this chapter.

(b) In establishing the guidelines, the board shall consider:

(1) the potential chronic effects of air contaminants on human health;

(2) the potential effects of insufficient ventilation of the indoor environment on human health;

(3) the potential costs of health care for the short-term and long-term effects on human health that may result from exposure to indoor air contaminants; and

(4) the potential costs of compliance with a proposed guideline.

(c) A guideline adopted under this chapter may include a contaminant concentration, a control method, a sampling method, a ventilation rate, design, or procedure, or a similar recommendation.

(d) The board's guidelines may differ for different pollution sources or different areas of the state."

Amendment No. 303 failed of adoption.

Amendment No. 304

Representative De La Garza offered the following amendment to **CSSB 1**:
Floor No. C-19

Amend **CSSB 1** by adding the following new SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 481.134, Health and Safety Code, is amended to read as follows:

Sec. 481.134. DRUG-FREE ZONES. (a) In this section:

(1) "Minor" means a person who is younger than 18 years of age.

(2) [(1)] "Institution of higher education" means any public or private technical institute, junior college, senior college or university, medical or dental unit, or other agency of higher education as defined by Section 61.003, Education Code.

(3) [(2)] "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and teeterboards.

(4) [(3)] "Premises" means real property and all buildings and appurtenances pertaining to the real property.

(5) [(4)] "School" means a private or public elementary or secondary school.

(6) [(5)] "Video arcade facility" means any facility that:

(A) is open to the public, including persons who are 17 years of age or younger;

(B) is intended primarily for the use of pinball or video machines; and

(C) contains at least three pinball or video machines.

(7) [(6)] "Youth center" means any recreational facility or gymnasium that:

(A) is intended primarily for use by persons who are 17 years of age or younger; and

(B) regularly provides athletic, civic, or cultural activities.

(b) The minimum term of confinement or imprisonment for an offense otherwise punishable ~~[and the maximum fine for an offense]~~ under Section 481.112(c)-(f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.116(c), (d), or (e), 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years ~~and the maximum fine for the offense is [481.112, 481.113, 481.114, 481.119, or 481.120 are]~~ doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises of ~~[owned, rented, or leased by]~~ a school ~~[or an institution of higher learning or a playground]; [or]~~

(2) on a school bus;

(3) in, on, or within 1,000 feet of the premises of an institution of higher education; or

(4) in, on, or within 300 feet of the premises of a playground, public or private youth center, public swimming pool, or video arcade facility.

(c) An offense otherwise punishable under Section 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board;

(2) on a school bus;

(3) in, on, or within 1,000 feet of the premises of an institution of higher education; or

(4) in, on, or within 300 feet of the premises of a playground, public or private youth center, public swimming pool, or video arcade facility.

(d) An offense otherwise punishable under Section 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state jail felony if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board;

(2) on a school bus;

(3) in, on, or within 1,000 feet of the premises of an institution of higher education; or

(4) in, on, or within 300 feet of the premises of a playground, public or private youth center, public swimming pool, or video arcade facility.

(e) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board;

(2) on a school bus;

(3) in, on, or within 1,000 feet of the premises of an institution of higher education; or

(4) in, on, or within 300 feet of the premises of a playground, public or private youth center, public swimming pool, or video arcade facility.

(f) Subsection (e) does not apply to an offense if:

(1) the offense was committed inside a private residence; and

(2) no minor was present in the private residence at the time the offense was committed.

(g) Punishment that is increased for a conviction for an offense listed under this section may not run concurrently with punishment for a conviction under any other criminal statute.

SECTION _____. Section 3g(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The provisions of Section 3 of this article do not apply:

(1) to a defendant adjudged guilty of an offense under ~~[defined by the following sections of the Penal Code]:~~

(A) Section 19.02, Penal Code (Murder);

(B) Section 19.03, Penal Code (Capital murder);

(C) Section 21.11(a)(1), Penal Code (Indecency with a child);

(D) Section 20.04, Penal Code (Aggravated kidnapping);

(E) Section 22.021, Penal Code (Aggravated sexual assault);

(F) Section 29.03, Penal Code (Aggravated robbery); or

(G) Chapter 481, Health and Safety Code, for which punishment is increased under Section 481.134, Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under that section; or

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of

a felony offense or during immediate flight therefrom, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

SECTION _____. Section 4(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) A defendant is not eligible for community supervision under this section if the defendant:

(1) is sentenced to a term of imprisonment that exceeds 10 years;

(2) is sentenced to serve a term of confinement under Section 12.35, Penal Code; [or]

(3) does not file a sworn motion under Subsection (e) of this section or for whom the jury does not enter in the verdict a finding that the information contained in the motion is true; or

(4) is adjudged guilty of an offense for which punishment is increased under Section 481.134, Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under that section.

SECTION _____. Section 5(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) In all other cases the judge may grant deferred adjudication unless the defendant is charged with an offense:

(1) under Section 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code; or

(2) for which punishment may be increased under Section 481.134, Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under that section.

SECTION _____. Section 8(b)(3), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(3) If a prisoner[~~, other than a prisoner described by Subdivision (4) of this subsection,~~] is serving a sentence for the offenses described by [listed in] Subdivision (1)(A), (C), (D), (E), [or] (F), or (G) of Section 3g(a), Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals one-half of the maximum sentence or 30 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years.

SECTION _____. Chapter 46, Penal Code, is amended by adding Sections 46.11 and 46.12 to read as follows:

Sec. 46.11. PENALTY IF OFFENSE COMMITTED WITHIN WEAPON-FREE ZONE. (a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is increased to the punishment prescribed for the next highest category of offense if it is shown on the trial of the offense that the offense was committed:

(1) within 1,000 feet of the premises of a school;

(2) on a school bus;

(3) in, on, or within 1,000 feet of the premises of an institution of higher education; or

(4) in, on, or within 300 feet of the premises of a playground, public or private youth center, public swimming pool, or video arcade facility.

(b) This section does not apply to an offense under Section 46.03(a)(1).

(c) In this section, "institution of higher education," "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

Sec. 46.12. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution under Section 46.11, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of weapon-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those areas if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those areas.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the area is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 46.11; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Criminal Evidence.

SECTION _____. (a) The changes in law to Section 481.134, Health and Safety Code, Articles 42.12 and 42.18, Code of Criminal Procedure, and Chapter 46, Penal Code, made by Sections _____ of this Act apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

Amendment No. 304 was adopted without objection. (The vote was reconsidered later today and Amendment No. 304, as amended, was adopted.)

Amendment No. 305

Representative Greenberg offered an amendment (Floor No. C-20) to **CSSB 1**.

Amendment No. 305 was withdrawn.

Amendment No. 306

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

Amend **CSSB 1** as follows:

(1) Add a new Section 17 to read as follows and renumber the subsequent Sections appropriately:

Section 17. Amendment. Section 26.08, Tax Code, is amended by adding a new subsection (i) to read as follows:

"(i) For purposes of this section, increases in taxable values and tax levies occurring within a reinvestment zone under the provisions of Chapter 311, Tax Code (Tax Increment Financing Act), in which the district is a participant, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district."

Amendment No. 307

Representative Dear offered the following amendment to Amendment No. 306:

Amend Amendment No. 306 by Dear to **CSSB 1**, on page 1 of the amendment, by striking all text following "appropriately:" and substituting the following:

SECTION 17. CONFORMING AMENDMENT. Section 26.08, Tax Code, is amended by adding Subsection (i) to read as follows:

(i) For purposes of this section, the following are excluded from the calculation of any component of the rollback tax rate of a school district:

(1) that portion of the school district's tax increment required to be deposited into a tax increment fund under Chapter 311; and

(2) the percentage of the captured appraised value of real property taxable by the school district in a reinvestment zone established under Chapter 311 equal to the percentage of the school district's tax increment levied on that property in the same tax year that is required to be deposited into the tax increment fund.

Amendment No. 307 was adopted without objection.

Amendment No. 306, as amended, was adopted without objection.

Amendment No. 308

Representative Dear offered the following amendment to **CSSB 1**:
Floor No. C-22

Section _____. The Texas Education Agency shall review all certificate types which have not been updated since 1980. The review shall be conducted between September 1, 1995 and August 31, 1998. Any certificate type not specifically reauthorized is sunset as of August 31, 1998.

Amendment No. 308 was adopted without objection.

(Speaker in the chair)

Representative De La Garza moved to reconsider the vote by which Amendment No. 304 was adopted.

The motion to reconsider prevailed.

Amendment No. 309

Representative De La Garza offered the following amendment to Amendment No. 304:

Amend Amendment No. 304 by De La Garza to **CSSB 1** by striking all and substituting the following:

Amend **CSSB 1** by adding the following new SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 481.134, Health and Safety Code, is amended to read as follows:

Sec. 481.134. DRUG-FREE ZONES. (a) In this section:

(1) "Minor" means a person who is younger than 18 years of age.

(2) [(H)] "Institution of higher education" means any public or private technical institute, junior college, senior college or university, medical or dental unit, or other agency of higher education as defined by Section 61.003, Education Code.

(3) [(2)] "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more separate apparatus intended for the recreation of children, such as slides, swing sets, and teeterboards.

(4) [(3)] "Premises" means real property and all buildings and appurtenances pertaining to the real property.

(5) [(4)] "School" means a private or public elementary or secondary school.

(6) [(5)] "Video arcade facility" means any facility that:

(A) is open to the public, including persons who are 17 years of age or younger;

(B) is intended primarily for the use of pinball or video machines; and

(C) contains at least three pinball or video machines.

(7) [(6)] "Youth center" means any recreational facility or gymnasium that:

(A) is intended primarily for use by persons who are 17 years of age or younger; and

(B) regularly provides athletic, civic, or cultural activities.

(b) The minimum term of confinement or imprisonment for an offense and the maximum fine for an offense under Section 481.112, 481.113, 481.114, 481.119, or 481.120 are doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises owned, rented, or leased by ~~a school or~~ an institution of higher learning or a playground; or

(2) in, on, or within 300 feet of the premises of a public or private youth center, public swimming pool, or video arcade facility.

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.116(c), (d), or (e), 481.117(c),

(d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises of a school; or

(2) on a school bus.

(d) An offense otherwise punishable under Section 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board; or

(2) on a school bus.

(e) An offense otherwise punishable under Section 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state jail felony if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board; or

(2) on a school bus.

(f) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board; or

(2) on a school bus.

(g) Subsection (f) does not apply to an offense if:

(1) the offense was committed inside a private residence; and

(2) no minor was present in the private residence at the time the offense was committed.

(h) Punishment that is increased for a conviction for an offense listed under this section may not run concurrently with punishment for a conviction under any other criminal statute.

SECTION _____. Section 3g(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The provisions of Section 3 of this article do not apply:

(1) to a defendant adjudged guilty of an offense under [defined by the following sections of the Penal Code]:

(A) Section 19.02, Penal Code (Murder);

(B) Section 19.03, Penal Code (Capital murder);

(C) Section 21.11(a)(1), Penal Code (Indecency with a child);

(D) Section 20.04, Penal Code (Aggravated kidnapping);

(E) Section 22.021, Penal Code (Aggravated sexual assault);

(F) Section 29.03, Penal Code (Aggravated robbery); or

(G) Chapter 481, Health and Safety Code, for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections; or

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of a felony offense or during immediate flight therefrom, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

SECTION _____. Section 4(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) A defendant is not eligible for community supervision under this section if the defendant:

(1) is sentenced to a term of imprisonment that exceeds 10 years;

(2) is sentenced to serve a term of confinement under Section 12.35, Penal Code; ~~or~~

(3) does not file a sworn motion under Subsection (e) of this section or for whom the jury does not enter in the verdict a finding that the information contained in the motion is true; or

(4) is adjudged guilty of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections.

SECTION _____. Section 5(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) In all other cases the judge may grant deferred adjudication unless the defendant is charged with an offense:

(1) under Section 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code;
or

(2) for which punishment may be increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections.

SECTION _____. Section 8(b)(3), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(3) If a prisoner~~, other than a prisoner described by Subdivision (4) of this subsection,~~ is serving a sentence for the offenses described by [listed in] Subdivision (1)(A), (C), (D), (E), [or] (F), or (G) of Section 3g(a), Article 42.12 of this code, or if the judgment contains an affirmative finding under Subdivision (2) of Subsection (a) of Section 3g of that article, he is not eligible for release on parole until his actual calendar time served, without consideration of good conduct time, equals one-half of the maximum sentence or 30 calendar years, whichever is less, but in no event shall he be eligible for release on parole in less than two calendar years.

SECTION _____. Chapter 46, Penal Code, is amended by adding Sections 46.11 and 46.12 to read as follows:

Sec. 46.11. PENALTY IF OFFENSE COMMITTED WITHIN WEAPON-FREE ZONE. (a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is increased to the punishment

prescribed for the next highest category of offense if it is shown on the trial of the offense that the offense was committed:

- (1) within 1,000 feet of the premises of a school; or
- (2) on a school bus.

(b) This section does not apply to an offense under Section 46.03(a)(1).

(c) In this section, "premises" and "school" have the meanings assigned by Section 481.134, Health and Safety Code.

Sec. 46.12. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution under Section 46.11, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of weapon-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those areas if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those areas.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the area is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 46.11; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Criminal Evidence.

SECTION _____. (a) The changes in law to Section 481.134, Health and Safety Code, Articles 42.12 and 42.18, Code of Criminal Procedure, and Chapter 46, Penal Code, made by Sections _____ of this Act apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

Amendment No. 309 was adopted without objection.

Amendment No. 304, as amended, was adopted without objection.

Representative Longoria moved to reconsider the vote by which Amendment No. 193 was adopted.

The motion to reconsider prevailed.

Amendment No. 310

Representatives Longoria and Shields offered the following amendment to Amendment No. 193:

Amend Amendment No. 193 by Longoria to **CSSB 1** by striking all text following "C.S.S.B 1" and substituting as follows:

(1) In SECTION 1 of the bill, in proposed Section 28.001, Education Code (House Committee Report, page 213, between lines 16 and 17), insert the following:

(h) The State Board of Education shall designate instruction in basic values of the United States as an essential element of social studies, subject to the approval of the board of trustees of a school district. The values studied shall include respect for oneself and other people, including family; cooperation with and respect for law enforcement officials; respect for authority; the work ethic; the dignity of all work; respect for the property of others; and honesty.

(2) In SECTION 1 of the bill, in proposed Section 28.001(h), Education Code (House Committee Report, page 213, line 17), strike "(h)" and substitute "(i)".

(3) Add the following SECTION, appropriately numbered, and renumber the existing SECTIONS of the bill accordingly:

SECTION____. EFFECTIVE DATE OF SECTION 28.001(h), EDUCATION CODE. Beginning with the 1996-1997 school year, each school district shall provide instruction in basic values of the United States, as provided by Section 28.001(h), Education Code, as added by this Act.

Amendment No. 310 was adopted without objection.

Amendment No. 193, as amended, was adopted without objection.

Representative Hernandez moved to reconsider the vote by which Amendment No. 154 was adopted.

The motion to reconsider prevailed.

Amendment No. 311

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

Amend the Hernandez Amendment No. 154, as follows:

(1) In proposed Section 21.356(a), Education Code, strike "technology teachers and administrators" and substitute "technology, teachers, and administrators."

(2) In proposed Section 21.356(c), strike "Section 21.047" and substitute "Section 21.043".

Amendment No. 311 was adopted without objection.

Amendment No. 154, as amended, was adopted without objection.

Amendment No. 312

Representative De La Garza offered an amendment to **CSSB 1**.

Amendment No. 313

Representative De La Garza offered an amendment to Amendment No. 312.

Amendment No. 313 was withdrawn.

Amendment No. 312 was withdrawn.

A record vote was requested.

CSSB 1, as amended, was passed to third reading by (Record 331): 113 Yeas, 33 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Danburg; Dear; Delisi; Denny; Driver; Duncan; Eiland; Elkins; 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; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Park; Pickett; Pitts; Place; Rabuck; Ramsay; Reyna; Rhodes; Romo; Rusling; Sadler; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Conley; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Gutierrez; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; McDonald; Moreno; Oliveira; Price; Puente; Rangel; Raymond; Rodriguez; Serna; Thompson; Torres; Turner, S.; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Culberson; Patterson.

Absent — Hudson.

STATEMENT OF VOTE

I was shown voting yes on Record No. 331. I intended to vote no.

Solis

SB 1 - STATEMENT BY REPRESENTATIVE JUNELL

During consideration of **SB 1** on Thursday, certain statements were made regarding pending litigation involving Section 11.86 of the Education Code. As noted at that time, under **SB 1**, Section 11.86 of the Education Code becomes Section 403.302 of the Government Code. The issue in the pending lawsuit is whether subdivision (a)(6) of Section 11.86 has been properly interpreted and applied. Certain school districts are challenging the current interpretation, in an effort to gain more state aid or reduce their contribution to the state school finance system. Literally hundreds of millions of dollars are at stake.

As I understand the exchange that took place on Thursday, one member stated that it has been a long standing policy of this body not to affect the outcome of pending litigation. I must respectfully disagree. This body frequently enacts legislation to resolve or impact public policy disputes that are the subject of pending litigation. Such action is entirely appropriate. If the laws of this state are being challenged as unclear or unfair, it is incumbent on us to review the

situation and determine if a statutory response is necessary and/or appropriate. If we believe the statute is sufficiently clear and the policy is correct, obviously we don't need to take action.

By reenacting Section 11.86 in its current form and simply transferring it to the Government Code, we are sending a clear signal that we support the policy currently in effect, that we support the administrative interpretation now in effect. I believe that is correct. In my view, it is the policy of this state that our school finance system should not encourage or subsidize school districts that voluntarily give away a large portion of their tax base. Current policy does not allow that, and we should continue that policy. By our action on this bill, I believe we express that pretty clearly.

Junell

(Speaker pro tempore in the chair)

CONGRATULATORY AND MEMORIAL CALENDAR

The chair laid before the house the following memorial resolutions:

By Denny,

HR 568, Honoring the life of Tom Hughes.

By Stiles,

HR 660, In memory of Villamae Morehead Williams.

By West,

HR 667, In memory of Natalie Rothstein.

By Talton and Jackson,

HR 670, In memory of Fred Ernest Gray.

By Kuempel,

HR 674, In memory of Comal County deputy sheriff William Urban.

By Kuempel,

HR 675, In memory of Agent Daniel Allen Ross.

By Talton,

HR 694, In memory of Pasadena police officer Leslie Ian Early.

By Alexander,

HR 696, In memory of Frank Bruce Smith.

By Pitts,

HR 702, In memory of W. H. "Bill" Larkin.

HR 704 was previously adopted.

HR 711 was withdrawn.

By Tillery,

HR 712, In memory of Dallas Police Senior Corporal Royce Dale Dickey.

By West,

HR 728, In memory of Claude W. Brown.

HR 734 was previously adopted.

By Alonzo,

HR 737, In memory of Dallas Police Senior Corporal Richard Lawrence.

By Culberson,

HR 739, In memory of Captain Jerry R. Foster.

By Hernandez,

HR 742, In memory of San Antonio Independent School District police sergeant William Maldonado III.

By Gutierrez,

HR 758, In memory of Arnolando Ramirez, Sr.

HR 762 was previously adopted.

The resolutions were unanimously adopted by a rising vote.

The chair laid before the house the following congratulatory resolutions:

SCR 126 (Counts - House Sponsor), Calling upon all Texans to support the Texas Military Museum and Archives.

SCR 132 (Rusling - House Sponsor), Commending the life and the career of Judge Abner McCall on the occasion of his 80th birthday.

HCR 172 was previously adopted.

By Kuempel,

HCR 175, Honoring Amy Grunwald.

By Telford,

HCR 184, Honoring Dr. Leslie Kilby Green on the occasion of his retirement.

By Black,

HCR 190, Congratulating the Texas State Artists for 1994 and 1995.

By Finnell,

HR 561, Honoring the Bowie High School Lady Rabbits basketball team.

By Hochberg,

HR 566, Congratulating Howard E. Jefferson on being named president of the Houston branch of the NAACP.

By Moffat,

HR 661, Honoring Johnson Elementary School.

By J. Jones,

HR 663, Congratulating J. D. Hall on being named president of the Texas Association of Community College Trustees and Administrators.

By Rusling,

HR 664, Honoring Raymond J. Snokhous, Southern Texas Consul for the Czech Republic.

By Davis,

HR 665, Honoring the Reverend James W. Wiley.

By Brimer,

HR 676, Honoring Larry Crumpton on the occasion of his retirement.

By Johnson,

HR 679, Honoring the Sacul Folk Festival.

By Sadler,

HR 681, Honoring the Overton High School Band.

By Maxey,

HR 682, Honoring Nereida Samuda Zimic.

By Coleman,

HR 687, Honoring Clara M. Anthony.

By Coleman,

HR 688, Honoring the Carrier-Hollier Family Reunion.

By Shields,

HR 689, Honoring Dr. Arline Patterson.

By Shields,

HR 690, Commending Jack Ridgeway for his contributions to his community.

By Shields,

HR 691, Honoring George H. Ensley on his exemplary tenure as president of the Rotary Club of San Antonio.

By Davis,

HR 699, Honoring Pleasant Valley Cemetery in Cedar Hill with the dedication of an official historical marker.

By Davis,

HR 700, Honoring the Dallas Network of Black Telecommunicators.

By Davis,

HR 701, Honoring Dan Eddy.

By Pitts,

HR 703, Honoring Susan Mann.

By Holzheuser,

HR 729, Honoring the Carl and Mary Welhausen Library on the dedication of its Texas Historical Marker.

By Holzheuser,

HR 730, Commemorating the dedication of a Texas historical marker at the site of the Shiloh settlement.

By Holzheuser,

HR 731, Honoring the Clinton Cemetery on the dedication of a memorial marker.

By Tillery and Davis,

HR 733, Honoring the Lancaster High School boys' basketball team.

HR 736 was withdrawn.

By Davis,

HR 738, Honoring Clean South Dallas/Fair Park.

HR 740 was previously adopted.

By Kubiak,

HR 741, Honoring Ray Koch on his 80th birthday.

By Farrar,

HR 745, Honoring the Greater Houston Preservation Alliance.

By Moffat,

HR 747, Congratulating W. D. "Ted" Willhoite on being named Grapevine's Citizen of the Year for 1994.

By Gutierrez,

HR 751, Commending Pharr Elementary School for participating in the Mentor School Network.

By Gutierrez,

HR 752, Commending Carnahan Elementary School for participating in the Mentor School Network.

By Gutierrez,

HR 753, Commending Napper Elementary School for participating in the Mentor School Network.

By Gutierrez,

HR 754, Honoring Jack A. Whetsel.

By Gutierrez,

HR 755, Honoring the Hidalgo High School Lady Pirates basketball team.

By Gutierrez,

HR 756, Honoring the McAllen Rowe High School boys' basketball team.

By Gutierrez,

HR 757, Congratulating Juan R. Garcia, Jr., on his promotion to the rank of captain in the U.S. Army.

By Gutierrez,

HR 759, Honoring former mayor A. C. Jaime for his contributions to the city of Pharr.

By Gutierrez,

HR 760, Honoring Mayor Victor Garcia for his contributions to the city of Pharr.

By Gutierrez,

HR 761, Honoring Fidencio R. Barrera for service to his community.

By Pitts,

HR 763, Honoring Viola Rodgers.

By Pitts,

HR 764, Honoring the First Baptist Church of Ennis.

By Pitts,

HR 765, Congratulating the students in Whitney High School's German class on their achievement in the Texas State German Contest.

By Pitts,

HR 766, Commemorating the dedication of a historical marker honoring Mt. Calm Methodist Church.

The resolutions were adopted without objection.

LOCAL BILLS CALENDAR ON SECOND READING

The following bills were laid before the house, read second time, and passed to third reading (members registering votes are shown following the caption):

HB 1481, A bill to be entitled An Act relating to the county courts at law of Collin County.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Goodman, Representative McCall offered the following committee amendment to the bill:

(1) Amend **HB 1481**, on page 1, line 13 by striking "Subsection (a)" and substituting "Subsections (a) and (b)".

(2) Amend **HB 1481**, on page 1, between lines 17 and 18, by inserting the following:

(b) A person sitting in the capacity of a judge in County Court at Law No. 4 of Collin County may not sit as an assigned judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Amendment No. 1 was adopted without objection.

HB 1774, A bill to be entitled An Act relating to the statutory county courts in Cameron County.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Goodman, Representative Oliveira offered the following committee amendment to the bill:

Amend **HB 1774**, between lines 18 and 19 on page 2, to insert a new Section 6 to read as follows and to renumber subsequent sections:

SECTION 6. Section 25.0332, Government Code, is amended by adding Subsection (m) to read as follows:

(m) A person sitting in the capacity of a judge for County Court at Law No. 3 of Cameron County may not sit as an assigned judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Amendment No. 1 was adopted without objection.

HB 2289, A bill to be entitled An Act relating to the representation of certain indigent persons by public defenders in Wichita County.

HB 3165, A bill to be entitled An Act relating to an additional security fee collected in Webb County.

HB 3188, A bill to be entitled An Act relating to the county courts at law in Midland County.

HB 3195, A bill to be entitled An Act relating to the Coryell County juvenile board.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Cook, Representative Stiles offered the following committee amendment to the bill:

Amend Sec. 152.0561 CORYELL COUNTY, by deleting present subsection (a), line 6 through 9, and replacing it with new subsection (a) to read as follows: "(a) The Juvenile Board of Coryell County is composed of the County Judge, the District Judge or Judges whose district includes Coryell County, and the Judges of the County Courts-at-Law of Coryell County."

Amendment No. 1 was adopted without objection.

SB 1627 (Place - House Sponsor), A bill to be entitled An Act relating to the dissolution of the DeLeon Hospital District and the Comanche County Hospital District and the creation of the Leon Valley Hospital District; authorizing a tax; granting the authority to issue bonds; and granting the power of eminent domain.

CONSENT BILLS CALENDAR ON SECOND READING

The following bills were laid before the house, read second time, and passed to third reading (members registering votes are shown following the caption):

HB 22 was withdrawn.

HB 244, A bill to be entitled An Act relating to ensuring that the state and its local governments and citizens receive all available federal assistance in connection with the reduction, closure, or conversion of federal military bases in this state.

Amendment No. 1

On behalf of Representative Thompson, Representative Yarbrough offered the following amendment to the bill:

Amend **HB 244** as follows:

(1) In added Section 743.001, Government Code, add Subdivision (3) to read as follows:

(3) "Military base" includes a facility owned by a branch of the United States military and leased to a private contractor for the production of goods for the military.

(2) In added Chapter 743, Government Code, add Section 743.007 to read as follows:

Sec. 743.007. ENVIRONMENTAL REMEDIATION. The governor, state agencies, and local governments shall act under this chapter to obtain the maximum amount of available federal assistance for environmental remediation necessary in connection with the closure or conversion of a federal military base.

Amendment No. 1 was adopted without objection.

HB 289 was withdrawn.

HB 340, A bill to be entitled An Act relating to directing the Texas Veterans Commission to determine the need for a system of state residential care facilities for veterans who are disabled.

CSHB 483, A bill to be entitled An Act relating to the making and reporting of certain political contributions and expenditures.

CSHB 742, A bill to be entitled An Act relating to the resale of certain land acquired by a political subdivision.

CSHB 774, A bill to be entitled An Act relating to certain technical corrections to the Insurance Code.

HB 768, A bill to be entitled An Act relating to statutory court judges and district judges exchanging benches and transferring cases.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Thompson, Representative Craddick offered the following committee amendment to the bill:

Amend **HB 768** on page 1, line 7, by striking "In" and substituting "Subject to the agreement of all parties, in".

Amendment No. 1 was adopted without objection.

HB 817, A bill to be entitled An Act relating to identification of individuals executing certain documents. (Cook recorded voting no)

CSHB 828, A bill to be entitled An Act relating to the authority of a county to regulate certain fireworks.

HB 841, A bill to be entitled An Act relating to depositories for trust funds held by county and district clerks.

HB 895, A bill to be entitled An Act relating to the conveyance of certain state-owned real property in Wilson County.

CSHB 1205, A bill to be entitled An Act relating to the funding of the Texas Real Estate Research Center from certain real estate broker and salesman fees.

CSHB 1225, A bill to be entitled An Act relating to registration and insurance requirements for a former military vehicle.

HB 1293, A bill to be entitled An Act relating to the liability of entities that provide address database information for 9-1-1 services.

HB 1375, A bill to be entitled An Act relating to the punishment for the purchase, possession, or consumption of alcoholic beverages by a minor.

HB 1417, A bill to be entitled An Act relating to benefits for certain survivors of deceased police officers under the police officers' pension systems of certain cities.

HB 1530 was withdrawn.

CSHB 1714, A bill to be entitled An Act relating to eligibility of libraries for reduced rates for telecommunications services.

HB 1717, A bill to be entitled An Act relating to benefits payable by retirement systems for police officers in certain municipalities.

HB 1763, A bill to be entitled An Act relating to allowing the holder of a brewpub license to participate in an organized competition, review, or judging.

HB 1766 was withdrawn.

HB 1810, A bill to be entitled An Act relating to membership on the boards of trustees of retirement systems for police officers in certain municipalities.

HB 1819, A bill to be entitled An Act relating to approval of alcohol and drug abuse driving awareness programs for personal automobile insurance discounts.

HB 1844, A bill to be entitled An Act relating to the bond and oath requirements applicable to constables.

HB 1885, A bill to be entitled An Act relating to solicitation transactions that take place outside a merchant's place of business.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Giddings, Representative Rhodes offered the following committee amendment to the bill:

Amend **HB 1885** as follows:

On page 2, lines 13 and 14, strike Subsection (6) in its entirety and replace it with the following:

"(6) "Place of business" means a merchant's main or permanent branch office or local address. In the case of a state or national bank or savings and loan association, "place of business" includes any approved branch and any registered loan production office."

Amendment No. 1 was adopted without objection.

HB 1891 was withdrawn.

CSHB 1943, A bill to be entitled An Act relating to the fee for production or certification of documents. (Heflin recorded voting no)

SB 731 (Brady - House Sponsor), in lieu of **HB 2038**, A bill to be entitled An Act relating to the authority to dissolve the Oak Ridge Municipal Utility District and the assumption of its assets and obligations by a municipality.

Representative Brady moved to lay **HB 2038** on the table subject to call.

The motion prevailed without objection.

CSHB 2314, A bill to be entitled An Act relating to the election of the members of the board of trustees of South Texas Community College.

HB 2315, A bill to be entitled An Act relating to the regulation of energy and material recovery and of gas recovery.

CSHB 2352, A bill to be entitled An Act relating to an exemption from the application of certain requirements related to the practice of cosmetology for persons who provide services at a fashion photography studio.

CSHB 2398, A bill to be entitled An Act relating to duties of the district clerk.

HB 2463, A bill to be entitled An Act relating to the taking of an oath by a special judge serving a county court.

CSHB 2487, A bill to be entitled An Act relating to certain fees charged for consumer credit purposes.

CSHB 2501, A bill to be entitled An Act relating to insurance requirements for certain persons who engage in a business regarding fire alarms or fire detection devices.

CSHB 2507, A bill to be entitled An Act relating to the lease of the Amarillo campus of the Texas State Technical College System to Amarillo College.

HB 2540, A bill to be entitled An Act relating to allowing the Texas State Library and Archives Commission to assist public libraries with public information technology grants.

CSHB 2553, A bill to be entitled An Act relating to the regulation of bed and breakfast establishments as food service establishments.

HB 2580, A bill to be entitled An Act relating to the use of certain sales and use tax revenue to support a public junior college.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Craddick, Representative Howard offered the following committee amendment to the bill:

Amend **HB 2580** as follows:

On page 2, line 4, immediately after "or", insert ", if the public junior college is in a county with a population of more than 223,000 and less than 235,000."

On page 2, line 10, immediately after "that" insert "is located in a county that is more than 223,000 and less than 235,000".

Amendment No. 1 was adopted without objection.

HB 2613, A bill to be entitled An Act relating to the exemption from ad valorem taxation of property owned by a religious organization.

HB 2640, A bill to be entitled An Act relating to uniform dates for adding or dropping a course conducted by a public junior college.

HB 2661, A bill to be entitled An Act relating to the requirement that certain offices of an appraisal review board not be located in the same building in which an office of an appraisal district is located.

HB 2684, A bill to be entitled An Act relating to the removal of a member of the board of a police officers' pension system in certain cities.

HB 2686, A bill to be entitled An Act relating to administration of and adoption of rules by retirement systems for police officers in certain municipalities.

CSHB 2698, A bill to be entitled An Act relating to the provision of long-term care services.

SB 1284 (Counts - House Sponsor), in lieu of **CSHB 2749**, A bill to be entitled An Act relating to regulation of the business of title insurance.

Representative Rodriguez moved to lay **CSHB 2749** on the table subject to call.

The motion prevailed without objection.

HB 2754, A bill to be entitled An Act relating to the definition of portable building unit.

CSHB 2781, A bill to be entitled An Act relating to the appointment of bailiffs for certain district courts.

CSHB 2860, A bill to be entitled An Act relating to the power of certain school districts to grant tax abatements. (Finnell recorded present, not voting)

SB 1387 (Horn - House Sponsor), in lieu of **HB 2868**, A bill to be entitled An Act relating to the transfer and enforcement of ad valorem tax liens.

Representative Horn moved to lay **HB 2868** on the table subject to call.

The motion prevailed without objection.

HB 2873, A bill to be entitled An Act relating to the Nacogdoches County Hospital District.

HB 2898, A bill to be entitled An Act relating to the inspection of dental x-ray equipment.

CSHB 2940, A bill to be entitled An Act relating to the appraisal and ad valorem taxation of certain types of personal property.

CSHB 2969, A bill to be entitled An Act relating to the acquisition of land and facilities by a municipality; authorizing the issuance of municipal bonds.

HB 2972 was withdrawn.

CSHB 2980, A bill to be entitled An Act relating to coverage for district judges and volunteer fire departments under the County Government Risk Management Pool.

HB 2989, A bill to be entitled An Act relating to the circumstances under which a county may purchase an item without following the statutory competitive purchasing procedures.

CSHB 3053, A bill to be entitled An Act relating to the operation of the Upper Colorado River Authority.

CSHB 3079, A bill to be entitled An Act relating to depositing funds in the housing trust fund and the use of the housing trust fund.

HB 3120, A bill to be entitled An Act relating to certain nursing facilities receiving reimbursement under the state Medicaid program.

CSHB 3196, A bill to be entitled An Act relating to fees received by a judge or justice for certain services.

HB 3199, A bill to be entitled An Act relating to the duties of the secretary of state.

HB 3207, A bill to be entitled An Act relating to the exemption of certain personal property from seizure for the satisfaction of debts.

SB 297 (Rodriguez - House Sponsor), A bill to be entitled An Act relating to the change of the name of the San Antonio State Chest Hospital to the Texas Center for Infectious Disease.

SB 369 was withdrawn.

SB 415 (Hartnett - House Sponsor), A bill to be entitled An Act relating to a county or precinct officer who overcharges a person a fee.

Amendment No. 1

Representative Hartnett offered the following amendment to the bill:

Amend **SB 415** as follows:

On page 1 line 14 strike ":

On page 1 line 15 strike "(1)"

On page 1 line 17 strike the word "or" and add ";

On page 1 line 18 delete subsection (b)(2) lines 18 through 23 and on page 2 delete lines 1 through 7

Insert a new subsection (e) to read as follows:

"(e) The provisions of this section shall not affect the right of any party to recover attorney's fees, interest, or costs of court as provided by other law."

Amendment No. 1 was adopted without objection.

SB 424 (Puentes - House Sponsor), A bill to be entitled An Act relating to the payment in periodic installments of certain penalties owed by certain businesses for violations of law under the jurisdiction of the Texas Natural Resource Conservation Commission.

SB 694 (Counts - House Sponsor), A bill to be entitled An Act relating to the exemption from tuition of a resident student enrolled in the Southwest Collegiate Institute for the Deaf.

SB 717 (Coleman - House Sponsor), A bill to be entitled An Act relating to the authority of a county judge in counties with a population greater than 1,000,000 to delegate certain responsibilities.

SB 770 (Hartnett - House Sponsor), A bill to be entitled An Act relating to fees collected by certain county officers.

Amendment No. 1

Representative Hartnett offered the following amendment to the bill:

Amend **SB 770** as follows:

Strike SECTION 2 of the bill and substitute the following:

SECTION 2. Section 51.601, Government Code, is amended to read as follows:

Sec. 51.601. COURT REPORTER SERVICE FEE. (a) The clerk of each court that has an official court reporter shall collect a court reporter service fee of \$15 as a court cost in each civil case filed with the clerk to maintain a court reporter who is available for assignment in the court [~~in which a record of evidence presented in the case is made by the reporter~~].

(b) The clerk shall collect this fee in the manner provided for other court costs and shall deliver the fee to the county treasurer, or the person who performs the duties of the county treasurer, [deposit the fee to the credit of the general fund] of the county in which the court sits. The county treasurer, or the person who performs the duties of the county treasurer, shall deposit the fees received into the court reporter service fund.

(c) The commissioners court of the county shall administer the court reporter service fund to assist in the payment of court-reporter-related services, that may include maintaining an adequate number of court reporters to provide services to the courts, obtaining court reporter transcription services, closed-caption transcription machines, Braille transcription services, or other transcription services to comply with state or federal laws, or providing any other service related to the functions of a court reporter.

(d) The commissioners court shall, in administering the court reporter service fund, assist any court in which a case is filed that requires the payment of the court reporter service fee.

(e) [~~(b)~~] This section does not apply to an action brought to collect delinquent taxes.

Amendment No. 1 was adopted without objection.

SB 875 (King and Gallego - House Sponsors), A bill to be entitled An Act relating to the Sul Ross State University Uvalde Study Center.

SB 934 (Rangel - House Sponsor), A bill to be entitled An Act relating to the administration, powers, duties, and operation of the Starr County Hospital District of Starr County, Texas.

SB 1018 (Ogden - House Sponsor), A bill to be entitled An Act relating to a cemetery on land owned by The Texas A&M University System.

SB 1070 (Black - House Sponsor), A bill to be entitled An Act relating to legislative space needs and space management. (Crabb and Heflin recorded voting no)

Amendment No. 1

Representative Black offered the following amendment to the bill:

Amend **SB 1070** in SECTION 2 of the bill by adding Subsection (c) to amended Section 27, Texas Public Finance Authority Act, to read as follows:

(c) The building shall be known as the Robert E. Johnson Building.

Amendment No. 1 was adopted without objection.

SB 1236 (Kuempel - House Sponsor), A bill to be entitled An Act relating to the sale of beer within assigned territories.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Kubiak, Representative Kuempel offered the following committee amendment to the bill:

Amend **SB 1236** as follows:

In SECTION 3 of the bill, STRIKE the date "March 22, 1995" wherever it appears and insert, in lieu thereof, the date "April 11, 1995".

Amendment No. 1 was adopted without objection.

SB 1241 (Williamson - House Sponsor), A bill to be entitled An Act relating to the operation of the Muenster Hospital District.

SB 1281 (Naishtat - House Sponsor), A bill to be entitled An Act relating to security devices in housing owned or operated by certain public or private colleges or universities.

SB 1299 (Oakley - House Sponsor), A bill to be entitled An Act relating to abolition of the board of regents of East Texas State University and the transfer of the institutions under that board to The Texas A&M University System.

SB 1327 (Counts - House Sponsor), A bill to be entitled An Act relating to the conveyance of certain real property by the Texas Department of Mental Health and Mental Retardation.

SB 1328 (Counts - House Sponsor), A bill to be entitled An Act relating to the release of the state's reversionary interest in certain real property located in Howard County.

RESOLUTIONS CALENDAR

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

By Finnell,

CSHCR 128, Re-creating the Red River Boundary Commission.

CSHCR 128 was adopted without objection.

STATEMENT OF VOTE

On May 4, when Record No. 307 was taken, I was temporarily out of the house chamber. I would have voted no on the motion to table Amendment No. 40 to **CSSB 1**.

Greenberg

ADJOURNMENT

Representative Yarbrough moved that the house adjourn until 1:10 a.m.

The motion prevailed without objection.

The house accordingly, at 1:07 a.m. Sunday, May 7, adjourned until 1:10 a.m. Sunday, May 7.