

HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-SECOND DAY — SUNDAY, MAY 25, 1997

The house met at 1:00 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 540).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Moreno; Turner, S.

The invocation was offered by Representative Walker.

LEAVES OF ABSENCE GRANTED

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

Moreno on motion of Rangel.

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

S. Turner on motion of Cuellar.

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

Driver on motion of Keel.

HR 1092 - ADOPTED (by Siebert)

Representative Siebert moved to suspend all necessary rules to take up and consider at this time **HR 1092**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1092, In memory of Catherine Jane Summerfield Rouse.

HR 1092 was unanimously adopted by a rising vote.

HR 1086 - ADOPTED
(by Naishtat)

The speaker laid before the house the following privileged resolution:

HR 1086

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 190** to consider and take action on the following specific matters:

1. House Rule 13, Section 9(a)(1), is suspended to permit the committee to change the amount of the penalty imposed under Section 242.0665(c), Health and Safety Code, in Section 1.17 of the bill, so that the subsection reads as follows:

(c) An institution that corrects a violation under Subsection (a) must maintain the correction. If the institution fails to maintain the correction until at least the first anniversary of the date the correction was made, the department may assess an administrative penalty under this subchapter for the subsequent violation. A penalty assessed under this subsection shall be equal to three times the amount of the penalty assessed but not collected under Subsection (a). The department is not required to provide the institution an opportunity to correct the subsequent violation under this section.

Explanation: This change is necessary to provide an appropriate penalty for a violation that occurs after an institution has exercised its right to correct a violation.

2. House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit text from Section 242.603(d), Health and Safety Code, in Section 1.30 of the bill, so that the subsection reads as follows:

(d) An institution shall release the medications of a resident who is transferred directly to another institution or who is discharged to home to the new institution or to the resident or resident's next of kin or guardian, as appropriate. The institution may release a medication to a resident only on the written or verbal authorization of the attending physician.

Explanation: This change corrects a grammatical error by omitting an unnecessary "or."

3. House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to change the text of Section 32.021(m), Human Resources Code, in Section 2.01 of the bill, so that the subsection reads as follows:

(m) Notwithstanding any provision of law to the contrary, the department shall terminate a nursing facility's provider agreement if the department has imposed required Category 2 or Category 3 remedies on the facility three times within a 24-month period unless the department makes an affirmative finding

that good cause exists to waive this requirement to facilitate a change in ownership to protect residents of a facility. In this subsection, "Category 2 remedies" and "Category 3 remedies" have the meanings assigned by 42 C.F.R. Section 488.408.

Explanation: This change is necessary to provide appropriate references to the federal regulations to which the subsection refers.

HR 1086 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:

Wilson on motion of Naishtat.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 360 ON SECOND READING (Stiles - House Sponsor)

SB 360, A bill to be entitled An Act relating to the review and continuation of certain state agencies and laws subject to the Texas Sunset Act.

SB 360 was read second time on May 21, postponed until May 22, postponed until May 23, postponed until May 24, and was again postponed until 10 a.m today.

Representative Bosse moved to postpone consideration of **SB 360** until 10 a.m. Monday, May 26.

The motion prevailed without objection.

MAJOR STATE CALENDAR SENATE BILLS THIRD READING

The following bills were laid before the house and read third time:

SB 841 ON THIRD READING (Hilbert - House Sponsor)

SB 841, A bill to be entitled An Act relating to ad valorem taxation.

SB 841 was passed.

LEAVE OF ABSENCE GRANTED

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

Solomons on motion of Hawley.

(McCall in the chair)

SB 55 ON THIRD READING (Berlanga, J. Jones, Delisi, Dunnam, and Averitt - House Sponsors)

SB 55, A bill to be entitled An Act relating to the regulation of the sale, distribution, and use of tobacco products; providing penalties.

Amendment No. 1

Representative Berlanga offered the following amendment to **SB 55**:

Amend **SB 55** on third reading as follows:

(1) In SECTION 3.01 of the bill, in added Section 161.253(a), Health and Safety Code, strike "approved by the comptroller" and substitute "approved by the commissioner of public health".

(2) In SECTION 4.02 of the bill, in amended Section 154.121, Tax Code, at the end of subsection (c), between "Health and Safety Code" and the period, insert ", and to the Texas Department of Health, for the administration and enforcement of Section 161.253, Health and Safety Code".

(3) In SECTION 4.07 of the bill, in amended Section 155.058, Tax Code, at the end of Subsection (c), between "Health and Safety Code" and the period, insert ", and to the Texas Department of Health, for the administration and enforcement of Section 161.253, Health and Safety Code".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Wise, Clark, Isett, and Rabuck offered the following amendment to **SB 55**:

Amend **SB 55** on third reading as follows:

(1) In Section 161.124(b), Health and Safety Code, as added by Section 2.01 of the bill (page 12, lines 25-26, House Committee Printing), strike "an education advertising campaign relating to cigarettes and tobacco products" and substitute "the education advertising campaign and grant program established under Subchapter O, Chapter 161, Health and Safety Code".

(2) Following Section 161.301, Health and Safety Code, as added by SECTION 3.01 of the bill (page 18, between lines 13 and 14, House Committee Printing), insert the following:

Sec. 161.302. GRANT PROGRAM FOR YOUTH GROUPS. (a) The entity administering Section 161.301 shall also develop and implement a grant program to support youth groups that include as a part of the group's program components related to reduction of tobacco use by the group's members.

(b) "Youth group" means a nonprofit organization that:

(1) is chartered as a national or statewide organization;

(2) is organized and operated exclusively for youth recreational or educational purposes and that includes, as part of the group's program, in addition to the components described by Subsection (a), components relating to:

(A) prevention of drug abuse;

(B) character development;

(C) citizenship training; and

(D) physical and mental fitness;

(3) has been in existence for at least 10 years; and

(4) has a membership of which at least 65 percent is younger than 22 years of age.

(3) In Section 154.121(d), Tax Code, as added by Section 4.02 of the bill

(page 19, lines 25-26, House Committee Printing), strike "Subchapter O, Chapter 161," and substitute "Section 161.301,".

(4) In Section 154.121, Tax Code, as amended by Section 4.02 of the bill (page 19, between lines 26 and 27, House Committee Printing), insert a new Subsection (e) to read as follows:

(e) If, after any appropriation is made under Subsections (b), (c), and (d), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the appropriate entity to administer that entity's responsibilities under Section 161.302, Health and Safety Code.

(5) In Section 155.058(d), Tax Code, as added by Section 4.07 of the bill (page 24, lines 9-10, House Committee Printing) strike "Subchapter O, Chapter 161," and substitute "Section 161.301,".

(6) In Section 155.058, Tax Code, as amended by Section 4.07 of the bill (page 24, between lines 10 and 11, House Committee Printing), insert a new Subsection (e) to read as follows:

(e) If, after any appropriation is made under Subsections (b), (c), and (d), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the appropriate entity to administer that entity's responsibilities under Section 161.302, Health and Safety Code."

Amendment No. 2 was adopted without objection.

SB 55, as amended, was passed. (Uher recorded voting no)

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**SB 1447 ON THIRD READING
(Brimer - House Sponsor)**

SB 1447, A bill to be entitled An Act relating to the conversion of mutual insurance companies to stock insurance companies.

SB 1447 was passed.

(Speaker in the chair)

**SB 31 ON THIRD READING
(Junell - House Sponsor)**

SB 31, A bill to be entitled An Act relating to the powers and duties of agencies in the executive, legislative, and judicial branches of state government, including authorizations for and restrictions on the use of state funds.

Representative Junell moved to postpone consideration of **SB 31** until 3 p.m. today.

The motion prevailed without objection.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 65).

SB 627 ON THIRD READING
(Place - House Sponsor)

SB 627, A bill to be entitled An Act relating to certification of bail bondsmen by the Texas Department of Licensing and Regulation; providing a penalty.

Representative Kuempel moved to postpone consideration of **SB 627** until 4 p.m. today.

The motion prevailed without objection.

SB 188 ON THIRD READING
(Hightower - House Sponsor)

SB 188, A bill to be entitled An Act relating to creating an offense for possession of certain information by an inmate of the institutional division or the state jail division of the Texas Department of Criminal Justice.

SB 188 was passed.

SB 987 ON THIRD READING
(Gallego - House Sponsor)

SB 987, A bill to be entitled An Act relating to alternative uses for money in the compensation to victims of crime fund or in the compensation to victims of crime auxiliary fund.

SB 987 was passed.

SB 102 ON THIRD READING
(Kamel - House Sponsor)

SB 102, A bill to be entitled An Act relating to the creation and use of an emergency medical services and trauma care system fund.

Representative Chisum moved to postpone consideration of **SB 102** until 5 p.m. today.

The motion prevailed without objection.

SB 645 ON THIRD READING
(Ramsay - House Sponsor)

SB 645, A bill to be entitled An Act relating to state fiscal matters, including holidays, employee compensation and deductions, reports, consultants, and the comptroller's powers.

Amendment No. 1

Representative Clark offered the following amendment to **SB 645**:

Amend **SB 645** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION ___. Sections 2254.031(b) and (d), Government Code, are amended to read as follows:

(b) A state agency that intends to renew a contract that is not a major

consulting services contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the renewal contract have a reasonably foreseeable value totaling more than \$15,000 [~~\$10,000~~].

(d) A state agency that intends to amend or extend a contract that is not a major consulting services contract shall comply with Sections 2254.028 and 2254.029 if the original contract and the amendment or extension have a reasonably foreseeable value totaling more than \$15,000 [~~\$10,000~~].

Amendment No. 1 was adopted without objection.

A record vote was requested.

SB 645, as amended, was passed by (Record 541): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

SB 700 ON THIRD READING **(Rhodes - House Sponsor)**

SB 700, A bill to be entitled An Act relating to unclaimed property; providing penalties.

Amendment No. 1

Representative Chisum offered the following amendment to **SB 700**:

Amend **SB 700** on 3rd reading as follows:

(1) Amend Section 76.603, Property Code, as added by this bill, by adding new subsection (d) to read as follows:

(d) The provisions of this section are subject to the budgetary procedures adopted by the governing body of the holder.

Amendment No. 1 was adopted without objection.

SB 700, as amended, was passed.

SB 582 ON THIRD READING
(Holzheuser - House Sponsor)

SB 582, A bill to be entitled An Act relating to the application of the oil production tax to new or expanded enhanced recovery projects.

SB 582 was passed. (Finnell recorded voting present, not voting)

SB 505 ON THIRD READING
(Brimer - House Sponsor)

SB 505, A bill to be entitled An Act relating to the characterization of a transaction as a sale of accounts or chattel paper.

SB 505 was passed.

SB 1247 ON THIRD READING
(Berlanga - House Sponsor)

SB 1247, A bill to be entitled An Act relating to regulation of a home and community support services agency; providing an administrative penalty.

Amendment No. 1

Representative Berlanga offered the following amendment to **SB 1247**:

Amend **SB 1247** on third reading by striking Section 142.017, Health and Safety Code, as added by SECTION 5 of the bill (page 8, lines 21-25, through page 10, lines 1-9, house committee printing), and substituting the following:

Sec. 142.017. ADMINISTRATIVE PENALTY. (a) The department may assess an administrative penalty against a person who violates this chapter or a rule adopted under this chapter.

(b) The penalty shall be not less than \$100 or more than \$1,000 for each violation. Each day of a violation that occurs before the day on which the person receives written notice of the violation from the department does not constitute a separate violation and shall be considered to be one violation. Each day of a continuing violation that occurs after the day on which the person receives written notice of the violation from the department constitutes a separate violation.

(c) The department by rule shall specify each violation for which an administrative penalty may be assessed. In determining which violations warrant penalties, the department shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation and the hazard of the violation to the health or safety of clients; and

(2) whether the affected home and community support services agency had identified the violation as a part of its internal quality assurance process and had made appropriate progress on correction.

(d) The department by rule shall establish a schedule of appropriate and graduated penalties for each violation based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation and the hazard or safety of clients;

(2) the history of previous violations;

(3) whether the affected home and community support services agency had identified the violation as a part of its internal quality assurance process and had made appropriate progress on correction;

(4) the amount necessary to deter future violations;

(5) efforts made to correct the violation; and

(6) any other matters that justice may require.

(e) The department by rule shall provide the home and community support services agency with a reasonable period of time following the first day of a violation to correct the violation before assessing an administrative penalty if a plan of correction has been implemented.

(f) An administrative penalty may not be assessed for minor violations unless those violations are of a continuing nature or are not corrected.

(g) The department shall establish a system to ensure standard and consistent application of penalties regardless of the home and community support services agency location.

(h) All proceedings for the assessment of an administrative penalty under this chapter are subject to Chapter 2001, Government Code.

(i) The department may not assess an administrative penalty against a state agency.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Berlanga offered the following amendment to **SB 1247**:

Amend **SB 1247** on third reading as follows:

(1) In SECTION 6 of the bill, strike Subdivision (3) of amended Section 142.021, Health and Safety Code (page 16, lines 6-8, House Committee Printing), and substitute the following:

~~"(3) [performs duties as a qualified dialysis technician within the scope authorized by board rules];"~~

(2) In SECTION 6 of the bill, in Subdivision (4) of amended Section 142.021, Health and Safety Code (page 16, line 9, House Committee Printing), strike "(4)" and substitute "[~~(4)~~]"

(3) In SECTION 6 of the bill, in Subdivision (5) of amended Section 142.021, Health and Safety Code (page 16, line 14, House Committee Printing), strike "(5)" and substitute "(4) [~~(5)~~]"

Amendment No. 2 was adopted without objection.

SB 1247, as amended, was passed. (Carter, Corte, Marchant, and Talton recorded voting no)

SB 78 ON THIRD READING (McClendon - House Sponsor)

SB 78, A bill to be entitled An Act relating to punishment for the offense of arson.

SB 78 was passed.

SB 332 ON THIRD READING
(Gray - House Sponsor)

SB 332, A bill to be entitled An Act relating to the decisions of certain administrative law judges in occupational licensing contested cases and to judicial review of those decisions.

SB 332 was passed.

SB 318 ON THIRD READING
(Thompson - House Sponsor)

SB 318, A bill to be entitled An Act relating to the liability of and bonds required of guardians of the person of certain wards.

SB 318 was passed.

SB 534 ON THIRD READING
(Maxey - House Sponsor)

SB 534, A bill to be entitled An Act relating to the collection of claims for recovery of money under subrogation and third-party reimbursement rights arising from medical payments by health and human services agencies.

A record vote was requested.

SB 534 was passed by (Record 542): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzhauser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Siebert; Smith; Smithee; Solis; Staples; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Crabb; Palmer; Shields; Talton.

SB 1241 ON THIRD READING
(Cuellar - House Sponsor)

SB 1241, A bill to be entitled An Act relating to the creation of the Faculty Enhancement Fund for Generalist Physicians.

A record vote was requested.

SB 1241 was passed by (Record 543): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzhauser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Bosse; Mowery; Ramsay.

SB 1929 ON THIRD READING
(Kuempel - House Sponsor)

SB 1929, A bill to be entitled An Act relating to the disposal of certain solid waste and permits for disposal of that waste.

SB 1929 was passed.

SB 34 ON THIRD READING
(E. Reyna, Goodman, Edwards, Puente,
and Delisi - House Sponsors)

SB 34, A bill to be entitled An Act relating to the parent-child relationship, suits affecting the parent-child relationship, and the protection of children.

SB 34 was passed.

SB 160 ON THIRD READING
(West - House Sponsor)

SB 160, A bill to be entitled An Act relating to prosecution of the offense of tampering with or fabricating physical evidence; creating an offense.

Representative West moved to postpone consideration of **SB 160** until 4 p.m. today.

The motion prevailed without objection.

SB 148 ON THIRD READING
(Rangel and Kamel - House Sponsors)

SB 148, A bill to be entitled An Act relating to the recommendation, development, and adoption of certain curricula by certain institutions of higher education and the Texas Higher Education Coordinating Board.

A record vote was requested.

SB 148 was passed by (Record 544): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Crabb; Heflin.

SB 443 ON THIRD READING
(Naishtat - House Sponsor)

SB 443, A bill to be entitled An Act relating to a right to petition a court for an order to seal or destroy records related to certain admissions to a mental health facility; providing a criminal penalty.

SB 443 was passed. (Corte recorded voting no)

SB 349 ON THIRD READING
(Goodman - House Sponsor)

SB 349, A bill to be entitled An Act relating to guardians ad litem, attorneys ad litem, and child volunteer advocates in certain suits affecting the parent-child relationship.

Amendment No. 1

Representative Hilbert offered the following amendment to **SB 349**:

Amend **SB 349** as follows:

(1) Amend the new SECTION added by Floor Amendment No. 1, which added a new Section 107.017 to Subchapter B, Chapter 107, Family Code, by striking new Section 107.017 in its entirety.

(2) Renumber the remaining sections appropriately.

Amendment No. 1 was adopted without objection.

SB 349, as amended, was passed.

SB 1498 ON THIRD READING
(Eiland - House Sponsor)

SB 1498, A bill to be entitled An Act relating to rate filings for certain lines of insurance.

SB 1498 was passed.

SB 211 ON THIRD READING
(Naishtat, Coleman, Maxey, Greenberg, and
Dukes - House Sponsors)

SB 211, A bill to be entitled An Act relating to the establishment and operation of the Texas child care fund.

A record vote was requested.

SB 211 was passed by (Record 545): 110 Yeas, 25 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hawley; Hernandez; Hightower; Hilbert; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Jackson; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McClendon; McReynolds; Moffat; Naishtat; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Reyna, A.; Rhodes; Sadler; Serna; Siebert; Smith; Smithee; Solis; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Wise; Wolens; Yarbrough; Zbrank.

Nays — Carter; Corte; Denny; Elkins; Galloway; Goolsby; Grusendorf; Hartnett; Heflin; Hill; Hupp; Isett; Janek; Madden; Marchant; Merritt; Mowery; Nixon; Roman; Seaman; Shields; Staples; Williams; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Alvarado; Crabb; Hilderbran; Horn; King; Raymond; Reyna, E.; Talton.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 545. I intended to vote no.

Christian

I was shown voting yes on Record No. 545. I intended to vote no.

Clark

I was shown voting yes on Record No. 545. I intended to vote no.

Craddick

I was shown voting yes on Record No. 545. I intended to vote no.

Culberson

When Record No. 545 was taken, I was temporarily out of the house chamber. I would have voted yes.

Hilderbran

I was shown voting yes on Record No. 545. I intended to vote no.

Holzheuser

When Record No. 545 was taken, I was in the house but away from my desk. I would have voted no.

Horn

I was shown voting yes on Record No. 545. I intended to vote no.

Hunter

I was shown voting yes on Record No. 545. I intended to vote no.

Kamel

When Record No. 545 was taken, I was in the house but away from my desk. I would have voted yes.

King

I was shown voting yes on Record No. 545. I intended to vote no.

Kuempel

When Record No. 545 was taken, I was in the house but away from my desk. I would have voted yes.

Raymond

I was shown voting yes on Record No. 545. I intended to vote no.

Smith

When Record No. 545 was taken, I was in the house but away from my desk. I would have voted no.

Talton

SB 572 ON THIRD READING
(Hupp and Place - House Sponsors)

SB 572, A bill to be entitled An Act relating to the transfer of the University of Central Texas to The Texas A&M University System.

SB 572 was passed. (Chisum and Swinford recorded voting no)

SB 265 ON THIRD READING
(Giddings - House Sponsor)

SB 265, A bill to be entitled An Act relating to the linked deposit program.

SB 265 was passed.

SB 1810 ON THIRD READING
(Dukes - House Sponsor)

SB 1810, A bill to be entitled An Act relating to the creation, operation, and funding of the Texas Youthworks Program.

SB 1810 was passed. (Chisum, Corte, Craddick, Howard, Kamel, Swinford, Talton and Williams recorded voting no)

SB 665 ON THIRD READING
(Horn - House Sponsor)

SB 665, A bill to be entitled An Act relating to the sale and delivery of certain motor fuel; providing criminal, administrative, and civil penalties.

SB 665 was passed.

SB 780 ON THIRD READING
(Hernandez - House Sponsor)

SB 780, A bill to be entitled An Act relating to the use of personal leave by school district employees.

A record vote was requested.

SB 780 was passed by (Record 546): 136 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Chavez; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzhauser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smithee; Solis; Staples; Stiles; Swinford; Talton; Telford;

Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Chisum; Smith.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Carter; Corte; Hightower; Nixon; Ramsay.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 546. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 546. I intended to vote no.

Horn

I was shown voting yes on Record No. 546. I intended to vote no.

Kuempel

I was shown voting yes on Record No. 546. I intended to vote no.

R. Lewis

I was shown voting yes on Record No. 546. I intended to vote no.

Marchant

I was shown voting yes on Record No. 546. I intended to vote no.

McCall

I was shown voting yes on Record No. 546. I intended to vote no.

E. Reyna

I was shown voting yes on Record No. 546. I intended to vote no.

Swinford

SB 520 ON THIRD READING (Sadler - House Sponsor)

SB 520, A bill to be entitled An Act relating to eligibility to serve as a public member of the State Board for Educator Certification.

Amendment No. 1

Representative McReynolds offered the following amendment to **SB 520**:

Amend **SB 520** on third reading as follows:

(1) Between SECTIONS 1 and 2 of the bill (house committee report, page 1, between lines 22 and 23), insert a new SECTION 2 to read as follows:

SECTION 2. Section 21.036, Education Code, is amended to read as follows:

Sec. 21.036. OFFICERS. The board shall elect one of its [citizen] members to serve as presiding officer for a term of two years. The presiding

officer is entitled to vote on all matters before the board. The board may elect other officers from among its membership.

(2) Renumber the existing SECTIONS 2 and 3 of the bill as SECTIONS 3 and 4, respectively.

Amendment No. 1 was adopted without objection.

A record vote was requested.

SB 520 was passed by (Record 547): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxe; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Galloway.

SB 434 ON THIRD READING
(Berlanga - House Sponsor)

SB 434, A bill to be entitled An Act relating to the provision and coordination of certain mental health services provided in certain facilities.

SB 434 was passed.

SB 1838 ON THIRD READING
(Brimer - House Sponsor)

SB 1838, A bill to be entitled An Act relating to fees charged for records filed with and maintained by the secretary of state.

SB 1838 was passed. (Chisum, Finnell, Hilderbran, Howard, King, Rabuck, Shields, Talton, Uher recorded voting no)

SB 1102 ON THIRD READING
(Telford, et al. - House Sponsors)

SB 1102, A bill to be entitled An Act relating to systems and programs administered by the Employees Retirement System of Texas.

SB 1102 was passed. (Finnell, Hilderbran, Marchant, and Talton recorded voting no; King recorded voting present not voting)

SB 382 ON THIRD READING
(Smithee, Naishtat, Van de Putte, Berlanga,
and Janek - House Sponsors)

SB 382, A bill to be entitled An Act relating to the regulation of health maintenance organizations.

SB 382 was passed. (Shields recorded voting no)

SB 383 ON THIRD READING
(Smithee, Van de Putte, Berlanga, Janek,
Naishtat, et al. - House Sponsors)

SB 383, A bill to be entitled An Act relating to the regulation of preferred provider benefit plans.

Amendment No. 1

Representative Van de Putte offered the following amendment to **SB 383**:

Amend **SB 383** on third reading as follows:

(1) In Section 3(c), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 5, line 14, Corrected House Committee Report Printing), in the first sentence, between "physician" and "designation", insert "or practitioner".

(2) In Section 3(c), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 5, line 18, Corrected House Committee Report Printing), in the second sentence, strike "physician." and substitute "physician or practitioner."

(3) In Section 3(c), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 5, line 21, Corrected House Committee Report Printing), in the third sentence, strike "physician." and substitute "physician or practitioner."

(4) In Section 3(d), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 5, line 24, Corrected House Committee Report Printing), in the first sentence, between "physicians" and "contracting", insert "or practitioners".

(5) In Section 3(d), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill, (page 5, line 25, Corrected House Committee Report Printing), in the first sentence, strike "who is a physician in the same speciality as the affected physician" and substitute "who is a physician or practitioner in the same speciality as the affected physician or practitioner".

(6) In Section 3(d), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 5, line 26, Corrected House Committee Report Printing), in the second sentence, between "physicians" and "contracting", insert "or practitioners".

(7) In Section 3(d), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 6, line 1, Corrected House Committee Report Printing), in the second sentence, strike "physicians." and substitute "physicians or practitioners."

(8) In Section 3(i), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 7, lines 6-8, Corrected House Committee Report Printing), in the first sentence, strike "physician or a physicians group must include a mechanism for the resolution of complaints initiated by an insured, physician, or physicians group." and substitute "physician, physicians group, or practitioner must include a mechanism for the resolution of complaints initiated by an insured, physician, physicians group, or practitioner."

(9) In Section 3(j), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 7, lines 12-14, Corrected House Committee Report Printing), strike "physician, the insurer shall provide written reasons for the termination. Before termination of the contract with a physician," and substitute "preferred provider, the insurer shall provide written reasons for the termination. Before termination of the contract with a physician or practitioner."

(10) In Section 3(j)(2), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 7, line 22, Corrected House Committee Report Printing), strike "a physician's ability to practice medicine;" and substitute "a physician's or practitioner's ability to practice medicine or provide health care;".

(11) In Section 3(k), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 7, line 25, Corrected House Committee Report Printing), in the first sentence, strike "physician." and substitute "physician or practitioner."

(12) In Section 3(k), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 8, line 1, Corrected House Committee Report Printing), in the second sentence, strike "physician." and substitute "physician or practitioner."

(13) In Section 3(k), Article 3.70-3C, Insurance Code, as added by SECTION 1 of the bill (page 8, line 2, Corrected House Committee Report Printing), in the third sentence, strike "physician" and substitute "physician or practitioner".

Amendment No. 1 was adopted without objection.

A record vote was requested.

SB 383, as amended, was passed by (Record 548): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman;

Sadler; Seaman; Serna; Siebert; Smith; Smithee; Solis; Staples; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Hightower; Moffat; Shields; Talton.

SB 384 ON THIRD READING
(Smithee, Van de Putte, Berlanga, Naishtat,
Janek, et al. - House Sponsors)

SB 384, A bill to be entitled An Act relating to utilization review under health benefit plans and health insurance policies.

Amendment No. 1

Representative Smithee offered the following amendment to **SB 384**:

Amend SECTION 10 of **SB 384**, House Committee Substitute as follows:
 On page 17, line 10, amend subsection (g) by deleting the word "not".

On page 17, lines 15 and 16, amend paragraph (1) of subsection (g) by deleting the words "Sections 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 14 of".

On page 17, line 17, amend paragraph (1) of subsection (g), by adding after "," and before "and" the following: "except Sections 3 and 10.".

On page 18, line 15, amend subsection (h) by deleting the word "not".

On page 18, lines 19 and 20, amend subsection (h) by deleting the words "Sections 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 14 of".

On page 18, line 20, amend subsection (h) by adding after "," and before "and" the following: "except Sections 3 and 10.".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Olivo offered the following amendment to **SB 384**:

Amend **SB 384**, on third reading, in SECTION 9 of the bill, in amended Section 13, Article 21.58A, Insurance Code (House Committee Printing, page 17, line 1), between "employers," and "physicians", by inserting "consumer organizations.".

Amendment No. 2 was adopted without objection.

SB 384, as amended, was passed.

HR 1098 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1098**, suspending the limitations on the conferees for **HB 2542**.

GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING

The following bills were laid before the house and read second time:

CSSB 385 ON SECOND READING
(Smithee, Van de Putte, Berlanga, Naishtat,
Janek, et al. - House Sponsors)

CSSB 385, A bill to be entitled An Act relating to the regulation of health maintenance organizations.

Amendment No. 1

Representative Smithee offered the following amendment to **CSSB 385**:

Amend **CSSB 385**, page 1, line 11, by striking after the word "necessary" and before the period, the words "or not appropriate in the allocation of health care resources".

Removes the language pertaining to rationing — "or is appropriate in the allocation of health care resources."

Amendment No. 1 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 in the district:

Bailey on motion of Dunnam.

CSSB 385 - (consideration continued)

Amendment No. 2

Representative Van de Putte offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) In the recital to SECTION 12 of the bill (page 38, line 7, House Committee Printing), strike "is amended by adding Subsections (i)-(m)" and substitute "is amended by adding Subsections (i)-(n)".

(2) In Section 14, Texas Health Maintenance Organization Act (Article 20A.14, Vernon's Texas Insurance Code), as amended by SECTION 12 of the bill (page 40, between lines 6 and 7, House Committee Printing), insert Subsection (n) to read as follows:

(n) A health maintenance organization may not limit the ability of an enrollee whose primary care physician has recommended care that includes a surgical procedure to seek a second opinion from a participating physician or a participating chiropractor before the performance of the recommended surgical procedure.

Representative Smithee moved to table Amendment No. 2.

The motion to table prevailed.

Amendment No. 3

Representative Smithee offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

In SECTION 12., Section 14, Texas Health Maintenance Organization Act (Article 20A.14, Vernon's Texas Insurance Code), add language to Subsection

(1), page 39, line 17 after the word payment by striking the period and inserting new language to read as follows:

and does not prohibit a physician from accepting payments or financial incentives which are based on criteria including, without limitation, specific measures of quality.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Pickett offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) In the recital of SECTION 12 of the bill (page 38, line 7, House committee printing), strike "is amended by adding Subsections (i)-(m)" and substitute "is amended by adding Subsections (i)-(n)".

(2) Following Section 14(m), Texas Health Maintenance Organization Act (Article 20A.14, Vernon's Texas Insurance Code), as added by SECTION 12 of the bill (page 40, between lines 6 and 7, House committee printing), insert the following:

(n) A health maintenance organization that uses a drug formulary in providing a prescription drug benefit shall provide the benefit to the enrollee for a drug not included in the formulary if:

(1) the drug not included in the formulary is in a class of drugs covered under the prescription drug benefit;

(2) a physician treating the enrollee under the health care plan determines that prescription of the drug not included in the formulary, rather than a drug included in the formulary, is in the best interest of the enrollee; and

(3) the enrollee pays the difference between the costs of the drugs, if the drug that is not included in the formulary is more expensive than the drug that is included in the formulary.

Amendment No. 4 was withdrawn.

Amendment No. 5

On behalf of Representative Smithee, Representative Eiland offered the following amendment to **CSSB 385**:

Amend **CSSB 385**, page 66, beginning at line 13, by adding subsection (j) to Section 26, Texas Health Maintenance Organization Act (Article 20A.26, Vernon's Texas Insurance Code) to read as follows:

(j) This act applies to a medical school and medical and dental unit as defined by Section 61.003, 61.501, or 74.601, Education Code, except when such a medical school or medical and dental unit contracts to deliver medical care within a health maintenance organization delivery network.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Van de Putte offered the following amendment to **CSSB 385**:

Amend **CSSB 385**, House Committee Report printing, on page 75 line 14 by adding "or to include on a card issued by the health maintenance organization with the plan's benefit information" between the word "cards" and "for".

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Maxey offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) Add an appropriately numbered section to the bill to read as follows:
SECTION _____. The Texas Health Maintenance Organization Act (Article 20A.01 et seq., Vernon's Texas Insurance Code) is amended by adding Section 9A to read as follows:

Sec. 9A. HEALTH MAINTENANCE ORGANIZATION PROVIDING DENTAL BENEFITS; EVIDENCE OF COVERAGE; WRITTEN DESCRIPTION; RULES. (a) In addition to the requirements of Section 9 of this Act (Article 20A.09, Vernon's Texas Insurance Code), an evidence of coverage for a single health care service plan for dental benefits must:

(1) specify the total charges to an enrollee for typical sample office visits or procedures, such as an initial office visit, a crown, an extraction, or a filling;

(2) list the procedures that are covered by the plan and the enrollee's financial obligation for each listed procedure;

(3) describe the limitations on covered procedures and any exclusions from coverage, including the classes of procedures that are not covered; and

(4) include a glossary of dental terminology.

(b) In addition to the requirements of Sections 11 and 11A of this Act (Articles 20A.11 and 20A.11A, Vernon's Texas Insurance Code), the written description of the health care plan's terms and conditions for a single health care service plan for dental benefits must include:

(1) a list of the 30 dental procedures most commonly covered under dental benefits;

(2) a statement as to whether the single health care services plan provides benefits for each of the 30 listed procedures; and

(3) the amount that the enrollee will be required to pay for each listed procedure.

(c) The commissioner shall adopt rules governing the form and content of the information required to be provided under this section, including the form and content of the 30 dental procedures most commonly covered under dental benefits.

(2) Renumber the sections of the bill accordingly.

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative Delisi offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) After SECTION 26 of the bill (page 77, between lines 23 and 24, House Committee Report Printing), insert a new SECTION 27 to read as follows:

SECTION 27. The Insurance Code is amended by adding Chapter 20B to read as follows:

CHAPTER 20B. INTEGRATED HEALTH PLANSSUBCHAPTER A. GENERAL PROVISIONS

Art. 20B.001. DEFINITIONS. In this chapter:

(1) "Basic health services" has the meaning assigned by Section 2, Health Maintenance Organization Act of 1973, as amended (42 U.S.C. Section 300e-1).

(2) "Group medical practice" means a group that:

(A) is composed of physicians and other providers who are salaried employees or affiliates of the group medical practice;

(B) has a physician as its chief executive officer;

(C) voluntarily supports medical education and research through a formal affiliation with the medical school component of an institution of higher education in this state; and

(D) provides a majority of the professional medical services rendered to a plan's members.

(3) "Health maintenance organization" means a health maintenance organization organized under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

(4) "Integrated health plan" means a nonprofit health maintenance organization that holds a certificate of authority under this chapter.

(5) "Life-threatening disease or condition" means a disease or condition:

(A) in which the likelihood of death within one year or less is high unless the course of the disease or condition is interrupted; or

(B) that has a potentially fatal outcome within one year or less and in which the goal of clinical intervention is survival.

(6) "Member" means an eligible person who is enrolled for coverage in a plan.

(7) "Plan" means:

(A) an integrated health plan; or

(B) a nonprofit health maintenance organization that has submitted a certificate of authority application under Article 20B.011 of this code.

(8) "Provider" means:

(A) a physician; or

(B) another licensed health care practitioner who provides health care services under the scope of the practitioner's license.

(9) "Subscriber" means an individual who is properly enrolled for coverage under a plan because the individual is:

(A) an eligible employee of an eligible employer; or

(B) another person whose employment or other status, other than dependent status, is the basis for eligibility for coverage under the plan.

Art. 20B.002. RULES. The commissioner shall adopt rules as necessary to implement this chapter.

Art. 20B.003. EFFECT OF CERTIFICATION. A health maintenance organization that is certified as an integrated health plan is subject to regulation only as provided by this chapter.

[Articles 20B.004-20B.010 reserved for expansion]

SUBCHAPTER B. CERTIFICATION REQUIREMENTS

Art. 20B.011. CERTIFICATION BY COMMISSIONER. On submission of an application to the department, the commissioner shall issue a certificate of authority as an integrated health plan to an eligible nonprofit health maintenance organization that:

(1) meets the requirements described under Subchapters C, D, E, F, and G of this chapter; and

(2) is accredited by:

(A) the National Committee on Quality Assurance; or

(B) a similar nationally recognized review organization acceptable to the commissioner.

Art. 20B.012. ELIGIBILITY. The commissioner may not issue a certificate of authority under this chapter to a single service or limited service health maintenance organization.

Art. 20B.013. REVOCATION OF CERTIFICATE. (a) After notice to an integrated health plan and an opportunity for a hearing, the commissioner may revoke that plan's certificate issued under this chapter for a material violation of this chapter.

(b) The commissioner shall notify the integrated health plan in writing not later than the 30th day before the effective date of the proposed revocation. The notice must specify in detail the reasons for the proposed revocation.

(c) The integrated health plan has 30 days after the date on which the notice is sent to:

(1) correct the problems listed in the notice; or

(2) show to the satisfaction of the commissioner that the information in the notice is incorrect.

(d) An integrated health plan that receives a notice under this article may dispute the assertions in the notice and request a hearing under Chapter 2001, Government Code, to resolve the dispute.

Art. 20B.014. COMPLIANCE WITH STANDARDS OR RATIOS. Notwithstanding any other provision of this chapter, the commissioner may not issue a certificate of authority to, and may revoke the certificate of authority of, an integrated health plan that fails to meet or maintain complaint standards or ratios, quality of care standards or ratios, or financial stability or viability standards or ratios considered appropriate by the commissioner.

[Articles 20B.015-20B.020 reserved for expansion]

SUBCHAPTER C. ADMINISTRATION
AND ORGANIZATION OF PLAN

Art. 20B.021. NONPROFIT ENTITY. Each plan must be organized as a nonprofit entity.

Art. 20B.022. BOARD OF DIRECTORS. Each plan must have a board of directors that includes:

(1) members; and

(2) physicians, or a combination of physicians and other types of providers, who provide health care services to members.

Art. 20B.023. GROUP MEDICAL PRACTICE. (a) Each plan shall provide the majority of its professional medical services through a single group medical practice.

(b) The plan shall:

(1) appoint as chief executive officer of the plan a physician who is a member of the group medical practice; or

(2) adopt procedures that ensure that medical management policies are a cooperative endeavor between the group medical practice and the plan.

(c) The procedures adopted under Subsection (b) of this article must establish methods by which the health care interests of plan members and the medical interests of the physicians of the group medical practice are represented at the policy and decision-making levels of the plan.

(d) Physicians from the group medical practice, other qualified providers, or other licensed medical personnel under the direct supervision of physicians from the group medical practice, shall make each determination regarding:

(1) medical utilization management;

(2) medical quality assurance;

(3) medical issues relating to coverage;

(4) medical necessity or appropriateness of treatment; and

(5) medical issues relating to pre-authorization and post-authorization of treatment.

Art. 20B.024. RIGHTS OF PROVIDERS. (a) A plan may not prohibit a physician or other provider from discussing treatment options or restrict the provider's discussion of treatment options based on whether the plan covers the treatment or the cost of the treatment. This subsection does not require the plan to provide services or to cover treatments not otherwise included in its applicable benefit plan.

(b) The plan or group medical practice, as appropriate, shall:

(1) make available and disclose to each provider who applies for participation in the plan its written application procedures and qualification requirements for contracting with the plan; and

(2) provide a written notice of the reasons an initial application by a provider may be denied, which may include rejection of an initial application on the basis that the plan has a sufficient number of qualified providers of that type.

Art. 20B.025. CREDENTIALING PROGRAM; REQUIREMENTS. (a) A plan shall use physicians and other providers whose credentials are verified through a program that meets the requirements of this article.

(b) The plan shall implement its credentialing program through written policies and procedures establishing the credentialing process, including methods for original credentialing, recredentialing, recertification, and reappointment of physicians and providers who fall within the scope of services provided by the plan.

(c) The credentialing program shall obtain and review evidence of the following from primary sources:

(1) a license to practice from the appropriate licensing authority;

(2) a valid Drug Enforcement Administration registration under 21 U.S.C. Section 823 or a controlled substances registration under Subchapter C, Chapter 481, Health and Safety Code, as applicable;

(3) graduation from an accredited medical school and completion of a residency, or board certification, as applicable;

(4) work history;

(5) adequate professional liability insurance in accordance with the requirements adopted by the plan;

(6) history of professional liability claims; and

(7) sufficient information to enable the plan to request information on the applicant from the National Practitioner Data Bank and from the appropriate professional licensing agency for this state.

(d) The credentialing program shall also establish methods by which a periodic review is conducted to verify the credentials of a provider and to evaluate:

(1) members' complaints and comments;

(2) the plan's quality reviews;

(3) utilization management; and

(4) the results of member satisfaction surveys.

Art. 20B.026. PROVIDER INCENTIVE ARRANGEMENTS. (a) A plan may not provide incentives or rewards to its providers for denying or limiting necessary care to members.

(b) A plan's payment arrangements for physicians and other providers may not place an individual provider at such a substantial personal financial risk that it induces the provider to either inappropriately restrict medically necessary care or provide care beyond that which is conservatively needed by the patient. Physicians and other providers shall have the freedom to make clinical treatment decisions without substantial personal financial risk or reward.

Art. 20B.027. REVENUE TO BE SPENT ON SERVICES TO MEMBERS. (a) Each plan shall spend, on average over a three-year period, at least 85 percent of the revenue received from its members on the provision of services to its members.

(b) The commissioner shall consider a plan to have met the requirement of Subsection (a) of this article if compliance by the plan with the requirement may be inferred by periodic reports made by the plan to the National Association of Insurance Commissioners.

Art. 20B.028. MARKETING REQUIREMENTS. (a) In offering its benefit plan to employers, each plan shall provide adequate written descriptions of its rules, procedures, benefits, fees and other charges, and services.

(b) The plan shall publicize through appropriate methods its enrollment periods and shall specify whether an enrollment period is limited or of continuous duration.

(c) On request by a member, the plan shall provide to the member a written copy of the most current statement of member rules and rights. The information must include:

(1) a description of the benefits provided;

(2) how and where to obtain services;

(3) restrictions on coverage, if any;

(4) a description of the plan's grievance resolution and appeals procedures;

(5) rights of a member regarding termination of enrollment;

(6) findings from patient satisfaction surveys and quality reviews conducted by external organizations; and

(7) a statement of the obligation of the plan to assume financial

responsibility and provide reasonable reimbursement for medically necessary emergency services and urgently needed services.

(d) The plan may not discriminate in its marketing by:

(1) discouraging participation on the basis of age or race; or

(2) attempting to enroll persons from a high-income area if a comparable effort is not made to enroll persons from lower-income areas.

(e) The plan may not market its benefit plan in a manner that would mislead, confuse, or misrepresent.

(f) The plan may not offer gifts or payment as an inducement to enroll in the plan, except for marketing materials, meals, souvenirs, and other items of nominal value.

[Articles 20B.029-20B.040 reserved for expansion]

SUBCHAPTER D. QUALITY IMPROVEMENT

Art. 20B.041. QUALITY IMPROVEMENT PROGRAM. (a) Each plan shall adopt an ongoing quality improvement program designed to monitor and evaluate the quality and appropriateness of care and service provided to members and to pursue opportunities for improvement. The scope and content of the program shall reflect the delivery system of the plan and shall include both the quality of clinical care and the quality of service. The program shall have a written quality improvement statement that contains, at a minimum:

(1) a methodology that stresses health outcomes;

(2) peer review by physicians and other providers;

(3) systematic data collection on performance and patient results; and

(4) procedures for taking appropriate remedial action.

(b) The quality improvement program shall identify important areas for improvement. The monitoring and evaluation of important aspects of care and service by the program shall include high-volume, high-risk services and the care of acute and chronic conditions. Through the program, the plan shall:

(1) adopt practice guidelines or explicit criteria that are based on reasonable scientific evidence and reviewed by plan providers;

(2) evaluate the continuity and coordination of care that members receive; and

(3) establish mechanisms to detect underuse as well as overuse.

Art. 20B.042. ORGANIZATIONAL DESCRIPTION. Each plan shall specify within the quality improvement program its organizational arrangements and responsibilities for quality improvement processes, which must be clearly defined and assigned to appropriate individuals. The plan shall maintain a written description of the program that outlines the program structure and design. The plan shall review the program description annually and update the description as necessary.

Art. 20B.043. PROGRAM IMPLEMENTATION. (a) A designated senior executive of the plan shall be responsible for implementation of the program. The plan's medical director shall have substantial involvement in quality improvement activities.

(b) If the plan delegates any quality improvement activities to independent contractors, the quality improvement program must require oversight of the delegated activities by the plan. The required oversight must include periodic reporting by the contractor, accountability for the delegated activities, and establishment of a process by which the delegation is evaluated.

Art 20B.044. QUALITY IMPROVEMENT COMMITTEE. (a) Each plan shall appoint a committee to oversee and support quality improvement activities. The contracting providers shall participate actively in the quality improvement committee.

(b) The committee shall maintain records reflecting the actions of the committee. The committee shall adopt an annual quality improvement work plan or schedule of activities that includes:

(1) the objectives, scope, and planned projects or activities for the year;

(2) planned monitoring of previously identified issues, including tracking of those issues over time; and

(3) planned evaluation of the quality improvement program.

(c) The committee shall be accountable to the governing body of the plan or a committee of plan senior managers. The committee shall demonstrate evidence of a formally designated structure, accountability at the highest levels of the organization, and ongoing and continuous oversight of quality improvement.

Art. 20B.045. REPORTS; COORDINATION OF ACTIVITIES. (a) The quality improvement program shall document and report to appropriate individuals within the plan organization the findings, conclusions, recommendations, actions taken, and results of the actions taken as a result of quality improvement activity. The reports shall be made through the quality improvement program in accordance with the plan organizational structure.

(b) The program shall coordinate quality improvement activities with other performance-monitoring activities.

Art. 20B.046. DATA ANALYSIS. (a) The quality improvement program shall analyze measurements of quality and quality improvement data to evaluate quality improvement. The program shall use quality indicators that are objective, measurable, and based on current knowledge and clinical experience to monitor and evaluate each important aspect of care and service identified by the program.

(b) The program shall analyze all data collected through the monitoring and evaluation activities.

Art. 20B.047. EVALUATION. (a) Each quality improvement program shall ensure that the plan takes action as necessary to improve quality and shall assess the effectiveness of that action through systematic evaluations.

(b) The results of evaluations conducted under this article shall be used by the plan to improve clinical care and service.

Art. 20B.048. ANNUAL ASSESSMENT BY PLAN; REPORT. Each plan shall annually assess the overall effectiveness of its quality improvement program and shall issue an annual written report on quality improvement, including:

(1) completed quality improvement activities;

(2) trends in clinical and service indicators and other performance data;

and

(3) demonstrated improvements in quality.

[Articles 20B.049-20B.060 reserved for expansion]

SUBCHAPTER E. DELIVERY OF
HEALTH CARE SERVICES TO MEMBERS

Art. 20B.061. SERVICE DELIVERY SYSTEM. (a) Each plan shall provide or arrange for the provision of basic health services to its members.

(b) The services provided by a plan shall be reasonably accessible to its members with respect to geographic location, hours of operation, and provision of after-hours services. This subsection does not preclude the plan from providing or arranging for the provision of member care within or outside the service area of the plan for care that requires a higher level of skill or specialty care than that which is available within the service area.

(c) The plan shall cover emergency services at all times in accordance with Article 20B.065 of this code.

(d) Each plan shall maintain appropriate systems as necessary to monitor:

(1) member waiting time to get appointments with participating providers;

(2) member telephone access to participating providers; and

(3) the plan's arrangements for the provision of emergency services.

Art. 20B.062. STANDARDS FOR DELIVERY OF CARE; MEMBER ACCESS. (a) Each plan shall establish standards regarding the availability of primary care providers to members and member access to services provided through the plan, including access to:

(1) routine, urgent, and emergency care;

(2) a telephone appointment system;

(3) advice from providers; and

(4) other member telephone services.

(b) The plan's performance on member access to services shall be assessed against the standards.

Art. 20B.063. HEALTH MANAGEMENT EFFORTS. (a) Each plan shall take an active role in improving the health status of its members and promoting effective health management by identifying members with chronic illnesses and implementing appropriate programmatic responses.

(b) The plan shall inform and educate each provider about using the health management program for the members assigned to that provider.

Art. 20B.064. MEDICAL RECORDS AND CONTINUITY OF CARE. (a) A plan shall ensure continuity of care through:

(1) use of a health care professional who is primarily responsible for coordinating the member's overall health care; and

(2) a system that maintains or ensures the maintenance of necessary health and medical records that:

(A) accumulate pertinent information about each member's health care; and

(B) are available to appropriate health care professionals.

(b) A plan shall have policies and procedures governing the maintenance of the health and medical records to ensure that those records are maintained in a manner that:

(1) is current, detailed, and organized; and

(2) permits effective patient care and quality review.

(c) A plan shall ensure that:

(1) members' medical records are maintained so as to ensure confidentiality, including written confidentiality policies and procedures; and

(2) a member is afforded the opportunity to approve or refuse the release of identifiable personal information except:

(A) to fulfill essential health plan functions and obligations, including:

(i) quality improvement;

(ii) determining entitlement to health care services;

(iii) administering payments; or

(iv) conducting approved, bona fide medical education or research; or

(B) when the release is required by law.

Art. 20B.065. PAYMENT OF CERTAIN EMERGENCY SERVICES.

(a) The plan is financially responsible for, and shall provide reasonable reimbursement for, necessary emergency services required by a member, including services to treat and stabilize an emergency medical condition that are obtained by a member from a provider outside the plan, even if the services are provided without prior authorization from the plan.

(b) The plan is financially responsible for the charges made by a hospital emergency department for a medical screening examination or other evaluation required by state or federal law that is necessary to determine whether a medical emergency exists for a member.

(c) After patient stabilization, the plan shall respond in a timely manner appropriate to the circumstances of the case to requests to provide additional services through the hospital emergency department.

(d) On submission of written notice by a member of a valid claim for medically necessary emergency care services, the plan shall promptly reimburse the member for any amounts for which the plan is obligated to pay.

Art. 20B.066. MEMBER RIGHTS AND RESPONSIBILITIES. (a) The plan shall adopt written policies that recognize the rights of a member to:

(1) voice grievances about the plan or the care provided by the plan;

(2) be provided with information about the plan, its services, the practitioners providing care, and members' rights and responsibilities;

(3) participate in the decision-making regarding the member's personal health care; and

(4) be treated with respect, recognizing the member's dignity and need for privacy.

(b) The plan shall have written policies that address the responsibility of a member to cooperate with providers providing health care services. The written policy shall address the member's responsibility to:

(1) provide, to the extent possible, information needed by professional staff to care for the member; and

(2) follow instructions and guidelines given by those providers.

(c) The plan shall provide a copy of its policies relating to the rights and responsibilities of members on request to each participating provider and directly to each subscriber.

Art. 20B.067. GRIEVANCE RESOLUTION. Each plan shall establish,

maintain, and inform each subscriber in writing of the appeal and grievance procedures for each plan decision. The plan shall have a formal system for resolving members' grievances that:

(1) establishes and monitors standards for timely disposition of a grievance;

(2) documents the substance of a grievance and the resulting actions taken;

(3) ensures a resolution of the grievance;

(4) establishes an appeals process:

(A) in which a member has the right to appear before an appeals panel established by the plan and to request a review of that panel's decision by different plan personnel; and

(B) that provides expedited procedures for emergency situations;

(5) aggregates and analyzes information relating to grievances and uses that information in its quality improvement program; and

(6) ensures that a member who has filed a grievance or an appeal is not the subject of retaliation or termination by the plan solely because of that filing.

Art. 20B.068. DIRECT ACCESS. (a) The plan shall have a written procedure to allow a member who has a chronic disabling or life-threatening condition to apply to the plan's medical director for direct access to specialty care appropriate to that member's condition. The written procedure may include initial approval by the member's primary care physician and the appropriate specialist.

(b) The medical director may set the conditions under which the member may access the appropriate specialist directly.

(c) A member may appeal a denial of a request for direct access through the appeals process required by this chapter.

[Articles 20B.069-20B.080 reserved for expansion]

SUBCHAPTER F. PROTECTION AGAINST INSOLVENCY

Art. 20B.081. NO PRIVATE INTEREST. No individual or other person may own an interest in a plan.

Art. 20B.082. NET WORTH; RETAINED EARNINGS. (a) Each plan's total net worth shall represent retained earnings and other capital sources. Retained earnings shall be used to:

(1) serve the plan's health care purposes;

(2) meet the plan's financial obligations, excluding surplus notes arrangements; and

(3) provide benefits to the community at large or support medical education or research.

(b) Each plan shall maintain a total net worth and retained earnings in amounts determined by the commissioner to be adequate to provide services to its members.

(c) The commissioner shall accept a plan's total net worth as adequate if the plan's average net worth for the three years preceding the date on which the plan applied to the department for a certificate of authority to operate as an integrated health plan, as reported in the annual statement filed by the plan

with the department under Article 20A.10, Texas Health Maintenance Organization Act (Article 20A.10, Vernon's Texas Insurance Code), has been at least \$10 million.

(d) The commissioner may not accept a plan's retained earnings as adequate if the plan has:

(1) historically experienced losses resulting in a negative balance in the plan's retained earnings account; or

(2) reported losses to the department under Article 20A.10, Texas Health Maintenance Organization Act (Article 20A.10, Vernon's Texas Insurance Code), in either of the two calendar years preceding the date on which the plan applied to the department for a certificate of authority to operate as an integrated health plan.

Art. 20B.083. LIQUID ASSETS. Each plan shall maintain sufficient cash or other liquid assets, or guarantee of liquid assets, as necessary to meet the plan's financial obligations when due.

Art. 20B.084. SOLVENCY PROTECTION PROGRAM. Each plan shall adopt a solvency protection program that includes methods to protect plan members from incurring liability for payment of fees for health care services that are the legal obligation of the plan.

[Articles 20B.085-20B.100 reserved for expansion]

SUBCHAPTER G. UTILIZATION MANAGEMENT

Art. 20B.101. UTILIZATION MANAGEMENT PROGRAM. (a) Each plan shall adopt and maintain a written health care utilization management program to ensure that the care provided to members is appropriate, of high quality, and not based solely on economic criteria.

(b) The program at a minimum must provide for the accumulation and review of information relating to:

(1) new medical procedures and technologies;

(2) provider performance;

(3) health care services utilization;

(4) procedures for pre-authorization, if pre-authorization is used; and

(5) concurrent review.

(c) The program must require that any pre-authorization requirements and concurrent review are supervised by qualified medical professionals and that any denial of care must be reviewed by a licensed physician.

Art. 20B.102. PROCEDURES FOR DENIAL OF TREATMENT. (a) The program must provide that:

(1) utilization management decisions are made in a timely manner, depending on the urgency of the situation;

(2) the reasons for denial of treatment are clearly documented and made available to the member or physician; and

(3) procedures for the appeal of a denial of treatment are communicated to the affected member.

(b) The program must include a process for an appeal of an adverse determination. The process must include the presentation of information by and the opinion of the treating physician regarding the determination. If the decision to deny coverage was based on a determination of lack of medical necessity, the appeal must be decided by a physician.

(c) Unless the determination involves a life-threatening or emergency situation, an appeal of an adverse determination must be resolved not later than the 30th day after the date of receipt of all necessary medical information. If the determination involves a life-threatening or emergency situation, the appeal must be decided on an expedited basis as provided by Subsection (d) of this article.

(d) The program must include an expedited process for an appeal of denial of treatment for a member with a life-threatening condition. A complaint of denial of treatment that is subject to this subsection must be resolved not later than the seventh day after receipt of the complaint. An appeal of a determination made under this subsection must be resolved not later than the seventh day after the date of receipt of the appeal request.

Art. 20B.103. HOSPITAL STAY. (a) The program shall ensure that the determination of the appropriate length of stay in a hospital, including hospitalization provided under maternity benefits, is made by the attending physician and the patient, taking into consideration any special needs of the patient and, in the case of maternity benefits, any special needs of the infant.

(b) The determination of the appropriate length of stay in a hospital may not be based on economic criteria.

[Articles 20B.104-20B.120 reserved for expansion]

SUBCHAPTER H. OPERATION OF INTEGRATED HEALTH PLAN

Art. 20B.121. DETERMINATION OF MEDICAL NECESSITY. (a) An integrated health plan shall have written policies and procedures for making determinations as to whether a medical treatment is medically necessary, experimental or investigational, or covered under the terms of the health coverage provided by the plan. Those policies and procedures must comply with this subchapter.

(b) The medical director of the integrated health plan, who must be a physician licensed to practice medicine in this state and employed by the applicable group medical practice, shall render or approve a determination described by Subsection (a) of this article. The medical director may delegate this responsibility to one or more physicians who are licensed to practice medicine in this state and are employed by or affiliated with the group medical practice.

(c) The integrated health plan or group medical practice shall subscribe or have access to an organized technology assessment service that is independent from the plan and group medical practice.

(d) The integrated health plan or group medical practice shall have a committee composed of licensed physicians of the group medical practice and, as necessary, other types of licensed medical professionals that serve as an advisory body to the medical director in making determinations of whether a medical treatment is medically necessary or experimental or investigational.

(e) Before deciding that a medical treatment is not medically necessary, is experimental or investigational, or is not covered under the terms of the policy of health coverage, the medical director, or the medical director's designee, shall perform one or more of the following actions, as appropriate to the circumstances and time constraints of the case:

- (1) review the patient's medical record;

(2) review the patient's case with a physician of the same or similar specialty as the physician recommending the treatment in question;

(3) review relevant reports or findings of the technology assessment service described under Subsection (c) of this article; or

(4) consult with the advisory committee described under Subsection (d) of this article.

(f) If the medical director or the medical director's designee renders or approves a negative decision about a medical treatment and the integrated health plan declines to provide coverage for the treatment, the affected member may appeal the decision through the grievance resolution procedure required under this chapter.

Art. 20B.122. LIABILITY. (a) An integrated health plan that complies with the policies and procedures required under Article 20B.121 of this code is not liable for personal injury, property damage, or death that arises as a result of the decision by the plan to cover or not cover a treatment. If the member or the member's provider fails to request approval from the plan for the treatment until after the treatment is performed, the plan is not liable for personal injury, property damage, or death that arises as a result of the decision by the integrated health plan to cover or not cover the treatment.

(b) An integrated health plan and the group medical practice may indemnify the other with respect to a negligent act or omission. The plan may not require any provider who is not affiliated with the group medical practice to indemnify the plan for its negligent act or omission.

(c) Notwithstanding Subsection (b) of this section, the group medical practice assumes all liability for personal injury, property damage, or death described by Subsection (a) of this article to the exclusion of all liability of the integrated health plan, except that the group medical practice may not be liable for damages under both this article and the Medical Liability and Insurance Improvement Act (Article 4590i, Vernon's Texas Civil Statutes).

Art. 20B.123. APPLICATION OF INSURANCE LAWS. (a) Except as provided by this article, an integrated health plan is exempt from the operation and application of all insurance laws of this state, including this code.

(b) An integrated health plan is subject to the following laws as those laws existed on January 15, 1997:

(1) the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);

(2) Chapter 26, Insurance Code;

(3) Articles 1.04, 1.10, 1.10A, 1.10B, 1.10E, 1.11, 1.14-1, 1.15A, 1.19-1, 1.24C, 1.24D, 1.28, 1.31, 1.31A, 1.32, 1.33, 1.33B, 1.39, 1.41, 3.10, 3.51-5A, 3.51-6B, 3.51-6C, and 3.51-10, Insurance Code;

(4) Section 1(F)(5), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-1, Vernon's Texas Insurance Code);

(5) Sections 2(F), (G), and (L), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code);

(6) Articles 3.72, 3.74, 3.77, 21.21-2, 21.21-4, 21.46, and 21.52C, Insurance Code;

(7) Article 21.21-6, Insurance Code, as added by Chapter 522, Acts of the 74th Legislature, Regular Session, 1995;

(8) Article 21.52D, Insurance Code, as added by Chapter 935, Acts of the 73rd Legislature, Regular Session, 1993;

(9) Articles 21.53A, 21.53C, 21.58A, 21.71, and 21.79D, Insurance Code;

(10) Sections 2(a) and 4(a), Article 1.36, Insurance Code;

(11) Section 5(e), Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code);

(12) Section 4(b)(4)(D), Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code);

(13) Section 3A, Article 3.51-6, Insurance Code;

(14) Section 3C, Article 3.51-6, as added by Chapter 1041, Acts of the 71st Legislature, Regular Session, 1989;

(15) Article 21.07-6, Insurance Code, except Sections 4, 5, 10, and 20(a)(1); and

(16) Section 5, Article 21.53, Insurance Code.

(c) An amendment to a law listed in Subsection (b) of this article applies to an integrated health plan only if specifically made applicable to an integrated health plan in its enactment.

(d) No provision of this code or other laws, other than those listed by Subsection (b) of this article, whether existing on or enacted after January 15, 1997, apply to an integrated health plan unless that law is expressly added to that list.

(e) Unless this subsection is specifically amended to the contrary, a law or rule, regardless of its effective date, may not prohibit or in any way restrict an integrated health plan from:

(1) selectively contracting with or declining to contract with any or all providers as the integrated health plan considers necessary;

(2) contracting for or declining to contract for an individual health care service or full range of health care services as the integrated health plan considers necessary, if the service or services may be legally provided by the contracting provider; or

(3) requiring enrolled members of the integrated health plan who wish to obtain the services covered by the integrated health plan to use the providers specified by the integrated health plan.

(2) On page 77, line 24, House Committee Report Printing, strike "SECTION 27" and substitute "SECTION 28. (a)".

(3) On page 77, between lines 26 and 27, House Committee Report Printing, insert the following:

(b) Chapter 20B, Insurance Code, as added by Section 27 of this Act, takes effect September 1, 1997.

SECTION 29. Article 20B.122(c), Insurance Code, as added by this Act, is contingent on the passage of S.B. 386, Acts of the 75th Legislature, Regular Session, 1997. If S.B. 386, Acts of the 75th Legislature, Regular Session, 1997, does not become law, Article 20B.122(c), Insurance Code, as added by this Act, has no effect.

(4) On page 77, line 27, House Committee Report Printing, strike "SECTION 28. This Act applies" and substitute "SECTION 30. Sections 1-26 of this Act apply".

(5) On page 78, House Committee Report Printing, strike line 6 and substitute "SECTION 31. Except as provided by Sections 28(a) and 29 of this Act,".

(6) On page 78, line 8, House Committee Report Printing, strike "SECTION 30" and substitute "SECTION 32".

(Eiland in the chair)

Amendment No. 8 failed of adoption.

Amendment No. 9

Representative Berlanga offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

In SECTION 5 of the bill, in Section 9, Texas Health Maintenance Organization Act (Article 20A.09, Vernon's Texas Insurance Code), following new Paragraph (n), insert a new Paragraph (o) to read as follows:

"(o) The commissioner may adopt minimum standards relating to drug benefits to ensure the ability of physicians to exercise ordinary care in health care treatment decisions."

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Longoria offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) Insert a new SECTION, appropriately numbered, to read as follows:
SECTION _____. The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding Section 14A to read as follows:

Sec. 14A. PROHIBITION OF PENALTIES FOR CERTAIN ACTS OF PHYSICIAN OR PROVIDER; ADMINISTRATIVE PENALTY. (a) A health maintenance organization may not include in a contract with a physician or provider who provides medical care or health care to a person covered under the plan any provision that penalize the physician or provider for:

(1) referring the person for additional diagnosis or treatment by a specialist; or

(2) otherwise using the physician's or provider's own best professional judgment in prescribing a particular medication, treatment, or device for use by the person.

(b) This section does not preclude a health maintenance organization from using utilization review in a manner that complies with Article 21.58A, Insurance Code, in the operation of a health care plan offered by that health maintenance organization.

(c) A health maintenance organization that violates this article in the operation of a health care plan offered by that health maintenance organization is subject to an administrative penalty as provided by Article 1.10E, Insurance Code.

(2) Renumber the SECTIONS of the bill accordingly.

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Gallego offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) Add a new section, appropriately numbered, to read as follows:

SECTION _____. The Texas Health Maintenance Organization Act (Article 20A.01 et seq., Vernon's Texas Insurance Code) is amended by adding Section 9A to read as follows:

Sec. 9A. ENROLLEE WITH TERMINAL CONDITION.

(a) Notwithstanding any other provision of this Act, if an enrollee is receiving services under a health care plan from a physician or provider for a terminal condition, and the agreement between the health maintenance organization and the physician or provider under which the services are provided is terminated, the enrollee may continue to receive services for which benefits are provided under the plan from the physician or provider.

(b) The health maintenance organization shall reimburse the physician or provider for services provided under this section at the usual and customary rate or at an agreed rate.

(c) The commissioner, by rule, may define a condition that is a terminal condition for purposes of this section.

(d) This section does not apply if the agreement with the physician or provider is terminated for a reason related to the medical competence or professional behavior of the physician or provider.

(2) In the transition material in the bill, add a new section, appropriately numbered, to read as follows:

SECTION _____. Section 9A, Texas Health Maintenance Organization Act (Article 20A.09A, Vernon's Texas Insurance Code), as added by this Act, applies only to an evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 1998. An evidence of coverage that is delivered, issued for delivery, or renewed before January 1, 1998, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for this purpose.

(3) Renumber subsequent sections of the bill appropriately.

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Burnam offered the following amendment to **CSSB 385**:

Amend **CSSB 385** on page 26, lines 24-25, between "to" and "and", insert ", allows accurate comparisons to other plans,".

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Burnam offered the following amendment to **CSSB 385**:

Amend **CSSB 385** on page 23, insert a new Subsection (n) to read as follows between lines 26-27, and reletter the subsequent subsection accordingly:

(n) Any employer who selects an HMO to provide health care coverage

for employees shall include at least one HMO that provides the full "basic health care services" as defined in Sec. 2 of this Act.

Representative Smithee moved to table Amendment No. 13.

A record vote was requested.

The motion to table prevailed by (Record 549): 107 Yeas, 31 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Bonnen; Bosse; Brimer; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Delisi; Denny; Dunnam; Edwards; Eiland(C); Elkins; Finnell; Flores; Gallego; Galloway; Glaze; Goodman; Goolsby; Grusendorf; Gutierrez; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; King; Kruse; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; McCall; McReynolds; Merritt; Moffat; Mowery; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Rabuck; Ramsay; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Shields; Siebert; Smith; Smithee; Staples; Stiles; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Uher; Walker; West; Williams; Williamson; Wise; Wohlgenuth; Woolley; Zbranek.

Nays — Alvarado; Burnam; Coleman; Danburg; Davila; Davis; Dukes; Dutton; Ehrhardt; Farrar; Garcia; Gray; Greenberg; Hernandez; Hirschi; Hochberg; Hodge; Jones, J.; Luna; Maxey; McClendon; Naishtat; Oliveira; Puente; Rangel; Sadler; Solis; Thompson; Van de Putte; Wolens; Yarbrough.

Present, not voting — Mr. Speaker.

Absent, Excused — Bailey; Driver; Moreno; Solomons; Turner, S.; Wilson.

Absent — Giddings; Haggerty; Hightower; Serna.

Amendment No. 14

Representative Burnam offered the following amendment to **CSSB 385**:

Amend **CSSB 385**, SECTION 5, Section 9(m), on page 23, by striking lines 19-26, and renumbering the following Subsections accordingly.

Amendment No. 14 was withdrawn.

(Speaker in the chair)

Amendment No. 15

Representative G. Lewis offered the following amendment to **CSSB 385**:

Amend **CSSB 385** on page 11, line 9, between "providers;" and "those", by inserting "on request of the commissioner, a health maintenance organization shall provide a description of specific compensation arrangements;".

Representative Smithee moved to table Amendment No. 15.

The motion to table was withdrawn.

Amendment No. 15 was adopted without objection.

Amendment No. 16

Representative G. Lewis offered the following amendment to **CSSB 385**:

Amend **CSSB 385** on page 57, line 16, between "the" and "day" by deleting "30th" and substituting "60th".

Representative Van de Putte moved to table Amendment No. 16.

The motion to table prevailed.

Amendment No. 17

Representative Holzheuser offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) Insert a new SECTION to the bill, appropriately numbered, to read as follows:

SECTION _____. The Texas Health Maintenance Act (Chapter 20A, Vernon's Texas Insurance Code), is amended by adding Section 9D to read as follows:

Sec. 9D. COVERAGE FOR MASSAGE THERAPY. (a) Each health maintenance organization shall provide coverage for massage therapy, as that term is defined in Section 1, Chapter 752, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes), administered by a person registered as a massage therapist under that Act, if:

(1) massage therapy is prescribed by a physician for the treatment of any condition; and

(2) that type of treatment would be covered by the health care plan offered to enrollees by the health maintenance organization if performed by a physician.

(b) The health maintenance organization may make the coverage offered under Subsection (a) of this section subject to the same copayment applicable to the condition for which massage therapy is prescribed.

(c) The commissioner may adopt rules as necessary to implement this section.

(2) Renumber the subsequent SECTIONS of the bill appropriately.

Amendment No. 17 was adopted.

Amendment No. 18

Representative Van de Putte offered the following amendment to **CSSB 385**:

Amend **CSSB 385** as follows:

(1) In the recital to SECTION 12 of the bill, (page 38, line 7, House Committee Report Printing), strike "(i)-(m)" and substitute "(i)-(s)".

(2) In SECTION 12 of the bill, in Section 14, Texas Health Maintenance Act (Chapter 20A, Vernon's Texas Insurance Code), (page 40, between lines 6 and 7, House Committee Report Printing), insert Subsections (n)-(s) to read as follows:

(n) A health maintenance organization may not:

(1) prohibit or limit an enrollee from selecting a pharmacy or pharmacist of the person's choice to be a provider under the health care plan to furnish pharmaceutical services offered or provided by that plan or interfere with that person's selection of a pharmacy or pharmacist;

(2) deny a pharmacy or pharmacist the right to participate as a contract provider under the plan if the pharmacy or pharmacist agrees to provide pharmaceutical services that meet all terms and requirements of the plan and to include the same administrative, financial, and professional conditions that apply to pharmacies and pharmacists who have been designated as providers under the plan; or

(3) require an enrollee to obtain or request a specific quantity or dosage supply of pharmaceutical products.

(o) Notwithstanding Subsection (n)(3) of this section, a health maintenance organization may allow the physician of an enrollee to prescribe drugs in a quantity or dosage supply the physician determines appropriate and that is in compliance with state and federal statutes.

(p) This section does not prohibit:

(1) a provision of a plan from limiting the quantity or dosage supply of pharmaceutical products for which coverage is provided or providing financial incentives to encourage the enrollee and the prescribing physician to use a program that provides pharmaceutical products in quantities that result in cost savings to the health maintenance organization and the enrollee if the provision applies equally to all designated providers of pharmaceutical services under the health care plan;

(2) a pharmacy card program that provides a means of obtaining pharmaceutical services offered by the health care plan through all designated providers of pharmaceutical services; or

(3) a health maintenance organization from establishing reasonable application and recertification fees for a pharmacy which provides pharmaceutical services as a provider if the fees are uniformly charged to each pharmacy under contract with the organization.

(q) A provision of a health care plan that is delivered, issued for delivery, entered into, or renewed in this state that conflicts with Subsections (n)-(p) of this section is void to the extent of the conflict.

(r) Subsections (n)-(p) of this section do not require a health maintenance organization to provide pharmaceutical services. The provisions of those subsections do not apply to a self-insured employee benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001, et seq.).

(s) In Subsections (n)-(r) of this section, the terms "pharmacist," "pharmaceutical services," "pharmacy," "drugs," and "prescription drugs" have the meanings assigned by Article 21.52B, Insurance Code.

Amendment No. 18 was adopted without objection.

Amendment No. 19

Representatives Dukes and Wohlgemuth offered the following amendment to **CSSB 385**:

Amend **CSSB 385** by adding the following SECTION, appropriately numbered, to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. (a) The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding Section 11C to read as follows:

Sec. 11C. ENROLLEE INFORMATION RELATING HYSTERECTOMIES. (a) A physician providing services to an enrollee under a health care plan, before performing a hysterectomy on the enrollee, shall provide to the enrollee the materials described by this section. This subsection does not apply if the hysterectomy is performed in a life-threatening situation in which the physician determines that providing the materials is not reasonably possible. If providing the materials is not reasonably possible, the physician shall include in the enrollee's medical records a written statement signed by the physician certifying the nature of the emergency.

(b) The commissioner of insurance shall develop and prepare written materials to inform an enrollee of the risks and hazards of a hysterectomy and the availability of alternatives to a hysterectomy. In preparing the information to be provided under this section, the commissioner may consult with the Texas Medical Disclosure Panel established under the Medical Liability Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes) or any other appropriate agency of this state.

(c) The materials shall be available in English, Spanish, and any other language the commissioner considers appropriate. The information must be presented in a manner understandable to a layperson.

(d) The materials must include;

(1) a notice that a decision made at any time to refuse to undergo a hysterectomy will not result in the withdrawal or withholding of any benefits provided under the health care plan or under programs or projects receiving federal funds or otherwise affect the patient's right to future care or treatment;

(2) the name of the person providing and explaining the materials;

(3) a statement that the enrollee understands that the hysterectomy is permanent and nonreversible and that the enrollee will not be able to become pregnant or bear children if she undergoes a hysterectomy;

(4) a statement that the enrollee has the right to seek a consultation from a second physician participating in the health care plan;

(5) a statement that the enrollee has been informed that a hysterectomy is a removal of the uterus through an incision in the lower abdomen or vagina and that additional surgery may be necessary to remove or repair other organs, including an ovary, tube, appendix, bladder, rectum, or vagina;

(6) blank spaces to list the procedures to be performed;

(7) a statement that the enrollee was informed of available and medically appropriate alternatives and blank spaces to list the alternatives;

(8) a description of the discomforts and risks that may accompany or follow the performance of the procedure;

(9) a description of the risks, hazards, and potential side effects of any anesthetic to be used;

(10) a blank space to indicate the approximate length of hospital stay and time of recovery;

(11) a statement of any related cost of the procedure that the enrollee will be required to pay; and

(12) a written statement to be signed by the enrollee indicating that

the materials have been provided and explained to the enrollee and that the enrollee understands the nature and consequences of a hysterectomy.

(b) The commissioner of insurance shall prescribe the form and content of the materials required to be distributed under Section 11C, Texas Health Maintenance Organization Act (Section 20A.11C, Vernon's Texas Insurance Code), as added by this Act, not later than January 1, 1998.

(c) The change in law made by this section applies only to a hysterectomy performed on or after January 1, 1998, by a physician providing services to an enrollee under a health care plan.

Amendment No. 19 was adopted without objection.

Amendment No. 20

Representative Burnam offered the following amendment to **CSSB 385**:

Amend **CSSB 385** in SECTION 5 of the bill, in Section 9(m), Texas Health Maintenance Act (Chapter 20A, Vernon's Texas Insurance Code), (page 23, lines 24-26, House Committee Report Printing), by striking "Health care services under this subsection shall set forth such limitations in the evidence of coverage as required by Section 9(a)(3) of this Act." and substituting "basic health care services must set forth in bold-face type on the front of the contract entered into with the contract holder, the evidence of coverage, and any other materials developed to solicit enrollees:

(1) the specific limitations adopted by the health maintenance organization, including a list of the services that are not offered under the organization's health care plan; and

(2) a statement that the organization is a health maintenance organization affiliated with a religious organization."

Representative Smithee moved to table Amendment No. 20.

The motion to table prevailed.

CSSB 385, as amended, was passed to third reading.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 31 ON THIRD READING **(Junell - House Sponsor)**

SB 31, A bill to be entitled An Act relating to the powers and duties of agencies in the executive, legislative, and judicial branches of state government, including authorizations for and restrictions on the use of state funds.

SB 31 was read third time earlier today and was postponed until 3 p.m. today.

Amendment No. 1

Representatives Junell, Coleman, Cuellar, and Hartnett offered the following amendment to **SB 31**:

Amend **SB 31** on Third Reading, in SECTION 4 of the bill, by striking "The Legislature finds" in Subsections (a), (b), (c), (e), (f), and (g) and substituting "The Commission on Human Rights of this state reports".

Amendment No. 1 was adopted without objection.

SB 31, as amended, was passed. (Chisum, Christian, Craddick, Galloway, Hartnett, Howard, Hupp, Isett, Kamel, Marchant, Roman, Seaman, Shields, Staples, Williams, Wohlgemuth, and Woolley recorded voting no)

STATEMENT BY REPRESENTATIVE MERRITT

I wished to register a no vote on **SB 31**.

Merritt

LEAVE OF ABSENCE GRANTED

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

Janek on motion of Staples.

**SB 1752 ON SECOND READING
(Wolens - House Sponsor)**

SB 1752, A bill to be entitled An Act relating to the purchase of goods and services by the state and to purchasing services provided by the state to local governments.

SB 1752 was read second time on May 24 and was postponed until 4 p.m. today.

Amendment No. 1 (Committee Amendment No. 1)

Representative Wolens offered the following committee amendment to **SB 1752**:

Amend **SB 1752** as follows:

(1) On page 4, line 12, between "agency" and "1", insert "subject to this chapter".

(2) On page 21, line 3, between "experience" and "1", insert "or demonstrated capability".

(3) On page 26, line 10, between "experience" and "1", insert "or demonstrated capability".

(4) On page 27, line 23, strike "Section 2155.074(b)" and substitute "Sections 2155.074 and 2155.075".

(5) On page 30, line 8, between "experience" and "1", insert "or demonstrated capability".

Amendment No. 2

Representative Wolens offered the following amendment to Amendment No. 1:

Amend Committee Amendment No. 1 to **SB 1752** as follows:

On page 35, strike lines 3-4 (house committee report printing) and substitute the following:

(1) On page 4, line 12, between "(a)" and "Each", insert "For a purchase of goods and services under this chapter".

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

Amendment No. 3

Representative Wolens offered the following amendment to **SB 1752**:

Amend **SB 1752** by adding the appropriately numbered section to the bill and renumbering existing sections of the bill accordingly:

SECTION _____. Section 1.034, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) All orders of the commission shall be in writing and shall contain detailed findings of facts upon which they are passed.

(b) The commission shall retain a copy of the transcript and the exhibits in any matter in which the commission issues an order. All files pertaining to matters which were at any time pending before the commission and to records, reports, and inspections required by Subtitle E of this title, Title II of this Act, and Title III of this Act shall be public records, subject to the terms of Chapter 552, Government Code.

(c) The fees charged by the commission for electronic access to information that is stored in the system established by the commission using funds from the Texas Public Finance Authority and approved by the Department of Information Resources shall be established by the commission in consultation with the General Services Commission, and shall be in an amount reasonable and necessary to retire the debt to the Texas Public Finance Authority associated with establishing the electronic access system.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Wolens offered the following amendment to **SB 1752**:

Amend **SB 1752** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION ___. Section 447.008, Government Code, is amended by amending Subsections (b) and (d) and adding Subsections (f), (g), and (h) to read as follows:

(b) Using available state, federal, or oil overcharge funds, the energy management center may assist state agencies and institutions of higher education in analyzing and negotiating rates for electricity and natural gas supplies from locally certificated electric suppliers, natural gas suppliers, or state-owned energy resources, including transportation charges for natural gas. The provisions of this section shall not be construed to empower the energy management center to negotiate rates for natural gas supplies on behalf of state agencies or institutions but rather to provide technical assistance as needed.

(d) Any state agency or institution of higher education with expertise in rate analysis, negotiation, or any other matter related to the procurement of electricity and natural gas supplies from locally certificated electric suppliers, natural gas suppliers, or state-owned energy resources may assist the energy management center whenever practicable. The attorney general on request shall assist the energy management center and other state agencies and institutions of higher education to negotiate rates for electricity and other terms of electric utility service.

(f) The energy management center on request may negotiate rates for electricity and other terms of electric utility service for a state agency or institution of higher education. The energy management center may also negotiate the rates and the other terms of service for a group of agencies and institutions together in a single contract.

(g) The energy management center shall analyze the rates for electricity charged to and the amount of electricity used by state agencies and institutions of higher education to determine ways the state could obtain lower rates and use less electricity. State agencies, including the Public Utility Commission of Texas, and institutions of higher education shall assist the energy management center to obtain the information the center requires to perform its analysis.

(h) The energy management center and the attorney general shall cooperate in monitoring efforts to deregulate the electric utility industry and in reporting on the ways in which deregulation would affect state government as a purchaser of electricity. The energy management center, represented by the attorney general, may intervene in proceedings before the Public Utility Commission of Texas that are related to deregulating all or part of the electric utility industry to represent the interests of state government as a purchaser of electricity in those proceedings.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Junell offered the following amendment to **SB 1752**:

Amend **SB 1752** by adding a new Section, appropriately numbered, to read as follows and by renumbering subsequent Sections accordingly:

SECTION _____. Section 411.013(a), Government Code, is repealed.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Naishtat offered the following amendment to **SB 1752**:

Amend **SB 1752** by adding the following sections, appropriately numbered, and renumbering existing sections appropriately:

SECTION _____. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.005 to read as follows:

Sec. 2157.005. TECHNOLOGY ACCESS CLAUSE. (a) The commission and the Department of Information Resources, in consultation with other state agencies and after public comment, shall develop a technology access clause to be included in all contracts entered into by the state or state agencies.

(b) The clause shall clearly state, as a condition for the expenditure of state funds in the purchase of an automated information system, that the technology:

(1) will provide equivalent access for effective use by both visual and nonvisual means;

(2) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; and

(3) can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

(c) This section applies to all contracts made by state agencies that involve the purchase of an automated information system, without regard to:

(1) the source of funds used to make the purchase;

(2) whether the purchase is made under delegated purchasing authority;

or

(3) whether the purchase is made under the authority of this subtitle or other law.

SECTION _____. The General Services Commission shall develop a technology access clause as required by Section 2157.005, Government Code, as added by this Act, not later than January 1, 1998.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Finnell offered the following amendment to **SB 1752**:

Amend **SB 1752** by adding the following appropriately numbered section and renumbering subsequent sections appropriately:

SECTION _____. Chapter 1, Title 20, Revised Statutes, is amended by adding Article 601j to read as follows:

Art. 601j. RENTAL OF MOTOR VEHICLE TO STATE EMPLOYEE

Sec. 1. DEFINITIONS. In this article:

(1) "Car rental company" means a person in the business of renting motor vehicles for periods of 90 days or less.

(2) "State agency" includes an institution of higher education, as defined by Section 61.003, Education Code.

(3) "State employee" means an officer or employee of a state agency.

Sec. 2. STATE REGISTRATION OF RENTAL VEHICLE. (a) Except as provided by Subsection (b) of this section, a car rental company may not rent a motor vehicle to a state employee in this state for compensation to be paid by a state agency unless the vehicle is titled and registered in this state.

(b) A car rental company may rent to the state employee a motor vehicle not titled and registered in this state if:

(1) a motor vehicle titled and registered in this state is not reasonably available; and

(2) the car rental company provides the state employee at the time of the rental an affidavit stating the reason the car rental company was unable to rent a motor vehicle titled and registered in this state and sends the state agency that employs the state employee, by registered mail not later than the 10th day after the date of the rental contract, a separately executed copy of the affidavit.

(c) Subsection (b)(2) of this section does not apply to a car rental company that submits an annual report to the General Services Commission, in the manner and format prescribed by the commission, that indicates that at least 90 percent of the motor vehicles operated in this state by the company are titled and registered in this state.

(d) A state employee may not be held responsible for the obligations of a car rental company under this section.

SECTION 2. Subchapter B, Chapter 2171, Government Code, is amended by adding Section 2171.0521 to read as follows:

Sec. 2171.0521. CERTAIN CONTRACTS WITH CAR RENTAL COMPANIES.

(a) The commission shall include in a contract for rental car services a provision that requires the car rental company with which the commission contracts to report annually to the commission the percentage of motor vehicles operated in this state by the car rental company that are titled and registered in this state. The contract must require that during the term of the contract at least 90 percent of the motor vehicles operated in this state by the company be titled and registered in this state.

(b) In this section, "car rental company" has the meaning assigned by Section 1, Article 601j, Revised Statutes.

Representative Wolens moved to table Amendment No. 7.

The motion to table prevailed.

SB 1752, as amended, was passed to third reading.

SB 627 ON THIRD READING
(Place - House Sponsor)

SB 627, A bill to be entitled An Act relating to certification of bail bondsmen by the Texas Department of Licensing and Regulation; providing a penalty.

SB 627 was read third time earlier today and was postponed until 4 p.m. today.

(Gallego in the chair)

Amendment No. 1

Representative Talton offered the following amendment to **SB 627**:

Amend **SB 627** by adding new Subsections (g) and (h) to Section 8, Article 2372p-4, Revised Statutes, as added by SECTION 1 of the bill, to read as follows:

(g) The certificate of registration, examination and continuing education requirements of this section are in addition to the requirements in sections 2, 4, 5, and 6 of this Act.

(h) The commissioner of insurance shall enforce the terms of the Bail Bond Act, Article 2372p-3, Revised Statutes, in regulating corporations under this section in order to protect the integrity of writing bonds and the financial interests of the bail bond board counties.

Amendment No. 1 was adopted without objection.

SB 627, as amended, was passed.

SB 160 ON THIRD READING
(West - House Sponsor)

SB 160, A bill to be entitled An Act relating to prosecution of the offense of tampering with or fabricating physical evidence; creating an offense.

SB 160 was read third time earlier today and was postponed until 4 p.m. today.

Amendment No. 1

Representative Kamel offered the following amendment to **SB 160**:

Amend **SB 160** on third reading as follows:

(1) In the recital to SECTION 1 (house committee printing, page 1, line 4), between "by" and "adding", insert "amending Subsection (c) and by".

(2) In SECTION 1, in Section 37.09, Penal Code (house committee printing, page 1, lines 6-10), strike proposed Subsection (d) and substitute the following:

(c) An offense under Subsection (a) or Subsection (d)(1) [this section] is a felony of the third degree. An offense under Subsection (d)(2) is a Class A misdemeanor.

(d) A person commits an offense if the person:

(1) knowing that an offense has been committed, alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in any subsequent investigation of or official proceeding related to the offense; or

(2) observes human remains under circumstances in which a reasonable person would believe that an offense had been committed, knows or reasonably should know that a law enforcement agency is not aware of the existence of or location of the remains, and fails to report the existence of and location of the remains to a law enforcement agency.

Amendment No. 1 was adopted without objection.

SB 160, as amended, was passed.

SB 102 ON THIRD READING
(Kamel - House Sponsor)

SB 102, A bill to be entitled An Act relating to the creation and use of an emergency medical services and trauma care system fund.

SB 102 was read third time today and was postponed until 5 p.m. today.

SB 102 was passed. (Horn and Keel recorded voting no)

GENERAL STATE CALENDAR
(consideration continued)

SB 1937 ON SECOND READING
(Carter - House Sponsor)

SB 1937, A bill to be entitled An Act relating to the provision of telecommunications services within municipalities.

Amendment No. 1

Representative Cuellar offered the following amendment to **SB 1937**:

Amend **SB 1937**, page 1, line 23 by inserting after the words "right-of-way;" the following: "to ensure the ability of municipalities to exercise their authority to manage the public rights-of-way,"

Amendment No. 1 was adopted without objection.

SB 1937, as amended, was passed to third reading.

CSSB 1063 ON SECOND READING
(Hill - House Sponsor)

CSSB 1063, A bill to be entitled An Act relating to the creation of municipal courts of record in Richardson.

CSSB 1063 was passed to third reading.

SB 777 ON SECOND READING
(McCall - House Sponsor)

SB 777, A bill to be entitled An Act relating to the authorization of certain deductions from an employee's pay.

Representative McCall moved to table **SB 777**.

The motion to table prevailed.

SB 258 ON SECOND READING
(McCall - House Sponsor)

SB 258, A bill to be entitled An Act relating to coverage under certain health benefit plans of tests for the detection of prostate cancer.

Amendment No. 1

Representative McCall offered the following amendment to **SB 258**:

Amend **SB 258**, in SECTION 1 of the bill, by striking proposed Section 2(b)(1), Article 21.53F, Insurance Code (Committee Printing page 2, line 25 through page 3, line 6) and substituting the following:

(1) a plan that provides coverage:

(A) only for a specified disease or other limited benefit;

(B) only for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;

(D) as a supplement to liability insurance; or

(E) only for indemnity for hospital confinement;

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Madden offered the following amendment to **SB 258**:

Amend **SB 258** as follows:

On page 2, between lines 23 and 24, add a new subsection "(4)" which incorporates this language, "Notwithstanding Section 172.014, Local Government Code, or any other law, this article applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.", and renumber the subsequent lines accordingly.

Amendment No. 2 was adopted.

SB 258, as amended, was passed to third reading. (Heflin recorded voting no)

SB 95 ON SECOND READING
(Shields - House Sponsor)

SB 95, A bill to be entitled An Act relating to the immediate qualification for an ad valorem tax exemption for a church or other nonprofit organization.

SB 95 was passed to third reading.

SB 414 ON SECOND READING
(Coleman and A. Reyna - House Sponsors)

SB 414, A bill to be entitled An Act relating to certain advance directives for medical treatment; providing administrative penalties.

Representative A. Reyna moved to postpone consideration of **SB 414** until 10 a.m. Monday, May 26.

The motion prevailed without objection.

SB 631 ON SECOND READING
(Junell - House Sponsor)

SB 631, A bill to be entitled An Act relating to the compensation of retired state employees who return to work for, or contract with, the state.

SB 631 was passed to third reading.

SB 882 ON SECOND READING
(Greenberg and Stiles - House Sponsors)

SB 882, A bill to be entitled An Act relating to negotiated rulemaking by state agencies.

SB 882 was passed to third reading.

SB 636 - RECOMMITTED

Representative Staples moved to recommit **SB 636** to the Committee on Energy Resources.

The motion prevailed without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Holzheuser requested permission for the Committee on Energy Resources to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Energy Resources, 5:45 p.m. today, speakers committee room.

SB 517 ON SECOND READING
(Hawley - House Sponsor)

SB 517, A bill to be entitled An Act relating to the transportation of public school students.

Amendment No. 1

Representative Brimer offered the following amendment to **SB 517**:

Amend **SB 517** by adding a new SECTION appropriately numbered to read as follows and renumbering the other sections accordingly:

SECTION _____. Section 11.158(a), Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district may require payment of:

(1) a fee for materials used in any program in which the resultant product in excess of minimum requirements becomes, at the student's option, the personal property of the student, if the fee does not exceed the cost of materials;

(2) membership dues in student organizations or clubs and admission fees or charges for attending extracurricular activities, if membership or attendance is voluntary;

(3) a security deposit for the return of materials, supplies, or equipment;

(4) a fee for personal physical education and athletic equipment and apparel, although any student may provide the student's own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the board;

(5) a fee for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements;

(6) a fee specifically permitted by any other statute;

(7) a fee for an authorized voluntary student health and accident benefit plan;

(8) a reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by the district;

(9) a fee for items of personal apparel that become the property of the student and that are used in extracurricular activities;

(10) a parking fee or a fee for an identification card;

(11) a fee for a driver training course, not to exceed the actual district cost per student in the program for the current school year;

(12) a fee for a course offered for credit that requires the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option; ~~[or]~~

(13) a fee for a course offered during summer school, except that the board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school year; or

(14) a reasonable fee for transportation of a student who lives within two miles of the school the student attends to an from that school, except that the board may not charge a fee for transportation for which the school district receives funds under Section 42.155(d).

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Coleman offered the following amendment to **SB 517**:

Amend **SB 517** as follows:

SECTION 1. On page 2, line 3, add a subsection (f).

(f) Any county department of education operating in a county with a population of 2.4 million or more under the authority of Section 11.301 of the Education Code and the former Chapters referenced therein shall be responsible for providing transportation to and from the juvenile justice alternative education program for each student attending the program. Except as otherwise specifically set out in the Education Code, any entity providing transportation services to students admitted to a juvenile justice alternative education program shall be subject to the requirements and duties, and shall have the powers set out in Chapter 34 of the Education Code.

Amendment No. 2 was adopted without objection.

SB 517, as amended, was passed to third reading.

SB 502 ON SECOND READING
(Van de Putte - House Sponsor)

SB 502, A bill to be entitled An Act relating to autopsies performed on a body and inquests required if the deceased was a child younger than six years of age.

SB 502 was passed to third reading.

SB 84 ON SECOND READING
(Junell, Hilderbran, and Naishtat - House Sponsors)

SB 84, A bill to be entitled An Act relating to the licensure and regulation of nursing facility administrators; providing penalties.

Amendment No. 1 (Committee Amendment No. 1)

Representative Hilderbran offered the following committee amendment to **SB 84**:

Amend **SB 84** as follows:

(1) Strike SECTION 1.05 of Article 1 of the bill and substitute the following:

SECTION 1.05. Not later than October 1, 1997, the governor shall appoint the initial members of the Nursing Facility Administrators Advisory Committee in accordance with Section 242.303, Health and Safety Code, as added by this article. The governor shall designate three members for a term expiring on February 1, 1999, three members for a term expiring on February 1, 2001, and three members for a term expiring on February 1, 2003.

Strike SECTION 2.03 of Article 2 of the bill and substitute the following:

SECTION 2.03. Not later than one month after the effective date of this article, the governor shall appoint the initial members of the Texas Board of Nursing Facility Administrators in accordance with Section 242.302, Health and Safety Code, as added by this article. The governor shall designate the terms of the initial members so that three members' terms expire February 1 of each odd-numbered year and so that succeeding members serve six-year staggered terms.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Madden offered the following amendment to **SB 84**:

Amend **SB 84** in Section 2.01 of the bill, proposed Section 242.304(5), Health and Safety Code (page 30, lines 19-20, house committee report), by striking ", unless the absence is excused by a majority vote of the board".

Amendment No. 2 was adopted without objection.

SB 84, as amended, was passed to third reading.

**SB 135 ON SECOND READING
(Gray - House Sponsor)**

SB 135, A bill to be entitled An Act relating to the immunity from liability of counties and juvenile boards and their employees and volunteers in relation to certain responsibilities.

SB 135 was passed to third reading.

**SB 1596 ON SECOND READING
(Berlanga - House Sponsor)**

SB 1596, A bill to be entitled An Act relating to ad valorem tax incentives for the development or redevelopment of certain property subject to a voluntary cleanup agreement.

SB 1596 was passed to third reading.

**SB 672 ON SECOND READING
(Goolsby - House Sponsor)**

SB 672, A bill to be entitled An Act relating to permitting an aircraft to be used in alcoholic beverage advertising or promotion.

SB 672 was passed to third reading. (Christian, Clark, and Finnell recorded voting no)

**SB 1624 ON SECOND READING
(Kubiak - House Sponsor)**

SB 1624, A bill to be entitled An Act relating to the use and management of the state employee sick leave pool.

SB 1624 was passed to third reading.

**CSSB 1098 ON SECOND READING
(Goodman - House Sponsor)**

CSSB 1098, A bill to be entitled An Act relating to exempting certain support payments from seizure.

CSSB 1098 was passed to third reading.

**SB 333 ON SECOND READING
(Thompson - House Sponsor)**

SB 333, A bill to be entitled An Act relating to the payments of insurance benefits for a child to the possessory or managing conservator of the child.

SB 333 was passed to third reading.

SB 79 ON SECOND READING
(McClendon - House Sponsor)

SB 79, A bill to be entitled An Act relating to certain insurance covering church property; providing a penalty.

SB 79 was passed to third reading. (Carter recorded voting no)

SB 1715 ON SECOND READING
(Jackson - House Sponsor)

SB 1715, A bill to be entitled An Act relating to required contents in a notice for the adoption of proposed rules by a state agency.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Brimer, Representative Jackson offered the following committee amendment to **SB 1715**:

Amend **SB 1715** as follows:

On page 3, lines 12-16, strike subsection (d).

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Jackson offered the following amendment to **SB 1715**:

Amend **SB 1715** in SECTION 1 of the bill, Sec. 2001.024., Government Code (Page 3, line 4, house committee report), by inserting the following after "entire" and before "rule":

part of the

Amendment No. 2 was adopted without objection.

SB 1715, as amended, was passed to third reading.

CSSB 1292 ON SECOND READING
(Counts - House Sponsor)

CSSB 1292, A bill to be entitled An Act relating to the licensing of agents for the sale of credit insurance.

SB 1292 was passed to third reading.

SB 1387 ON SECOND READING
(Eiland - House Sponsor)

SB 1387, A bill to be entitled An Act relating to benefits for certain roof damage on property insured through the Texas Catastrophe Property Insurance Association.

Representative Alexander moved to postpone consideration of **SB 1387** until 10 a.m. Monday, May 26.

The motion prevailed without objection.

SB 633 ON SECOND READING
(Uher - House Sponsor)

SB 633, A bill to be entitled An Act relating to assessments performed before agency adoption of certain environmental rules.

Amendment No. 1

Representative Zbranek offered the following amendment to **SB 633**:

Amend **SB 633**, SECTION 1 of the bill, in proposed Section 2001.0225(g)(3), Government Code (Committee Printing page 5, line 10), after "state" insert ", or a sector of the state"

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Puente offered the following amendment to **SB 633**:

Amend **SB 633** in SECTION 1 of bill, proposed Section 2001.0225(c), Government Code (House committee report, page 2, between lines 15 and 16), by inserting a new Subdivision (3) to read as follows and relettering subsequent subdivisions of that section accordingly:

(3) identify the impact of the proposed rule on the cumulative effect of siting, expanding, or operating a facility in an area in which other permitted facilities are located:

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Bosse offered the following amendment to **SB 633**:

1. Amend **SB 633** on Page 1, Line 18 by adding new Sections 2001.0225(a)(5),(6) and (7) as follows:

(5) reduce water quality standards;

(6) modify the State Air Control Plan in a manner that would reduce airquality; or

(7) grant an exemption from permitting.

2. Amend **SB 633** on Page 5, Line 5 by striking existing Section 2001.0225(g)(3) and substituting the following:

(3) "Major environmental rule" means a rule or order the specific intent of which is to protect the environment, reduce risks to human health from environmental exposure, reduce air or water quality standards, or grant an exemption from permitting, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Representative Uher moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 550): 85 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bonnen; Brimer; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culbertson; Delisi; Denny; Elkins; Finnell; Galloway; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel;

Lewis, G.; Lewis, R.; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Nixon; Palmer; Patterson; Pickett; Pitts; Rabuck; Ramsay; Reyna, E.; Seaman; Serna; Shields; Siebert; Smith; Smithee; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Williams; Williamson; Wohlgemuth; Woolley.

Nays — Alvarado; Berlanga; Bosse; Burnam; Coleman; Danburg; Davis; Dukes; Dunnam; Ehrhardt; Eiland; Farrar; Flores; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hernandez; Hirschi; Hochberg; Hodge; Jones, J.; Longoria; Luna; Maxey; McClendon; McReynolds; Naishtat; Oakley; Oliveira; Olivo; Place; Price; Puente; Rangel; Raymond; Reyna, A.; Rhodes; Roman; Sadler; Solis; Thompson; Tillery; Torres; Van de Putte; Wise; Wolens; Yarbrough; Zbranek.

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

Absent, Excused — Bailey; Driver; Janek; Moreno; Solomons; Turner, S.; Wilson.

Absent — Davila; Dutton; Edwards; Hightower.

Amendment No. 4

Representative Greenberg offered the following amendment to **SB 633**:

Amend **SB 633** in SECTION 1 of the bill, in proposed Section 2001.0225(f), Government Code (Committee Printing page 4, line 14), by inserting, between "and" and "adopted", the following: "regardless of whether that rule is".

(Speaker in the chair)

Representative Uher moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 551): 83 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Delisi; Denny; Elkins; Finnell; Galloway; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Nixon; Oakley; Palmer; Patterson; Pitts; Rabuck; Ramsay; Reyna, E.; Seaman; Serna; Shields; Siebert; Smith; Smithee; Staples; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Williams; Williamson; Wohlgemuth; Woolley.

Nays — Alvarado; Berlanga; Bosse; Burnam; Chavez; Danburg; Davila; Davis; Dukes; Dunnam; Ehrhardt; Eiland; Farrar; Flores; Gallego; Garcia; Glaze; Goodman; Gray; Greenberg; Gutierrez; Hirschi; Hodge; Jones, J.; Longoria; Luna; Maxey; McClendon; McReynolds; Naishtat; Oliveira; Olivo; Pickett; Place; Price; Puente; Rangel; Raymond; Reyna, A.; Rhodes; Roman; Sadler; Solis; Thompson; Tillery; Torres; Van de Putte; Wise; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Driver; Janek; Moreno; Solomons; Turner, S.; Wilson.

Absent — Coleman; Dutton; Edwards; Giddings; Hernandez; Hightower; Stiles.

SB 633, as amended, was passed to third reading. (Hochberg and Thompson recorded voting no)

**SB 1581 ON SECOND READING
(Hartnett - House Sponsor)**

SB 1581, A bill to be entitled An Act relating to registration of and reporting by certain charitable organizations; providing penalties.

Amendment No. 1

Representative Hartnett offered the following amendment to **SB 1581**:

Amend **SB 1581** as follows:

(1) In SECTION 1 of the bill (committee report, page 1, lines 4-6), strike "; SHORT TITLE. (a) Except as provided by this Act, this Act applies to all charitable organizations that engage in telephone solicitation in the state.".

(2) In SECTION 1 of the bill (committee report, page 1, lines 10-11), strike Subsection (b).

(3) Strike SECTIONS 2-5 of the bill (committee report, page 1, line 12, through page 4, line 6).

(4) In SECTION 6 of the bill, in Subsection (a) (committee report, page 4, line 8), between "that" and "submit", insert "voluntarily".

(5) In SECTION 6 of the bill, in Subsection (b) (committee report, page 7, line 9), between "charitable organization" and "shall", insert "that registers with the attorney general".

(6) Strike SECTION 7 of the bill (committee report, page 8, lines 2-13).

(7) In SECTION 8 of the bill, in Subsection (a) (committee report, page 8, line 15), strike "required to file" and substitute "that files".

(8) In SECTION 8 of the bill, in Subsection (a) (committee report, page 8, line 18), strike "required by this Act" and substitute "filed with the attorney general".

(9) Strike SECTIONS 9-15 of the bill (committee report, page 9, line 8, through page 11, line 10).

(10) Renumber the SECTIONS of the bill.

Amendment No. 1 was adopted without objection.

SB 1581, as amended, was passed to third reading.

**SB 573 ON SECOND READING
(Place - House Sponsor)**

SB 573, A bill to be entitled An Act relating to creating a commercial real estate broker's lien.

Representative Berlanga raised a point of order against further consideration of **SB 573** under Rule 4, Section 32(b)(6) of the House Rules on the grounds

that the committee report form does not accurately reflect the vote by which the bill was reported (and the corrected minutes were not filed until after the bill had been placed on a calendar).

The point of order was withdrawn.

Representative Place moved to postpone consideration of **SB 573** until 7 p.m. today.

The motion prevailed without objection.

SB 51 ON SECOND READING
(Allen - House Sponsor)

SB 51, A bill to be entitled An Act relating to the forfeiture of good conduct time by certain inmates confined in the institutional division or a transfer facility of the Texas Department of Criminal Justice.

Amendment No. 1 (Committee Amendment No. 1)

Representative Allen offered the following committee amendment to **SB 51**:

Amend **SB 51**, on page 1, line 8, by striking "board shall adopt rules" and substituting "department shall adopt policies" and on page 2, line 5, by striking "rule" and substituting "policy".

Amendment No. 1 was adopted without objection.

SB 51, as amended, was passed to third reading.

SB 885 ON SECOND READING
(Thompson - House Sponsor)

SB 885, A bill to be entitled An Act relating to limitations on certain covenants.

Representative Thompson moved to postpone consideration of **SB 885** until 11 a.m. Monday, May 26.

The motion prevailed without objection.

CSSB 181 ON SECOND READING
(Goodman - House Sponsor)

CSSB 181, A bill to be entitled An Act relating to the parent-child relationship, suits affecting the parent-child relationship, and the protection of children.

CSSB 181 was passed to third reading.

SB 266 ON SECOND READING
**(Oliveira, Coleman, G. Lewis, Greenberg,
and Dunnam - House Sponsors)**

SB 266, A bill to be entitled An Act relating to the establishment of a program in the Texas Department of Commerce to secure certain loans made to small and medium-sized businesses and nonprofit organizations.

Amendment No. 1 (Committee Amendment No. 1)

Representative Oliveira offered the following committee amendment to **SB 266**:

Amend **SB 266** as follows:

(1) In SECTION 1 of the bill, in proposed Section 481.407, Government Code (page 7, between lines 14 and 15, Senate engrossed version), insert the following:

"(e) When enrolling a loan in the program, a participating financial institution may specify an amount to be covered under the program that is less than the total amount of the loan."

(2) In SECTION 1 of the bill, after the last sentence of proposed Section 481.408(b), Government Code (page 8, line 5, Senate engrossed version), insert: "The institution may recover from the borrower all or part of the amount the institution is required to pay under this subsection in any manner agreed to by the institution and borrower."

Amendment No. 1 was adopted without objection.

SB 266, as amended, was passed to third reading.

**CSSB 1355 ON SECOND READING
(Maxey - House Sponsor)**

CSSB 1355, A bill to be entitled An Act relating to the regulation of retail stores; providing an administrative penalty.

Amendment No. 1

Representative Maxey offered the following amendment to **CSSB 1355**:

Amend **CSSB 1355** by adding an appropriately numbered section as follows and renumbering subsequent sections accordingly:

SECTION _____. Section 31.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 31.05. USE OF PERMIT IN MARINE PARK OR INTERACTIVE ENTERTAINMENT CENTER. (a) In this section:

(1) "Marine [~~—~~"marine park" means an enclosed, restricted access area of not less than 245 acres nor more than 255 acres in a county with a population of over 950,000, which area constitutes a facility operated for the education or entertainment of the public involving the display of live fish, marine animals, and related aquatic, food service, and amusement activities and which holds appropriate permits issued by state and federal regulatory agencies authorizing the keeping of live fish, marine animals, or endangered species.

(2) "Interactive entertainment center" means a retail premises of at least 20,000 square feet whose primary purpose is the provision of technology-enabled interactive entertainment, including but not limited to motion simulation; networked multisite, multiplayer games; e-mail; or World Wide Web access, and which also offers retail sales of themed merchandise and food and beverage sales.

(b) The authority to use a caterer's permit in a marine park or interactive entertainment center is limited to the holders of those permits who in their

operations under their primary mixed beverage permits do not utilize the privilege granted by Section 11.49(b)(2) of this code to share premises, employees, business facilities, and services.

(c) Holders of caterer's permits meeting the requirements of Subsection (b) of this section and complying with all other provisions of this section may utilize their caterer's permits for indefinite periods anywhere in the marine park or interactive entertainment center even though the ownership of the buildings and grounds on which the permit is to be used may be in an entity that, either directly or by affiliation, has an ownership interest in the holder of a manufacturer's license, a nonresident seller's permit, or a brewer's permit [~~or both~~]; provided, however, that the caterer shall not give any preferential treatment to the brand or brands in which the site owner may have an interest.

(d) For purposes of this section, preferential treatment is any practice by the caterer that, on the basis of information officially reported to the commission, results in sales of beverages identifiable with the site owner made by the caterer in the marine park or interactive entertainment center during a calendar year that in the aggregate exceed by more than five percent the aggregate percentage share of the same brand or brands sold during the prior calendar year within the county in which the marine park or interactive entertainment center is located; provided, however, that the computation may exclude sales made on those occasions when a caterer's permit is used to provide service for a private party where specific beverages are ordered and the total charges for those beverages are paid by only one person or entity.

(e) The consideration to be paid by the caterer's permit holder to the owner or operator of the marine park or interactive entertainment center for the right to sell alcoholic beverages therein may not be made dependent to any degree on the sales volume of any specific brand or brands or on the number of containers of beverages identified with any particular producer.

(f) The willful sharing of employees, business machines, or services between the holder of the caterer's permit and the owner of the marine park or interactive entertainment center or any affiliate of the owner is grounds for immediate revocation of the authority of the caterer's permit holder to provide service in the marine park or interactive entertainment center.

(g) The commission or administrator may suspend for not more than 60 days or cancel the primary mixed beverage permit of any holder of a caterer's permit who violates this section.

(h) In the event that a marine park or interactive entertainment center owner having, either directly or by affiliation, an ownership interest in the holder of a manufacturer's license, a nonresident seller's permit, or a brewer's permit [~~or both~~] is found to have violated or to have conspired with any other permittee or licensee to violate this section, the commission or administrator may suspend for not more than 60 days the permit or license or both or may revoke the authority of any holder of a caterer's permit to provide service in the marine park or interactive entertainment center.

(i) Any permittee or licensee whose business or property is injured by a violation of this section may bring suit in any district court in the county in which the violation is alleged to have occurred to require enforcement by injunctive relief or to recover three times the actual damages incurred or for both injunctive relief and treble damages. The court in its discretion may allow

the prevailing party its court costs and reasonable and necessary attorney's fees incurred in the defense or prosecution of such an action.

Representative D. Jones moved to table Amendment No. 1.

The motion to table prevailed. (Finnell recorded voting yes)

Amendment No. 2

Representative Maxey offered the following amendment to **CSSB 1355**:

Amend **CSSB 1355** as follows:

(1) Strike SECTIONS 6 and 7 of the bill (Committee Printing, page 5, line 23, through page 6, line 18).

(2) In SECTION 8 of the bill, proposed Section 47.0113, Parks and Wildlife Code (Committee Printing, page 7, lines 4-10), strike Subsection (d) and substitute the following:

(d) The memorandum of agreement must provide that the Texas Department of Health shall collect information to identify each retail food store that sells aquatic products as a part of a food retailing business and provide that information to the department.

(3) In SECTION 9 of the bill, proposed Section 7A(k)(1)(B), Chapter 1033, Acts of the 71st Legislature, Regular Session, 1989 (Article 8614, Vernon's Texas Civil Statutes) (Committee Printing, page 17, line 8), strike "board's" and substitute "commissioner of agriculture's".

(4) In SECTION 9 of the bill, proposed Section 7A(r), Chapter 1033, Acts of the 71st Legislature, Regular Session, 1989 (Article 8614, Vernon's Texas Civil Statutes) (Committee Printing, page 19, line 4), between "Code" and the period, insert the following:

", except as provided by Subsections (s) and (t) of this section.

(s) Notwithstanding Section 2001.058(e), Government Code, the commissioner of agriculture may change a finding of fact or conclusion of law made by the administrative law judge if the commissioner of agriculture:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, department rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a department policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

(t) The commissioner of agriculture shall state in writing the specific reason and legal basis for a determination under Subsection (s)".

(5) Renumber sections of the bill.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Swinford offered the following amendment to **CSSB 1355**:

Amend **CSSB 1355** by inserting the following appropriately numbered SECTIONS and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. The heading of Chapter 19, Business & Commerce Code, is amended to read as follows:

**CHAPTER 19. FARM, INDUSTRIAL, OFF-ROAD CONSTRUCTION,
AND OUTDOOR POWER EQUIPMENT DEALER AGREEMENTS**

SECTION _____. Section 19.01, Business & Commerce Code, is amended by amending Subsections (5) and (8) to read as follows:

(5) "Dealer" means a person in the business of the retail sale of equipment. [~~The term does not include a person whose principal business is the sale of off-road construction equipment.~~]

(8) "Equipment" means farm tractors, farm implements, utility tractors, industrial tractors, off-road construction equipment, and outdoor power equipment and the attachments to or repair parts for those items.

SECTION _____. Section 19.43(a), Business & Commerce Code, is amended to read as follows:

(a) If on termination of a dealer agreement the dealer delivers to the supplier or a person designated by the supplier the inventory that was purchased from the supplier and that is held by the dealer on the date of the termination, the supplier shall pay to the dealer:

(1) the dealer cost of new, unsold, undamaged, and complete farm tractors, farm implements, utility tractors, industrial tractors, forklifts, material-handling equipment, outdoor power equipment, off-road construction equipment, and attachments returned by the dealer;

(2) an amount equal to 85 percent of the current price of new, undamaged repair parts returned by the dealer; and

(3) an amount equal to an additional five percent of the current price of new, undamaged repair parts returned by the dealer, unless the supplier performs the handling, packing, and loading of the parts, in which case no additional amount is required under this subdivision.

Amendment No. 3 was adopted without objection. (Heflin recorded voting no)

Amendment No. 4

Representative Wise offered the following amendment to **CSSB 1355**:

Amend **CSSB 1355** as follows:

(1) On page 4, line 3, insert the following new section and renumber the subsequent sections appropriately:

SECTION 2. Sec. 438.034, Health and Safety Code, is amended to read as follows:

Sec. 438.034. **EMPLOYEE CLEANLINESS.** A person handling food or unsealed food containers shall:

(1) maintain personal cleanliness;

(2) wear clean outer garments;

(3) keep the person's hands clean; and

(4) either (A) wash the person's hands and exposed portions of their arms with soap and water before starting work, during work as often as necessary to avoid cross-contaminating food and to maintain cleanliness, after smoking, eating, and each visit to the toilet or (B) avoid bare-hand contact with

exposed food by use of gloves or utensils and hand wash after smoking, eating, and each visit to the toilet. In no case shall a state or local authority require foodservice personnel avoid bare-hand contact with exposed food.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Wise offered the following amendment to **CSSB 1355**:

Amend **CSSB 1355** in the following respects:

(1) In line 14, page 1, strike the words "a representative" and insert, in lieu thereof, the word "representatives".

(2) In Line 15, page 2, change the period to a semicolon.

(3) Add the following after Line 15, page 2:

(15) vendors and suppliers to retail food stores, appointed by the comptroller and the commissioner of agriculture.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Coleman offered the following amendment to **CSSB 1355**:

Amend **CSSB 1355** by adding an appropriately numbered SECTION to the bill, to read as follows, and renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. (a) Chapter 485, Health and Safety Code, is amended to read as follows:

CHAPTER 485. ABUSABLE VOLATILE CHEMICALS

[GLUES AND AEROSOL PAINTS]

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 485.001. DEFINITIONS. In this chapter:

(1) "Abusable volatile chemical [glue or aerosol paint]" means a chemical, including [glue or] aerosol paint, that [is]:

(A) is packaged in a container subject to [holding a pint or less by volume or less than two pounds by weight; and

[~~(B) labeled in accordance with~~] the labeling requirements concerning precautions against inhalation established under the Federal Hazardous Substances Act (15 U.S.C. Section 1261 et seq.), and [under] regulations adopted under that Act;

(B) when inhaled, ingested, or otherwise introduced into a person's body, may:

(i) affect the person's central nervous system;

(ii) create or induce in the person a condition of intoxication, hallucination, or elation; or

(iii) change, distort, or disturb the person's eyesight, thinking process, balance, or coordination; and

(C) is not:

(i) a pesticide subject to Chapter 76, Agriculture Code, or to the Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. Section 136 et seq.);

(ii) a food, drug, or cosmetic subject to Chapter 431 or to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq.); or

(iii) a beverage subject to the Federal Alcohol Administration Act (27 U.S.C. Section 201 et seq.).

(2) "Aerosol paint" means an aerosolized paint product, including a clear or pigmented lacquer or finish.

(3) "Board" means the Texas Board of Health.

(4) "Commissioner" means the commissioner of health.

(5) [(4)] "Deliver" means to make the actual or constructive transfer from one person to another of an abusable volatile chemical [~~glue or aerosol paint~~], regardless of whether there is an agency relationship. The term includes an offer [~~offering~~] to sell an abusable volatile chemical [~~glue or aerosol paint~~].

(6) [(5)] "Delivery" means the act of delivering.

(7) [(6)] "Department" means the Texas Department of Health.

[(7) "Glue" means an adhesive substance intended to be used to join two surfaces.]

(8) "Inhalant paraphernalia" means equipment, products, or materials of any kind that are used or intended for use in inhaling, ingesting, or otherwise introducing into the human body an abusable volatile chemical [~~glue or aerosol paint in violation of Section 485.031~~]. The term includes:

(A) a can, tube, or other container used as the original receptacle for an abusable volatile chemical [~~glue or aerosol paint~~]; or

(B) a can, tube, balloon, bag, fabric, bottle, or other container used to contain, concentrate, or hold in suspension an abusable volatile chemical [~~glue or aerosol paint~~]; or vapors of the chemical [~~glue or paint~~].

(9) "Sell" includes a conveyance, exchange, barter, or trade.

SUBCHAPTER B. ADDITIVES, SALES PERMITS, AND SIGNS

Sec. 485.011. ADDITIVES. (a) The board [~~commissioner~~] by rule shall:

(1) approve and designate additive materials to be included in abusable volatile chemicals [~~glue or aerosol paint~~]; and

(2) prescribe the proportions of additive materials to be placed in abusable volatile chemicals [~~glue or aerosol paint~~].

(b) The rules must be designed to safely and effectively discourage intentional abuse by inhalation of abusable volatile chemicals [~~glue or aerosol paint~~] at the lowest practicable cost to the manufacturers and distributors of the chemicals [~~glue or paint~~].

Sec. 485.012. PERMIT REQUIRED. A person may not sell an abusable volatile chemical [~~glue or aerosol paint~~] at retail unless the person or the person's employer holds [~~has~~], at the time of the sale, a volatile chemical [~~glue and paint~~] sales permit for the location of the sale.

Sec. 485.013. ISSUANCE AND RENEWAL OF PERMIT. (a) To be eligible for the issuance or renewal of a volatile chemical [~~glue and paint~~] sales permit, a person must:

(1) hold [~~have~~] a sales tax permit that has been issued to the person;

(2) complete and return to the department an application as required by the department; and

(3) pay to the department the [~~a \$25~~] application fee established under Section 485.0135 for each location at which an abusable volatile chemical [~~glue~~

~~and aerosol paint~~] may be sold by the person holding ~~[on obtaining]~~ a volatile chemical ~~[glue and paint]~~ sales permit.

(b) The board ~~[department]~~ shall adopt rules as necessary to administer this chapter, including application procedures and procedures by which the department shall give each permit holder ~~[permittee]~~ reasonable notice of permit expiration and renewal requirements.

(c) The department shall issue or deny a permit and notify the applicant of the department's action not later than the 60th day after the date on which the department receives the application and appropriate fee. If the department denies an application, the department shall include in the notice the reasons for the denial.

(d) A permit issued or renewed under this chapter is valid for one year from the date of issuance or renewal.

(e) A permit is not valid if the permit holder has been convicted more than once in the preceding year of an offense ~~[that is]~~ committed:

(1) at a ~~[the]~~ location for which the permit is issued; and

(2) under Section ~~[484.005(a);]~~ 485.031, 485.032, 485.033, or 485.034.

(f) A permit issued by the department is the property of the department and must be surrendered on demand by the department.

(g) The department shall prepare an annual roster of permit holders.

(h) The department shall monitor and enforce compliance with this chapter.

Sec. 485.0135. FEES. The board by rule may impose a fee for the issuance of a permit under this chapter as necessary to recover the costs associated with administering this chapter. The amount of the fee may not exceed \$35.

Sec. 485.014. PERMIT AVAILABLE FOR INSPECTION. A permit holder must have the volatile chemical ~~[glue and paint]~~ sales permit or a copy of the permit available for inspection by the public at each location ~~[the place]~~ where the permit holder sells an ~~abusable~~ volatile chemical ~~[glue and aerosol paint]~~.

Sec. 485.015. REFUSAL TO ISSUE OR RENEW PERMIT. A proceeding for the failure to issue or renew a volatile chemical ~~[glue and paint]~~ sales permit under Section 485.013 or for an appeal from that proceeding is governed by the contested case provisions of Chapter 2001, Government Code.

Sec. 485.016. DISPOSITION OF FUNDS; EDUCATION AND PREVENTION PROGRAMS. (a) The department shall ~~[receive and]~~ account for all amounts ~~[funds]~~ received under Section 485.0135 ~~[485.013]~~ and send those amounts ~~[the funds as they are received]~~ to the comptroller.

(b) The comptroller shall deposit the amounts received under Subsection (a) in the state treasury ~~[those funds]~~ to the credit of a separate account in the general revenue fund to be known as the inhalant abuse prevention account. Money in the account may ~~[to]~~ be used only to:

(1) administer, monitor, and enforce this chapter; and

(2) finance education projects concerning the hazards of abusable volatile chemicals ~~[glue or aerosol paint]~~ and the prevention of inhalant abuse.

(c) The department shall enter into a memorandum of understanding with the Texas Commission on Alcohol and Drug Abuse to implement the education and prevention programs.

Sec. 485.017. SIGNS. A business establishment that sells an abusable volatile chemical [~~glue or aerosol paint~~] at retail shall display a conspicuous sign, in English and Spanish, that states the following:

It is unlawful for a person to sell or deliver an abusable volatile chemical [~~glue or aerosol paint~~] to a person under 18 years of age. Except in limited situations, such an offense is a state jail [~~3rd degree~~] felony.

It is also unlawful for a person to abuse a volatile chemical [~~glue or aerosol paint~~] by inhaling, ingesting, applying, using, or possessing with intent to inhale, ingest, apply, or use a volatile chemical [~~glue or aerosol paint~~] in a manner designed to affect the central nervous system. Such an offense is a Class B misdemeanor.

Sec. 485.018. PROHIBITED ORDINANCE AND RULE. (a) A political subdivision or an agency of this [~~the~~] state may not enact an ordinance or rule that requires a business establishment to display an abusable volatile chemical [~~glue or aerosol paint~~] in a manner that makes the chemical [~~glue or paint~~] accessible to patrons of the business only with the assistance of personnel of the business.

(b) This section does not apply to an ordinance or rule that was enacted before September 1, 1989.

SUBCHAPTER C. CRIMINAL PENALTIES

Sec. 485.031. POSSESSION AND USE. (a) A person commits an offense if the person inhales, ingests, applies, uses, or possesses an abusable volatile chemical [~~glue or aerosol paint~~] with intent to inhale, ingest, apply, or use the chemical [~~abusable glue or aerosol paint~~] in a manner:

(1) contrary to directions for use, cautions, or warnings appearing on a label of a container of the chemical [~~glue or paint~~]; and

(2) designed to:

(A) affect the person's central nervous system;

(B) create or induce a condition of intoxication, hallucination,

or elation; or

(C) change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

(b) An offense under this section is a Class B misdemeanor.

Sec. 485.032. MANUFACTURE AND DELIVERY. (a) A person commits an offense if the person intentionally manufactures, delivers, or possesses with intent to manufacture or deliver an abusable volatile chemical [~~glue or aerosol paint~~] that does not contain additive material in accordance with rules adopted by the board [~~commissioner~~].

(b) It is an affirmative defense to prosecution under this section that the abusable volatile chemical [~~glue or aerosol paint~~] is packaged in bulk quantity containers, each of which holds at least two gallons, and is intended for ultimate use only by industrial or commercial enterprises.

(c) An offense under this section is a Class A misdemeanor.

Sec. 485.033. DELIVERY TO A MINOR. (a) A person commits an offense if the person [~~intentionally, knowingly, or~~] recklessly delivers an abusable volatile chemical [~~glue or aerosol paint~~] to a person who is younger than 18 years of age.

(b) It is a defense to prosecution under this section that:

(1) the abusable volatile chemical [~~glue or aerosol paint~~] that was delivered contains additive material that effectively discourages intentional abuse by inhalation and [~~or~~] is in compliance with rules adopted by the board [~~commissioner~~] under Section 485.011; or

(2) the product as received and held by the person making the delivery was not labeled "vapor harmful".

(c) It is an affirmative defense to prosecution under this section that:

(1) the person making the delivery is an adult having supervisory responsibility over the person younger than 18 years of age and:

(A) the adult permits the use of the abusable volatile chemical [~~glue or aerosol paint~~] only under the adult's direct supervision and in the adult's presence and only for its intended purpose; and

(B) the adult removes the chemical [~~substance~~] from the person younger than 18 years of age on completion of that use; or

(2) the person to whom the abusable volatile chemical [~~glue or aerosol paint~~] was delivered presented to the defendant an apparently valid Texas driver's license or an identification certificate [~~card~~], issued by the Department of Public Safety of the State of Texas and containing a physical description consistent with the person's appearance, that purported to establish that the person was 18 years of age or older.

(d) Except as provided by Subsections (e) and (f), an offense under this section is a state jail felony.

(e) An offense under this section is a Class B misdemeanor if it is shown on the trial of the defendant that at the time of the delivery the defendant or the defendant's employer held [~~had~~] a volatile chemical [~~glue and paint~~] sales permit for the location of the sale.

(f) An offense under this section is a Class A misdemeanor if it is shown on the trial of the defendant that at the time of the delivery the defendant or the defendant's employer:

(1) did not hold [~~have~~] a volatile chemical [~~glue and paint~~] sales permit but did hold [~~have~~] a sales tax permit for the location of the sale; and

(2) had not been convicted previously under this section for an offense committed after January 1, 1988.

Sec. 485.034. INHALANT PARAPHERNALIA. (a) A person commits an offense if the person [~~intentionally or~~] knowingly uses or possesses with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the human body an abusable volatile chemical [~~glue or aerosol paint~~] in violation of Section 485.031.

(b) A person commits an offense if the person:

(1) knowingly [~~or intentionally~~]:

(A) delivers or sells inhalant paraphernalia;

(B) possesses, with intent to deliver or sell, inhalant paraphernalia; or

(C) manufactures, with intent to deliver or sell, inhalant paraphernalia; and

(2) at the time of the act described by Subdivision (1), knows that the person who receives or is intended to receive the paraphernalia intends that it be used to inhale, ingest, apply, use, or otherwise introduce into the human

body a [~~substance containing a~~] volatile chemical in violation of Section 485.031.

(c) An offense under Subsection (a) is a Class B misdemeanor, and an offense under Subsection (b) is a Class A misdemeanor.

Sec. 485.035. FAILURE TO POST SIGN. (a) A person commits an offense if the person sells an abusable volatile chemical [~~glue or aerosol paint~~] in a business establishment and the person does not display the [~~a~~] sign [~~as~~] required by Section 485.017.

(b) An offense under this section is a Class C misdemeanor.

Sec. 485.036. SALE WITHOUT PERMIT. (a) A person commits an offense if the person sells an abusable volatile chemical [~~glue or aerosol paint~~] in violation of Section 485.012 and the purchaser is 18 years of age or older.

(b) An offense under this section is a Class B misdemeanor.

Sec. 485.037. PROOF OF OFFER TO SELL. Proof of an offer to sell an abusable volatile chemical [~~glue or aerosol paint~~] must be corroborated by a person other than the offeree or by evidence other than a statement of the offeree.

Sec. 485.038. SUMMARY FORFEITURE. An abusable volatile chemical [~~glue, aerosol paint,~~] or inhalant paraphernalia seized as a result of an offense under this chapter is subject to summary forfeiture and to destruction or disposition in the same manner as controlled substance property under Subchapter E, Chapter 481.

Sec. 485.039. PREPARATORY OFFENSES. Title 4, Penal Code, applies to an offense under this subchapter.

SUBCHAPTER D. CIVIL AND ADMINISTRATIVE PENALTIES

Sec. 485.051. CIVIL PENALTY; INJUNCTION. (a) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the commissioner may request the attorney general, a district or county attorney for the county, or the city attorney of the municipality in which the violation has occurred, is occurring, or may occur to institute a civil suit for:

(1) a permanent or temporary injunction, restraining order, other order enjoining the violation or directing compliance, or other appropriate order if the department shows that the person is engaged in or is about to engage in a violation;

(2) the assessment and recovery of a civil penalty; or

(3) both the injunctive relief and civil penalty.

(b) The amount of the penalty may not exceed \$25,000 for each violation. Each day a violation continues is a separate violation.

(c) In determining the amount of the penalty, the court shall consider:

(1) the person's history of previous violations;

(2) the seriousness of the violation;

(3) any hazard to the health and safety of the public;

(4) the demonstrated good faith of the person charged, including any effort by that person to establish or implement policies or procedures to ensure compliance with this chapter; and

(5) any other matter that justice may require.

(d) Venue for a suit brought under this section is in the municipality or

county in which the violation has occurred, is occurring, or is threatened to occur, or in Travis County.

(e) A civil penalty recovered in a suit brought by a county or municipality under this chapter shall be paid to the county or municipality. A civil penalty recovered by the attorney general or a district attorney shall be deposited in the state treasury to the credit of the inhalant abuse prevention account.

(f) The commissioner, the attorney general, a county, or a municipality may recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both under this section, including investigative costs, court costs, reasonable attorney's fees, witness fees, and deposition expenses.

Sec. 485.052. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a person who holds a permit under this chapter and who violates this chapter or a rule adopted or order issued under this chapter.

(b) The amount of the penalty may not exceed \$25,000 for each violation. Each day a violation continues is a separate violation.

(c) In determining the amount of the penalty, the department shall consider:

(1) the person's history of previous violations;

(2) the seriousness of the violation;

(3) any hazard to the health and safety of the public;

(4) the demonstrated good faith of the person charged, including any effort by that person to establish or implement policies or procedures to ensure compliance with this chapter; and

(5) any other matter justice may require.

Sec. 485.053. NOTICE OF ADMINISTRATIVE PENALTY; ACCEPTANCE OR REQUEST FOR HEARING. (a) If the department determines that a violation has occurred, the department shall give written notice of that determination to the person. The notice must include:

(1) a brief summary of the alleged violation;

(2) a statement of the amount of the proposed penalty based on the factors listed in Section 485.052; and

(3) a statement of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(b) Not later than the 20th day after the date the person receives the notice, the person may accept the determination of the department under this section, including the amount of the proposed penalty, or may make a written request for a hearing on that determination.

(c) If the person accepts the determination and proposed penalty or if the person fails to respond timely to the notice, the department shall issue an order affirming the determination and imposing the penalty.

Sec. 485.054. HEARING; ORDER. (a) If the person requests a hearing, the department shall:

(1) set a hearing;

(2) give notice of the hearing to the person; and

(3) designate a hearings examiner to conduct the hearing.

(b) The hearings examiner shall make findings of fact and conclusions of law and promptly issue to the department a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(c) Based on the findings of fact, conclusions of law, and proposal for a decision, the department by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(d) The notice of the order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 485.055. COMPLIANCE WITH ORDER; RIGHT TO JUDICIAL REVIEW. (a) Not later than the 30th day after the date the order is final as provided by 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.

(b) Within the 30-day period, a person who acts under Subsection (a)(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 that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court an 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) sending a copy of the affidavit to the department by certified mail.

(c) If the department receives a copy of an affidavit under Subsection (b)(2), the department may file with the court, not later than the fifth day after the date that the copy is received, a contest to the affidavit. 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 facts alleged in the affidavit 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.

(d) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the department may refer the matter to the attorney general for collection of the amount of the penalty.

Sec. 485.056. JUDICIAL REVIEW; FINAL DISPOSITION. (a) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(b) 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 of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(c) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order the department to remit the appropriate amount plus accrued interest to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(d) A penalty collected under this section shall be deposited in the state treasury to the credit of the inhalant abuse prevention account.

Sec. 485.057. RECOVERY OF COSTS. (a) The department may order a person to make a payment to the department in an amount necessary to recover reasonable costs and expenses incurred by the department in investigating a matter or conducting a hearing regarding the matter if as a result of the hearing an administrative penalty is assessed against the person or the person's permit is denied, suspended, or revoked. If a payment is ordered under this subsection, the person shall make the payment not later than the 30th day after the date of the order. The department may refer the matter to the attorney general for collection.

(b) If the attorney general brings an action against a person to enforce an administrative penalty or collect a payment ordered under this subchapter and the person is found liable for the penalty or payment, the attorney general may recover from the person an amount representing reasonable costs and expenses incurred by the attorney general in an action brought under this subsection.

(b) Chapter 484, Health and Safety Code, is repealed.

(c) The changes in law made by this section to Chapter 485, Health and Safety Code, apply only to an offense committed on or after the effective date of this Act. 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 that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(d) The changes in law made by this section to Chapter 485, Health and Safety Code, relating to a civil or administrative penalty apply only to a violation of Chapter 485, Health and Safety Code, as amended by this section, or a rule of the Texas Board of Health adopted under that chapter, as amended by this section, that occurs on or after the effective date of this Act. A violation that occurred before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose. For purposes of this subsection, a violation occurred before the effective date of this Act if any element of the violation occurred before that date.

(e) The change in law made by this section relating to the issuance of a permit under Chapter 485, Health and Safety Code, applies only to a permit that is issued by the Texas Department of Health on or after the effective date of this Act. A permit that was issued by the Texas Department of Health before the effective date of this Act remains in effect until the permit expires, is surrendered by the holder, or is revoked or suspended by the department.

Amendment No. 6 failed of adoption.

CSSB 1355, as amended, failed to pass to third reading. (Finnell recorded voting no) (The vote was reconsidered later today, and **CSSB 1355**, as amended, was passed to third reading.)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 573 ON SECOND READING (Place - House Sponsor)

SB 573, A bill to be entitled An Act relating to creating a commercial real estate broker's lien.

SB 573 was read second time earlier today and was postponed until 7 p.m. today.

Representative Berlanga raised a point of order against further consideration of **SB 573** under Rule 4, Section 32(b)(6) of the House Rules on the grounds that the committee report form does not accurately reflect the vote by which the bill was reported (and the corrected minutes were not filed until after the bill had been placed on a calendar).

The speaker sustained the point of order.

The bill was returned to the Committee on Business and Industry.

GENERAL STATE CALENDAR (consideration continued)

CSSB 1512 ON SECOND READING (Rangel - House Sponsor)

CSSB 1512, A bill to be entitled An Act relating to the provision of utility service in economically distressed areas.

CSSB 1512 was passed to third reading.

SB 143 ON SECOND READING (Keel - House Sponsor)

SB 143, A bill to be entitled An Act relating to the punishment for the offense of cruelty to animals.

SB 143 was passed to third reading.

SB 52 ON SECOND READING
(Galloway - House Sponsor)

SB 52, A bill to be entitled An Act relating to the validity of certain orders affecting the parent-child relationship.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative A. Reyna, Representative Galloway offered the following committee amendment to **SB 52**:

Amend **SB 52**, in SECTION 1 of the bill, subsection (a), and SECTION 2 of the bill, subsection (a) and (b) by adding the words "Notwithstanding Rule 329, Texas Rules of Civil Procedure, the" and striking the word "The" before the word "validity".

Amendment No. 1 was adopted without objection.

SB 52, as amended, was passed to third reading. (Hartnett recorded voting no)

CSSB 497 ON SECOND READING
(McReynolds - House Sponsor)

CSSB 497, A bill to be entitled An Act relating to certain persons having custody of an adult disabled child.

Amendment No. 1

Representative McReynolds offered the following amendment to **CSSB 497**:

Amend **CSSB 497** in SECTION 2 of the bill, by striking Subsection (a) of Section 154.303, Family Code, as amended (page 2, lines 1-5, house committee printing), and substituting the following:

(a) A suit provided by this subchapter may be filed only by:

(1) a parent of the child or another person having physical custody or guardianship of the child under a court order; or

(2) the child if the child:

(A) is 18 years of age or older;

(B) does not have a mental disability; and

(C) is determined by the court to be capable of managing the child's financial affairs.

Amendment No. 1 was adopted without objection.

CSSB 497, as amended, was passed to third reading.

LEAVE OF ABSENCE GRANTED

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

Place on motion of Stiles.

SB 1120 ON SECOND READING
(Van de Putte - House Sponsor)

SB 1120, A bill to be entitled An Act relating to the interception of wire, oral, or electronic communications, to the use of pen registers and trap and trace devices, and to the civil and criminal consequences of improperly engaging in those activities.

Amendment No. 1

Representative Van de Putte offered the following amendment to **SB 1120**:

Amend **SB 1120** as follows:

In SECTION 9 of the bill, in amended Section 16.02(c)(8)(C), Penal Code, between "general public" and ";" (House Committee Report, page 17, line 23), insert ", unless the radio communication is transmitted by a law enforcement representative to or from a mobile data terminal".

Amendment No. 1 was adopted without objection.

SB 1120, as amended, was passed to third reading.

SB 527 ON SECOND READING
(Talton - House Sponsor)

SB 527, A bill to be entitled An Act relating to prohibiting employment discrimination against certain peace officers for refusing to take a polygraph examination.

Amendment No. 1

Representative Talton offered the following amendment to **SB 527**:

Amend **SB 527** by striking added Section 614.063, Government Code, in SECTION 1 of the bill (House Committee Printing page 1, lines 15-18), and substituting the following:

Sec. 614.063. POLYGRAPH EXAMINATION. (a) A peace officer may not be suspended, discharged, or subjected to any other form of employment discrimination by the organization employing or appointing the peace officer because the peace officer refuses to submit to a polygraph examination as part of an internal investigation regarding the conduct of the peace officer unless:

(1) the complainant submits to and passes a polygraph examination;
or

(2) the peace officer is ordered to take an examination under Subsection (d) or (e).

(b) Subsection (a)(1) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) For the purposes of this section, a person passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the matter under investigation.

(d) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if:

(1) the subject matter of the complaint is confined to the internal operations of the organization employing or appointing the peace officer;

(2) the complainant is an employee or appointee of the organization employing or appointing the peace officer; and

(3) the complaint does not appear to be invalid based on the information available when the polygraph is ordered.

(e) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if the head of the law enforcement organization considers the circumstances to be extraordinary and the head of the law enforcement organization believes that the integrity of a peace officer or the law enforcement organization is in question. The head of the law enforcement organization shall provide the peace officer with a written explanation of the nature of the extraordinary circumstances and how the integrity of a peace officer or the law enforcement organization is in question.

Amendment No. 1 was adopted without objection.

SB 527, as amended, was passed to third reading.

**SB 474 ON SECOND READING
(Delisi - House Sponsor)**

SB 474, A bill to be entitled An Act relating to the payment of resident tuition and fees at state institutions of higher education by children and spouses of certain military personnel and by certain former military personnel and their children and spouses.

SB 474 was passed to third reading. (Hartnett recorded voting no)

**SB 1137 ON SECOND READING
(Hilderbran and Krusee - House Sponsors)**

SB 1137, A bill to be entitled An Act relating to the authority of certain municipal utility districts to select the municipality in whose extraterritorial jurisdiction the district is located and to validating and confirming certain acts of municipal utility districts.

SB 1137 was passed to third reading.

**SB 670 ON SECOND READING
(Staples - House Sponsor)**

SB 670, A bill to be entitled An Act relating to adoption incentives for licensed child-placing agencies.

Amendment No. 1

Representative Staples offered the following amendment to **SB 670**:

Amend **SB 670** in SECTION 1 of the bill, in proposed Section 162.601(b), Family Code (House Committee Report page 1, line 16), by striking "must equal" and substituting "may not exceed".

Amendment No. 1 was adopted without objection.

SB 670, as amended, was passed to third reading.

SB 609 ON SECOND READING
(Van de Putte - House Sponsor)

SB 609, A bill to be entitled An Act relating to the regulation of pharmacies and pharmacists; providing a penalty.

Amendment No. 1

Representative Van de Putte offered the following amendment to **SB 609**:

Amend **SB 609** as follows:

(1) In Section 5(36), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as amended by SECTION 1 of the bill (page 9, line 10, house committee report printing), between "Act" and "~~[licensed by the board]~~", insert the following: ". The term does not include a narcotic drug treatment program that is regulated by Chapter 466, Health and Safety Code".

(2) In Section 5(38), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as amended by SECTION 1 of the bill (page 10, lines 10-11, house committee report printing), strike "(iv) maintenance of proper records for drugs and devices; and" and substitute "(iv) maintenance of proper records for drugs and devices; or [and]".

(3) In Section 37A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by SECTION 20 of the bill (page 29, between lines 17 and 18, house committee report printing), insert a new Subsection (d) as follows: "(d) Venue for a suit under this section is in Travis County."

(4) In Section 483.001(10), Health and Safety Code, as amended by SECTION 21 of the bill (page 29, line 23, house committee report printing), insert between "Vernon's Texas Civil Statutes)" and "~~[licensed by the board]~~" the following: ". The term does not include a narcotic drug treatment program that is regulated by Chapter 466, Health and Safety Code".

(5) In Section 483.001(11), Health and Safety Code, as amended by SECTION 21 of the bill (page 30, lines 18-19, house committee report printing), strike "(iii) proper and safe storage of drugs and devices; and" and substitute "(iii) proper and safe storage of drugs and devices; or [and]".

(6) In Section 483.001(11), Health and Safety Code, as amended by SECTION 21 of the bill (page 30, lines 20-23, house committee report printing), strike "(iv) maintenance of proper records for drugs and devices. In this subdivision, "device" has the meaning assigned by the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes); and" and substitute "(iv) maintenance of proper records for drugs and devices. In this subdivision, "device" has the meaning assigned by the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes); or".

(7) In SECTION 27(a) of the bill (page 32, lines 3-5, house committee report printing), strike "(a) This Act applies only to a license issued by the Texas State Board of Pharmacy on or after the effective date of this Act." and substitute "(a) This Act applies only to a license issued or renewed by the Texas State Board of Pharmacy on or after the effective date of this Act."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Van de Putte offered the following amendment to **SB 609**:

Amend **SB 609** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 40, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (m) to read as follows:

(m) Except as provided by this subsection, drug product selection authorized in this section does not apply to the refill of a prescription for a narrow therapeutic index drug. The board, in consultation with the Texas State Board of Medical Examiners, shall establish, by rule, a list of narrow therapeutic index drugs that are subject to this subsection. A prescription for a narrow therapeutic index drug may be refilled only by using the same drug product by the same manufacturer that the pharmacist last dispensed under the prescription. If a pharmacist does not have the same drug product by the same manufacturer in stock to refill the prescription, the pharmacist may dispense a drug product that is generically equivalent if the pharmacist, before dispensing the generically equivalent drug product, notifies:

(1) the patient, at the time the prescription is dispensed, that a substitution of the prescribed drug product has been made; and

(2) the prescribing practitioner of the drug product substitution by telephone, facsimile, or mail, at the earliest reasonable time, but not later than 72 hours after dispensing the prescription.

Amendment No. 2 was withdrawn.

Representative Van de Putte moved to postpone consideration of **SB 609** until 10 a.m. Monday, May 26.

The motion prevailed without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Stiles requested permission for the Committee on Calendars to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 8:05 p.m. today, speakers committee room.

**SB 436 ON SECOND READING
(R. Lewis - House Sponsor)**

SB 436, A bill to be entitled An Act relating to the preservation and restoration of certain public documents filed with a county clerk.

Amendment No. 1

Representative R. Lewis offered the following amendment to **SB 436**:

Amend Senate Engrossed version of **SB 436** as follows:

On page 3, line 12 insert the following after "description" and before the "period": "pursuant to Section 193.009(b)(4)"

Amendment No. 1 was adopted without objection.

SB 436, as amended, was passed to third reading. (Isett recorded voting no)

SB 1276 ON SECOND READING
(Oliveira - House Sponsor)

SB 1276, A bill to be entitled An Act relating to permits for overweight vehicles in certain counties.

Amendment No. 1

Representatives Oliveira and Alexander offered the following amendment to **SB 1276**:

Amend **SB 1276** as follows:

(1) On page 2, line 5, insert "per trip" between "\$80" and "₂"

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Pickett and Oliveira offered the following amendment to **SB 1276**:

Amend **SB 1276** as follows:

(1) In SECTION 1 of the bill, in proposed Section 623.215(a), Transportation Code (House Committee Report, page 2, line 24), in Subdivision (5), strike "and".

(2) In SECTION 1 of the bill, in proposed Section 623.215(a), Transportation Code (House Committee Report, page 3, line 2), in Subdivision (6), strike the period and substitute "₂"

(3) In SECTION 1 of the bill, in proposed Section 623.215(a), Transportation Code (House Committee Report, page 3, between lines 2 and 3), insert the following:

(7) the name of the driver of the vehicle in which the cargo is to be transported; and

(8) the location where the cargo was loaded.

Amendment No. 2 was adopted without objection.

SB 1276, as amended, was passed to third reading.

CSSB 1209 ON SECOND READING
(Kubiak - House Sponsor)

CSSB 1209, A bill to be entitled An Act relating to participation in the proportionate retirement program for public employees.

CSSB 1209 was passed to third reading.

SB 1232 ON SECOND READING
(McClendon - House Sponsor)

SB 1232, A bill to be entitled An Act relating to conditions for probation and release under supervision for a child adjudicated for engaging in certain

delinquent conduct and to certain instruction and treatment for the parent or guardian of the child.

Representative McClendon moved to postpone consideration of **SB 1232** until 4 p.m. Monday, May 26.

The motion prevailed without objection.

CSSB 1355 - VOTE RECONSIDERED

Representative Swinford moved to reconsider the vote by which **CSSB 1355** failed to pass to third reading.

The motion to reconsider prevailed.

CSSB 1355 ON SECOND READING (Maxey - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

CSSB 1355, A bill to be entitled An Act relating to the regulation of retail stores; providing an administrative penalty.

CSSB 1355 was passed to third reading.

HR 1098 - ADOPTED (by Kuempel)

The speaker laid before the house the following privileged resolution:

HR 1098

BE IT RESOLVED by the House of Representatives of the State of Texas, That House Rule 13, Section 9(a), is suspended, as provided by House Rule 13, Section 9(f), to enable the house to the extent described in this resolution to permit the conference committee appointed to adjust the differences between the house and senate versions of **HB 2542**, relating to the regulation of parks and wildlife and providing penalties, to successfully conclude the committee's deliberations, by authorizing the conferees to consider and take action as follows:

House Rule 13, Section 9(a)(4) is suspended to permit the committee to add SECTION 127 to the bill to read as follows:

SECTION 127. (a) Not later than October 1, 1997, the Parks and Wildlife Department shall submit to the legislature a report describing the actions the department has taken, and the actions the department plans to take during the 1998-1999 biennium, to address deficiencies in maintenance, operational support, and promotion of historic structures, sites, and parks under the department's jurisdiction. The report shall respond in detail to the findings and recommendations included in the study of state historic sites conducted for the department and the Texas Historical Commission by KPMG Peat Marwick, L.L.P., and submitted to those agencies in January 1997.

(b) Copies of the department's report shall be delivered to the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the senate and house standing committees having jurisdiction over matters relating to preservation of state historic structures, sites, and parks.

This change is necessary to require the Parks and Wildlife Department to respond to a report regarding the administration of historic sites.

HR 1098 was adopted without objection.

HCR 300 - ADOPTED
(by Cuellar)

Representative Cuellar moved to suspend all necessary rules to take up and consider at this time **HCR 300**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 300

WHEREAS, **HB 1200** has passed the Texas House of Representatives and the Texas Senate and is now in the office of the governor; and

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

RESOLVED by the 75th Legislature, That the governor be hereby requested to return **HB 1200** to the house of representatives for further consideration; and, be it further

RESOLVED, That the action of the speaker of the house and the president of the senate in signing **HB 1200** be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

HCR 300 was adopted without objection.

HCR 299 - ADOPTED
(by B. Turner)

Representative B. Turner moved to suspend all necessary rules to take up and consider at this time **HCR 299**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 299

WHEREAS, **HB 1144** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains a technical error that needs correction; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following correction:

In Section 2 of the bill, in Section 4B(d), Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), as amended by the bill, between "establishment" and the semicolon, insert ", other than a restaurant, retail food, or food service establishment".

HCR 299 was adopted without objection.

**SB 381 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Goodman, the house granted the request of the senate for the appointment of a conference committee on **SB 381**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 381**: Goodman, chair, Farrar, Hightower, Keel, and Place.

**SB 823 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Naishtat, the house granted the request of the senate for the appointment of a conference committee on **SB 823**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 823**: Naishtat, chair, Bailey, Clark, Hill, and Tillery.

**HB 298 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 298, A bill to be entitled An Act relating to election dates and to information concerning cost savings in the conduct of elections.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 298**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 298**: Madden, chair, Danburg, Denny, Gallego, and J. Jones.

**HB 399 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 399, A bill to be entitled An Act relating to the availability of governmental information about motor vehicle accidents.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 399**.

Senate Amendment No. 1

Amend **HB 399** on page 1, line 52 (Committee Printing) by inserting the following after "Subsection (c)," and before "Subsection F": "of this Section, then".

**HB 587 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 587, A bill to be entitled An Act relating to the definition of certain community centers.

On motion of Representative Hunter, the house concurred in the senate amendments to **HB 587**.

Senate Committee Substitute

CSHB 587, A bill to be entitled An Act relating to certain community centers.

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

SECTION 1. Sections 534.001(c) and (f), Health and Safety Code, are amended to read as follows:

(c) A community center is:

(1) an agency of the state, a governmental unit, and a unit of local government, as defined and specified by Chapters 101 and 102, Civil Practice and Remedies Code; ~~and~~

(2) a local government, as defined by Section 791.003, Government Code;

(3) a local government for the purposes of Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes); and

(4) a political subdivision for the purposes of Chapter 172, Local Government Code.

(f) Each function performed by a community center under this title is a governmental function if the function is required or affirmatively approved by any statute of this state or of the United States or by a regulatory agency of this state or of the United States duly acting under any constitutional or statutory authority vesting the agency with such power. Notwithstanding any other law, a community center is subject to Chapter 554, Government Code.

SECTION 2. Chapter 534, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. HEALTH MAINTENANCE ORGANIZATIONS

Sec. 534.101. HEALTH MAINTENANCE ORGANIZATION CERTIFICATE OF AUTHORITY. (a) One or more community centers may create or operate a nonprofit corporation pursuant to the laws of this state for the purpose of accepting capitated or other at-risk payment arrangements for the provision of services designated in a plan approved by the department under Subchapter A.

(b) Before a nonprofit corporation organized or operating under Subsection (a) accepts or enters into any capitated or other at-risk payment arrangement for services designated in a plan approved by the department under Subchapter A, the nonprofit corporation must obtain the appropriate certificate of authority from the Texas Department of Insurance to operate as a health maintenance

organization pursuant to the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

(c) Before submitting any bids, a nonprofit corporation operating under this subchapter shall disclose in writing to the department the services to be provided by the community center through any capitated or other at-risk payment arrangement by the nonprofit corporation. The department shall verify that the services provided under any capitated or other at-risk payment arrangement are within the scope of services approved by the department in each community center's plan required under Subchapter A.

(d) The board shall:

(1) provide for public notice of the nonprofit corporation's intent to submit a bid to provide or arrange services through a capitated or other at-risk payment arrangement through placement as a board agenda item on the next regularly scheduled board meeting that allows at least 15 days' public review of the plan; and

(2) provide an opportunity for public comment on the services to be provided through such arrangements and on the consideration of local input into the plan.

(e) The nonprofit corporation shall provide:

(1) public notice before verification and disclosure of services to be provided by the community center through any capitated or other at-risk payment arrangements by the nonprofit corporation;

(2) an opportunity for public comment on the community center services within the capitated or other at-risk payment arrangements offered by the nonprofit corporation;

(3) published summaries of all relevant documentation concerning community center services arranged through the nonprofit corporation, including summaries of any similar contracts the nonprofit corporation has entered into; and

(4) public access and review of all relevant documentation.

(f) A nonprofit corporation operating under this subchapter:

(1) is subject to the requirements of Chapters 551 and 552, Government Code;

(2) shall solicit public input on the operations of the nonprofit corporation and allow public access to information on the operations, including services, administration, governance, revenues, and expenses, on request unless disclosure is expressly prohibited by law or the information is confidential under law; and

(3) shall publish an annual report detailing the services, administration, governance, revenues, and expenses of the nonprofit corporation, including the disposition of any excess revenues.

Sec. 534.102. LAWS AND RULES. A nonprofit corporation created or operated under this subchapter that obtains and holds a valid certificate of authority as a health maintenance organization may exercise the powers and authority and is subject to the conditions and limitations provided by this subchapter, the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), and rules of the Texas Department of Insurance.

Sec. 534.103. APPLICATION OF LAWS AND RULES. A health maintenance organization created and operating under this subchapter is governed as, and is subject to the same laws and rules of the Texas Department of Insurance as, any other health maintenance organization of the same type.

Sec. 534.104. APPLICATION OF SPECIFIC LAWS. (a) A health maintenance organization created and operating under this subchapter is a governmental unit and a unit of local government, for purposes of Chapters 101 and 102, Civil Practice and Remedies Code, respectively, and a local government for purposes of Chapter 791, Government Code.

(b) Nothing in this subchapter precludes one or more community centers from forming a nonprofit corporation under Section 5.01, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), to provide services on a risk-sharing or capitated basis as permitted under Article 21.52F, Insurance Code.

SECTION 3. The Texas Department of Insurance shall adopt rules by September 1, 1997, that describe the procedures an entity must follow and the standards an entity must meet to obtain a certificate of authority as a single health care service plan providing behavioral health care services.

SECTION 4. This Act takes effect September 1, 1997.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **CSHB 587** as follows:

(1) In SECTION 2 of the bill, in added Section 534.104, Health and Safety Code, strike Subsection (a) (page 2, lines 45-50, senate committee printing) and substitute:

(a) A nonprofit health maintenance organization created under Section 534.101 is a health care provider that is a nonprofit health maintenance organization created and operated by a community center for purposes of Section 84.007(e), Civil Practice and Remedies Code. The nonprofit health maintenance organization is not a governmental unit or a unit of local government, for purposes of Chapters 101 and 102, Civil Practice and Remedies Code, respectively, or a local government for purposes of Chapter 791, Government Code.

(2) In SECTION 2 of the bill (page 2, line 44, senate committee printing), at the end of added Section 534.103, Health and Safety Code, insert the following: The commissioner of insurance may adopt rules as necessary to accept funding sources other than the sources specified by Section 13, Texas Health Maintenance Organization Act (Article 20A.13, Vernon's Texas Insurance Code), from a nonprofit health maintenance organization created and operating under this subchapter, to meet the minimum surplus requirements of that section.

(3) Insert the following appropriately numbered section:

SECTION _____. Section 84.007(e), Civil Practice and Remedies Code, is amended to read as follows:

(e) Sections 84.005 and 84.006 of this chapter do not apply to a health

care provider as defined in the Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), unless the provider is a federally funded migrant or community health center under the Public Health Service Act (42 U.S.C.A. Sections 254(b) and (c)) or is a nonprofit health maintenance organization created and operated by a community center under Section 534.101, Health and Safety Code, or unless the provider usually provides discounted services at or below costs based on the ability of the beneficiary to pay. Acceptance of Medicare or Medicaid payments will not disqualify a health care provider under this section. In no event shall Sections 84.005 and 84.006 of this chapter apply to a general hospital or special hospital as defined in Chapter 241, Health and Safety Code, or a facility or institution licensed under Subtitle C, Title 7, Health and Safety Code, or Chapter 242, Health and Safety Code, or to any health maintenance organization created and operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), except for a nonprofit health maintenance organization created under Section 534.101, Health and Safety Code.

(4) Renumber subsequent sections of the bill appropriately.

Senate Amendment No. 2

Amend CSHB 587 as follows:

Amend SECTION 2 of the bill, following proposed Sec. 534.104, Health and Safety Code (page 2, line 55, committee printing), by inserting:

SECTION 534.105. CONSIDERATION OF BIDS. The department shall give equal consideration to bids submitted by any entity, whether it be public, for-profit, or non-profit, if the department accepts bids to provide services through a capitated or at-risk payment arrangement and if the entities meet all other criteria as required by the department.

HB 768 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 768, A bill to be entitled An Act relating to remedies in an action alleging discrimination against an employee based on a claim for workers' compensation benefits.

On motion of Representative Junell, the house concurred in the senate amendments to **HB 768**. (The vote was reconsidered on Tuesday, May 27, the house refused to concur in senate amendments, and a conference committee was appointed.)

Senate Amendment No. 1

Amend **HB 768** by striking all below the enacting clause and replacing it with the following:

SECTION 1. Section 451.002, Labor Code, is amended by amending Subsection (c) to read as follows:

(c) The burden of proof in a proceeding under this section is on the employee to establish that an action of the employee protected under Section 451.001 was the substantial cause of the employee's discharge from the position of employment.

SECTION 2. This Act takes effect September 1, 1997, and applies only to a cause of action that accrues on or after the effective date of this Act. An action that accrues before the effective date of this Act is governed by the law in effect when the action accrued, and the former law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 844 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 844, A bill to be entitled An Act relating to the creation of the office of district attorney for Judicial District 1-A and to the abolition of the jurisdiction of the district attorney for the 1st Judicial District in Newton County.

On motion of Representative McReynolds, the house concurred in the senate amendments to **HB 844**.

Senate Amendment No. 1

Amend **HB 844** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 43.101, Government Code, is amended to read as follows:

Sec. 43.101. 1ST JUDICIAL DISTRICT. The voters of [~~Newton~~] Sabine[;] and San Augustine counties elect a district attorney for the 1st Judicial District who represents the state in that district court only in those counties.

SECTION 2. Section 44.001, Government Code, is amended to read as follows:

Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Dallas, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum.

SECTION 3. Subchapter B, Chapter 44, Government Code, is amended by adding Section 44.276 to read as follows:

Sec. 44.276. NEWTON COUNTY. (a) The criminal district attorney of Newton County must be at least 25 years old and have been a practicing attorney in this state for five years.

(b) The criminal district attorney shall attend each term and session of the district courts in Newton County and each term and session of the inferior courts of the county held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(c) The criminal district attorney shall perform the duties conferred by law on county and district attorneys in the various counties and districts.

(d) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(e) The criminal district attorney is entitled to receive in equal monthly installments compensation from the state equal to the amount paid by the state to district attorneys. The state compensation shall be paid by the comptroller as appropriated by the legislature.

SECTION 4. Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies only to the following prosecutors:

(1) the district attorneys for the 2nd, 8th, 9th, 12th, 18th, 21st, 22nd, 23rd, 24th, 26th, 27th, 29th, 34th, 35th, 36th, 38th, 43rd, 47th, 49th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 84th, 85th, 90th, 97th, 105th, 106th, 110th, 118th, 119th, 123rd, 142nd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 259th, 266th, 268th, 271st, 278th, 286th, 329th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Ellis, Falls, Fannin, Freestone, Grayson, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION 5. The office of county attorney of Newton County is abolished.

SECTION 6. This Act takes effect September 1, 1997.

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

**HB 1150 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1150, A bill to be entitled An Act relating to the notification of school personnel of the arrest or detention of a student and any subsequent disposition of that arrest or detention.

Representative Greenberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1150**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1150**: Greenberg, chair, Flores, Goodman, A. Reyna, and Staples.

**HB 1239 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1239, A bill to be entitled An Act relating to the voluntary cleanup program.

On motion of Representative Jackson, the house concurred in the senate amendments to **HB 1239**.

Senate Committee Substitute

CSHB 1239, A bill to entitled An Act relating relating to the voluntary cleanup program.

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

SECTION 1. Sections 361.133(b) and (c), Health and Safety Code, are amended to read as follows:

(b) The fund consists of money collected by the commission from:

(1) fees imposed on the owner or operator of an industrial solid waste or hazardous waste facility for commercial and noncommercial management or disposal of hazardous waste or commercial disposal of industrial solid waste under Section 361.136 and fees imposed under Section 361.138;

(2) interest and penalties imposed under Section 361.140 for late payment of a fee or late filing of a report;

(3) money paid by a person liable for facility cleanup and maintenance under Section 361.197;

(4) the interest received from the investment of this fund, in accounts under the charge of the treasurer, to be credited pro rata to the hazardous and solid waste remediation fee fund;

(5) monies transferred from other agencies under provisions of this code or grants or other payments from any person made for the purpose of remediation of facilities under this chapter or the investigation, cleanup, or removal of a spill or release of a hazardous substance;

(6) fees imposed under Section 361.604; and

(7) federal grants received for the implementation or administration of state voluntary cleanup programs or federal brownfields initiatives.

(c) The commission may use the money collected and deposited to the credit of the fund under this section, including interest credited under Subsection (b)(4), only for:

(1) necessary and appropriate removal and remedial action at sites at which solid waste or hazardous substances have been disposed if funds from a liable person, independent third person, or the federal government are not sufficient for the removal or remedial action;

(2) necessary and appropriate maintenance of removal and remedial actions for the expected life of those actions if:

(A) funds from a liable person have been collected and deposited to the credit of the fund for that purpose; or

(B) funds from a liable person, independent third person, or the federal government are not sufficient for the maintenance;

(3) expenses concerning compliance with:

(A) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) as amended;

(B) the federal Superfund Amendments and Reauthorization Act of 1986 (10 U.S.C. Section 2701 et seq.); and

(C) Subchapters F and I;

(4) expenses concerning the regulation and management of household hazardous substances and the prevention of pollution of the water resources of the state from the uncontrolled release of hazardous substances;

(5) expenses concerning the cleanup or removal of a spill, release, or potential threat of release of a hazardous substance where immediate action is appropriate to protect human health and the environment; and

(6) expenses concerning implementation of the voluntary cleanup program under Subchapter S or federal brownfields initiatives.

SECTION 2. Section 361.603, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a), a site or portion of a site that is subject to a commission permit or order is eligible for participation in the voluntary cleanup program on dismissal of the permit or order. An administrative penalty paid to the general revenue fund under the permit or order is nonrefundable.

SECTION 3. Subchapter S, Chapter 361, Health and Safety Code, as added by Chapter 986, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 361.6035 to read as follows:

Sec. 361.6035. ELIGIBILITY OF CERTAIN PERSONS FOR RELEASE FROM LIABILITY. (a) A person who purchased a site before September 1, 1995, is released, on certification under Section 361.609, from all liability to the state for cleanup of contamination that was released at the site covered by the certificate before the purchase date, except for releases or consequences that the person contributed to or caused, if:

(1) the person did not operate the site, or any portion of the site, before the purchase date; and

(2) another person that is a responsible party under Section 361.271 or 361.275(g) successfully completes a voluntary cleanup of the site under this subchapter.

(b) A person described by Subsection (a)(2):

(1) remains liable to the state for any contamination that was released at the site before the date the certificate is issued; and

(2) is not liable to the state for any contamination that was released at the site after the date the certificate is issued unless the person:

(A) contributes to or causes the release of contamination; or

(B) changes the land use from the use specified in the certificate of completion if the new use may result in increased risks to human health or the environment.

SECTION 4. Section 361.604(b), Health and Safety Code, is amended to read as follows:

(b) An application submitted under this section must:

- (1) be on a form provided by the executive director;
- (2) contain:

(A) general information concerning:

- (i) the person and the person's capability, including the person's financial capability, to perform the voluntary cleanup; ~~and~~
- (ii) the site; and
- (iii) whether the voluntary cleanup is subject to

Section 361.6035:

(B) other background information requested by the executive director; and

(C) an environmental assessment of the actual or threatened release of the hazardous substance or contaminant at the site;

(3) be accompanied by an application fee of \$1,000; and

(4) be submitted according to schedules set by commission rule.

SECTION 5. Section 361.605(b), Health and Safety Code, is amended to read as follows:

(b) If an application is rejected because it is not complete or accurate, the executive director, not later than the 45th day after receipt of the application, shall provide the person with a list of all information needed to make the application complete or accurate. A person may resubmit an application once without submitting an additional application fee if the person resubmits the application not later than the 45th day after the date the executive director issues notice that the application has been rejected.

SECTION 6. Sections 361.609(b), (c), and (d), Health and Safety Code, are amended to read as follows:

(b) The certificate of completion shall:

(1) acknowledge the protection from liability provided by Section 361.610;

(2) indicate the proposed future land use; and

(3) include a legal description of the site and the name of the site's owner at the time the application to participate in the voluntary cleanup program was filed.

(c) ~~[The executive director shall file a copy of the certificate of completion in the real property records of the county in which the site is located.~~

~~[(d)]~~ If the executive director determines that the person has not successfully completed a voluntary cleanup approved under this subchapter, the executive director shall notify the person who undertook the voluntary cleanup and the current owner of the site that is the subject of the cleanup of this determination.

SECTION 7. Section 361.610, Health and Safety Code, is amended to read as follows:

Sec. 361.610. PERSONS RELEASED FROM LIABILITY. (a) A person who is not a responsible party under Section 361.271 or 361.275(g) at the time the person applies to perform a voluntary cleanup;

(1) does not become a responsible party solely because the person signs the application; and

(2) is released, on certification under Section 361.609, from all liability to the state for cleanup of areas of the site covered by the certificate [certification], except for releases and consequences that the person causes.

(b) A person who is not a responsible party under Section 361.271 or 361.275(g) at the time the commission issues a certificate of completion under Section 361.609 is released, on issuance of the certificate, from all liability to the state for cleanup of areas of the site covered by the certificate, except for releases and consequences that the person causes.

(c) The release from liability provided by this section does not apply to a person who:

(1) acquires [is not effective if] a certificate of completion [is acquired] by fraud, misrepresentation, or knowing failure to disclose material information; [-]

(2) knows at the time the person [(e) If a certificate of completion for a site is issued by the commission, an owner who] acquires an interest in the [property on which the] site for which the certificate of completion was issued that the certificate was acquired in a manner provided by Subdivision (1); or

(3) [is located or a lender who makes a loan secured by that property after the date of issuance of the certificate is released from all liability for cleanup of contamination released before the date of the certificate for the areas covered by the certificate unless the owner or lender was originally included as a responsible party under Section 361.271 or 361.275(g). A release of liability does not apply to a person who] changes land use from the use specified in the certificate of completion if the new use may result in increased risks to human health or the environment.

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997.

(b) Sections 2-4 of this Act take effect on the later of:

(1) September 1, 1997; or

(2) the date the Texas Natural Resource Conservation Commission enters into a memorandum of agreement with the United States Environmental Protection Agency, Region 6, authorizing the inclusion of certain potentially responsible parties to the group of persons eligible to participate in the voluntary cleanup program established by Subchapter S, Chapter 361, Health and Safety Code, as added by Chapter 986, Acts of the 74th Legislature, Regular Session, 1995.

(c) The Texas Natural Resource Conservation Commission shall publish the memorandum of agreement described by Subsection (b) of this section in the Texas Register.

(d) A person to whom notice of rejection of an application is issued under Section 361.605, Health and Safety Code, before September 1, 1997, may resubmit the application once without submitting an additional application fee if the person resubmits the application not later than October 15, 1997.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **CSHB 1239** as follows:

In Section 1 of the bill, Section 361.133(b)(4), Health and Safety Code, (Committee printing, page 1, line 26), strike "treasurer" and substitute "comptroller".

Senate Amendment No. 2

Amend **CSHB 1239** by adding the following appropriately numbered sections as follows and renumbering the existing sections of the bill accordingly:

SECTION _____. Subchapter B, Chapter 312, Tax Code, is amended by adding Section 312.211 to read as follows:

Sec. 312.211. AGREEMENT BY MUNICIPALITY RELATING TO PROPERTY SUBJECT TO VOLUNTARY CLEANUP AGREEMENT. (a)

This section applies only to:

(1) real property:

(A) that is located in a reinvestment zone;

(B) that is not in an improvement project financed by tax increment bonds;

(C) that is the subject of a voluntary cleanup agreement under Section 361.606, Health and Safety Code; and

(D) the value of which is adversely affected by the release of a hazardous substance or contaminant according to the two preceding appraisals by the appraisal office; and

(2) tangible personal property located on the real property.

(b) The governing body of a municipality eligible to enter into a tax abatement agreement under Section 312.002 may agree in writing with the owner of property described by Subsection (a) to exempt from taxation a portion of the value of the property for a period not to exceed four years. The agreement takes effect on January 1 of the next tax year after the date the owner receives a certificate of completion for the property under Section 361.609, Health and Safety Code. The agreement may exempt from taxation:

(1) not more than 100 percent of the value of the property in the first year covered by the agreement;

(2) not more than 75 percent of the value of the property in the second year covered by the agreement;

(3) not more than 50 percent of the value of the property in the third year covered by the agreement; and

(4) not more than 25 percent of the value of the property in the fourth year covered by the agreement.

(c) A property owner may not receive a tax abatement under this section for the first tax year covered by the agreement unless the property owner includes with the application for an exemption under Section 11.28 filed with the chief appraiser of the appraisal district in which the property has situs a copy of the certificate of completion for the property.

(d) A property owner who files a copy of the certificate of completion for property for the first tax year covered by the agreement is not required to refile the certificate in a subsequent tax year to receive a tax abatement under this section for the property for that tax year.

(e) The chief appraiser shall accept a certificate of completion filed under Subsection (c) as conclusive evidence of the facts stated in the certificate.

(f) The governing body of the municipality may cancel or modify the agreement if:

(1) the use of the land is changed from the use specified in the certificate of completion; and

(2) the governing body determines that the new use may result in an increased risk to human health or the environment.

(g) A municipality may enter into a tax abatement agreement covering property described by Subsection (a) under this section or under Section 312.204, but not under both sections. Section 312.204 applies to an agreement entered into under this section except as otherwise provided by this section.

(h) A school district may not enter into a tax abatement agreement under this section.

SECTION _____. Subsection (a), Section 312.002, Tax Code, is amended to read as follows:

(a) A taxing unit may not enter into a tax abatement agreement under this chapter and the governing body of a municipality or county may not designate an area as a reinvestment zone unless the governing body has established guidelines and criteria governing tax abatement agreements by the taxing unit and a resolution stating that the taxing unit elects to become eligible to participate in tax abatement. The guidelines applicable to property other than property described by Section 312.211(a) must provide for the availability of tax abatement for both new facilities and structures and for the expansion or modernization of existing facilities and structures.

SECTION _____. Subsections (c) and (d), Section 312.201, Tax Code, are amended to read as follows:

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 or 312.211 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204 or 312.211, as applicable. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1) published in a newspaper having general circulation in the municipality; and

(2) delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.

SECTION _____. Subsection (a), Section 312.2041, Tax Code, is amended to read as follows:

(a) Not later than the seventh day before the date on which a municipality enters into an agreement under Section 312.204 or 312.211, the governing body of the municipality or a designated officer or employee of the municipality shall deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The notice must include a copy of the proposed agreement.

SECTION _____. Section 312.205, Tax Code, is amended to read as follows:

Sec. 312.205. **SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT.** (a) An agreement made under Section 312.204 or 312.211 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect;

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement;

(5) contain each term agreed to by the owner of the property;

(6) require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement; and

(7) provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

(b) An agreement made under Section 312.204 or 312.211 may include, at the option of the governing body of the municipality, provisions for:

(1) improvements or repairs by the municipality to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower charges or rates than are made for other services or properties of a similar character;

(2) an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;

(3) a map showing existing uses and conditions of real property in the reinvestment zone;

(4) a map showing proposed improvements and uses in the reinvestment zone; and

(5) proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances.

SECTION _____. Subsections (a) and (c), Section 312.206, Tax Code, are amended to read as follows:

(a) If property taxes on property located in the taxing jurisdiction of a

municipality are abated under an agreement made under Section 312.204 or 312.211, the governing body of each other taxing unit eligible to enter into tax abatement agreements under Section 312.002 in which the property is located may execute a written agreement with the owner of the property not later than the 90th day after the date the municipal agreement is executed. The agreement must contain terms identical to those contained in the agreement with the municipality providing for the portion of the property that is to be exempt from taxation under the agreement, the duration of the agreement, and the provisions included in the agreement under Section 312.205, even if the value of the property at the time the agreement is executed is not the same as its value when the municipal agreement was executed and even if improvements or repairs have been made to the property since the municipal agreement was executed. If the governing body of the taxing unit by official action at any time before the execution of the municipal agreement expresses an intent to enter into an agreement with the owner of property under this subsection or to be bound by the terms of the municipal agreement if the municipality enters into an agreement under Section 312.204 or 312.211 with the owner relating to the property, the terms of the municipal agreement regarding the share of the property to be exempt in each year of the municipal agreement apply to the taxation of the property by the taxing unit. If the taxing unit that expressed its intent to enter into an agreement or to be bound by the municipal agreement is a county, those terms of the municipal agreement also apply to the taxation of the property by a taxing unit in the county to which a county tax abatement agreement would apply under Section 312.004.

(c) If the governing body of a municipality designates a reinvestment zone that includes property in the extraterritorial jurisdiction of the municipality, the governing body of a taxing unit eligible to enter into tax abatement agreements under Section 312.002 in which the property is located may execute a written agreement with the owner of the property to exempt from its property taxes all or part of the value of the property in the same manner and subject to the same restrictions as provided by Section 312.204 or 312.211 for a municipality. The taxing unit may execute an agreement even if the municipality does not execute an agreement for the property, and the terms of the agreement are not required to be identical to the terms of a municipal agreement. However, if the governing body of another eligible taxing unit has previously executed an agreement to exempt all or part of the value of the property and that agreement is still in effect, the terms of the subsequent agreement relating to the share of the property that is to be exempt in each year that the existing agreement remains in effect must be identical to those of the existing agreement.

SECTION _____. Subsection (a), Section 312.402, Tax Code, is amended to read as follows:

(a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204, ~~[and]~~ 312.205, and 312.211 applicable to a municipality. Section 312.2041 applies to an agreement made by a county under this section in the same manner as it applies to an agreement made by a municipality under Section 312.204 or 312.211.

SECTION _____. A tax abatement agreement under Section 312.211 applies only to ad valorem taxes imposed on or after January 1, 1998.

**HB 1294 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1294, A bill to be entitled An Act relating to continuing education requirements for county commissioners.

On motion of Representative King, the house concurred in the senate amendments to **HB 1294**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1294** in SECTION 1 of the bill, proposed Section 81.0025(f), Local Government Code, by striking "250,000" and substituting "225,000".

**HB 1596 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1596, A bill to be entitled An Act relating to unlicensed personal care facilities.

Representative Hochberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1596**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1596**: Hochberg, chair, Chavez, Davila, McReynolds, and Naishtat.

**HB 1662 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1662, A bill to be entitled An Act relating to rates for certain lines of insurance.

Representative Cook moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1662**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1662**: Counts, chair, Bonnen, Eiland, G. Lewis, and Smithee.

**HB 1684 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1684, A bill to be entitled An Act relating to circumstances in which less than the whole number of a jury may render a verdict in a criminal case.

On motion of Representative Clark, the house concurred in the senate amendments to **HB 1684**.

Senate Amendment No. 1

Amend **HB 1684** to add the words ", the defendant's counsel," after the word "defendant" on page 1 at line 19 of the committee printing.

**HB 2025 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2025, A bill to be entitled An Act relating to the regulation of the sale and use of certain refrigerants; providing a criminal penalty.

On motion of Representative Pickett, the house concurred in the senate amendments to **HB 2025**.

Senate Amendment No. 1

Amend **HB 2025** as follows:

(1) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, between lines 32 and 33), insert a new Subsection (c) to read as follows:

(c) A person may not sell a flammable refrigerant or refrigerant substitute that contains a liquid petroleum-based product for use in an automotive, aviation, commercial, or residential air conditioning or refrigeration system. A flammable refrigerant or refrigerant substitute that contains a liquid petroleum-based product may not be used in the maintenance or installation of any system relating to an airplane or other aircraft.

(2) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, line 33), strike "(c)" and substitute "(d)".

(3) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, line 40), strike "(d) Except as provided by Subsection (f)" and substitute "(e) Except as provided by Subsection (g)".

(4) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, line 47), strike "(e)" and substitute "(f)".

(5) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, line 52), strike "(f)" and substitute "(g)".

(6) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, line 56), strike "(g)" and substitute "(h)".

(7) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, line 58), strike "Subsection (d) or (e)" and substitute "Subsection (c), (e), or (f)".

(8) In SECTION 2 of the bill, in Section 10, The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) (Senate Committee Printing, page 1, line 60), strike "(h)" and substitute "(i)".

(9) In SECTION 3 of the bill, in Subsection (b) of that section (Senate Committee Printing, page 1, line 64), strike "10(c), (d), (e), and (g)" and substitute "10(d), (e), (f), and (h)".

HB 2049 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2049, A bill to be entitled An Act relating to the authority of a county to regulate certain fireworks during a drought.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 2049**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2049**, Section 1, Sec. 240.904(a)(2) by deleting the current section in its entirety and substituting in lieu thereof the following:

(2) "Drought conditions" shall mean the existence immediately preceding or during the fireworks season of a long term deficit of moisture creating atypically severe conditions with increased wildfire occurrence as defined by the Texas Forest Service through the use of the Keetch-Byram Drought Index, or when such index is not available, through a comparable measurement which takes into consideration the burning index, spread component or ignition component for that particular area. [~~Climatic conditions shall mean specific conditions that exist due to a severe lack of precipitation in a specified area.~~]

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 2049**, Section 1, by adding a new subsection (j) to read as follows:

(j) The changes in the law made by this Act apply to drought conditions that may arise in any county or part of a county in this State. Any regulations adopted prior to the effective date of this Act are governed by the law that existed immediately before that effective date and those regulations are

continued in effect for that purpose until such effective date. Subsequent to the effective date of this Act the provisions of this Act shall supersede any other provisions of law or regulations of administrative or other governmental bodies.

Senate Amendment No. 3

Amend **HB 2049** by adding the following appropriately numbered new section:

SECTION Nothing in this Act shall be construed to pre-empt or take precedence over any provision of SB 1 75th Session Texas Legislature should such proposal be finally enacted.

HB 2101 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2101, A bill to be entitled An Act relating to stopping at railroad grade crossings; providing penalties.

On motion of Representative Siebert, the house concurred in the senate amendments to **HB 2101**.

Senate Committee Substitute

CSHB 2101 A bill to be entitled An Act relating to stopping at railroad grade crossings; providing penalties.

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

SECTION 1. Section 545.251, Transportation Code, is amended to read as follows:

Sec. 545.251. OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN. (a) An operator approaching a railroad grade crossing shall stop not closer than 15 feet or farther than 50 feet from the nearest rail if:

(1) a clearly visible electric or mechanical signal device warns of the immediate approach of a train;

(2) a crossing gate is lowered, or a flagger warns of [signals] the approach or passage of a train;

(3) a railroad engine approaching within approximately 1,500 feet of the highway crossing emits a signal audible from that distance and the engine is an immediate hazard because of its speed or proximity to the crossing; ~~or~~

(4) an approaching train is plainly visible to the operator and is in hazardous proximity to the crossing; or

(5) the operator is required to stop by:

(A) other law;

(B) an official traffic-control device; or

(C) a traffic-control signal.

(b) An operator of a vehicle ~~[who stops as]~~ required by Subsection (a) to stop shall remain stopped until [may not proceed until] it is safe to proceed [do so].

(c) An operator of a vehicle who approaches a railroad grade crossing equipped with railroad crossbuck signs without automatic, electric, or

mechanical signal devices, crossing gates, or a flagger warns of the approach or passage of a train shall yield the right-of-way to a train in hazardous proximity to the crossing. If required for safety, the operator shall stop at a clearly marked stop line before the grade crossing or, if no stop line exists, not closer than 15 feet or farther than 50 feet from the nearest rail.

(d) An operator commits an offense if the operator drives around, under, or through a crossing gate or a barrier at a railroad crossing while the gate or barrier is closed, being closed, or being opened.

(e) In a prosecution under this section, proof that at the time of the offense a train was in hazardous proximity to the crossing and that the train was plainly visible to the operator is prima facie evidence that it was not safe for the operator to proceed.

(f) An offense under this section is punishable by a fine of not less than \$50 or more than \$200.

SECTION 2. In addition to the substantive changes made by this Act, this Act conforms Section 545.251, Transportation Code, to Section 1, Chapter 881, Acts of the 74th Legislature, 1995. To the extent of any conflict between this Act and another Act of the 75th Legislature relating to nonsubstantive changes and revisions in enacted codes, this Act prevails.

SECTION 3. This Act takes effect September 1, 1997.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **CSHB 2101**, SECTION 1, Sec. 545.251(c) by inserting "and proceed at a speed that is reasonable for the existing conditions." at the end of the first sentence following the word "crossing" and before the beginning of the second sentence, beginning with the word "If".

HB 2128 - HOUSE CONCURS IN SENATE AMENDMENTS

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

HB 2128, A bill to be entitled An Act relating to the use of telephone caller identification services and automated dial announcing devices by telephone solicitors; providing an administrative penalty.

On motion of Representative Keel, the house concurred in the senate amendments to **HB 2128**. (The vote was reconsidered later today, the motion to concur in senate amendments was withdrawn, and the house concurred in senate amendments to **HB 2128** on Wednesday, May 28.)

HB 2271 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2271, A bill to be entitled An Act relating to the liability of certain persons concerning abandoned property.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 2271**.

Senate Amendment No. 1

Amend **HB 2271** (Senate committee printing, page 1, lines 22-26) by striking SECTION 2(a) of the bill and substituting the following:

SECTION 2(a) Section 74.05(f), Property Code, applies to any suit or complaint brought against a local governmental entity or any of its officers or employees after the effective date of this Act, regardless of the date that any element of the claim forming the basis of the suit or complaint was committed.

HB 2272 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2272, A bill to be entitled An Act relating to certain court costs a person convicted of certain offenses is required to pay.

Representative Thompson moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2272**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2272**: Thompson, chair, Dutton, Dunnam, Haggerty, and Heflin.

HB 2385 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2385, A bill to be entitled An Act relating to the creation of the Health and Human Services Policy Council.

On motion of Representative Delisi, the house concurred in the senate amendments to **HB 2385**.

Senate Amendment No. 1

Amend **HB 2385** by striking all below the enacting clause and substituting the following:

SECTION 1. (a) As part of the Sunset Advisory Commission's review of health and human services agencies in accordance with Chapter 325, Government Code (Texas Sunset Act) during the 76th Legislature, the commission shall study:

(1) the need for objective research and analysis of health and human service needs and programs;

(2) options for objective development of a long-range strategic plan for health and human services in this state;

(3) whether existing resources available to the legislature include safeguards needed to maintain the quality of research and promote greater accountability to state leadership; and

(4) the most appropriate means for providing to the legislature the research information necessary to manage Texas' health and human services system and plan for its future.

(b) The Sunset Advisory Commission shall consider the results of the study in developing its recommendations before the 76th Legislature convenes.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

HB 2386 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2386, A bill to be entitled An Act relating to Medicaid reimbursement for certain medical consultations.

On motion of Representative Delisi, the house concurred in the senate amendments to **HB 2386**.

Senate Amendment No. 1

Amend **HB 2386** In SECTION 1, in added Section 531.047, Government Code (page 2, between lines 4 and 5, committee printing), by adding Subsection (g) to read as follows:

(g) The Texas State Board of Medical Examiners, in consultation with the commission, as appropriate, may adopt rules as necessary to:

(1) ensure that appropriate care is provided to patients who receive services that are provided through a telemedical consultation; and

(2) prevent abuse and fraud through the use of telemedical consultations, including rules relating to filing of claims and records required to be maintained in connection with telemedicine.

HB 2472 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2472, A bill to be entitled An Act relating to the reporting of certain injuries to the Texas Department of Health.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 2472**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2472** as follows:

On page 1, line 21, delete the underlined colon.

On page 1, line 22, delete the underlined (1) and the underlined "; and"

On page 1, lines 23-24, delete the underlined language.

On page 3, line 19, delete "notwithstanding" and substitute "to the extent allowed by"

On page 3, line 22, add and after the semicolon

**HB 2615 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2615, A bill to be entitled An Act relating to certain findings concerning an allegation of child abuse or neglect in a suit affecting the parent-child relationship.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 2615**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2615** (House engrossment), in SECTION 1 of the bill, by inserting the following on page 1, line 12, between "law" and the period: ", including attorneys fees, costs of experts, and any other costs".

Senate Amendment No. 2

Amend **HB 2615** as follows:

- 1) On page 1, line 22, strike "or lacked factual foundation".
- 2) On page 1, line 22, add "This finding shall not constitute collateral estoppel for any criminal proceeding." between "." and "The".
- 3) On page 1, line 24, add the word "civil" between "any" and "sanction".

**HB 2617 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2617, A bill to be entitled An Act relating to the assessment of certain court costs in criminal cases and the use of that revenue to fund the Bill Blackwood Law Enforcement Management Institute.

On motion of Representative Uher, the house concurred in the senate amendments to **HB 2617**.

Senate Amendment No. 1

Amend **HB 2617** as follows:

In SECTION 3, strike "This Act takes effect September 1, 1997." and substitute the following:

"(a) Except as provided by subsection (b), this Act takes effect on September 1, 1997.

(b) SECTION 1 of this Act takes effect only if **HB 2272**, 75th Legislature, Regular Session, 1997, does not become law."

**HB 2940 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2940, A bill to be entitled An Act relating to dealing in computer equipment by a secondhand dealer.

On motion of Representative Uher, the house concurred in the senate amendments to **HB 2940**.

Senate Amendment No. 1

Amend HB 2940 by adding the following appropriately numbered section and renumbering the sections of the bill accordingly:

SECTION ____ Section 4, Chapter 919, Acts of the 68th Legislature, Regular Session, 1983 (Article 9024, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) This Act does not apply to a person whose primary business includes the manufacture, sale, or service of computers or devices peripheral to computers.

**HB 2981 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2981, A bill to be entitled An Act relating to notice to a payee of a change in the payor of oil or gas proceeds.

Representative Junell moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2981**.

The motion prevailed without objection. (Finnell recorded voting present, not voting)

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 2981**: Junell, chair, Hawley, Merritt, Moffat, and Torres.

**HB 3019 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3019, A bill to be entitled An Act relating to permit exemptions under the Texas Clean Air Act for construction or modification of certain facilities.

Representative Allen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3019**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 3019**: Allen, chair, Chisum, Cook, Horn, and Howard.

**HB 3306 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3306, A bill to be entitled An Act relating to penalties and interest, writs, suits, judgment amounts, right of redemption, and distribution of proceeds in ad valorem tax matters.

On motion of Representative Heflin, the house concurred in the senate amendments to **HB 3306**.

Senate Committee Substitute

CSHB 3306, A bill to be entitled An Act relating to penalties and interest, writs, suits, judgment amounts, right of redemption, and distribution of proceeds in ad valorem tax matters.

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

SECTION 1. Section 31.01(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (f) of this section, the assessor for each taxing unit shall prepare and mail a tax bill to each person in whose name the property is listed on the tax roll or to his authorized agent. The assessor shall mail tax bills by October 1 or as soon thereafter as practicable. The assessor shall mail to the state agency or institution the tax bill for any taxable property owned by the agency or institution. The agency or institution shall pay the taxes from funds appropriated for payment of the taxes or, if there are none, from funds appropriated for the administration of the agency or institution. The exterior [outside] of the [~~envelope in which a~~] tax bill [~~is sent~~] must show the return address of the taxing unit and must contain, in all capital letters, the words "ADDRESS CORRECTION REQUESTED".

SECTION 2. Section 32.07, Tax Code, is amended by adding Subsections (d) through (g) to read as follows:

(d) Any person who receives or collects an ad valorem tax or any money represented to be a tax from another person holds the amount so collected in trust for the benefit of the taxing unit and is liable to the taxing unit for the full amount collected plus any accrued penalties and interest on the amount collected.

(e) With respect to an ad valorem tax or other money subject to the provisions of Subsection (d), an individual who controls or supervises the collection of tax or money from another person, or an individual who controls or supervises the accounting for and paying over of the tax or money, and who wilfully fails to pay or cause to be paid the tax or money is liable as a responsible individual for an amount equal to the tax or money not paid or caused to be paid. The liability imposed by this subsection is in addition to any other penalty provided by law. The dissolution of a corporation, association, limited liability company, or partnership does not affect a responsible individual's liability under this subsection.

(f) Venue for suits arising under this section shall be governed by Section 33.41(a).

(g) In this section:

(1) "Responsible individual" includes an officer, manager, director, or employee or a corporation, association, or limited liability company or a member of a partnership who, as an officer, manager, director, employee, or member, is under a duty to perform an act with respect to the collection, accounting, or payment of a tax or money subject to the provisions of Subsection (d).

(2) "Tax" includes any ad valorem tax or money subject to the provisions of Subsection (d), including the penalty and interest computed by reference to the amount of the tax or money.

SECTION 3. Sections 33.01(a) and (c), Tax Code, are amended to read as follows:

(a) A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax continues to incur the penalty provided by this subsection as long as the tax remains unpaid, regardless of whether a judgment for the delinquent tax has been rendered.

(c) A delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid. Interest payable under this section is to compensate the taxing unit for revenue lost because of the delinquency. A delinquent tax continues to accrue interest under this subsection as long as the tax remains unpaid, regardless of whether a judgment for the delinquent tax has been rendered.

SECTION 4. Section 4, Article 1.05, Title 79, Revised Statutes (Article 5069-1.05, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. This article does not apply to a judgment;

(1) in favor of a taxing unit in a suit to collect a delinquent tax under Subchapter C, Chapter 33, Tax Code; or

(2) that earns interest that is set by Title 2, Tax Code.

SECTION 5. Section 33.02(b), Tax Code, is amended to read as follows:

(b) Interest and a penalty accrue [accrues] as provided by Subsections (a) and [Subsection] (c) of Section 33.01 [of this code] on the unpaid balance during the period of the agreement.

SECTION 6. (A) Section 33.48(a), Tax Code, is amended to read as follows:

(a) In addition to other costs authorized by law, a taxing unit is entitled to recover the following costs and expenses in a suit to collect a delinquent tax:

- (1) all usual court costs, including the cost of serving process;
- (2) costs of filing for record a notice of lis pendens against property;
- (3) expenses of foreclosure sale;
- (4) reasonable expenses~~[- subject to approval by the court,]~~ that are

incurred by the taxing unit in determining the name, identity, and location of

necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due; and

(5) ~~[reasonable]~~ attorney's fees ~~[approved by the court and not exceeding]~~ in the amount of 15 percent of the total amount of taxes, penalties, and interest due the unit.

(B) The change in law made to Section 33.48(a), Tax Code by this Act applies only to a suit to collect a delinquent ad valorem tax pending on or after the effective date of this Act.

SECTION 7. Section 33.51, Tax Code, is amended to read as follows:

Sec. 33.51. WRIT OF POSSESSION. If the court orders the foreclosure of a tax lien and the sale of real property, the judgment shall provide for the issuance by the clerk of said court of a writ of possession to the purchaser at the sale or to the purchaser's [his] assigns no sooner than 20 days following the date on which the purchaser's deed from the sheriff or constable is filed of record ~~[within 20 days after the period of redemption expires]~~.

SECTION 8. Section 33.52, Tax Code, is amended to read as follows:

Sec. 33.52. JUDGMENT FOR CURRENT TAXES. (a) If the court orders the foreclosure of a tax lien and the sale of real property, the judgment may include foreclosure on any unpaid tax on the property for the current year ~~[shall order that the taxing unit recover from the proceeds of the sale the amount of tax on the property for the current tax year prorated to the day of the judgment]~~.

(b) If the amount of tax for the current tax year has not been determined on the date of judgment, the court may ~~[shall]~~ order recovery of and foreclosure on the amount of tax imposed on the property for the preceding tax year ~~[prorated to the date of judgment]~~.

(c) If the judgment does not provide for recovery of taxes imposed for the current tax year, or for recovery of estimated taxes that cannot then be calculated for the current year, the real property is subject to the taxes for the current tax year and to the lien that secures those taxes, and any subsequent purchaser takes the property subject to those taxes and the tax lien.

SECTION 9. Sections 34.05(a) and (g), Tax Code, are amended to read as follows:

(a) If property is sold to a taxing unit that is a party to the judgment, the taxing unit may sell the property at any time and in any manner, except as otherwise required by this section. All such resales shall be ~~[-]~~ subject to any right of redemption existing at the time of the sale.

(g) Sections 263.001 and 272.001(a), Local Government Code, do not apply to property sold by a taxing unit ~~[in a municipality with a population of 1.5 million or more]~~ under this section. A taxing unit may, however, elect to follow the Local Government Code provisions in reselling such property.

SECTION 10. Section 34.06(b), Tax Code, is amended to read as follows:

(b) The purchasing taxing unit shall pay all costs and expenses of court and sale and shall distribute the remainder of the proceeds to each taxing unit participating in the sale in an amount equal to the proportion each participant's taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest due all participants in the sale, less any amounts previously paid as costs on the property as defined under Section 34.21(i) ~~[as provided by Section 34.02 of this code for distribution of proceeds after payment of costs]~~.

SECTION 11. Section 34.21, Tax Code, is amended to read as follows:

Sec. 34.21. RIGHT OF REDEMPTION. (a) The owner of real property sold at a tax sale to a purchaser other than a taxing unit and that was the residence homestead of the owner or that was land designated for agricultural use when the suit to collect the tax was filed may redeem the property within two years after the date on which the purchaser's deed is filed for record by paying the purchaser the amount the purchaser bid for the property, the amount of the deed recording fee, and the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed during the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed during the second year of the redemption period.

(b) If property that was the owner's residence homestead or was land designated for agricultural use when the suit to collect the tax was filed is bid off to a taxing unit under Section 34.01(c) and has not been resold by the taxing unit, the owner having a right of redemption may redeem the property within two years after the date on which the deed of the taxing unit is filed for record by paying the taxing unit the amount of the judgment against the property or the market value of the property as specified in that judgment, whichever is less, plus the amount of the fee for filing the taxing unit's deed and the amount expended by the taxing unit as costs on the property.

(c) If real property that was the owner's residence homestead or was land designated for agricultural use when the suit to collect the tax was filed has been resold by the taxing unit under Section 34.05, the owner of the property having a right of redemption may redeem the property within two years after the date on which the taxing unit files for record the deed from the sheriff or constable by paying the person who purchased the property from the taxing unit the amount the purchaser paid for the property, the amount of the fee for filing the purchaser's deed for record, the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed in the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed in the second year of the redemption period.

(d) The owner of real property sold at a tax sale other than property that was the residence homestead of the owner or that was land designated for agricultural use when the suit to collect the tax was filed [covered by Subsection (a)] may redeem the property in the same manner and by paying the same amounts as prescribed by Subsection (a), (b), or (c), as applicable, except that:

(1) the owner's right of redemption may be exercised no later than 180 days following [within six months after] the date on which the purchaser's or taxing unit's deed is filed for record; and

(2) the redemption premium payable by the owner to a purchaser other than a taxing unit shall not exceed 25 percent. [by paying the purchaser the amount the purchaser bid for the property, the amount of the deed recording fee, and the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus 25 percent of the aggregate total.]

(e) [(e)] If the owner of the real property makes an affidavit that the owner [he] has made diligent search in the county in which the property is located

for the purchaser at the tax sale ~~or for the purchaser at resale~~, and has failed to find ~~the purchaser~~ [him], that the purchaser ~~[at the sale]~~ is not a resident of the county in which the property is located, that ~~the owner~~ [he] and the purchaser cannot agree on the amount of redemption money due, or that the purchaser refuses to give ~~the owner~~ [him] a quitclaim deed to the property, the owner may redeem the ~~land~~ [property] by paying the required amount as prescribed by ~~this section~~ [Subsection (a) or (b), as applicable;] to the assessor-collector for the county in which the property described ~~has been redeemed~~ [is located]. The assessor-collector receiving the payment shall give the owner a signed receipt witnessed by two persons. The receipt, when recorded, is notice to all persons that the property described has been redeemed. The assessor-collector shall on demand pay the money received by ~~the assessor-collector~~ [him] to the purchaser ~~[at the tax sale]~~.

~~(f)~~ (f) The right of redemption does not grant or reserve in the former owner of the real property the right to the use or possession of the property, or to receive rents, income, or other benefits from the property while the right of redemption exists.

~~(g)~~ (g) In this section, "residence homestead" has the meaning assigned by Section 11.13.

~~(h)~~ (h) In this section, "agricultural use" has the meaning assigned by Section 23.51.

~~(i)~~ (i) In this section, "costs" is defined to include all those amounts reasonably expended by a purchaser or taxing unit in the maintenance, preservation, and safekeeping of the property, including but not limited to:

(1) insurance against fire, flood, and other hazards;

(2) repairs and improvements required by local ordinance, building code, or by the terms of any existing lease of the property, whether written or oral;

(3) discharge of mowing, cleaning, or demolition liens against the property that secure expenses incurred by a municipality;

(4) dues, assessments for maintenance, or liens provided by recorded restrictive covenants affecting the property and payable to a property owner's association; and

(5) standby fees payable to a water district, fresh water supply district, or other municipality as authorized by law.

SECTION 12. Section 34.23(b), Tax Code, is amended to read as follows:

~~(b) Except as provided by Section 34.21(e), the owner of property sold for taxes to a taxing unit may not redeem the property from the taxing unit after the property has been resold. [If the owner of property sold for taxes redeems the property from the taxing unit after the property has been resold, the taxing unit shall pay the purchaser at the resale the amount he paid for the property, plus 25 percent of that amount if the redemption occurs within one year after the date the property is resold or 50 percent of that amount if the redemption occurs more than one year after the date the property is resold. The taxing unit shall distribute the redemption proceeds remaining after payment of the amount due the purchaser at resale to the taxing units adjudged to have tax liens against the property in the proportion the amount of each unit's lien bears to the total amount of all liens established in foreclosure suit.]~~

SECTION 13. Section 41.11(a), Tax Code, is amended to read as follows:

(a) Not later than the ~~[15th day before the]~~ date the appraisal review board approves the appraisal records as provided by Section 41.12 ~~[of this code]~~, the secretary of the board shall deliver written notice to a property owner of any change in the records that is ordered by the board as provided by this subchapter and that will result in an increase in the tax liability of the property owner. An owner who receives a notice as provided by this section shall be entitled to protest such action as provided by Section 41.44(a)(2).

SECTION 14. This Act takes effect January 1, 1998.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 3465 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3465, A bill to be entitled An Act relating to the disposition of certain state property designated for military use.

On motion of Representative Greenberg, the house concurred in the senate amendments to **HB 3465**.

Senate Committee Substitute

CSHB 3465 A bill to be entitled An Act relating to relating to the disposition of certain state property designated for military use.

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

SECTION 1. Section 431.030, Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) If the adjutant general receives notice from the asset management division of the General Land Office as provided by Section 31.156, Natural Resources Code, the adjutant general shall produce a report evaluating the military use of any real property under the management and control of the department or the Texas National Guard Armory Board. The adjutant general shall evaluate the use of the property as required by this subsection according to military criteria for use of real property.

(f) Not later than August 1 of the year in which the commissioner of the General Land Office submits a report as provided by Section 31.157, Natural Resources Code, the adjutant general shall submit a preliminary report of the report required under Subsection (e) to the commissioner of the General Land Office identifying the real property used for military purposes. Not later than September 1 of the year in which the commissioner of the General Land Office submits a report as provided by Section 31.157, Natural Resources Code, the adjutant general shall submit the report as required by Subsection (e) to:

- (1) the governor;
- (2) the presiding officer of each house of the legislature;
- (3) the Legislative Budget Board; and

(4) the governor's budget office.

SECTION 2. Section 31.156, Natural Resources Code, is amended by adding Subsection (d) to read as follows:

(d) In any year that the division will evaluate property under the management and control of the adjutant general's department or the Texas National Guard Armory Board, the division shall notify the adjutant general's department before the division begins the evaluation.

SECTION 3. Section 31.157, Natural Resources Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If under the adjutant general's report submitted as provided by Section 431.030, Government Code, the adjutant general determines that real property under the management and control of the adjutant general's department or the Texas National Guard Armory Board is used for military purposes, the commissioner may not recommend a real estate transaction involving that real property in the final report submitted as provided by Subsection (e).

(e) The final report shall be submitted to the governor, the presiding officers of both houses of the legislature, the Legislative Budget Board, and the governor's budget office not later than September 1 of each year. If the report contains an evaluation of a sale of property, it must also contain an evaluation of the lease potential of the property.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 2128 - VOTE RECONSIDERED

Representative Keel moved to reconsider the vote by which the house moved to concur in senate amendments to **HB 2128**.

The motion to reconsider prevailed.

Representative Keel withdrew his motion to concur in senate amendments to **HB 2128**.

SB 102 - STATEMENT BY REPRESENTATIVE CARTER

I probably owe this house an apology for the yelling match that I got into yesterday in regard to this bill. I respect this process. We have the opportunity to present our views and ideas and sometimes we have differences of opinion — sometimes we lose, sometimes we don't. But I want you to understand that maybe I'm just getting too old too soon. I made a commitment ten years ago to the people of Texas and the members of the house of representatives. That if they would allow us to have this fee on the telephone bills for 9-1-1 purposes then I would do everything I could to protect that fee — being used for only 9-1-1 services. I feel very strongly about that particular commitment that I made to the members of the house at that time and the people of Texas. It was our understanding that once we got the whole process across the state that if we had any excess funds, we would reduce those fees. And that is the reason that I was up here arguing this issue yesterday. Regional trauma centers do

not fall within the definition of receiving calls and notification of proper authorities: police, fire, and EMS. Thank you, members.

Carter

ADJOURNMENT

Representative Kamel moved that the house adjourn until 10 a.m. tomorrow in memory of Donald Whittington, III.

The motion prevailed without objection.

The house accordingly, at 8:33 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 65

HB 63, HB 115, HB 119, HB 130, HB 137, HB 155, HB 218, HB 253, HB 349, HB 658, HB 697, HB 733, HB 803, HB 812, HB 819, HB 846, HB 853, HB 1043, HB 1356, HB 1467, HB 1477, HB 1611, HB 1637, HB 1692, HB 1836, HB 1880, HB 1909, HB 1961, HB 1975, HB 2061, HB 2062, HB 2063, HB 2069, HB 2129, HB 2146, HB 2261, HB 2482, HB 2488, HB 2493, HB 2561, HB 2681, HB 2841, HB 2845, HB 3016, HB 3052, HB 3087, HB 3197, HB 3244, HB 3279, HB 3383, HB 3391, HB 3428, HB 3567, HB 3572, HB 3587, HB 3607, HCR 21, HCR 254, HJR 104

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 24

Civil Practices - **SCR 3**

Insurance - **SB 1897**

Judicial Affairs - **SB 1563**

Licensing & Administrative Procedures - **SB 432**

Natural Resources - **SB 1942, SB 1949**

Public Health - **SB 662**

Revenue & Public Education Funding, Select - **SB 1873**

ENROLLED

May 24 - **HB 63, HB 115, HB 119, HB 130, HB 137, HB 155, HB 218, HB 219, HB 253, HB 254, HB 308, HB 561, HB 658, HB 697, HB 733, HB 803, HB 812, HB 846, HB 853, HB 1012, HB 1039, HB 1043, HB 1243, HB 1467, HB 1477, HB 1534, HB 1595, HB 1637, HB 1692, HB 1909, HB 1914, HB 1968, HB 1974, HB 1975, HB 2061, HB 2063, HB 2069, HB 2129, HB 2146, HB 2328, HB 2396, HB 2451, HB 2482, HB 2488, HB 2493, HB 2522, HB 2526, HB 2531, HB 2596, HB 2685, HB 2841, HB 2845, HB 2920, HB 3016, HB 3052, HB 3087, HB 3197, HB 3202, HB 3314, HB 3329, HB 3372, HB 3391, HB 3567, HB 3572, HB 3587, HCR 145, HCR 243, HCR 254, HCR 276**