

HOUSE JOURNAL

SEVENTY-SIXTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-NINTH DAY — FRIDAY, MAY 21, 1999

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

The roll of the house was called and a quorum was announced present (Record 401).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Corte; Jones, D.

The invocation was offered by Reverend Dudley Hall, Successful Christian Living Ministries, Euless, as follows:

Father, we come to you because you alone are worthy of our adoration and adulation. We take seriously your mandate to subdue the earth as your representatives. We acknowledge our inability to obey without your intervention. Thus, we come asking for wisdom to know, courage to act, and integrity to stand in righteousness.

As these men and women strive to find solutions to problems they didn't personally create, give them a sense of your providence and gentle compassion. Remind us daily that, though we represent the people of various districts of Texas, we also represent the kingdom of God on earth, and that final judgment on our job here will not be the ballot box but the judgment seat of Jesus Christ who has been granted by his father the right to judge all things.

Grant to these men and women today an awareness of their God-appointed role of administering righteous laws, and awareness of your promised wisdom.

We commit this day to be spent bringing glory to you. I ask you to bless these who work here. Let every word spoken be to the edification of each other. Make criticism and slander as distasteful to us as it is to you. Let the halls be filled with the respect for each other that is appropriate as unique creations from your mind. Let Texas not be known for its open spaces and tall tales. Let it be known as a state where people love justice and mercy and walk humbly before our God. In Jesus' name. Amen.

LEAVES OF ABSENCE GRANTED

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

Corte on motion of Denny.

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

D. Jones on motion of Denny.

CAPITOL PHYSICIAN

The speaker recognized Representative J. F. Solis who presented Dr. Miguel Vazquez of San Antonio as the "Doctor for the Day."

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

HR 954 - ADOPTED (by Hunter and Puente)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 954**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 954, Commending Dr. Gregg Cantrell of Hardin-Simmons University for his work in Texas history.

HR 954 was read and was adopted without objection.

HCR 288 - ADOPTED (by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HCR 288**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 288, Commemorating the citizens of Del Rio and Val Verde County for their outpouring of love during the 1998 flood and remembering those that lost their lives.

HCR 288 was read and was adopted without objection.

HCR 290 - ADOPTED
(by Yarbrough)

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HCR 290**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 290, Recognizing the rescue efforts of members of the Plumbing, Heating and Cooling Contractors Association.

HCR 290 was read and was adopted without objection.

HR 904 - ADOPTED
(by R. Lewis)

Representative R. Lewis moved to suspend all necessary rules to take up and consider at this time **HR 904**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 904, Congratulating J. Neal Miller, Jr., on his retirement from Chevron.

HR 904 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative R. Lewis, who introduced J. Neal Miller, Jr. and his family.

INTRODUCTION OF GUESTS

The speaker recognized Representative Christian, who introduced Diana Jane Walker and her family.

HR 843, honoring Diana Jane Walker for being chosen the 1999 Woman of the Year by the Nacogdoches branch of the American Association of University Women, having been previously adopted, was read.

HR 977 - ADOPTED
(by P. King)

Representative P. King moved to suspend all necessary rules to take up and consider at this time **HR 977**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 977, Honoring the retirement of Bill Wright from Sam Houston Elementary School and the Weatherford Independent School District.

HR 977 was read and was adopted without objection.

INTRODUCTION OF GUEST

The speaker recognized Representative P. King, who introduced Bill Wright.

HCR 285 - ADOPTED
(by Eiland)

Representative Eiland moved to suspend all necessary rules to take up and consider at this time **HCR 285**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 285, Honoring Betty Hardin on the occasion of her retirement.

HCR 285 was read and was adopted without objection.

On motion of Representative Yarbrough, the names of all the members of the house were added to **HCR 285** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Eiland, who introduced Betty Hardin.

HCR 138

HCR 138, congratulating the Friendswood High School Academic Decathlon team on winning the Texas Academic Decathlon, having been previously adopted, was read.

(Edwards in the chair)

HCR 269 - ADOPTED
(by Staples, Ellis, Uresti, Hunter, and P. Moreno)

Representative Ellis moved to suspend all necessary rules to take up and consider at this time **HCR 269**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 269, Honoring the release of U.S. Army Specialist Steven M. Gonzales.

HCR 269 was read and was adopted without objection.

On motion of Representative P. Moreno, the names of all the members of the house were added to **HCR 269** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representatives Staples, Ellis, Hunter, and Uresti, who introduced Steven M. Gonzales and his family.

Representative Staples presented an official state Bible to Mr. Gonzales on behalf of the house. Representative Ellis presented Mr. Gonzales with a flag that was flown over the capitol in his honor.

HR 1019 - ADOPTED
(by Flores)

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 1019**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1019, Honoring Roy Garcia of Mission on his induction into the City of Palms All Sports Hall of Honor.

HR 1019 was adopted without objection.

HR 1020 - ADOPTED
(by Flores)

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 1020**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1020, Honoring Mari Gonzalez of La Joya for her many years of work in behalf of migrant children and their families.

HR 1020 was adopted without objection.

HR 991 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 991**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 991, Congratulating the winners and participants of the Texas Association of Homes and Services for the Aging's Ninth Annual Art Exhibition.

HR 991 was adopted without objection.

HR 1015 - ADOPTED
(by Dukes)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 1015**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1015, Honoring the Reverend Raphael C. Smith on his retirement from the Mount Olive Baptist Church in Austin.

HR 1015 was adopted without objection.

HR 1004 - ADOPTED
(by Green)

Representative Green moved to suspend all necessary rules to take up and consider at this time **HR 1004**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1004, Honoring the 1999 Southwest Texas State University softball team.

HR 1004 was adopted without objection.

HR 1022 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1022**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1022, Honoring Charlotte Roy on her retirement from Abilene Animal Control.

HR 1022 was adopted without objection.

(Speaker in the chair)

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. 57).

HCR 287 - ADOPTED
(by Sadler)

Representative Sadler moved to suspend all necessary rules to take up and consider at this time **HCR 287**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 287, Congratulating State Representative Kyle Janek and his wife, Shannon Janek, on the birth of their son, Ryan Edward Janek.

HCR 287 was read and was adopted without objection.

On motion of Representative Goolsby, the names of all the members of the house were added to **HCR 287** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Sadler, who introduced Representative Janek, his wife Shannon, and their son, Ryan Edward Janek.

HR 1025 - ADOPTED
(by Carter)

Representative Carter moved to suspend all necessary rules to take up and consider at this time **HR 1025**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1025, Honoring the Richland High School fast-pitch softball team for an outstanding 1999 season.

HR 1025 was read and was adopted without objection.

On motion of Representative G. Lewis, the names of all the members of the house were added to **HR 1025** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Carter, who introduced the Richland High School fast-pitch softball team.

SCR 84 - ADOPTED (Uher - House Sponsor)

Representative Uher moved to suspend all necessary rules to take up and consider at this time **SCR 84**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 84, Returning Senate Bill No. 525 to the senate for further consideration.

SCR 84 was adopted without objection.

MAJOR STATE CALENDAR SENATE BILLS THIRD READING

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

SB 374 ON THIRD READING (Gray and Naishtat - House Sponsors)

SB 374, A bill to be entitled An Act relating to the provision of certain long-term care services, to the continuation and functions of the Texas Department on Aging, and to the eventual consolidation of the Texas Department of Human Services and the Texas Department on Aging into a new agency on aging and disability services.

SB 374 was passed.

SB 7 ON THIRD READING (Wolens - House Sponsor)

SB 7, A bill to be entitled An Act relating to electric utility restructuring and to the powers and duties of the Public Utility Commission of Texas, Office of Public Utility Counsel, and Texas Natural Resource Conservation Commission; providing penalties.

Amendment No. 1

Representative Bailey offered the following amendment to **SB 7**:

Amend **SB 7** on third reading by striking the text of second reading amendment No. 27 and substituting:

"Amend the Bailey Amendment to **SB 7** (pages 31-33 proposed amendments) as follows:

(1) In item 2, in added Section 39.253 (d), Utilities Code (page 2, line 6), strike "Subsection (b)" and substitute "Subsection (c)"

(2) In item 2, in added Section 39.253 (e), Utilities Code (page 2, line 14), strike "Subsection (C)" and substitute "Subsection (c)"

(3) In item 2, in added Section 39.253 (e), Utilities Code (page 2, line 15), strike "Subsection (D)" and substitute "Subsection (d)"

(4) In item 2, in added Section 39.253 (f), Utilities Code (page 2, lines 21 and 22), strike "the total retail stranded costs, including regulatory costs, of" and substitute "the total retail stranded costs, including regulatory assets of"

(5) In item 2, in added Section 39.253 (f), Utilities Code (page 2, line 22), after "billion" and before the comma, insert "on a statewide basis"

Amendment No. 1 was adopted without objection.

SB 7 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE S. TURNER: Just to establish the legislative intent of this particular amendment, let me ask you one question. Do you have any intent about what order the PUC should count all of these costs associated with stranded cost in order to calculate the five billion dollar cap pursuant to the Bailey agreement?

REPRESENTATIVE BAILEY: Yes we do. It is my understanding from the PUC and from the agreement we reached that stranded cost and regulatory assets will be calculated first and then environmental cost will be calculated after that.

TURNER: Thank you.

REMARKS ORDERED PRINTED

Representative S. Turner moved to print remarks by Representative Bailey and Representative S. Turner.

The motion prevailed without objection.

Amendment No. 2

Representatives S. Turner and Wolens offered the following amendment to **SB 7**:

Amend **SB 7**, on third reading, in Section 39.252(b), Utilities Code, as added by the Turner amendment No. 23, adopted on 2nd reading, by striking "means electric generation capacity capable of being" and substituting "means electric generation capacity greater than 10 megawatts capable of being".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Counts offered the following amendment to **SB 7**:

Amend **SB 7** on third reading by striking the text of second reading amendment No. 63 and substituting the following:

"Amend the Counts amendment to **CSSB 7** (page 80) as follows"

(1) On page 1, strike lines 1-4 and substitute:

SECTION _____. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.233 to read as follows:

Sec. 49.233. ELECTRIC GENERATION, TRANSMISSION, AND DISTRIBUTION FOR CERTAIN DISTRICTS. (a) A district that owns or operates raw water pipelines that convey surface water, ground water, or both surface and ground water, through more than 10 counties for municipal and industrial purposes may:

(2) On page 1, strike lines 18-19 and substitute:

(b) A district governed by this section:

(1) is subject to the transmission line certification provisions of Chapter 37, Utilities Code;

(2) may not generate electricity by means of hydroelectric generation.

(3) Renumber subsequent sections of the bill accordingly.

Amendment No. 3 was adopted without objection.

SB 7, as amended, was passed.

MAJOR STATE CALENDAR SENATE BILLS SECOND READING

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

CSSB 30 ON SECOND READING (Delisi - House Sponsor)

CSSB 30, A bill to be entitled An Act relating to parental notification before an abortion may be performed on certain minors; providing a criminal penalty.

Amendment No. 1

Representatives Chisum and Longoria offered the following amendment to **CSSB 30**:

Amend **CSSB 30** as follows:

(1) In SECTION 1, in added Section 33.002(d), Family Code, in the second sentence (house committee printing, page 3, line 20), strike "conclusive".

(2) In SECTION 1, in added Section 33.002(g), Family Code, in the second sentence (house committee printing, page 4, lines 9-10), strike "a Class A misdemeanor" and substitute "punishable by a fine not to exceed \$10,000".

(3) In SECTION 1, in added Section 33.005(b), Family Code (house committee printing, page 11, line 6), strike "conclusively".

HR 1042 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1042**, suspending the limitations on the conferees for **SB 1207**.

CSSB 30 - (consideration continued)

Amendment No. 1 was withdrawn.

Amendment No. 2

Representatives Gray and Chisum offered the following amendment to **CSSB 30**:

Amend **CSSB 30** (recommitted, house committee printing) as follows:

(1) In SECTION 1, in added Section 33.002(a), Family Code, following "(a)" (page 1, line 23), strike "A physician" and substitute "Except as provided by Section 33.011, a physician".

(2) In SECTION 1, in added Section 33.002(d), Family Code, in the second sentence (page 3, line 20), strike "conclusive".

(3) In SECTION 1, in added Section 33.002(g), Family Code, in the second sentence (page 4, lines 9-10, strike "a Class A misdemeanor" and substitute "punishable by a fine not to exceed \$10,000".

(4) In SECTION 1, in added Section 33.003, Family Code, following Subsection (n) (page 9, between lines 3 and 4), insert new Subsection (o) to read as follows:

(o) If the minor does not obtain a court order as described by this section, the minor's right to proceed under Section 33.011 is not affected.

(5) In SECTION 1, in added Section 33.004, Family Code, following Subsection (f) (page 10, between lines 21 and 22), insert new Subsection (g) to read as follows:

(g) If the minor does not prevail in an appeal under this section, the minor's right to proceed under Section 33.011 is not affected.

(6) In SECTION 1, in added Section 33.005(b), Family Code (page 11, line 6), strike "conclusively".

(7) IN SECTION 1, following added Section 33.010, Family Code (page 13, between line 4 and 5, insert new Section 33.011 to read as follows:

Sec. 33.011. ALTERNATE RELATIVE NOTICE. (a) A physician may perform an abortion without providing notice under Section 33.002 if any person listed in Section 32.001(a) (1) or (2), or a person listed in Section 32.001(a) (3) who is at least 25 years of age;

(1) confirms that the minor has not resided with either parent or managing conservator for the 30 days preceding the date of the affidavit and has no court-appointed guardian;

(2) determines, according to the person's best information and belief, that:

(A) notification under Section 33.002 would not be in the best interest of the minor; or

(B) the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator; and

(3) executes, in person and on the premises of the facility in which the abortion is to be performed, an affidavit to the physician who is to perform the abortion that:

(A) states that the person has made the determination described by Subdivision (1);

(B) verifies the identity of the person making the affidavit;
and

(C) indicates the relationship of the person making the affidavit to the pregnant minor, as described by Section 32.001(a) (1), (2), or (3).

(b) A physician who performs an abortion under this section may include a copy of the affidavit described by Subsection (a) in the minor's medical record.

(c) It is a defense to prosecution under this chapter that the person executing the affidavit authorized by this section executes a false affidavit. The defense established by this subsection does not apply if the physician is shown to have had independent knowledge that the affidavit is false.

(d) An affidavit executed under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other legal process.

(e) If the minor does not obtain an affidavit described by this section, the minor's right to proceed under Section 33.003 or 33.004 is not affected.

CSSB 30 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE NIXON: Ms. Gray, so that we are perfectly clear, on Tuesday when we discussed this bill we had an amendment by Longoria and Chisum that struck the words "conclusive" from page 3, line 20 and "conclusively" from page 11, line 5.

REPRESENTATIVE GRAY: That is correct.

NIXON: Am I to understand that your amendment does those same things as well?

GRAY: It does exactly what Mr. Chisum just offered up on Tuesday and again today and withdrew.

NIXON: And as regards to those presumptions that relate to the affidavit that the physician is required or may execute, it then changes those presumptions to be rebuttal presumptions?

GRAY: Yes, it does.

NIXON: And if the physician falsely swears out an affidavit, the affidavit may be rebutted in a prosecution against a physician for performing an abortion without notice to the parent or without the judicial bypass. Additionally, it is my understanding that the physician could be prosecuted as well for perjury under Chapter 37 of the Penal Code?

GRAY: That is correct.

NIXON: That is the intent of the amendment?

GRAY: That and it removes jail and makes the penalty a fine of up to ten thousand dollars.

NIXON: And that is what I wanted to talk to you about, I believe that was on page 4, lines 9 and 10.

GRAY: That is correct.

NIXON: And you and I and some others were in negotiations on this on Monday evening, and developed this as a concept in which we brought it forth to some people who agreed to this on Tuesday morning when we first had this bill. Is that right?

GRAY: That is correct.

NIXON: In fact, in case anybody was questioning, we even had an agreement that altered the agreement that we originally signed off on discussing those changes?

GRAY: I believe that one of the interest groups that was affected by that amendment signed off on the changes in that language.

NIXON: So as a consequence for removing the “conclusive” from the presumptions, we then made them punishable by fine not to exceed ten thousand dollars.

GRAY: That is correct. And it stays under the Criminal Code, not the Administrative Procedures Act.

NIXON: Now with regard to the additions to, when we combined the Chisum/Longoria amendment into your amendment today, we also have some other questions regarding legislative intent that I would like to ask.

GRAY: OK.

NIXON: And that is that it is clear that the child cannot be and have not resided with their parents for more than thirty days?

GRAY: For the thirty days preceding the execution of this affidavit by the alternate relative, that is correct.

NIXON: OK. In that the entire bill, also for purposes of legislative intent, the entire bill also applies to the family courts?

GRAY: Yes.

NIXON: As those are created from various counties to county?

GRAY: All district courts have family jurisdiction but many counties have specified family courts, and we wanted to be sure that we were not saying a district court to the exclusion of the family courts.

NIXON: OK. Now your bypass or the amendment that includes the bypass for the grandparent, the grandmother, the aunt or uncle over twenty-five, that is not intended to otherwise make the parental notice ineffective?

GRAY: No it is not. It is intended to try to address the circumstance where parents or a court designated guardian or managing conservator is simply not involved in this child’s life enough to be available to that child.

NIXON: You are not intending this to be a loophole by which a kid or child can move out and then get some person down the street to take them to go have an abortion? That is not your intent?

GRAY: Because the person down the street, unless they’re a grandparent, an adult aunt or uncle or sibling over twenty-five, an aunt, uncle or sibling all

over twenty-five are still going to have to affirm that they believe that notice to parents is not in the child's best interest.

NIXON: And it's really for the situation where the parents just aren't around?

GRAY: That is correct.

NIXON: OK.

GRAY: One parent may be in prison another one may be on the streets with their own health problems, a relative or a family friend has taken this child in but maybe there is a relative around. Now if this child is living just with a family friend and there is no adult sibling and there is no adult aunt or uncle and there is no grandparent that child still has to get a judicial bypass.

NIXON: That brings me to another question that I want everyone to fully understand. If the physician becomes aware of a situation where the child has been abused, physically abused or sexually assaulted, the physician is under a requirement in the body of the bill to then report that to which agency?

GRAY: To Children's Protective Services, Department of Protective and Regulatory Services and it's only if the child has suffered that abuse at the hands of someone who is responsible for her care and control. So this would be a child who is living with a stepparent, a mother and a stepparent, a parent and a stepparent and they're within that household, or it's the parent themselves or if they're living with the uncle and the uncle is the one who is responsible for her care and control. That does not require necessarily a legal relationship, but it would be someone who has assumed the responsibility for that child's care and control.

NIXON: But the point of that provision is to try to make sure where children have been abused that there is immediate intervention in their lives, that they're given protection.

GRAY: That is correct.

NIXON: That would also apply to a portion of your amendment, wherein that if an aunt, an uncle, a grandparent or an adult sibling identified in their affidavit to the physician that there has been sexual or physical abuse, that duty is still there on behalf of the physician to report that to the appropriate authorities?

GRAY: That is correct.

NIXON: Thank you, Ms. Gray.

REMARKS ORDERED PRINTED

Representative Swinford moved to print remarks by Representative Nixon and Representative Gray.

The motion prevailed without objection.

Representative Dutton raised a point of order against further consideration of **CSSB 30** under Rule 4, Sections 9 and 11 (b) of the House Rules on the grounds that the May 19 meeting of the State Affairs Committee during which the bill was reported was held in the speakers committee room, which

is considered to be part of the house chamber, and that while the chair did announce the meeting while the house was in session, written notice of that meeting was not filed with the journal clerk or read by the reading clerk.

The speaker overruled the point of order.

Representative Nixon moved to table Amendment No. 2.

A record vote was requested.

The motion to table was lost by (Record 402): 62 Yeas, 83 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Christian; Clark; Crabb; Craddick; Crownover; Culberson; Davis, J.; Denny; Driver; Elkins; Goodman; Goolsby; Green; Grusendorf; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Hope; Howard; Hunter; Isett; Jones, C.; Keel; Keffer; King, P.; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; Morrison; Mowery; Nixon; Palmer; Ramsay; Reyna, E.; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Talton; Tillery; Truitt; West; Williams; Wohlgemuth; Woolley.

Nays — Alexander; Alvarado; Bailey; Bosse; Burnam; Capelo; Carter; Chavez; Chisum; Coleman; Cook; Counts; Cuellar; Danburg; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Gray; Greenberg; Gutierrez; Haggerty; Hardcastle; Hawley; Hinojosa; Hochberg; Hodge; Homer; Hupp; Janek; Jones, J.; Junell; King, T.; Lengefeld; Lewis, G.; Longoria; Luna; Maxey; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Rangel; Reyna, A.; Ritter; Salinas; Solis, J.; Solis, J. F.; Swinford; Telford; Thompson; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; Wise; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.

Absent — Wilson; Wolens.

STATEMENT OF VOTE

When Record No. 402 was taken, I would have voted no.

Wilson

Amendment No. 3

Representative Gray offered the following amendment to Amendment No. 2:

Amend the gray amendment to **CSSB 30** in Section 33.011 (a), as added by item (7) of the amendment (page 2, lines 1-2), by striking "any person listed in Section 32.001 (a) (1) or (2), or a person listed in Section 32.001 (a) (3) who is at least 25 years" and substituting any person listed in Section 32.001 (a) (1) or a person listed in Section 32.001 (a) (2) or (3) who is at least 25 years".

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Gray offered the following amendment to Amendment No. 2:

Amend the Gray amendment to **CSSB 30** in Section 33.001, as added by item (7) of the amendment (page 2, line 33 through page 3, line 1), by striking Subsection (d) and substituting the following:

(d) An affidavit executed under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Thompson offered the following amendment to Amendment No. 2:

Amend the Gray amendment to **CSSB 30** in added Section 33.011 (a), Family Code (page 2, lines 4-6), by striking Subdivision (1) and renumbering the remaining subdivisions as appropriate.

Representative Chisum moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 403): 108 Yeas, 37 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Carter; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Driver; Dunnam; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; George; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, R.; Longoria; Madden; Marchant; McCall; McReynolds; Morrison; Mowery; Nixon; Oliveira; Palmer; Pickett; Pitts; Puente; Ramsay; Reyna, E.; Ritter; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solomons; Staples; Swinford; Talton; Telford; Tillery; Truitt; Turner, B.; Uher; Walker; West; Williams; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Nays — Bailey; Burnam; Capelo; Chavez; Coleman; Danburg; Davis, Y.; Deshotel; Dukes; Dutton; Farrar; Garcia; Giddings; Greenberg; Gutierrez; Hochberg; Hodge; Lewis, G.; Luna; Maxey; McClendon; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Olivo; Rangel; Reyna, A.; Salinas; Solis, J. F.; Thompson; Turner, S.; Uresti; Van de Putte; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.

Absent — Edwards; Wolens.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 403. I intended to vote no.

Ehrhardt

I was shown voting no on Record No. 403. I intended to vote yes.

Salinas

Representative Heflin raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill (resolution).

The speaker overruled the point of order.

A record vote was requested.

Amendment No. 2 failed of adoption by (Record 404): 69 Yeas, 74 Nays, 3 Present, not voting.

Yeas — Alexander; Alvarado; Burnam; Capelo; Chavez; Chisum; Coleman; Counts; Cuellar; Delisi; Deshotel; Dunnam; Dutton; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Gray; Greenberg; Hardcastle; Hawley; Hinojosa; Hochberg; Hodge; Homer; Hupp; Jones, J.; Junell; King, T.; Lengefeld; Lewis, G.; Longoria; Maxey; McClendon; McReynolds; Merritt; Moreno, J.; Naishtat; Najera; Nixon; Oliveira; Olivo; Pickett; Pitts; Puente; Reyna, A.; Ritter; Salinas; Solis, J.; Solis, J. F.; Telford; Thompson; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; Wilson; Wise; Yarbrough; Zbrank.

Nays — Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Carter; Christian; Clark; Cook; Crabb; Craddick; Crownover; Culberson; Davis, J.; Davis, Y.; Denny; Driver; Dukes; Elkins; Goodman; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Hope; Howard; Hunter; Isett; Janek; Jones, C.; Keel; Keffer; King, P.; Krusee; Kuempel; Lewis, R.; Luna; Madden; Marchant; McCall; Moreno, P.; Morrison; Mowery; Noriega; Palmer; Ramsay; Rangel; Reyna, E.; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Tillery; Truitt; West; Williams; Wohlgemuth; Woolley.

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

Absent, Excused — Corte; Jones, D.

Absent — Edwards; Wolens.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

CSSB 30 - (consideration continued)

Amendment No. 6

Representatives Chisum and Longoria offered the following amendment to **CSSB 30**:

Amend **CSSB 30** as follows:

(1) In SECTION 1, in added Section 33.002(d), Family Code, in the second sentence (house committee printing, page 3, line 20), strike "conclusive".

(2) In SECTION 1, in added Section 33.002(g), Family Code, in the second sentence (house committee printing, page 4, lines 9-10), strike "a Class A misdemeanor" and substitute "punishable by a fine not to exceed \$10,000".

(3) In SECTION 1, in added Section 33.005(b), Family Code, (house committee printing, page 11, line 6), strike "conclusively".

A record vote was requested.

Amendment No. 6 was adopted by (Record 405): 127 Yeas, 16 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; McCall; McReynolds; Merritt; Morrison; Mowery; Najera; Nixon; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Bailey; Chavez; Danburg; Davis, Y.; Farrar; Greenberg; Luna; Maxey; McClendon; Moreno, J.; Naishtat; Noriega; Reyna, A.; Thompson; Tillery; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.

Absent — Dukes; Edwards; Moreno, P.; Rangel.

LEAVE OF ABSENCE GRANTED

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

Wolens on motion of Brimer.

CSSB 30 - (consideration continued)

Amendment No. 7

Representative Dutton offered the following amendment to **CSSB 30**:

Amend **CSSB 30** as follows:

(1) In SECTION 1, in added Section 33.002(a)(1), Family Code (house committee printing, page 2, lines 4-7), strike Paragraphs (A) and (B) and substitute the following:

(A) a parent of the minor, if the minor has no managing conservator or guardian, or a court-appointed managing conservator or guardian; or

(B) any person listed in Sections 32.001(a)(1)-(3);

(2) In SECTION 1, in added Section 33.002(c), Family Code (house committee printing, page 3, lines 12-15), strike Subdivisions (1) and (2) and substitute the following:

(1) a parent of the minor, if the minor has no managing conservator or guardian, or a court-appointed managing conservator or guardian; or

(2) any person listed in Sections 32.001(a)(1)-(3).

(3) In SECTION 1, strike Subsection (a), Section 33.003, Family Code (house committee printing, page 5, lines 7-12), and substitute the following:

(a) A pregnant minor who wishes to have an abortion without notification to any person under Section 33.002(a)(1) may file an application for a court order authorizing the minor to consent to the performance of an abortion without the notification.

(4) In SECTION 1, strike Subdivision (3), Subsection (c), Section 33.003, Family Code (house committee printing, page 5, lines 21-23), and substitute the following:

(3) a statement that the minor wishes to have an abortion without notification to any person under Section 33.002(a)(1); and

(5) In SECTION 1, strike Subdivision (1), Subsection (f), Section 33.003, Family Code (house committee printing, page 6, lines 10 and 11), and renumber subsequent subdivisions of that subsection accordingly.

(6) In SECTION 1, in the first sentence of added Section 33.003(k), Family Code (house committee printing, page 8, line 7), strike "or guardian" and substitute "guardian, or any other person described by Section 33.002(a)(1)".

(7) In SECTION 1, in added Section 33.004(f), Family Code (house committee printing, page 10, lines 20 and 21), strike "notification to either of her parents or a managing conservator or guardian" and substitute "notification under Section 33.002".

Representative Delisi moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 406): 88 Yeas, 58 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Carter; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Driver; Elkins; Ellis; Farabee; Flores; George; Goodman; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Junell; Keel; Keffer; King, P.; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall;

McReynolds; Merritt; Morrison; Mowery; Nixon; Palmer; Pickett; Pitts; Ramsay; Reyna, E.; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Tillery; Truitt; Turner, B.; Walker; West; Williams; Wohlgemuth; Woolley; Zbranek.

Nays — Alexander; Bailey; Burnam; Capelo; Chavez; Coleman; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hinojosa; Hochberg; Hodge; Homer; Jones, J.; King, T.; Lengefeld; Lewis, G.; Longoria; Luna; Maxey; McClendon; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Puente; Rangel; Reyna, A.; Ritter; Salinas; Solis, J.; Solis, J. F.; Telford; Thompson; Turner, S.; Uher; Uresti; Van de Putte; Wilson; Wise; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Wolens.

Amendment No. 8

Representative Gray offered the following amendment to **CSSB 30**:

Amend **CSSB 30** (recommitted, house committee printing) as follows:

(1) In SECTION 1, in added Section 33.002 (a), Family Code, following "(a)" (page 1, line 23), strike "A physician" and substitute "Except as provided by Section 33.011, a physician".

(2) In SECTION 1, in added Section 33.003, Family Code, following Subsection (n) (page 9, between lines 3 and 4), insert new Subsection (o) to read as follows:

(o) If the minor does not obtain a court order as described by this section, the minor's right to proceed under Section 33.011 is not affected.

(3) In SECTION 1, in added Section 33.004, Family Code, following Subsection (f) (page 10, between lines 21 and 22), insert new Subsection (g) to read as follows:

(g) If the minor does not prevail in an appeal under this section, the minor's right to proceed under Section 33.011 is not affected.

(4) In SECTION 1, following added Section 33.010, Family Code (page 13, between lines 4 and 5), insert new Section 33.011 to read as follows:

Sec. 33.011. ALTERNATE RELATIVE NOTICE. (a) A physician may perform an abortion without providing notice under Section 33.002 if any person listed in Section 32.001 (a) (1), or a person listed in Section 32.001 (a) (2) or (3) who is at least 25 years of age:

(1) confirms that the minor has not resided with either parent or managing conservator for the 30 days preceding the date of the affidavit and has no court-appointed guardian;

(2) determines, according to the person's best information and belief, that:

(A) notification under Section 33.002 would not be in the best interest of the minor; or

(B) the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator; and

(3) executes, in person and on the premises of the facility in which the abortion is to be performed, an affidavit to the physician who is to perform the abortion that:

(A) states that the person has made the determination described by Subdivision (1);

(B) verifies the identity of the person making the affidavit; and

(C) indicates the relationship of the person making the affidavit to the pregnant minor, as described by Section 32.001 (a) (1), (2), or (3).

(b) A physician who performs an abortion under this section may include a copy of the affidavit described by Subsection (a) in the minor's medical record.

(c) It is a defense to prosecution under this chapter that the person executing the affidavit authorized by this section executes a false affidavit. The defense established by this subsection does not apply if the physician is shown to have had independent knowledge that the affidavit is false.

(d) An affidavit executed under this section is confidential and privileged and is not subject to disclosure under Chapter 552, Government Code.

(e) If the minor does not obtain an affidavit described by this section, the minor's right to proceed under Section 33.003 or 33.004 is not affected.

Representative Delisi moved to table Amendment No. 8.

The motion to table was withdrawn.

A record vote was requested.

The vote of the house was taken on Amendment No. 8 and the vote was announced yeas 72, nays 75.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 407): 71 Yeas, 75 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Alexander; Alvarado; Bailey; Burnam; Capelo; Chavez; Coleman; Counts; Cuellar; Danburg; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hinojosa; Hochberg; Hodge; Homer; Jones, J.; Junell; King, T.; Lengefeld; Lewis, G.; Longoria; Maxey; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Rangel; Reyna, A.; Ritter; Salinas; Solis, J.; Solis, J. F.; Telford; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Wise; Yarbrough; Zbranek.

Nays — Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Carter; Chisum; Christian; Clark; Cook; Crabb; Craddick; Crownover; Culberson; Davis, J.; Denny; Driver; Elkins; George; Goodman; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.;

Keel; Keffer; King, P.; Krusee; Kuempel; Lewis, R.; Luna; Madden; Marchant; McCall; Morrison; Mowery; Nixon; Palmer; Pitts; Ramsay; Reyna, E.; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Truitt; Walker; West; Williams; Wilson; Wohlgemuth; Woolley.

Absent, Excused — Corte; Jones, D.; Wolens.

Absent — Edwards.

The speaker stated that Amendment No. 8 failed by adoption by the above vote.

Representative Burnam raised a point of order against further consideration of **CSSB 30** under Rule 4, Section 32 (c) (1) of the House Rules on the grounds that the background and purpose section of the bill analysis fails to adequately describe the purpose of the bill.

The speaker overruled the point of order.

Amendment No. 9

Representative Puento offered the following amendment to **CSSB 30**:

Amend **CSSB 30** in SECTION 1, in added Section 33.002 (i), Family Code, in the third sentence (house committee printing, page 5, line 5.), by striking "for not more than 30 days".

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Heflin offered the following amendment to **CSSB 30**:

Amend **CSSB 30** as follows:

(1) In SECTION 1, in added Section 33.001(1), Family Code (recommitted house committee printing, page 1, lines 9-11), strike the first sentence and substitute the following: "\"Abortion\" means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus.".

(2) In SECTION 1, in added Section 33.001, Family Code (recommitted house committee printing, page 1, between lines 14 and 15), insert the following new Subdivision (2) and renumber subsequent subdivisions appropriately:

(2) "Fetus" means an individual human organism from fertilization until birth.

A record vote was requested.

Amendment No. 10 was adopted by (Record 408): 90 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Carter; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Driver;

Dunnam; Eiland; Elkins; Ellis; Farabee; Goodman; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Junell; Keel; Keffer; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; McReynolds; Morrison; Mowery; Nixon; Olivo; Palmer; Pickett; Pitts; Ramsay; Reyna, E.; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Telford; Truitt; Uher; Walker; West; Williams; Wise; Wohlgemuth; Woolley; Zbranek.

Nays — Alvarado; Bailey; Burnam; Capelo; Chavez; Coleman; Danburg; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hinojosa; Hochberg; Jones, J.; King, P.; King, T.; Lengefeld; Lewis, G.; Longoria; Luna; Maxey; McClendon; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Puente; Rangel; Reyna, A.; Ritter; Sadler; Solis, J.; Solis, J. F.; Thompson; Tillery; Turner, S.; Uresti; Van de Putte; Wilson; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Wolens.

Absent — Turner, B.

Amendment No. 11

Representative Puente offered the following amendment to **CSSB 30**:

Amend **CSSB 30** in SECTION 1, in added Section 33.002(i), Family Code, in the third sentence (recommitted house committee printing, page 5, lines 3-4), by striking "on motion" and substituting "Notwithstanding any other reason for a continuance provided under the Code of Criminal Procedure or other law, on motion".

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representatives Chavez and P. Moreno offered the following amendment to **CSSB 30**:

Amend **CSSB 30** in SECTION 1, at the end of added Chapter 33, Family Code, by inserting the following section:

Sec. 33.011. ELIGIBILITY REQUIREMENTS FOR STATE ASSISTANCE WAIVED. (a) In this section:

(1) "Commissioner" means the commissioner of health and human services.

(2) "State assistance program" means any program under which medical or financial assistance is provided to individuals by this state. The term includes the Temporary Assistance for Needy Families program and the Medicaid program.

(b) A child born to a minor who sought, under Section 33.003 or 33.004, permission to obtain an abortion without notification under Section 33.002, but who was denied that permission, is eligible for benefits provided under

any state assistance program without regard to any other eligibility criteria imposed by law.

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

(d) The state may not use federal matching money to provide benefits under this section to the extent prohibited by federal law or regulation.

LEAVE OF ABSENCE GRANTED

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

B. Turner on motion of Gallego.

CSSB 30 - (consideration continued)

Representative Delisi moved to table Amendment No. 12.

A record vote was requested.

The motion to table prevailed by (Record 409): 95 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Crownover; Culberson; Davis, J.; Delisi; Denny; Driver; Dunnam; Eiland; Elkins; Ellis; Farabee; George; Goodman; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Junell; Keel; Keffer; King, P.; King, T.; Kruse; Kuempel; Lengefeld; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Morrison; Mowery; Nixon; Palmer; Pitts; Puente; Ramsay; Reyna, E.; Ritter; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Telford; Tillery; Truitt; Uher; Walker; West; Williams; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Nays — Alvarado; Burnam; Capelo; Chavez; Coleman; Cuellar; Danburg; Davis, Y.; Deshotel; Dukes; Dutton; Ehrhardt; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Gray; Greenberg; Hinojosa; Hochberg; Hodge; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; McClendon; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Rangel; Reyna, A.; Salinas; Solis, J.; Solis, J. F.; Thompson; Turner, S.; Uresti; Van de Putte; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Carter; Edwards; Gutierrez.

STATEMENT OF VOTE

When Record No. 409 was taken, I would have voted yes.

Carter

A record vote was requested.

CSSB 30, as amended, was passed to third reading by (Record 410): 111 Yeas, 30 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Capelo; Carter; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Driver; Dunnam; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; George; Goodman; Goolsby; Gray; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; McCall; McReynolds; Merritt; Morrison; Mowery; Nixon; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Tillery; Truitt; Uher; Uresti; Van de Putte; Walker; West; Williams; Wise; Wohlgemuth; Woolley; Zbranek.

Nays — Bailey; Burnam; Chavez; Coleman; Danburg; Davis, Y.; Deshotel; Dukes; Dutton; Ehrhardt; Farrar; Giddings; Greenberg; Hinojosa; Hochberg; Hodge; Jones, J.; Luna; Maxey; McClendon; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Rangel; Reyna, A.; Thompson; Turner, S.; Wilson.

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

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Edwards; Glaze.

STATEMENT OF VOTE

When Record Vote No. 410 was taken, I would have vote yes.

Edwards

CSSB 30 - REASONS FOR VOTE

I voted no on **SB 30** because I am concerned about the safety and health of a girl who is afraid to tell her parents. Amendments that would have allowed other family members to be notified in such cases were defeated. Had those amendments been adopted, I would have supported the bill.

Greenberg

I voted no on **SB 30** because I am concerned about the safety and health of a girl who is afraid to tell her parents, and because amendments that would have allowed other family members to step in in such cases were defeated. Had those amendments been adopted, I would have supported the bill.

Hochberg

I voted present not voting on **SB 30** because this legislation does not reflect my views on family values. I strongly believe that parents should be involved in any procedure involving their children. If a parent is unavailable for any reason this decision should rest with another member of the child's

immediate family (i.e., grandparents, uncle, aunt) or at the minimum an adult brother or sister; not with a judge unless extreme circumstances exist.

Yarbrough

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

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, Senate List No. 29).

CSSB 1547 ON SECOND READING (Oliveira - House Sponsor)

CSSB 1547, A bill to be entitled An Act relating to the collection of the tax on motor fuels; providing penalties.

(Deshotel in the chair)

CSSB 1547 was passed to third reading.

CONSTITUTIONAL AMENDMENTS CALENDAR SENATE JOINT RESOLUTIONS SECOND READING

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

SJR 22 ON SECOND READING (Brimer - House Sponsor)

SJR 22, A joint resolution proposing a constitutional amendment increasing the maximum size of an urban homestead to 10 acres, prescribing permissible uses of urban homesteads, and preventing the overburdening of a homestead.

A record vote was requested.

SJR 22 was adopted by (Record 411): 138 Yeas, 1 Nay, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds;

Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, S.; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Nay — Uher.

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

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Edwards; Farrar; Garcia; Jones, C.; Marchant.

**GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**SB 871 ON SECOND READING
(S. Turner - House Sponsor)**

SB 871, A bill to be entitled An Act relating to the co-ownership of certain entities by physicians and podiatrists.

SB 871 - LAID ON THE TABLE SUBJECT TO CALL

Representative S. Turner moved to lay **SB 871** on the table subject to call.

The motion prevailed without objection.

**SB 926 ON SECOND READING
(Siebert - House Sponsor)**

SB 926, A bill to be entitled An Act relating to the pooling of turnpike projects.

SB 926 was passed to third reading.

**SB 1165 ON SECOND READING
(Keel - House Sponsor)**

SB 1165, A bill to be entitled An Act relating to the designation of water quality protection zones.

Amendment No. 1

Representative Keel offered the following amendment to **SB 1165**:

Amend **SB 1165** at the end of the bill by adding the following SECTION, appropriately numbered:

SECTION _____. 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.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Keel offered the following amendment to **SB 1165**:

Amend **SB 1165** as follows:

(1) In SECTION 1 of the bill, in the introductory language to the SECTION (Committee Printing, page 1, line 4), strike "(c) and (d)" and substitute "(c), (d), and (e)".

(2) In SECTION 1 of the bill, between Sections 26.179(d) and (g), Water Code (Committee Printing, page 2, between lines 16 and 17), insert the following:

(e) A water quality protection zone designated under this section shall be described by metes and bounds or other adequate legal description. The designation shall include a general description of the proposed land uses within the zone, a water quality plan for the zone, and a general description of the water quality facilities and infrastructure to be constructed for water quality protection in the zone.

(3) In SECTION 1 of the bill, in new Section 26.179(g), Water Code (Committee Printing, page 2, line 21), between "zone designation." and "An amendment", insert "An amendment to a zone designation adding land to or excluding land from a zone must describe the boundaries of the zone as enlarged or reduced by metes and bounds or other adequate legal description.".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Kuempel offered the following amendment to **SB 1165**:

Amend **SB 1165** (House Committee Printing) by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. All actions taken by the Texas Natural Resource Conservation Commission or another state agency before the effective date of this Act relating to the approval under Section 26.179, Water Code, of the designation of a tract as a water quality protection zone, of a water quality plan for a zone, or of an amendment to a designation or plan are ratified, validated, approved, and confirmed.

Amendment No. 3 was adopted without objection.

SB 1165, as amended, was passed to third reading.

SB 1020 ON SECOND READING
(S. Turner - House Sponsor)

SB 1020, A bill to be entitled An Act relating to telephone prepaid calling services; providing penalties.

SB 1020 was passed to third reading.

SB 1116 ON SECOND READING
(Morrison - House Sponsor)

SB 1116, A bill to be entitled An Act relating to an exception to the offense of contributing to the delinquency of a narcotic addict.

SB 1116 was passed to third reading.

SB 1122 ON SECOND READING
(Kuempel - House Sponsor)

SB 1122, A bill to be entitled An Act relating to circumstances in which cigarettes may not be affixed with stamps or sold; providing penalties.

Amendment No. 1 (Committee Amendment No. 1)

Representative Hilbert offered the following committee amendment to **SB 1122**:

Amend **SB 1122** (Engrossed version) by striking SECTION 5 (page 2, line 22, through page 3, line 2) and substituting:

SECTION 5. This Act takes effect January 1, 2000.

SECTION 6. 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.

Amendment No. 2

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

Amend Committee Amendment No. 1 to **SB 1122** as follows:

(1) In SECTION 5 (page 4, line 4), strike "January 1, 2000" and substitute "on the first day that it may take effect under Section 39, Article III, Texas Constitution".

(2) In SECTION 6 (page 4, line 9), between "suspended" and the period, insert ", and that this Act take effect and be in force according to its terms, and it is so enacted".

Representative Kuempel moved to table Amendment No. 2.

The motion to table was lost.

Amendment No. 2 was adopted without objection.

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

SB 1122, as amended, was passed to third reading.

CSSB 1354 ON SECOND READING
(Greenberg - House Sponsor)

CSSB 1354, A bill to be entitled An Act relating to longevity pay for certain state employees.

(Speaker in the chair)

CSSB 1354 was passed to third reading.

SB 1525 ON SECOND READING
(Uher - House Sponsor)

SB 1525, A bill to be entitled An Act relating to the practice of dietetics.

Amendment No. 1

Representative Uher offered the following amendment to **SB 1525**:

Amend **SB 1525** by inserting the following in SECTION 2 of the bill at the end of proposed Subsection (d) of Section 6, Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes) (House committee printing, page 2, line 9):

This subsection does not limit the authority of a person licensed to practice medicine from making a delegation authorized under Section 3.06(d), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Uher offered the following amendment to **SB 1525**:

Amend **SB 1525** by inserting the following SECTION to the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. The Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes) is amended by adding Section 15A to read as follows:

Sec. 15A. CONSTRUCTION OF ACT. (a) In this section, "giving advice concerning nutrition" or "providing nutritional advice" means giving information on the use and role of food and food ingredients, including dietary supplements.

(b) Subject to Section 15 of this Act, a person who gives advice concerning nutrition or provides nutritional advice, without receiving compensation for the advice, is not required to be licensed under this Act.

(c) This section does not grant a person authority to:

- (1) practice medicine or dietetics;
- (2) prevent, treat, or cure a disease, pain, injury, deformity, or physical or mental condition; or
- (3) represent that any product might cure a disease, disorder, or condition.

Amendment No. 2 was adopted without objection.

SB 1525, as amended, was passed to third reading.

SB 1734 ON SECOND READING (Telford - House Sponsor)

SB 1734, A bill to be entitled An Act relating to the limit on amounts that may be awarded for pecuniary loss to certain applicants under the Crime Victims' Compensation Act.

SB 1734 was passed to third reading.

SB 1794 ON SECOND READING (Telford - House Sponsor)

SB 1794, A bill to be entitled An Act relating to powers and duties of the Red River Redevelopment Authority; validating certain acts of the authority.

SB 1794 was passed to third reading.

SB 1883 ON SECOND READING
(R. Lewis - House Sponsor)

SB 1883, A bill to be entitled An Act relating to certain rates charged by a gas utility or municipally owned utility to a state agency.

SB 1883 was passed to third reading.

SB 792 ON SECOND READING
(Isett - House Sponsor)

SB 792, A bill to be entitled An Act relating to a requirement that a payor of the proceeds from the sale of gas produced from certain gas wells furnish certain information to the payee.

SB 792 was passed to third reading.

SB 851 ON SECOND READING
(Pickett - House Sponsor)

SB 851, A bill to be entitled An Act relating to an application for issuance of a subpoena.

Amendment No. 1

Representative Puente offered the following amendment to **SB 851**:

Amend **SB 851** as follows:

In SECTION 2, Subsection (a), Article 24.03, Code of Criminal Procedure, delete "[and placed with the papers in the cause]" (HOUSE COMMITTEE REPORT, page 1, lines 20 and 21) and insert "and placed with the papers in the cause" in its place.

Amendment No. 1 was adopted without objection.

SB 851, as amended, was passed to third reading.

SB 953 ON SECOND READING
(J. F. Solis - House Sponsor)

SB 953, A bill to be entitled An Act relating to vacating a judgment in a delinquent tax suit.

SB 953 was passed to third reading.

CSSB 962 ON SECOND READING
(Keel - House Sponsor)

CSSB 962, A bill to be entitled An Act relating to the prosecution and punishment of the offense of harassment.

Amendment No. 1

Representative Talton offered the following amendment to **CSSB 962**:

Amend **CSSB 962** in SECTION 1 of the bill, in proposed Section 42.07 (a) (7), Penal Code, (house committee printing, page 2, lines 9 and 10), by striking "harass, annoy, alarm, abuse, torment, embarrass, or offend" and substituting "harass, abuse, or torment".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Thompson offered the following amendment to **CSSB 962**:

Amend **CSSB 962** on page 2 by striking lines 24 and 25 and inserting the following:

unless:

(1) the defendant has previously been convicted under this section;

or

(2) the person against whom the offense was committed was intentionally selected because of the defendant's bias or prejudice against a group, if the group is a group for which statistics of crimes motivated by prejudice, hatred, or advocacy of violence toward that group are required to be maintained under Section 411.046 (a), Government Code; in which event the offense is a Class A misdemeanor.

Amendment No. 2 was adopted.

CSSB 962, as amended, was passed to third reading.

SB 1030 ON SECOND READING
(Farabee - House Sponsor)

SB 1030, A bill to be entitled An Act relating to the use of a prescription drug formulary by a group health benefit plan.

SB 1030 was passed to third reading.

SB 1223 ON SECOND READING
(Counts - House Sponsor)

SB 1223, A bill to be entitled An Act relating to the regulation of the practice of acupuncture.

Amendment No. 1

Representative Counts offered the following amendment to **SB 1223**:

Amend **SB 1223** on page 3, line 20, by striking "48" and inserting "60".

Amendment No. 1 was withdrawn.

SB 1223 was passed to third reading.

SB 1340 ON SECOND READING
(Gray - House Sponsor)

SB 1340, A bill to be entitled An Act relating to the regulation of anesthesia in certain outpatient settings.

SB 1340 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GRAY: As the house sponsor, it is my intent to improve for patients undergoing a procedure requiring anesthesia in an office setting. Nothing in this bill shall be construed to limit the current scope of practice of a nurse anesthetist or the Board of Nurse Examiners' ability to regulate the practice of a nurse anesthetist. It is my intent that the board of Medical Examiners have clear authority to establish rules regulating the provision of

anesthesia by a physician in an office setting and the Board of Nurse Examiners have clear authority to establish rules regulating the provision of anesthesia by a nurse anesthetist in an office setting. Any rules established which create a barrier or serve as a disincentive to a physician working with a nurse anesthetist in an office setting violate the intent of this legislation.

REMARKS ORDERED PRINTED

Representative Gray moved to print her remarks on **SB 1340**.

The motion prevailed without objection.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Maxey, Representative Gray offered the following committee amendment to **SB 1340**:

Amend **SB 1340** as follows:

(1) In SECTION 2 of the bill, in added Section 7.03(3), Medical Practice Act, insert the following between "licensed hospital" and the semicolon (engrossed version, page 3, line 8):

" , including an outpatient facility of the hospital that is separately located apart from the hospital".

(2) In SECTION 2 of the bill, in added Section 7.03, Medical Practice Act, insert the following as a new Subdivision (6) of Section 7.03 (engrossed version, page 3, between lines 15 and 16) and renumber the existing Subdivisions (6) and (7) of Section 7.03 appropriately (engrossed version, page 3, lines 16 and 19):

"(6) a facility maintained or operated by a state or local governmental entity:".

(3) In SECTION 4 of the bill, in added Section 3(3), Article 4527e, Revised Statutes, insert the following between "licensed hospital" and the semicolon (engrossed version, page 8, line 22):

" , including an outpatient facility of the hospital that is separately located apart from the hospital".

(4) In SECTION 4 of the bill, in added Section 3, Article 4527e, Revised Statutes, insert the following as a new Subdivision (6) of Section 3 (engrossed version, page 9, between lines 3 and 4) and renumber the existing Subdivisions (6) and (7) of Section 3 appropriately (engrossed version, page 9, lines 4 and 7):

"(6) a facility maintained or operated by a state or local governmental entity:".

Amendment No. 1 was adopted without objection.

SB 1340, as amended, was passed to third reading.

SB 977 ON SECOND READING

(Sadler, McReynolds, Christian, Staples, Ellis, et al. - House Sponsors)

SB 977, A bill to be entitled An Act relating to exemptions from ad valorem and sales and use taxation of certain timber and certain items used in timber operations and the valuation of certain timber land for ad valorem tax purposes.

SB 977 was passed to third reading.

CSSB 86 ON SECOND READING
(Danburg - House Sponsor)

CSSB 86, A bill to be entitled An Act relating to the protection of telecommunications and electric services customers; providing penalties.

Amendment No. 1

Representative Danburg offered the following amendment to **CSSB 86**:

Amend **CSSB 86** by striking Section 17.155, Utilities Code, as added by SECTION 3 of the bill (page 16, lines 4-6, House Committee Report), and substituting:

Sec. 17.155. PROVIDING COPY OF RECORDS. A billing utility shall provide a copy of records maintained under Sections 17.151(c), 17.152, and 17.154 to the commission staff on request. A service provider shall provide a copy of records maintained under Sections 17.151(b) and 17.153 to the commission on request.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Danburg offered the following amendment to **CSSB 86**:

Amend **CSSB 86** at the end of Section 17.004, Utilities Code, as added by SECTION 3 of the bill (house committee report, page 7, between lines 3 and 4), by adding Subsection (f) to read as follows:

(f) The commission shall adopt rules to provide automatic enrollment of eligible utility customers for lifeline telephone service and reduced electric rates available to low-income households. Each state agency, on the request of the commission, shall assist in the adoption and implementation of those rules.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative S. Turner offered the following amendment to **CSSB 86**:

Amend **CSSB 86** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS appropriately:

SECTION _____. Subchapter A, Chapter 55, Utilities Code, is amended by adding Section 55.012 to read as follows:

Sec. 55.012. LIMITATIONS ON DISCONTINUANCE OF BASIC LOCAL TELECOMMUNICATIONS SERVICE. (a) A provider of basic local telecommunications service may not discontinue that service because of nonpayment by a residential customer of charges for long distance service. Payment shall first be allocated to basic local telecommunications service.

(b) For purposes of allocating payment in this section, if the provider of basic local telecommunications service bundles its basic local telecommunications service with long distance service or any other service and provides a discount for the basic local telecommunications service because of that bundling, the rate of basic local telecommunications service shall be the rate the provider charges for stand-alone basic local telecommunications service.

(c) Notwithstanding Subsection (a), the commission shall adopt and implement rules, not later than January 1, 2000, to prevent customer abuse of the protections afforded by this section. The rules must include:

(1) provisions requiring a provider of basic local telecommunications service to offer and implement, at the request and expense of a long distance service provider, toll blocking capability to limit a customer's ability to incur additional charges for long distance services after nonpayment for long distance services; and

(2) provisions regarding fraudulent activity in response to which a provider may discontinue a residential customer's basic local telecommunications service.

(d) Notwithstanding any other provision of this title, the commission has all jurisdiction necessary to establish a maximum price that an incumbent local exchange company may charge a long distance service provider to initiate the toll blocking capability required to be offered under the rules adopted under Subsection (c). The maximum price established under this subsection shall be observed by all providers of basic local telecommunications service in the incumbent local exchange company's certificated service area. Notwithstanding Sections 52.102 and 52.152, the commission has all jurisdiction necessary to enforce this section.

Amendment No. 3 was adopted without objection.

(Chisum in the chair)

Amendment No. 4

Representatives Counts and Danburg offered the following amendment to **CSSB 86**:

Amend **CSSB 86** as follows:

In SECTION 3 of the bill, add a new Section 17.006 of the Utilities Code at page 7 immediately after line 23, as follows:

Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC COOPERATIVES. An electric cooperative shall not be deemed to be a "service provider" or "billing agent" for purposes of Section 17.156(b) and 17.156(e). The electric cooperative shall adopt, implement and enforce rules which shall have the effect of accomplishing the objectives set out in Section 17.004(a) and (b) and Section 17.102. The board of directors of the electric cooperative or its designee shall perform the dispute resolution function provided for by Section 17.157 for electric customers served by the electric cooperative within its certificated service area. With respect to electric customers served by an electric cooperative outside its certificated service area or otherwise served through others' distribution facilities, after the legislature authorizes retail competition, the provisions of this chapter as administered by the commission shall apply. Nothing in this chapter shall be deemed to apply to a wholesale customer of an electric cooperative.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Janek offered the following amendment to **CSSB 86**:

Amend **CSSB 86** by adding the following appropriately numbered section to the bill and renumbering sections appropriately:

SECTION ____ Subchapter A, Chapter 55, Utilities Code, is amended by adding Section 55.012 to read as follows:

Sec. 55.012. CHARGES FOR SERVICES OF CERTAIN COMPANIES. (a) This section applies only to an affiliate of an incumbent local exchange company that has elected regulation under Chapter 58 and serves fewer than five million access lines in this state.

(b) An affiliate that provides cellular telephone service may charge a customer for a cellular telephone call not more than the rate that applies to the call at the time the call is made, as provided by the agreement between the affiliate and the customer, regardless of when the affiliate receives notification of the call.

(b) On violation of Subsection (a), the agreement for provision of telephone service between the affiliate providing the service and the customer is voidable by the customer.

(c) An affiliate that violates Subsection (a) is subject to a civil penalty of \$1,000 for each violation. The civil penalty is recoverable in a suit filed in the name of the commission by the attorney general on the attorney general's own initiative or at the request of the commission.

Amendment No. 5 was adopted without objection.

CSSB 86, as amended, was passed to third reading.

(Solomons in the chair)

SB 486 ON SECOND READING (R. Lewis - House Sponsor)

SB 486, A bill to be entitled An Act relating to the processing or disposing of solid waste.

Amendment No. 1 (Committee Amendment No. 1)

Representative Zbranek offered the following committee amendment to **SB 486**:

Amend **SB 486** as follows:

(1) Strike SECTION 5 of the bill and substitute the following:

SECTION 5. (a) Sections 361.066(a) and (c), Health and Safety Code, as amended and added by this Act, apply only to an application submitted on or after the effective date of this Act.

(b) Sections 361.152, 363.112, and 364.012, Health and Safety Code, as amended by this Act, do not apply until January 1, 2000 to any application submitted after September 1, 1998 for a facility proposed to be located in a county in which the commissioners court has provided notice by September 1, 1999, in accordance with any applicable notice provisions in Chapter 551, Government Code, of intent to enact an ordinance pursuant to this Act.

(2) Strike SECTION 6 of the bill and substitute the following:

SECTION 6. 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.

Representative Zbranek moved to table Amendment No. 1.

The motion to table prevailed.

Amendment No. 2

Representative Zbranek offered the following amendment to **SB 486**:

Amend **SB 486** by striking Subsection (b) of SECTION 5 of the bill (House Committee Printing, page 4, lines 18 through 20) and substituting a new Subsection (b) to read as follows:

(b) The changes in law made by Sections 2, 3, and 4 of this Act apply only to an application filed after September 1, 1999, if an ordinance has been adopted by a commissioners court by September 1, 1999. The changes in law made by Sections 2, 3, and 4 of this Act also apply to an application filed between September 1, 1998, and September 1, 1999, unless the commissioners court published notice by September 1, 1999, in accordance with any applicable notice provisions of Chapter 551 Government Code, of intent to enact an ordinance and the ordinance has been enacted by January 1, 2000.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representatives Hamric and Zbranek offered the following amendment to **SB 486**:

Amend **SB 486** (House Committee Report) as follows:

(1) Immediately following SECTION 2 of the bill (page 1, following line 24), insert new SECTIONS 3-6 of the bill to read as follows:

SECTION 3. Section 361.154(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Sections 361.151 and 361.152, a county may require and issue licenses authorizing and governing the operation and maintenance of facilities used to process, store, or dispose of solid waste, other than hazardous waste, in an area not in the territorial limits [~~or extraterritorial jurisdiction~~] of a municipality.

SECTION 4. Section 361.162(a), Health and Safety Code, is amended to read as follows:

(a) Subject to the limitation under Sections 361.151 and 361.152, a county may designate land areas not in the territorial limits [~~or extraterritorial jurisdiction~~] of a municipality as suitable for use as solid waste facilities.

SECTION 5. Section 361.165, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (b), this section does not permit a municipality to restrict the siting of a solid waste disposal facility in the municipality's extraterritorial jurisdiction.

SECTION 6. Section 361.166, Health and Safety Code, is amended to read as follows:

Sec. 361.166. MUNICIPAL RESTRICTIONS. A municipality may not;

(1) abolish or restrict the use or operation of a solid waste facility in its limits [~~or extraterritorial jurisdiction~~] if the solid waste facility:

(A) [~~(+)~~] was in existence when the municipality was incorporated or was in existence when the municipality annexed the area in which it is located; and

(B) [~~(2)~~] is operated in substantial compliance with applicable state and county regulations; or

(2) abolish, restrict the use or operation of, or prohibit the location of a solid waste facility in its extraterritorial jurisdiction unless the governing body of the county in which the facility is located by resolution consents to the municipality's action.

(2) Between SECTIONS 3 and 4 of the bill (page 3, between lines 7 and 8), insert the following SECTION:

SECTION 8. Section 364.011(a), Health and Safety Code, is amended to read as follows:

(a) Subject to the limitation provided by Sections 361.151 and 361.152 (Solid Waste Disposal Act), a commissioners court by rule may regulate solid waste collection, handling, storage, and disposal in any area [~~areas~~] of the county, including the extraterritorial jurisdiction of a municipality, that is not inside the territorial limits [~~in a municipality or the extraterritorial jurisdiction~~] of a municipality.

(3) In SECTION 4 of the bill, in amended Subsection (a), Section 364.012, Health and Safety Code (page 3, lines 11 and 12), strike "county may prohibit the disposal of municipal or industrial solid waste in the county" and insert:

county by order or ordinance may prohibit the disposal of municipal or industrial solid waste in any area of the county, including the extraterritorial jurisdiction of a municipality, that is not inside the territorial limits of a municipality.

(4) In SECTION 4 of the bill, in amended Subsection (b), Section 364.012, Health and Safety Code, between "prohibited." and "[The" (page 3, line 19), insert:

The area may include the extraterritorial jurisdiction of a municipality.

(5) Renumber the sections of the bill appropriately.

Representative Noriega moved to table Amendment No. 3.

The motion to table prevailed.

Amendment No. 4

Representative S. Turner offered the following amendment to **SB 486**:

Amend **SB 486** as follows:

(1) Between the enacting clause and SECTION 1 of the bill (Committee Printing, page 1, between lines 2 and 3), insert the following SECTIONS, appropriately numbered:

SECTION _____. Section 361.002, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) It is the state's policy to ensure that new solid waste facilities are not

located disproportionately in preexisting low-income, minority, or other communities and that the adverse effects of solid waste facilities on the communities in which they are located are minimized, while ensuring that the state has adequate solid waste management capacity.

SECTION _____. Section 361.020(a), Health and Safety Code, is amended to read as follows:

(a) The commission shall develop a strategic state solid waste plan for all solid waste under its jurisdiction. The commission shall develop a strategic plan for the reduction of solid waste. The strategic plan shall include provisions to:

(1) ensure that new solid waste facilities are not located disproportionately in low-income, minority, or other communities to minimize the adverse effects of solid waste facilities on those communities; and

(2) require the consideration of the effect the presence of multiple sources of pollution and other nuisances may have on the community surrounding a solid waste facility.

SECTION _____. Section 361.0201(b), Health and Safety Code, is amended to read as follows:

(b) The plan shall:

(1) describe the capacity in the state to manage municipal waste through existing treatment or disposal facilities and identify all existing municipal solid waste management facilities in the state, their capacity, and their projected remaining useful life; ~~and~~

(2) analyze the state's capacity requirements over the planning periods specified in Section 361.020(c); and

(3) assess historical trends regarding the siting of solid waste facilities in low-income, minority, and other communities.

SECTION _____. Section 361.0216, Health and Safety Code, is amended to read as follows:

Sec. 361.0216. OFFICE OF POLLUTION PREVENTION. The office of pollution prevention is created in the executive office of the commission to direct and coordinate all source reduction, ~~and~~ waste minimization, and environmental justice activities of the commission.

SECTION _____. Subchapter B, Chapter 361, Health and Safety Code, is amended by adding Section 361.034 to read as follows:

Sec. 361.034. REPORT. The commission shall submit a report not later than December 1 of each even-numbered year as required by Section 5.178(b), Water Code, that includes an evaluation of the implementation of the state's policy of ensuring that:

(1) new solid waste facilities are not located disproportionately in low-income, minority, or other communities; and

(2) the adverse effects of solid waste facilities on the communities in which they are located are minimized.

(2) Between SECTIONS 1 and 2 of the bill (Committee Printing, page 1, between lines 16 and 17), insert the following SECTION, appropriately numbered:

SECTION _____. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.070 to read as follows:

Sec. 361.070. PUBLIC MEETING AND NOTICE FOR SOLID WASTE FACILITIES. (a) An applicant for a new facility that accepts municipal solid wastes shall hold a public meeting in the county in which the proposed facility is to be located. The meeting must be held before the 45th day after the date the application is filed.

(b) The applicant shall publish notice of the public meeting at least once each week during the three weeks preceding the meeting. The notice must be published in the newspaper of the largest general circulation that is published in the county in which the proposed facility is to be located. If a newspaper is not published in the county, the notice must be published in a newspaper of general circulation in the county.

(c) The applicant shall present to the commission an affidavit certifying that the notice was published as required by Subsection (b). The commission's acceptance of the affidavit raises a presumption that the applicant has complied with Subsection (b).

(d) The published notice may not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension not less than 7.5 centimeters or 3 inches. The notice must contain at least the following information:

- (1) the permit application number;
- (2) the applicant's name;
- (3) the proposed location of the facility; and
- (4) the location and availability of copies of the application.

(e) The applicant shall pay the cost of the notice required under this section. The commission by rule may establish a procedure for payment of those costs.

(f) The meeting shall include a discussion of:

- (1) the compatibility of the proposed facility with relevant state or regional solid waste management plans;
- (2) other sites considered for the proposed facility and the process for selecting the site identified in the application;
- (3) potential benefits to the local community of constructing the proposed facility, including:

(A) employment opportunities and related job training to ensure that residents of the host community can compete for skilled and semiskilled employment at the facility;

(B) contributions by the facility to the community infrastructure, including road maintenance, park development, and litter control; and

(C) fair and reasonable compensation to owners of real property less than 2,640 feet from the facility for any decrease in the assessed value of the property attributable to the siting of the facility; and

(4) effects the facility may have on local residents, places of worship, schools, day-care centers, or surface water bodies used to supply public drinking water.

(g) The applicant shall mail to the commission a report of the proceedings of the meeting, including summaries of the information discussed and input received at the meeting. The report must be postmarked not later than the 30th day after the date the meeting concludes.

(3) Between SECTIONS 4 and 5 of the bill (Committee Printing, page 4, between lines 16 and 17), insert the following SECTIONS, appropriately numbered:

SECTION _____. Subchapter D, Chapter 5, Water Code, is amended by adding Section 5.125 to read as follows:

Sec. 5.125. CONSIDERATION OF CUMULATIVE RISKS. (a) In an administrative proceeding involving the siting, expansion, or operation of a facility in the local area in which other facilities are located, an affected party may offer, and the commission shall consider, evidence relating to cumulative risks, including:

(1) the effect of releases, emissions, or discharges from the facility and from other facilities in the area;

(2) the potential for exposure to a particular substance by means of multiple pathways; and

(3) the combined level of noise, odor, and other impacts from the facility and other facilities in the area.

(b) The commission shall:

(1) develop and implement policies to protect the public from cumulative risks, particularly in:

(A) low-income or minority communities; and

(B) communities in which permitted facilities are concentrated; and

(2) give priority to monitoring and enforcement in areas in which permitted facilities are concentrated.

(c) The commission shall adopt rules as necessary to accomplish the purposes of this section.

SECTION _____. Section 5.178(b), Water Code, is amended to read as follows:

(b) The report due by December 1 of an even-numbered year shall include, in addition:

(1) the commission's recommendations for necessary and desirable legislation; and

(2) the following reports:

(A) the assessments and reports required by Sections 361.0219(c), 361.0232, ~~361.034~~, 361.485, 361.510, 371.063, and 382.141, Health and Safety Code; and

(B) the reports required by Section 26.0135(d) of this code and Section 5.02, Chapter 133, Acts of the 69th Legislature, Regular Session, 1985.

(4) Renumber the SECTIONS of the bill accordingly.

Representative Chisum moved to table Amendment No. 4.

The motion to table prevailed.

(Speaker in the chair)

Amendment No. 5

On behalf of Representative Dukes, Representative Maxey offered the following amendment to **SB 486**:

Amend **SB 486** by adding the following section, appropriately numbered, and renumbering the subsequent sections of the bill accordingly:

SECTION _____. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.118 to read as follows:

Sec. 361.118. REMEDIAL ACTION REGARDING INDUSTRIAL SOLID WASTE DISPOSED OF IN MUNICIPAL SOLID WASTE LANDFILL FACILITY. (a) This section applies only to a municipal solid waste landfill facility:

(1) for which the commission has issued a permit; and

(2) a portion of which:

(A) has been used for the disposal of more than 15,000 barrels of industrial solid waste;

(B) is closed; and

(C) is the subject of a notice regarding the former use of the property recorded in the real property records of the county in which the facility is located.

(b) In the event of a release or threatened release into the environment of industrial solid waste disposed of in the portion of the facility that has been closed, the commission shall require the owner of the facility to remediate as necessary and to the extent practicable to prevent or minimize the release of the waste so that the waste does not migrate or have the potential to migrate.

(c) If the commission requires the owner of the facility to remediate under Subsection (b), the owner shall develop a remedial action plan and must obtain a major amendment to the permit for the facility approving the plan.

(d) This section does not limit the applicability of Section 26.121, Water Code.

Amendment No. 5 was adopted without objection.

SB 486, as amended, was passed to third reading.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

SB 1319 ON SECOND READING

(Isett - House Sponsor)

SB 1319, A bill to be entitled An Act relating to procedures for tax auditing and collection.

SB 1319 was passed to third reading.

SB 1351 ON SECOND READING

(Greenberg - House Sponsor)

SB 1351, A bill to be entitled An Act relating to health benefits plan coverage for dependent children of certain employees paid by state appropriated money.

Amendment No. 1

Representative Greenberg offered the following amendment to **SB 1351**:

Amend **SB 1351** as follows:

(1) Strike SECTIONS 3 and 4 of the bill (house committee printing, page 4, line 12, through page 7, line 16).

(2) In SECTION 5 of the bill, strike Subsection (b) (house committee printing, page 7, line 18, through page 8, line 3) and substitute the following:

(b) Section 14A, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by this Act, does not apply to the purchase of basic coverage for a dependent child by the trustee of the group benefits program established under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), before fiscal year 2001.

(3) Renumber SECTIONS of the bill appropriately.

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative Wohlgenuth, Representative Maxey offered the following amendment to **SB 1351**:

Amend **SB 1351** as follows:

(1) In Section 14A, The Texas Employees Uniform Group Insurance Benefits Act, as added by SECTION 1 of the bill, between lines 8 and 9, page 3, insert new Subsection (g) to read as follows:

(g) If the program established under Chapter 62.002, Health and Safety Code, which utilizes federal funding under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, is terminated, state contributions for benefits for those eligible under Subsection (a) shall terminate as well.

Amendment No. 2 was adopted without objection.

SB 1351, as amended, was passed to third reading. (Berman, Seaman, Shields, Talton, and Williams recorded voting no)

SB 1235 ON SECOND READING (Janek - House Sponsor)

SB 1235, A bill to be entitled An Act relating to the use of a medical practitioner's Federal Drug Enforcement Administration number; creating an offense.

Amendment No. 1

Representative Janek offered the following amendment to **SB 1235**:

Amend **SB 1235**, in SECTION 2 of the bill, by striking "January 1, 2000" (House Committee Report, page 1, line 18) and substituting "January 1, 2003. A rule adopted by the director of the Department of Public Safety under this Act takes effect on January 1, 2003".

Amendment No. 1 was adopted without objection.

SB 1235, as amended, was passed to third reading.

SB 785 ON SECOND READING
(S. Turner - House Sponsor)

SB 785, A bill to be entitled An Act relating to autopsy reports.

SB 785 was passed to third reading.

SB 862 ON SECOND READING
(Janek, Driver, et al. - House Sponsors)

SB 862, A bill to be entitled An Act relating to donation of organs.

SB 862 was passed to third reading.

SB 294 ON SECOND READING
(Thompson - House Sponsor)

SB 294, A bill to be entitled An Act relating to the appointment of probate masters for certain courts.

Amendment No. 1

Representatives Hilbert, Heflin, and Yarbrough offered the following amendment to **SB 294**:

Amend **SB 294** in SECTION 1 of the bill in added Section 54.602, Government Code, (House committee printing, page 1, line 10) between "Dallas County" and the period by inserting "or Harris County".

Amendment No. 1 was adopted without objection.

SB 294, as amended, was passed to third reading.

SB 352 ON SECOND READING
(McCall - House Sponsor)

SB 352, A bill to be entitled An Act relating to requirements for membership on or employment by the Board of Pardons and Paroles.

Amendment No. 1

Representative G. Lewis offered the following amendment to **SB 352**:

Amend **SB 352**, in SECTION 3, in amended Section 508.034 (a), Government Code (House Committee Printing), as follows:

(1) On page 4, line 15, strike "or" and substitute "[or]".

(2) On page 4, line 19, strike the period and substitute the following:

: or

(5) notwithstanding any other law, performs a duty described by Section 508.044 (b) in any manner other than participating in an open meeting."

Representative Keel moved to table Amendment No. 1.

The motion to table prevailed.

SB 352 was passed to third reading.

CSSB 456 ON SECOND READING
(A. Reyna, Coleman, et al. - House Sponsors)

CSSB 456, A bill to be entitled An Act relating to facilitating and supporting efforts of certain municipalities to promote economic development by hosting the Pan American Games and the Olympic Games; providing a penalty.

Amendment No. 1

Representative A. Reyna offered the following amendment to **CSSB 456**:

Amend **CSSB 456** in Subsection (i) of SECTION 4 of the bill (page 6, line 27, through page 7, line 1, house committee report), by striking "before August 31, 1999" and substituting "not later than September 1, 1999".

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative Puente, Representative Uresti offered the following amendment to **CSSB 456**:

Amend **CSSB 456** by striking Subdivision (3) of Section 3 of the bill (page 3, lines 11-12, house committee printing) and substituting the following:

(3) provide opportunities for the creation of jobs by local and Texas businesses that pay a living wage.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Hartnett offered the following amendment to **CSSB 456**:

Amend **CSSB 456** in Subsection (i) of SECTION 5 of the bill by adding the following at the end of the subsection after the period (page 11, line 22, house committee printing):

A disbursement may not be made from the trust fund that the department determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

Amendment No. 3 was adopted without objection.

Amendment No. 4

On behalf of Representative Wolens, Representative A. Reyna offered the following amendment to **CSSB 456**:

Amend **CSSB 456** as follows:

(1) Strike Subdivision (7) of SECTION 1 of the bill (House committee report, page 2, lines 16-23) and substitute the following:

(7) "Local organizing committee" means a nonprofit corporation or its successor in interest that:

(A) has been authorized by an endorsing municipality to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site of one of the games; or

(B) with the authorization of an endorsing municipality, has executed an agreement with a site selection organization regarding a bid to host one of the games.

(2) Strike Subsection (b) of SECTION 4 of the bill (House committee report, page 3, line 18 through page 4, line 9) and substitute the following:

(b) If a site selection organization selects a site for the games in this state pursuant to an application by a local organizing committee, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the comptroller, but in no event later than one year before the scheduled opening event of the games, the comptroller shall determine for each subsequent calendar quarter, in accordance with procedures developed by the comptroller:

(1) the incremental increase in the receipts to the state from the taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events;

(2) the incremental increase in the receipts collected by the state on behalf of the endorsing municipality from the sales and use tax imposed by the endorsing municipality under Section 321.101(a), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events; and

(3) the incremental increase in the receipts collected by the endorsing municipality from the municipality's hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events.

(3) In SECTION 4 of the bill (House committee report, page 4, between lines 9 and 10), insert a new Subsection (c) to read as follows and reletter existing subsections of SECTION 4 of the bill appropriately:

(c) For the purposes of Subsection (b)(1) of this section, the comptroller shall designate as a market area for the games each area in which the comptroller determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events, including areas likely to provide venues, accommodations, and services in connection with the games based on the proposal provided by the local organizing committee under Section 7 of this Act. The comptroller shall determine the geographic boundaries of each market area. The endorsing municipality that has been selected as the site for the games must be included in a market area for the games.

(4) Strike existing Subsections (e) and (f) of SECTION 4 of the bill (House committee report, page 5, line 8 through page 6, line 10) and substitute the following:

(f) Subject to Section 6 of this Act and Subsection (m) of this section, the comptroller shall deposit into a trust fund designated as the Pan American Games trust fund the amount of municipal sales and use tax revenue retained under Subsection (d) of this section and, at the same time,

a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal sales and use tax revenue. Subject to Section 6 of this Act and Subsection (m) of this section, the endorsing municipality shall deposit into the trust fund the amount of the endorsing municipality's hotel occupancy tax revenue determined under Subsection (b)(3) of this section. The endorsing municipality shall deposit that hotel occupancy tax revenue into the trust fund at least quarterly. When the endorsing municipality makes a deposit of its hotel occupancy tax revenue, the comptroller shall deposit at the same time a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal hotel occupancy tax revenue. The Pan American Games trust fund is established outside the treasury but is held in trust by the comptroller for the administration of this Act. Money in the trust fund may be spent by the department without appropriation only as provided by this Act. The comptroller shall discontinue depositing into the trust fund any state tax revenue determined under Subsection (b)(1) of this section on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date on which the amount of state revenue in the Pan American Games trust fund equals 86 percent of the maximum amount of state and municipal tax revenue that may be deposited in the trust fund under Subsection (m) of this section.

(5) Strike Subsection (m) of SECTION 4 of the bill (House committee report, page 8, lines 2-8) and substitute the following:

(m) In no event may:

(1) the total amount of state and municipal tax revenue deposited in the Pan American Games trust fund exceed \$20 million; or

(2) the joint liability of the state and the endorsing municipality under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed the lesser of:

(A) \$20 million; or

(B) the total amount of revenue deposited in the Pan American Games trust fund and interest earned on the fund.

(6) In SECTION 4 of the bill (House committee report, page 5, line 3), strike the reference to Subsection (c) of that section and substitute a reference to Subsection (d).

(7) In SECTION 5(b) of the bill (House committee report, page 8, lines 22-26), strike Subdivision (1) and substitute the following:

(1) the incremental increase in the receipts to the state from the taxes imposed under Chapter 151, Tax Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events; and

(8) In SECTION 5 of the bill (House committee report, page 9, between lines 5 and 6), insert a new Subsection (c) to read as follows and reletter the existing subsections of SECTION 5 of the bill appropriately:

(c) For the purposes of Subsection (b)(1) of this section, the comptroller

shall designate as a market area for the games each area in which the comptroller determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events, including areas likely to provide venues, accommodations, and services in connection with the games based on the proposal provided by the local organizing committee under Section 7 of this Act. The comptroller shall determine the geographic boundaries of each market area. The endorsing municipality that has been selected as the site for the games must be included in a market area for the games.

(9) Strike the first sentence of existing Subsection (e) of SECTION 5 of the bill (House committee report, page 10, lines 3-7) and substitute the following:

Subject to Section 6 of this Act and Subsection (m) of this section, the comptroller shall deposit into a trust fund designated as the Pan American Games trust fund the amount of municipal sales and use tax revenue retained under Subsection (d) of this section and, at the same time, a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal sales and use tax revenue.

(10) Strike Subsection (l) of SECTION 5 of the bill (House committee report, page 12, lines 7-13) and substitute the following:

(m) In no event may:

(1) the total amount of state and municipal tax revenue deposited in the Olympic Games trust fund exceed \$100 million; or

(2) the joint liability of the state and the endorsing municipality under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed the lesser of:

(A) \$100 million; or

(B) the total amount of revenue deposited in the Olympic Games trust fund and interest earned on the fund.

(11) In SECTION 5 of the bill:

(A) strike the reference to Subsection (c) of that section and substitute a reference to Subsection (d) (House committee report, page 9, line 25);

(B) strike the reference to Subsection (f) of that section and substitute a reference to Subsection (g) (House committee report, page 11, line 22);

(C) strike the reference to Subsection (i) of that section and substitute a reference to Subsection (j) (House committee report, page 11, line 23); and

(D) strike each reference to Subsection (l) of that section and substitute a reference to Subsection (m) (House committee report, page 9, line 23 and page 10, line 19).

(12) In SECTION 6(a) of the bill (House committee report, page 12, lines 16-19), strike "to determine whether the municipality may contribute a portion of its sales and use taxes to the Pan American Games trust fund under Section 4 of this Act or to the Olympic Games trust fund under Section 5 of this Act" and substitute "to determine whether the municipality may

contribute a portion of its sales and use taxes and hotel occupancy taxes to the Pan American Games trust fund under Section 4 of this Act or a portion of its sales and use taxes to the Olympic Games trust fund under Section 5 of this Act".

(13) Strike Subsection (c) of SECTION 6 of the bill (House committee report, page 13, lines 10-26) and substitute the following:

(c) If an endorsing municipality is required to hold an election under this section and the contribution of a portion of the municipality's taxes to the Pan American Games trust fund or Olympic Games trust fund, as applicable to the games for which the endorsing municipality authorized a site selection bid on its behalf, is not approved by a majority of the voters voting in the election:

(1) the comptroller may not establish the Pan American Games trust fund under Section 4 of this Act or the Olympic Games trust fund under Section 5 of this Act, as applicable, may not retain the municipality's municipal sales and use tax revenue under Section 4(d) or 5(d) of this Act, as applicable, from amounts otherwise required to be sent to that municipality under Section 321.502, Tax Code, and may not deposit any state tax revenue into the trust fund;

(2) the comptroller is not required to determine the incremental increase in state and municipal tax revenue under Section 4(b) or 5(b) of this Act, as applicable; and

(3) the department may not enter into a games support contract relating to the games for which the municipality has authorized a bid on its behalf.

Amendment No. 5

Representative A. Reyna offered the following amendment to Amendment No. 4:

Amend Floor Amendment No. 4 to **CSSB 456** on page 5, line 14, by striking "Pan American Games trust fund" and substituting "Olympic Games trust fund".

Amendment No. 5 was adopted without objection.

Amendment No. 4, as amended, was adopted without objection.

CSSB 456, as amended, was passed to third reading. (Berman and Crownover recorded voting no)

SB 1615 ON SECOND READING (J. Solis - House Sponsor)

SB 1615, A bill to be entitled An Act relating to the creation and operation of health services districts; granting the authority to issue bonds.

Amendment No. 1

Representative Hinojosa offered the following amendment to **SB 1615**:

Amend **SB 1615** as follows:

(1) In SECTION 1 of the bill, in proposed Section 287.101, Health and Safety Code, between "DISSOLUTION." and "A district shall", insert "(a)" (House Committee Report, page 13, line 21).

(2) In SECTION 1 of the bill at the end of proposed Section 287.101, Health and Safety Code (House Committee Report, page 14, between lines 4 and 5), insert the following:

(b) The governing body of a county may adopt orders to terminate the contract with the district and end the county's participation in the district. On termination of the contract with the district, the district shall transfer to the county all unspent funds contributed by the county to the district and the land, buildings, improvements, equipment, and other assets acquired by the district that are located in the county. The termination of the contract by a county does not affect the operation of the district with respect to each other county or hospital district that created the district.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative J. Solis offered the following amendment to **SB 1615**:

Amend **SB 1615** as follows:

(1) On page 3, line 13, House committee report, between "PURPOSE AND DUTIES." and "A health services", insert "(a)".

(2) Between page 4, line 6, and page 4, line 7, House committee report, insert the following:

(c) A health services district may not:

(1) establish, conduct, or maintain an institution as defined by Section 242.002; or

(2) establish or operate a personal care facility as defined by Section 247.002.

Amendment No. 2 was adopted without objection.

SB 1615, as amended, was passed to third reading.

HR 1069 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1069**, suspending the limitations on the conferees for **HB 1676**.

SB 178 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Junell, the house granted the request of the senate for the appointment of a conference committee on **SB 178**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 178**: Junell, chair, Flores, Heflin, Y. Davis, and Oliveira.

SB 365 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative McCall, the house granted the request of the senate for the appointment of a conference committee on **SB 365**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 365**: McCall, chair, Gray, Bosse, Haggerty, and Ellis.

**SB 1207 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative McCall, the house granted the request of the senate for the appointment of a conference committee on **SB 1207**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1207**: McCall, chair, Gray, Bosse, Maxey, and Glaze.

HB 2025 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pickett submitted the following conference committee report on **HB 2025**:

Austin, Texas, May 14, 1999

Honorable Rick Perry
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2025** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh	Pickett
Duncan	Rangel
Cain	Cuellar
Lucio	P. Moreno
Bernsen	Goolsby
On the part of the Senate	On the part of the House

HB 2025, A bill to be entitled An Act relating to the establishment and operation of the Border Health Institute.

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

SECTION 1. Subtitle H, Title 3, Education Code, is amended by adding Chapter 151 to read as follows:

CHAPTER 151. BORDER HEALTH INSTITUTE

Sec. 151.001. DEFINITION. In this chapter, "institute" means the Border Health Institute, a collaboration or consortium of independent public and private entities.

Sec. 151.002. ESTABLISHMENT; PURPOSE. (a) The Border Health Institute is established in the city of El Paso.

(b) The institute shall operate in a manner that facilitates and assists the activities of international, national, regional, or local health-related institutions working in the Texas-Mexico border region to:

(1) create and fund centers or component units within the institute to facilitate research in fields of study affecting public health in the border region, including research related to diabetes, Hispanic health issues, infectious diseases, emerging infections, environmental health issues, and children's health issues;

(2) deliver health care or provide health education to persons living in the border region; and

(3) conduct and facilitate research in fields of study affecting public health in the border region, including research related to diabetes, Hispanic health issues, infectious diseases, emerging infections, environmental health issues, and children's health issues.

Sec. 151.003. INSTITUTE MEMBERSHIP. (a) The institute is initially composed of the following institutions:

(1) The University of Texas at El Paso;

(2) Texas Tech University Health Sciences Center at El Paso;

(3) El Paso Community College District;

(4) R. E. Thomason General Hospital;

(5) El Paso City/County Health District;

(6) The University of Texas Health Science Center at Houston, School of Public Health;

(7) El Paso County Medical Society;

(8) Paso del Norte Health Foundation; and

(9) the Texas Department of Health.

(b) The governing board of the institute may adopt procedures for:

(1) changing, adding, or removing entities as members of the institute; and

(2) creating developmental or advisory boards for the institute.

Sec. 151.004. ADMINISTRATION. (a) The governing board of the institute is composed of the chief executive officer or president of each entity that is a member of the institute or that officer's or president's designee.

(b) The governing board of the institute is responsible for the operation of the institute. The board shall adopt rules relating to:

(1) the operation and deliberations of the governing board; and

(2) the operation of the institute.

(c) The governing board may employ an executive director of the institute and any other officer or employee necessary for the operation of the institute.

(d) The governing board shall meet, at least once a year, to review the progress of the institute and to determine the institute's future actions and operational plans.

Sec. 151.005. FUNDING. (a) In addition to any amount appropriated by the legislature, the institute may apply for and accept funds from the federal government or any other public or private entity. The institute or any member of the institute may also solicit and accept pledges, gifts, and endowments from private sources on the institute's behalf. A pledge, gift, or endowment solicited under this section must be consistent with the purposes of the institute.

(b) The governing board of the institute shall manage and approve disbursements of appropriations, funds, pledges, gifts, and endowments that are the property of the institute.

(c) The governing board of the institute shall manage any capital improvements constructed, owned, or leased by the institute and any real property acquired by the institute.

Sec. 151.006. FACILITIES. The physical facilities of the institute used in its research undertakings and in the provision of health care and education programs, including libraries, auditoriums, research facilities, education buildings, meeting halls, classrooms, and administrative offices, may be provided by a public or private entity or by a cooperative, consortium, or joint venture consisting of public or private entities. A physical facility may be constructed, maintained, or operated with funds the institute receives under Section 151.005 and any funds appropriated for that purpose. Money may be appropriated for construction of a facility in phases so that design, engineering, and site work may be appropriated separately from physical construction costs.

Sec. 151.007. RESOURCES. The resources, capital, and real estate of the institute are separate from the resources, capital, and real estate of the members of the institute. A member of the institute shall retain any assets or funds received by the member from the federal government or from any other public or private entity.

Sec. 151.008. ANNUAL REPORTING. Each year, the institute shall provide to each member of the governing board of the institute and to each member of the legislature whose district includes any portion of a county where the Border Health Institute is established or operating an annual audited financial statement and a status report of each project undertaken by the institute.

Sec. 151.009. COORDINATING BOARD OVERSIGHT. The institutions subject to the oversight of the Texas Higher Education Coordinating Board under Chapter 61 and the rules of the coordinating board adopted under Chapter 61 remain subject to that supervision and those rules as those institutions participate in the institute and its activities.

SECTION 2. Not later than January 1, 2001, the Texas Higher Education Coordinating Board shall prepare an impact statement examining the initial implementation of this Act and shall deliver a copy of the statement to the chair of each legislative committee with primary jurisdiction over higher education or border health issues.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Pickett moved to adopt the conference committee report on **HB 2025**.

A record vote was requested.

The motion prevailed by (Record 412): 139 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culbertson; Danburg; Davis, J.; Davis, Y.; Delisi; Deshotel;

Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Tillery; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbraneck.

Nay — Hartnett.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Denny; Keel; Nixon; Reyna, E.; Thompson.

STATEMENT OF VOTE

When Record No. 412 was taken, I was in the house but away from my desk. I would have voted yes.

Denny

HB 385 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 385, A bill to be entitled An Act relating to speed limits for school buses.

On motion of Representative Walker, the house concurred in the senate amendments to **HB 385** by (Record 413): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts;

Puente; Ramsay; Rangel; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Alexander; Averitt; Capelo; Reyna, A.

Senate Committee Substitute

CSHB 385. A bill to be entitled An Act relating to certain buses used to transport students to school-related activities.

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

SECTION 1. Section 541.201, Transportation Code, is amended by adding a new Subdivision (15), renumbering existing Subdivision (15) as Subdivision (16) and amending that subdivision, and renumbering existing Subdivisions (16) through (22) as Subdivisions (17) through (23) to read as follows:

(15) "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a school district, county school, open-enrollment charter school, regional education service center, or shared services arrangement and that is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, or a school bus.

(16) "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used [bus designed] to transport pre-primary, primary, or secondary [more than 15 passengers, including the operator, and used for purposes that include regularly transporting] students on a route to or from school or on a school-related activity trip other than on routes to and from school [or school-related events]. The term does not include a school-chartered bus or a bus operated by a mass transit authority.

(17) [(16)] "Semitrailer" means a vehicle with or without motive power, other than a pole trailer:

(A) designed to be drawn by a motor vehicle and to transport persons or property; and

(B) constructed so that part of the vehicle's weight and load rests on or is carried by another vehicle.

(18) [(17)] "Special mobile equipment" means a vehicle that is not designed or used primarily to transport persons or property and that is only incidentally operated on a highway. The term:

(A) includes ditchdigging apparatus, well boring apparatus, and road construction and maintenance machinery, including an asphalt spreader, bituminous mixer, bucket loader, tractor other than a truck tractor, ditcher, levelling grader, finishing machine, motor grader, road roller, scarifier,

earth-moving carryall and scraper, power shovel or dragline, or self-propelled crane and earth-moving equipment; and

(B) excludes a vehicle that is designed to transport persons or property and that has machinery attached, including a house trailer, dump truck, truck-mounted transit mixer, crane, and shovel.

(19) [~~(18)~~] "Towable recreational vehicle" means a nonmotorized vehicle that:

(A) is designed:

(i) to be towable by a motor vehicle; and

(ii) for temporary human habitation for uses including recreational camping or seasonal use;

(B) is permanently built on a single chassis;

(C) may contain one or more life-support systems; and

(D) may be used permanently or temporarily for advertising, selling, displaying, or promoting merchandise or services, but is not used for transporting property for hire or for distribution by a private carrier.

(20) [~~(19)~~] "Trailer" means a vehicle, other than a pole trailer, with or without motive power:

(A) designed to be drawn by a motor vehicle and to transport persons or property; and

(B) constructed so that no part of the vehicle's weight and load rests on the motor vehicle.

(21) [~~(20)~~] "Truck" means a motor vehicle designed, used, or maintained primarily to transport property.

(22) [~~(21)~~] "Truck tractor" means a motor vehicle designed and used primarily to draw another vehicle but not constructed to carry a load other than a part of the weight of the other vehicle and its load.

(23) [~~(22)~~] "Vehicle" means a device that can be used to transport or draw persons or property on a highway. The term does not include:

(A) a device exclusively used on stationary rails or tracks; or

(B) manufactured housing as that term is defined by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes).

SECTION 2. Subsections (b) and (c), Section 545.352, Transportation Code, are amended to read as follows:

(b) Unless a special hazard exists that requires a slower speed for compliance with Section 545.351(b), the following speeds are lawful:

(1) 30 miles per hour in an urban district on a street other than an alley and 15 miles per hour in an alley;

(2) 70 miles per hour in daytime and 65 miles per hour in nighttime if the vehicle is a passenger car, motorcycle, passenger car or light truck towing a trailer bearing a vessel, as defined by Section 31.003, Parks and Wildlife Code, that is less than 26 feet in length, or passenger car or light truck towing a trailer or semitrailer designed and used primarily to transport livestock, on a highway numbered by this state or the United States outside an urban district, including a farm-to-market or ranch-to-market road;

(3) 60 miles per hour in daytime and 55 miles per hour in nighttime

if the vehicle is a passenger car or motorcycle on a highway that is outside an urban district and not a highway numbered by this state or the United States;

(4) 60 miles per hour outside an urban district if a speed limit for the vehicle is not otherwise specified by this section; or

(5) outside an urban district:

(A) 60 [50] miles per hour if the vehicle is a school bus that has passed a commercial motor vehicle inspection under Section 548.201 and is on a highway numbered by the United States or this state, including a farm-to-market road [on a highway other than an interstate highway];

(B) 50 [55] miles per hour if the vehicle is a school bus that:

(i) has not passed a commercial motor vehicle inspection under Section 548.201; or

(ii) is traveling on a highway not numbered by the United States or this state [on an interstate highway]; or

(C) 60 miles per hour in daytime and 55 miles per hour in nighttime if the vehicle is a truck, other than a light truck, or if the vehicle is a truck tractor, trailer, or semitrailer, or a vehicle towing a trailer, semitrailer, another motor vehicle or towable recreational vehicle.

(c) The speed limits for a bus or other vehicle engaged in the business of transporting passengers for compensation or hire, for a commercial vehicle used as a highway post office vehicle for highway post office service in the transportation of United States mail, ~~and~~ for a light truck, ~~and for a school activity bus~~ are the same as required for a passenger car at the same time and location.

SECTION 3. Section 521.022, Transportation Code, is amended by adding Subsection (i) to read as follows:

(i) For purposes of this section, "school bus" includes a school activity bus as defined by Section 541.201.

SECTION 4. Section 548.001, Transportation Code, as amended by Chapters 1061 and 1069, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 548.001. DEFINITIONS. In this chapter:

(1) "Commercial motor vehicle" means a self-propelled or towed vehicle, other than a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, that is used on a public highway to transport passengers or cargo if:

(A) the vehicle, including a school activity bus as defined in Section 541.201, or combination of vehicles has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds;

(B) the vehicle, including a school activity bus as defined in Section 541.201, is designed to transport more than 15 passengers, including the driver; or

(C) the vehicle is used to transport hazardous materials in a quantity requiring placarding by a regulation issued under the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.).

(2) "Commission" means the Public Safety Commission.

(3) "Conservation commission" means the Texas Natural Resource Conservation Commission.

(4) "Department" means the Department of Public Safety.

(5) "Farm vehicle" has the meaning assigned by the federal motor carrier safety regulations.

(6) "Federal motor carrier safety regulation" has the meaning assigned by Section 644.001.

(7) "Inspection station" means a facility certified to conduct inspections of vehicles under this chapter.

(8) "Inspector" means an individual certified to conduct inspections of vehicles under this chapter.

(9) "Nonattainment area" means an area so designated within the meaning of Section 107(d) of the Clean Air Act (42 U.S.C. Section 7407).

SECTION 5. Subsection (b), Section 548.201, Transportation Code, is amended to read as follows:

(b) A program under this section also applies to any:

(1) vehicle or combination of vehicles with a gross weight rating of more than 10,000 pounds that is[:

~~(1)~~ operated in interstate commerce[;] and

~~(2)~~ registered in this state;

(2) school activity bus, as defined in Section 541.201, that has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds, or is designed to transport more than 15 passengers, including the driver; and

(3) school bus that will operate at a speed authorized by Section 545.352(b)(5)(A).

SECTION 6. 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 792 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 792, A bill to be entitled An Act relating to the regulation of viatical settlement agreements and life settlement agreements.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 792**.

Senate Amendment No. 1

Amend **HB 792** as follows:

(1) Strike Subsection (f) on page 1, line 62 through page 2, line 2, Senate Committee printing, and substitute "(f) The commissioner may not adopt rules that require the regulation of the actions of an investor providing funds to a viatical or life settlement company."

(2) On page 2, line 36, Senate Committee printing, between the words "statement" and "misrepresenting" insert the word "materially".

(3) On page 2, line 37, Senate Committee printing, between the words "the" and "terms" insert the word "material".

(4) On page 2, line 37, Senate Committee printing, between the words "or" and "conditions" insert "material".

**HB 1188 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1188, A bill to be entitled An Act relating to the creation of a DNA record for certain persons convicted of, or adjudicated as having engaged in delinquent conduct violating, the offense of murder or aggravated assault.

Representative Gallego 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 1188**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1188**: Gallego, chair, B. Turner, Hupp, Keel, and Coleman.

**HB 1513 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1513, A bill to be entitled An Act relating to powers and duties of the Texas Health Care Information Council; providing a criminal penalty.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 1513**.

Senate Committee Substitute

CSHB 1513, A bill to be entitled An Act relating to powers and duties of the Texas Health Care Information Council; providing penalties.

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

SECTION 1. Section 108.002, Health and Safety Code, is amended to read as follows:

Sec. 108.002. DEFINITIONS. In this chapter:

(1) "Accurate and consistent data" means data that has been edited by the council and subject to provider validation and certification.

(2) "Board" means the Texas Board of Health.

(3) "Certification" means the process by which a provider confirms the accuracy and completeness of the data set required to produce the public use data file in accordance with council rule.

(4) [(2)] "Charge" or "rate" means the amount billed by a provider for

specific procedures or services provided to a patient before any adjustment for contractual allowances. The term does not include copayment charges to enrollees in health benefit plans charged by providers paid by capitation or salary.

(5) [~~3~~] "Council" means the Texas Health Care Information Council.

(6) [~~4~~] "Data" means information collected under Section 108.009 in the form initially received.

(7) [~~5~~] "Department" means the Texas Department of Health.

(8) "Edit" means to use an electronic standardized process developed and implemented by council rule to identify potential errors and mistakes in data elements by reviewing data fields for the presence or absence of data and the accuracy and appropriateness of data.

(9) [~~6~~] "Health benefit plan" means a plan provided by:

(A) a health maintenance organization; or

(B) an approved nonprofit health corporation that is certified under Section 5.01(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and that holds a certificate of authority issued by the commissioner of insurance under Article 21.52F, Insurance Code.

(10) [~~7~~] "Health care facility" means:

(A) a hospital;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) a chemical dependency treatment facility licensed under Chapter 464;

(D) a renal dialysis facility;

(E) a birthing center;

(F) a rural health clinic; or

(G) a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B).

(11) [~~8~~] "Health maintenance organization" means an organization as defined in Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code).

(12) [~~9~~] "Hospital" means a public, for-profit, or nonprofit institution licensed or owned by this state that is a general or special hospital, private mental hospital, chronic disease hospital, or other type of hospital.

(13) [~~10~~] "Outcome data" means measures related to the provision of care, including:

(A) patient demographic information;

(B) patient length of stay;

(C) mortality;

(D) co-morbidity;

(E) complications; and

(F) charges.

(14) [~~11~~] "Physician" means an individual licensed under the laws of this state to practice medicine under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(15) [(12)] "Provider" means a physician or health care facility.

(16) [(13)] "Provider quality" means the extent to which a provider renders care that, within the capabilities of modern medicine, obtains for patients medically acceptable health outcomes and prognoses, after severity adjustment.

(17) [(14)] "Public use data" means patient level data relating to individual hospitalizations that has not been summarized or analyzed, that has had patient identifying information removed, that identifies [~~patients and~~] physicians only by use of uniform [~~patient and~~] physician identifiers, and that is severity and risk adjusted, edited, and verified for accuracy and consistency. Public use data may include some data elements submitted to the council.

(18) [(15)] "Rural provider" means a provider described by Section 108.0025.

(19) [(16)] "Severity adjustment" means a method to stratify patient groups by degrees of illness and mortality.

(20) [(17)] "Uniform patient identifier" means a number assigned by the council to an individual patient and composed of numeric, alpha, or alphanumeric characters.

(21) [(18)] "Uniform physician identifier" means a number assigned by the council to an individual physician and composed of numeric, alpha, or alphanumeric characters.

(22) "Validation" means the process by which a provider verifies the accuracy and completeness of data and corrects any errors identified before certification in accordance with council rule.

SECTION 2. Section 108.003(g), Health and Safety Code, is amended to read as follows:

(g) The council shall appoint technical advisory committees and shall consult with the appropriate technical advisory committee with respect to a rule before the rule is finally adopted by the council. The council is not required to consult with a technical advisory committee before adopting an emergency rule in accordance with Section 2001.034, Government Code. The council shall submit an emergency rule adopted by the council to the appropriate advisory committee for review not later than the first advisory committee meeting that occurs after the rule is adopted. The council may consult with the appropriate technical advisory committee with respect to other formal action of the council. A technical advisory committee may consult with other professionals as necessary. Chapter 2110, Government Code, does not apply to an advisory committee appointed under this subsection. The technical advisory committees shall include:

(1) a technical advisory committee that includes, among other individuals, at least five practicing physicians licensed in this state to provide advice and recommendations to the council on[-

~~(A)]~~ the development and implementation of the methodology and the interpretation of a provider quality report and data under Section 108.010; [~~and~~

~~[(B) the development and dissemination of consumer education information and materials;]~~

(2) a technical advisory committee composed of at least five practicing physicians licensed in this state who have been actively engaged in organized peer review at a hospital in this state to provide advice, recommendations, and peer review expertise to the council on:

(A) the use of peer review in the determination of quality inpatient care;

(B) the development and interpretation of data elements necessary to the determination of quality inpatient care; and

(C) the development and format of reports and information relating to provider quality;

(3) a technical advisory committee that includes providers and consumers to provide advice and recommendations to the council relating to education about the development and dissemination of provider reports and data ~~[composed of individuals who have expertise in the reimbursement of medical education and research costs];~~

(4) a technical advisory committee that includes ~~[composed of]~~ representatives of consumers and each type of issuer of health benefit plans to assist the council in complying with Section 108.009(o); and

(5) a technical advisory committee composed of providers, consumers, and individuals who have expertise in hospital information systems, health information management, ~~[and]~~ quality management, and security of confidential data.

SECTION 3. Section 108.006, Health and Safety Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) The council shall prescribe by rule a public use data file minimum data set that maintains patient confidentiality and establishes data accuracy and consistency.

(g) The public use data file minimum data set as defined by council rule is subject to annual review by the council with the assistance of the advisory committee under Section 108.003(g)(5). The purpose of the review is to evaluate requests to modify the existing minimum data set and editing process. A decision to modify the minimum data set by the addition or deletion of data elements shall include consideration of the value of the specific data to be added or deleted and the technical feasibility of establishing data accuracy and consistency. The council may also consider the costs to the council and providers associated with modifying the minimum data set.

(h) In accordance with Section 108.0135, the council may release data collected under Section 108.009 that is not included in the public use data file minimum data set established under Subsection (f).

SECTION 4. Section 108.009(b), Health and Safety Code, is amended to read as follows:

(b) The council shall adopt rules to implement the data submission requirements imposed by Subsection (a) in appropriate stages to allow for the development of efficient systems for the collection and submission of the data. A rule adopted by the council that requires submission of a data

element that, before adoption of the rule, was not required to be submitted may not take effect before the 90th day after the date the rule is adopted and must take effect not later than the first anniversary after the date the rule is adopted.

SECTION 5. Section 108.010(i), Health and Safety Code, is amended to read as follows:

(i) The council shall release provider quality data [~~relating to providers described by Section 108.0025(1), but that are not rural providers because they do not meet the requirement of Section 108.0025(2),~~] in an aggregate form without uniform [~~patient and~~] physician identifiers when:

(1) the data relates to providers described by Section 108.0025(1);

or

(2) the cell size of the data is below the minimum size established by council rule that would enable identification of an individual patient or physician.

SECTION 6. Sections 108.011(d) and (i), Health and Safety Code, are amended to read as follows:

(d) The council shall adopt procedures to establish the accuracy and consistency [~~verify the accuracy~~] of the public use data before releasing the public use data to the public.

(i) The council shall release public use data [~~relating to providers described by Section 108.0025(1), but that are not rural providers because they do not meet the requirement of Section 108.0025(2),~~] in an aggregate form without uniform [~~patient and~~] physician identifiers when:

(1) the data relates to providers described by Section 108.0025(1);

or

(2) the cell size of the data is below the minimum size established by council rule that would enable identification of an individual patient or physician.

SECTION 7. Section 108.013, Health and Safety Code, is amended by amending Subsections (c), (e), (f), (g), and (h) and adding Subsection (j) to read as follows:

(c) Unless specifically authorized by this chapter, the council may not release and a person or entity may not gain access to any data:

(1) that could reasonably be expected to reveal the identity of a patient [~~or physician or that reveals the zip code of a patient's primary residence~~];

(2) that could reasonably be expected to reveal the identity of a physician;

(3) disclosing provider discounts or differentials between payments and billed charges; [~~or~~]

(4) [~~(3)~~] relating to actual payments to an identified provider made by a payer; or

(5) submitted to the council in a uniform submission format that is not included in the public use data set established under Sections 108.006(f) and (g), except in accordance with Section 108.0135.

(e) Data on patients [~~and physicians~~] and compilations produced from the data collected that identify patients [~~and physicians~~] are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

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

(f) Data on physicians and compilations produced from the data collected that identify physicians are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

(2) admissible in any civil, administrative, or criminal proceeding. [Notwithstanding Subsection (c)(1), the council may use zip code information to analyze data on a geographic basis.]

(g) The council may not release data elements in a manner that will reveal the identity of a ~~physician or~~ patient. The council may not release data elements in a manner that will reveal the identity of a physician.

(h) Subsections (c) [Subsection (c)(1)] and [Subsection] (g) do not prohibit the release of a uniform physician identifier [or a uniform patient identifier] in conjunction with associated public use data in accordance with Section 108.011 or a provider quality report [data] in accordance with Section 108.010.

(j) The council shall by rule, with the assistance of the advisory committee under Section 108.003(g)(5), develop and implement a mechanism to comply with Subsections (c)(1) and (2).

SECTION 8. Chapter 108, Health and Safety Code, is amended by adding Section 108.0135 to read as follows:

Sec. 108.0135. SCIENTIFIC REVIEW PANEL. (a) The council shall establish a scientific review panel to review and approve requests for information other than public use data. The members of the panel shall have experience and expertise in ethics, patient confidentiality, and health care data.

(b) To assist the panel in determining whether to approve a request for information, the council shall adopt rules similar to the federal Health Care Financing Administration's guidelines on releasing data.

(c) A request for information other than public use data must be made on the form created by the council.

SECTION 9. Section 108.014, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The attorney general, at the request of the council, shall enforce this chapter. The venue of an action brought under this section is in Travis County.

(d) A civil penalty recovered in a suit instituted by the attorney general under this chapter shall be deposited in the general revenue fund to the credit of the health care information account.

SECTION 10. Section 108.0141, Health and Safety Code, is amended to read as follows:

Sec. 108.0141. CRIMINAL PENALTY. (a) A person who knowingly

accesses data in violation of this chapter or who with criminal negligence releases data in violation of this chapter commits an offense.

(b) An offense under this section is a state jail felony [~~Class A misdemeanor~~].

SECTION 11. (a) This Act takes effect September 1, 1999.

(b) The Texas Health Care Information Council shall adopt initial rules required by Section 108.013(j), Health and Safety Code, as added by this Act, not later than January 1, 2000.

(c) The change in law made by this Act to Section 108.0141, Health and Safety Code, applies 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 section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(d) The Texas Health Care Information Council shall edit the physician identifier fields not later than January 1, 2000. The uniform physician identifier shall be included in the public use data file minimum data sets that contain information from hospital discharges for patients released on or after January 1, 2000.

SECTION 12. 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 1513** (Committee Printing) on page 2, line 25 by deleting "Public use data may include some data elements submitted to the council" and replacing with "Public use data may exclude some data elements submitted to the council".

HB 1543 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1543, A bill to be entitled An Act relating to the residency requirements for directors of certain economic development corporations.

On motion of Representative Keffer, the house concurred in the senate amendments to **HB 1543**.

Senate Amendment No. 1

Amend **HB 1543** to read as follows:

(1) On page 1, line 20 (committee printing), strike "10,000" and replace that population number with "20,000."

(2) On page 1, line 23 (committee printing), strike "10,000" and replace that population number with "20,000."

**HB 1544 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1544, A bill to be entitled An Act relating to registration of engineering firms and to the publication by the Texas Board of Professional Engineers of a roster of engineers and engineering firms.

On motion of Representative Haggerty, the house concurred in the senate amendments to **HB 1544**.

Senate Amendment No. 1

Amend **HB 1544** in SECTION ____ of the bill, in amended Section 20, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), by inserting the following after amended Subsection (f):

(g) A person who claims an exemption from this Act under Subsection (a)(5) or (6) of this section who is determined to have directly or indirectly held the person out as legally qualified to engage in the practice of engineering may not claim an exemption under this section until the 10th anniversary of the date the person held the person out as qualified to engage in the practice of engineering.

**HB 1620 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1620, A bill to be entitled An Act relating to the regulation of aircraft on water.

Representative Wohlgemuth 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 1620**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1620**: Wohlgemuth, chair, Alexander, Walker, Hill, and Siebert.

**HB 1814 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1814, A bill to be entitled An Act relating to a local option election for the sale of mixed beverages by a food and beverage certificate holder.

On motion of Representative Brimer, the house concurred in the senate amendments to **HB 1814**. (Berman and Talton recorded voting no)

Senate Amendment No. 1

Amend **HB 1814** as follows:

1. In SECTION 1, (3)(b), (Committee Printing page 1, line 33), strike "60" and substitute "30".

**HB 1822 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1822, A bill to be entitled An Act relating to the regulation of air conditioning and refrigeration contractors; providing penalties.

On motion of Representative Yarbrough, the house concurred in the senate amendments to **HB 1822**.

Senate Amendment No. 1

Amend **HB 1822** as follows:

(1) Strike Section 14 of the bill and renumber the subsequent sections appropriately.

(2) In Section 17 of the bill on page 5, line 5, strike the entirety of subsection (c).

**HB 1860 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1860, A bill to be entitled An Act relating to establishing an acanthosis nigricans screening pilot program in public and private schools in certain counties.

On motion of Representative Gutierrez, the house concurred in the senate amendments to **HB 1860**.

Senate Amendment No. 1

Amend **HB 1860**, adding an appropriately numbered SECTION to read as follows:

"SECTION __. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

**HB 1864 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1864, A bill to be entitled An Act relating to the study and development of outreach and education programs for promotoras or

community health workers under which community residents provide public health education services.

On motion of Representative Capelo, the house concurred in the senate amendments to **HB 1864**.

Senate Amendment No. 1

Amend **HB 1864** as follows:

(1) In SECTION 1.03(b)(1) of the bill, strike "CHIP bureau" and substitute "Texas Health Steps Comprehensive Care Program" (page 1, line 58, senate committee printing).

(2) In the third sentence of SECTION 1.03(d) of the bill, between "serving as promotoras" and "are entitled to reimbursement", insert "and the two representatives of the general public" (page 2, line 31, senate committee printing).

(3) Add the following new Subsection (d) to SECTION 1.04 of the bill (page 2, between lines 68 and 69, senate committee printing):

(d) In addition to its other duties, the committee shall identify, and develop a strategic plan to address, the barriers encountered by recipients of benefits under the state Medicaid program in accessing prenatal and neonatal health care services. The committee shall submit a draft of its strategic plan to the department, the governor, and the presiding officer of each house of the legislature not later than December 31, 2000. In identifying the barriers, the committee shall consider at least the cultural and language differences that exist between health care providers and their patients, the extent to which health care facilities' days and hours of operation limit accessibility to health care, the availability of transportation to and from health care facilities, the extent to which health care facilities are inconveniently located, the unfamiliarity of recipients with enrollment processes, the unfamiliarity of health care providers with community needs and cultural issues, and the unfamiliarity of recipients and health care providers with available health care benefits.

(4) In the first sentence of SECTION 1.05(g) of the bill, between "may be used by the local pilot project" and "only for the purposes", insert "and by persons connected with the local pilot project" (page 3, line 57, senate committee printing).

(5) In the first sentence of SECTION 1.05(g) of the bill, between "may not be released by the local pilot project" and "to any person", insert "or by persons connected with the local pilot project" (page 3, line 59, senate committee printing).

(6) In the second sentence of SECTION 1.05(g) of the bill, strike "The commissioner may adopt rules" and substitute "The commissioner shall adopt rules as necessary" (page 3, line 60, senate committee printing).

HB 1933 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative G. Lewis called up with senate amendments for consideration at this time,

HB 1933, A bill to be entitled An Act relating to allowing a county clerk to impose a fee for certain background checks.

On motion of Representative G. Lewis, the house concurred in the senate amendments to **HB 1933**.

Senate Amendment No. 1

Amend **HB 1933**, in SECTION 1 of the bill, in Section 118.011(b), Local Government Code (committee report printing page 1, line 21), by striking "\$5" and inserting "\$2"

Senate Amendment No. 2

Amend **HB 1933**, adding an appropriately numbered SECTION to read as follows:

"SECTION __. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

**HB 2011 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2011, A bill to be entitled An Act relating to the administration of the Texas Academic Skills Program.

On motion of Representative Cuellar, the house concurred in the senate amendments to **HB 2011**.

Senate Amendment No. 1

Amend **HB 2011** on page 1 lines 49 - 54 by striking SECTION 2 and renumbering the remaining SECTIONS accordingly.

**HB 2171 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2171, A bill to be entitled An Act relating to the establishment and operation of a medical committee or medical peer review committee by certain public and private entities.

On motion of Representative Luna, the house concurred in the senate amendments to **HB 2171** by (Record 414): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culbertson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty;

Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; Williams; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Marchant; Maxey; West.

Senate Committee Substitute

CSHB 2171, A bill to be entitled An Act relating to the establishment and operation of a medical committee or medical peer review committee by certain public and private entities.

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

SECTION 1. Section 1.03(a)(5), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) "Health-care entity" means:

(A) a hospital that is licensed pursuant to Chapter 241 or 577, Health and Safety Code [~~or the Texas Mental Health Code (Articles 5547-88 through 5547-100, Vernon's Texas Civil Statutes)~~];

(B) an entity, including a health maintenance organization, group medical practice, nursing home, health science center, university medical school, hospital district, hospital authority, or other health-care facility, that provides or pays for medical or health-care services and that follows a formal peer review process for the purposes of furthering quality medical or health care;

(C) a professional society or association, or committee thereof, of physicians that follows a formal peer review process for the purpose of furthering quality medical or health care; and

(D) an organization established by a professional society or association of physicians or of hospitals, or both, that collects and verifies the authenticity of documents and other data concerning the qualifications, competence, or performance of licensed health care professionals and that acts as a health care facility's agent pursuant to the Health Care Quality Improvement Act of 1986, Title IV, Pub. L. 99-660 (42 U.S.C. Section 11101 et seq.).

SECTION 2. Section 5.06, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Subsection (v) to read as follows:

(v) This section does not impose liability or waive immunity for a hospital district or hospital authority that has common-law, statutory, or other immunity.

SECTION 3. Section 161.031(a), Health and Safety Code, is amended to read as follows:

(a) In this subchapter, "medical committee" includes any committee, including a joint committee, of:

- (1) a hospital;
- (2) a medical organization;
- (3) a university medical school or health science center;
- (4) a health maintenance organization licensed under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), including an independent practice association or other physician association whose committees or joint committee is a condition of contract with the health maintenance organization; [or]
- (5) an extended care facility;
- (6) a hospital district; or
- (7) a hospital authority.

SECTION 4. Sections 161.032(a) and (c), Health and Safety Code are amended to read as follows:

(a) The records and proceedings of a medical committee are confidential and are not subject to court subpoena. A proceeding of a medical peer review committee, as defined by Section 1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) or medical committee, or a meeting of the governing body of a public hospital, hospital district, or hospital authority at which the governing body receives records, information, or reports provided by a medical committee or medical peer review committee is not subject to Chapter 551, Government Code. Records, information, or reports of a medical committee or medical peer review committee and records, information, or reports provided by a medical committee or medical peer review committee to the governing body of a public hospital, hospital district, or hospital authority are not subject to disclosure under Chapter 552, Government Code.

(c) This section and Section 5.06, Medical Practice [Practices] Act (Article 4495b, Vernon's Texas Civil Statutes), do not apply to records made or maintained in the regular course of business by a hospital, health maintenance organization, medical organization, university medical center or health science center, hospital district, hospital authority, or extended care facility.

SECTION 5. The subchapter heading of Subchapter D, Chapter 161, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. ~~[RECORDS OF AND IMMUNITIES FOR]~~

MEDICAL COMMITTEES AND MEDICAL PEER REVIEW COMMITTEES

SECTION 6. Subchapter D, Chapter 161, Health and Safety Code, is amended by adding Section 161.0315 to read as follows:

Sec. 161.0315. AUTHORITY OF GOVERNING BODY TO FORM COMMITTEE TO EVALUATE MEDICAL AND HEALTH CARE SERVICES.

(a) The governing body of a hospital, medical organization, university medical school or health science center, health maintenance organization, extended care facility, hospital district, or hospital authority may form a

medical peer review committee, as defined by Section 1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), or a medical committee, as defined by Section 161.031, to evaluate medical and health care services, except as provided by this section.

(b) Except as provided by Subsection (d), a medical peer review committee or medical committee formed by the governing body of a hospital district may not evaluate medical and health care services provided by a health care facility that:

(1) contracts with the district to provide those services; and

(2) has formed a medical peer review committee or medical committee to evaluate the services provided by the facility.

(c) A hospital district may require in a contract with a health care facility described by subsection (b) a provision that allows the governing body of the district to appoint a specified number of members to the facility's medical peer review committee or medical committee to evaluate medical and health care services for which the district contracts with the facility to provide. The governing body of a hospital district may receive a report from the facility's medical per review committee or medical committee under this section in a closed meeting. A report, information, or a record that the district receives from the facility related to a review action conducted under the terms of the contract is:

(1) confidential;

(2) not subject to disclosure under Chapter 552, Government Code;

and

(3) subject to the same confidentiality and disclosure requirements to which a report, information, or record of a medical peer review committee under Section 5.06(s), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is subject.

(d) If a hospital district and a health care facility described by Subsection (b) do not agree on a contract provision described by Subsection (c), the hospital district has, with respect to a review action for the evaluation of medical and health care services provided by the facility under a contract with the district, a right to:

(1) initiate the review action;

(2) appoint from the medical staff of the facility a number of members to the facility's medical peer review committee or medical committee equal to the number of members appointed to the committee by the facility to conduct the review action, without regard to whether the district initiates the action; and

(3) receive records, information, or reports from the medical peer review committee or medical committee related to the review action.

(e) The governing body of a hospital district may receive a report under Subsection (d)(3) in a closed meeting. A report, information, or a record that the hospital district receives under Subsection (d)(3) is:

(1) confidential;

(2) not subject to disclosure under Chapter 552, Government Code;

and

(3) subject to the same confidentiality and disclosure requirements to

which a report, information, or record of a medical peer review committee under Section 5.06(s), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is subject.

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

**HB 2180 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2180, A bill to be entitled An Act relating to usury and the regulation of lenders.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 2180** by (Record 415): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Goolsby.

Senate Committee Substitute

CSHB 2180, A bill to be entitled An Act relating to usury and the regulation of lenders.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
TEXAS:ARTICLE 1. AMENDMENTS TO TITLE 79, REVISED STATUTES
SECTION 1.01. Articles 1B.002(b) and (c), Title 79, Revised Statutes

(Article 5069-1B.002, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) ~~[These definitions shall be liberally construed to accomplish the purposes of this subtitle.~~

~~[(c)]~~ The finance commission by rule may adopt other definitions to accomplish the purposes of this title ~~[subtitle]~~.

SECTION 1.02. Article 1C.102, Title 79, Revised Statutes (Article 5069-1C.102, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 1C.102. PROHIBITION ON PREPAYMENT ~~[CHARGE OR]~~ PENALTY. If the interest rate on a loan for property that is or is to be the residential homestead of the borrower is ~~[made at an interest rate that is]~~ greater than a rate of 12 percent a year, a prepayment ~~[charge or]~~ penalty may not be collected on the loan unless the ~~[charge or]~~ penalty is required by an agency created by federal law.

SECTION 1.03. Article 1D.003(c), Title 79, Revised Statutes (Article 5069-1D.003, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) In this subchapter ~~[article]~~, "auction rate" means the auction average rate quoted on a bank discount basis for 26-week treasury bills issued by the United States government, as published by the Federal Reserve Board, for the week preceding the week in which the weekly rate ceiling is to take effect.

SECTION 1.04. Article 3A.001, Title 79, Revised Statutes (Article 5069-3A.001, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 3A.001. DEFINITIONS. In this chapter:

(1) "Irregular transaction" means a loan that is payable:

(A) in installments that are not consecutive or monthly;

(B) with installments that are not substantially equal in

amount; or

(C) with a first scheduled installment due that is not within

one month and 15 days after the date of the loan.

(2) "Regular transaction" means a loan that is payable:

(A) in consecutive monthly installments;

(B) with installments substantially equal in amount; and

(C) with a first scheduled installment due within one month

and 15 days after the date of the loan.

(3) "Regulated loan license" means a consumer loan license.

(4) "Secondary mortgage loan" means a loan that is:

(A) secured in whole or in part by an interest, including a lien or security interest, in real property that is:

(i) improved by a dwelling designed for occupancy by four or fewer families; and

(ii) subject to one or more liens, security interests,

prior mortgages, or deeds of trust; and

(B) not to be repaid before the 91st day after the date of the

loan.

SECTION 1.05. Article 3A.002, Title 79, Revised Statutes (Article 5069-3A.002, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 3A.002. INTEREST COMPUTATION METHODS. (a) The scheduled installment earnings method is a method to compute an interest charge by applying a daily rate to the unpaid balance of the principal amount ~~[financed]~~

as if all payments will be made upon the scheduled installment date. The daily rate is 1/365th of the equivalent contract rate. Payments received before or after the due date do not cause an adjustment in the amount of the scheduled principal reduction.

(b) The true daily earnings method is a method to compute an interest charge by applying a daily rate to the unpaid balance of the principal amount ~~financed~~. The daily rate is 1/365th of the equivalent contract rate. The earned finance charge is computed by multiplying the daily rate of the finance charge by the number of days the actual principal balance is outstanding.

SECTION 1.06. Articles 3A.101(a) and (c), Title 79, Revised Statutes (Article 5069-3A.101, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A person must hold a license issued under this chapter to:

(1) engage in the business of making, transacting, or negotiating loans subject to this chapter; or ~~and~~

(2) contract for, charge, or receive, directly or indirectly, in connection with a loan subject to this chapter, a charge, including interest, compensation, consideration, or another expense, authorized under this chapter that in the aggregate exceeds the charges authorized under other law.

(c) A bank, savings bank, or savings and loan association organized under the laws of the United States or under the laws of the institution's state of domicile is not required to obtain a license under Subsection (a).

SECTION 1.07. Articles 3A.102(b) and (c), Title 79, Revised Statutes (Article 5069-3A.102, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) A person who is required to hold a license under this chapter must hold a separate license for each office at which loans are made, negotiated, serviced, held, or collected under this chapter.

(c) A license is not required under this chapter for a place of business:

(1) devoted to accounting or other recordkeeping; and

(2) at which loans are not made, negotiated, serviced, held, or collected under this chapter or Chapter 15.

SECTION 1.08. Article 3A.202(a), Title 79, Revised Statutes (Article 5069-3A.202, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) If the commissioner cannot verify that ~~requires,~~ an applicant for a license under this chapter meets the net assets requirement or if the commissioner questions the financial responsibility or general fitness of the applicant, the commissioner may require the applicant to ~~shall~~ file with the application a bond that is:

(1) in an amount not to exceed the total of:

(A) \$50,000 ~~[\$5,000]~~ for the first license; and

(B) \$10,000 ~~[\$1,000]~~ for each additional license;

(2) satisfactory to the commissioner; and

(3) issued by a surety company qualified to do business as a surety in this state.

SECTION 1.09. Article 3A.302, Title 79, Revised Statutes (Article 5069-3A.302, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 3A.302. MAXIMUM CHARGE FOR LOAN WITH SINGLE

REPAYMENT. A loan contract that exceeds the maximum cash advance of Article 3A.401 and that is payable in a single installment may provide for an interest charge on the cash advance that does not exceed a rate or amount that would produce the same effective return, determined as a true daily earnings rate, as allowed under Article 3A.301 having due consideration for the amount and term of the loan. If a loan under this article is prepaid in full, the lender may earn a minimum interest charge of \$25.

SECTION 1.10. Article 3A.303(a), Title 79, Revised Statutes (Article 5069-3A.303, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A loan contract that includes precomputed interest or uses the scheduled installment earnings method and that is a regular transaction may provide for additional interest for default if any part of an installment remains unpaid after the 10th day after the date on which the installment is due, including Sundays and holidays.

SECTION 1.11. Article 3A.304(a), Title 79, Revised Statutes (Article 5069-3A.304, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) On a loan contract that includes precomputed interest or uses the scheduled installment earnings method and that is a regular transaction, an authorized lender may charge additional interest for the deferment of an installment if:

- (1) the entire amount of the installment is unpaid;
- (2) no interest for default has been collected on the installment; and
- (3) payment of the installment is deferred for one or more full months and the maturity of the contract is extended for a corresponding period.

SECTION 1.12. Article 3A.403, Title 79, Revised Statutes (Article 5069-3A.403, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 3A.403. MAXIMUM INTEREST CHARGE FOR LOAN WITH SINGLE REPAYMENT. A loan contract to which Article 3A.401 applies and that is payable in a single installment may provide for an acquisition charge and an interest charge on the cash advance that does not exceed a rate or amount that would produce the same effective return, determined as a true daily earnings rate, as allowed under Article 3A.402 having due consideration for the amount and term of the loan. If a loan that has a term of one month or more under this article is prepaid in full, the lender may earn a minimum of the acquisition charge and interest charge for one month. If a loan under this article has an initial term of less than one month, the lender may earn a minimum of the acquisition charge and an interest charge that produces the same effective return as the installment account handling charge computed at a daily rate for the term the loan is outstanding.

SECTION 1.13. Article 3A, 503(a), Title 79, Revised Statutes (Article 5069-3A.503, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) On a secondary mortgage loan that includes precomputed interest or uses the scheduled installment earnings method and that is a regular transaction, an authorized lender may charge additional interest for the deferment of an installment if:

- (1) the entire amount of the installment is unpaid;
- (2) no interest for default has been collected on the installment; and
- (3) payment of the installment is deferred for one or more full

months and the maturity of the contract is extended for a corresponding period.

SECTION 1.14. Article 3A.507, Title 79, Revised Statutes (Article 5069-3A.507, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 3A.507. AMOUNTS AUTHORIZED TO BE INCLUDED IN CONTRACT. A secondary mortgage loan contract may provide for:

(1) reasonable fees or charges paid to the trustee in connection with a deed of trust or similar instrument executed in connection with the secondary mortgage loan, including fees for enforcing the lien against or posting for sale, selling, or releasing the property secured by the deed of trust;

(2) reasonable fees paid to an attorney who is not an employee of the creditor in the collection of a delinquent secondary mortgage loan; or

(3) court costs and fees incurred in the collection of the loan or foreclosure of a lien created by the loan[~~;~~or

~~[(4) a fee that does not exceed \$15 for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft offered in full or partial payment of a secondary mortgage loan].~~

SECTION 1.15. Article 3A.508(a), Title 79, Revised Statutes (Article 5069-3A.508, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A lender or a person who is assigned a secondary mortgage loan may collect on or before the closing of the loan, or include in the principal of the loan:

(1) reasonable fees for:

(A) title examination and preparation of an abstract of title

by:

(i) an attorney who is not an employee of the

lender; or

(ii) a title company or property search company

authorized to do business in this state; or

(B) premiums or fees for title insurance or title search for the benefit of the mortgagee and, at the mortgagor's option, for title insurance or title search for the benefit of the mortgagor;

(2) reasonable fees charged to the lender by an attorney who is not a salaried employee of the lender for preparation of the loan documents in connection with the mortgage loan if the fees are evidenced by a statement for services rendered [~~addressed to the lender~~];

(3) charges prescribed by law that are paid to public officials for determining the existence of a security interest or for perfecting, releasing, or satisfying a security interest;

(4) reasonable fees for an appraisal of real property offered as security for the loan prepared by a licensed or certified appraiser who is not a salaried employee of the lender;

(5) the reasonable cost of a credit report;

(6) reasonable fees for a survey of real property offered as security for the loan prepared by a registered surveyor who is not a salaried employee of the lender;

(7) the premiums received in connection with the sale of credit life

insurance, credit accident and health insurance, or other insurance that protects the mortgagee against default by the mortgagor, the benefits of which are applied in whole or in part to reduce or extinguish the loan balance; ~~or~~ ~~[and]~~

(8) reasonable fees relating to real property offered as security for the loan that are incurred to comply with a federally mandated program if the collection of the fees or the participation in the program is required by a federal agency.

SECTION 1.16. Articles 3A.701(a) and (b), Title 79, Revised Statutes (Article 5069-3A.701, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) On a loan that is subject to Subchapter E with a cash advance of \$300 or more, a lender may ~~[request or]~~ require a borrower to insure tangible personal property offered as security for the loan.

(b) On a secondary mortgage loan, a lender may ~~[request or]~~ require a borrower to provide property insurance as security against reasonable risks of loss, damage, and destruction.

SECTION 1.17. Articles 3A.702(a) and (c), Title 79, Revised Statutes (Article 5069-3A.702, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) On a loan made under this chapter that is subject to Subchapter E with a cash advance of \$100 or more, a lender may:

(1) offer ~~[or request that]~~ a borrower ~~[provide]~~ credit life insurance and credit health and accident insurance as additional protection for the loan; and

(2) offer involuntary unemployment insurance to the borrower at the time the loan is made.

(c) On a secondary mortgage loan made under this chapter, a lender may ~~[request or]~~ require that a borrower provide credit life insurance and credit accident and health insurance as additional protection for the loan.

SECTION 1.18. Article 3A.804, Title 79, Revised Statutes (Article 5069-3A.804, Vernon's Texas Civil Statutes), is amended to read as follows:

Art. 3A.804. RETURN OF INSTRUMENTS TO BORROWER ON REPAYMENT. Within a reasonable time after a loan is repaid in full or an open-end account is terminated according to the terms of the contract, a lender shall cancel and return to a borrower any instrument, including a note, assignment, security agreement, or mortgage~~[-or pledged property]~~ that:

(1) secured the loan; and

(2) does not secure another indebtedness of the borrower to the lender.

SECTION 1.19. Article 3A.852, Title 79, Revised Statutes (Article 5069-3A.852, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) On a loan subject to Subchapter E or a secondary mortgage loan subject to Subchapter G a lender may assess and collect from the borrower an amount incurred by the lender for:

(1) court costs;

(2) attorney's fees assessed by a court, in addition to those provided for in Article 3A.507;

(3) a fee authorized by law for filing, recording, or releasing in a public office a security for a loan;

(4) a reasonable amount spent for repossessing, storing, preparing for sale, or selling any security;

(5) a fee for recording a lien on or transferring a certificate of title to a motor vehicle offered as security for a loan made under this chapter; or

(6) a premium or an identifiable charge received in connection with the sale of insurance authorized under this chapter.

(c) On a loan subject to this chapter a lender may assess and collect a fee that does not exceed the amount prescribed by Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes), for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft offered in full or partial payment of a loan.

ARTICLE 2. AMENDMENTS TO FINANCE CODE

SECTION 2.01. Sections 301.002(b) and (c), Finance Code, are amended to read as follows:

(b) ~~[These definitions shall be liberally construed to accomplish the purposes of this subtitle.~~

~~[(c)]~~ The Finance Commission of Texas by rule may adopt other definitions to accomplish the purposes of this title ~~[subtitle]~~.

SECTION 2.02. Section 302.102, Finance Code, is amended to read as follows:

Sec. 302.102. PROHIBITION ON PREPAYMENT PENALTY. If the interest rate on a loan for property that is or is to be the residential homestead of the borrower is greater than 12 percent a year, a prepayment penalty may not be collected on the loan unless the penalty is required by an agency created by federal law.

SECTION 2.03. Section 303.003(c), Finance Code, is amended to read as follows:

(c) In this subchapter ~~[section]~~, "auction rate" means the auction average rate quoted on a bank discount basis for 26-week treasury bills issued by the United States government, as published by the Federal Reserve Board, for the week preceding the week in which the weekly rate ceiling is to take effect.

SECTION 2.04. Section 342.001, Finance Code, is amended to read as follows:

Sec. 342.001. DEFINITIONS. In this chapter:

(1) "Irregular transaction" means a loan:

(A) that is payable in installments that are not consecutive, monthly, and substantially equal in amount; or

(B) the first scheduled installment of which is due later than one month and 15 days after the date of the loan.

(2) "Regular transaction" means a loan:

(A) that is payable in installments that are consecutive, monthly, and substantially equal in amount; and

(B) the first scheduled installment of which is due within one month and 15 days after the date of the loan.

(3) "Regulated loan license" means a consumer loan license.

(4) "Secondary mortgage loan" means a loan that is:

(A) secured in whole or in part by an interest, including a lien or security interest, in real property that is:

(i) improved by a dwelling designed for occupancy by four or fewer families; and

(ii) subject to one or more liens, security interests, prior mortgages, or deeds of trust; and

(B) not to be repaid before the 91st day after the date of the loan.

SECTION 2.05. Sections 342.002(a) and (b), Finance Code, are amended to read as follows:

(a) The scheduled installment earnings method is a method to compute an interest charge by applying a daily rate to the unpaid balance of the principal amount [~~financed~~] as if each payment will be made on its scheduled installment date. A payment received before or after the due date does not affect the amount of the scheduled principal reduction.

(b) The true daily earnings method is a method to compute an interest charge by applying a daily rate to the unpaid balance of the principal amount [~~financed~~]. The earned finance charge is computed by multiplying the daily rate by the number of days the principal balance is outstanding.

SECTION 2.06. Sections 342.051(a) and (c), Finance Code, are amended to read as follows:

(a) A person must hold a license issued under this chapter to:

(1) engage in the business of making, transacting, or negotiating loans subject to this chapter; or [~~and~~]

(2) contract for, charge, or receive, directly or indirectly, in connection with a loan subject to this chapter, a charge, including interest, compensation, consideration, or another expense, authorized under this chapter that in the aggregate exceeds the charges authorized under other law.

(c) A person is not required to obtain a license under Subsection (a) if the person is:

(1) a bank, savings bank, or savings and loan association organized under the laws of the United States or under the laws of the institution's state of domicile; or

(2) subject to Chapter 24, Insurance Code.

SECTION 2.07. Sections 342.052(b) and (c), Finance Code, are amended to read as follows:

(b) A person who is required to hold a license under this chapter must hold a separate license for each office at which loans are made, negotiated, serviced, held, or collected under this chapter.

(c) A license is not required under this chapter for a place of business:

(1) devoted to accounting or other recordkeeping; and

(2) at which loans are not made, negotiated, serviced, held, or collected under this chapter or Chapter 346.

SECTION 2.08. Section 342.102(a), Finance Code, is amended to read as follows:

(a) If the commissioner requires, an applicant for a license under this chapter shall file with the application a bond that is:

(1) in an amount not to exceed the total of:

- (A) \$50,000 [~~\$5,000~~] for the first license; and
- (B) \$10,000 [~~\$1,000~~] for each additional license;
- (2) satisfactory to the commissioner; and
- (3) issued by a surety company qualified to do business as a surety in this state.

SECTION 2.09. Section 342.202, Finance Code, is amended to read as follows:

Sec. 342.202. MAXIMUM CHARGE FOR LOAN WITH SINGLE REPAYMENT. A loan contract that exceeds the maximum cash advance under Section 342.251 and that is payable in a single installment may provide for an interest charge on the cash advance that does not exceed a rate or amount that would produce the same effective return, determined as a true daily earnings rate, as allowed under Section 342.201 considering the amount and term of the loan. If a loan under this section is prepaid in full, the lender may earn a minimum interest charge of \$25.

SECTION 2.10. Section 324.203(a), Finance Code, is amended to read as follows:

(a) A loan contract that includes precomputed interest or uses the scheduled installment earnings method and that is a regular transaction may provide for additional interest for default if any part of an installment remains unpaid after the 10th day after the date on which the installment is due, including Sundays and holidays.

SECTION 2.11. Section 342.204(a), Finance Code, is amended to read as follows:

(a) On a loan contract that includes precomputed interest or uses the scheduled installment earnings method and that is a regular transaction, an authorized lender may charge additional interest for the deferment of an installment if:

- (1) the entire amount of the installment is unpaid;
- (2) no interest for default has been collected on the installment; and
- (3) payment of the installment is deferred for one or more full months and the maturity of the contract is extended for a corresponding period.

SECTION 2.12. Section 342.253, Finance Code, is amended to read as follows:

Sec. 342.253. MAXIMUM INTEREST CHARGE FOR LOAN WITH SINGLE REPAYMENT. A loan contract to which Section 342.251 applies and that is payable in a single installment may provide for an acquisition charge and an interest charge on the cash advance that does not exceed a rate or amount that would produce the same effective return, determined as a true daily earnings rate, as allowed under Section 342.252 considering the amount and term of the loan. If a loan that has a term in excess of one month under this section is prepaid in full, the lender may earn a minimum of the acquisition charge and interest charge for one month. If a loan under this section has an initial term of less than one month, the lender may earn a minimum of the acquisition charge and an interest charge that produces the same effective return as the installment account handling charge computed at a daily rate for the term the loan is outstanding.

SECTION 2.13. Section 342.303(a), Finance Code, is amended to read as follows:

(a) On a secondary mortgage loan that includes precomputed interest or uses the scheduled installment earnings method and that is a regular transaction, an authorized lender may charge additional interest for the deferment of an installment if:

- (1) the entire amount of the installment is unpaid;
- (2) no interest for default has been collected on the installment; and
- (3) payment of the installment is deferred for one or more full months and the maturity of the contract is extended for a corresponding period.

SECTION 2.14. Section 342.307, Finance Code, is amended to read as follows:

Sec. 342.307. AMOUNTS AUTHORIZED TO BE INCLUDED IN CONTRACT. A secondary mortgage loan contract may provide for:

(1) reasonable fees or charges paid to the trustee in connection with a deed of trust or similar instrument executed in connection with the secondary mortgage loan, including fees for enforcing the lien against or posting for sale, selling, or releasing the property secured by the deed of trust;

(2) reasonable fees paid to an attorney who is not an employee of the creditor in the collection of a delinquent secondary mortgage loan; or

(3) court costs and fees incurred in the collection of the loan or foreclosure of a lien created by the loan[; ~~and~~

~~[(4) a fee that does not exceed \$15 for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft offered in full or partial payment of a secondary mortgage loan].~~

SECTION 2.15. Section 342.308(a), Finance Code, is amended to read as follows:

(a) A lender or a person who is assigned a secondary mortgage loan may collect on or before the closing of the loan, or include in the principal of the loan:

(1) reasonable fees for:

(A) title examination and preparation of an abstract of title by:

(i) an attorney who is not an employee of the lender; or

(ii) a title company or property search company authorized to do business in this state; or

(B) premiums or fees for title insurance or title search for the benefit of the mortgagee and, at the mortgagor's option, for title insurance or title search for the benefit of the mortgagor;

(2) reasonable fees charged to the lender by an attorney who is not a salaried employee of the lender for preparation of the loan documents in connection with the mortgage loan if the fees are evidenced by a statement for services rendered [~~addressed to the lender~~];

(3) charges prescribed by law that are paid to public officials for determining the existence of a security interest or for perfecting, releasing, or satisfying a security interest;

(4) reasonable fees for an appraisal of real property offered as security for the loan prepared by a licensed or certified appraiser who is not a salaried employee of the lender;

(5) the reasonable cost of a credit report;

(6) reasonable fees for a survey of real property offered as security for the loan prepared by a registered surveyor who is not a salaried employee of the lender;

(7) the premiums received in connection with the sale of credit life insurance, credit accident and health insurance, or other insurance that protects the mortgagee against default by the mortgagor, the benefits of which are applied in whole or in part to reduce or extinguish the loan balance; or [and]

(8) reasonable fees relating to real property offered as security for the loan that are incurred to comply with a federally mandated program if the collection of the fees or the participation in the program is required by a federal agency.

SECTION 2.16. Sections 342.401(a) and (b), Finance Code, are amended to read as follows:

(a) On a loan that is subject to Subchapter E with a cash advance of \$300 or more, a lender may [~~request or~~] require a borrower to insure tangible personal property offered as security for the loan.

(b) On a secondary mortgage loan, a lender may [~~request or~~] require a borrower to provide property insurance as security against reasonable risks of loss, damage, and destruction.

SECTION 2.17. Sections 342.402(a) and (c), Finance Code, are amended to read as follows:

(a) On a loan made under this chapter that is subject to Subchapter E with a cash advance of \$100 or more, a lender may:

(1) offer [~~or request that~~] a borrower [~~provide~~] credit life insurance and credit health and accident insurance as additional protection for the loan; and

(2) offer involuntary unemployment insurance to the borrower at the time the loan is made.

(c) On a secondary mortgage loan made under this chapter, a lender may [~~request or~~] require that a borrower provide credit life insurance and credit accident and health insurance as additional protection for the loan.

SECTION 2.18. Section 342.454, Finance Code, is amended to read as follows:

Sec. 342.454. RETURN OF INSTRUMENTS TO BORROWER ON REPAYMENT. Within a reasonable time after a loan is repaid in full or an open-end account is terminated according to the terms of the contract, a lender shall cancel and return to a borrower any instrument, including a note, assignment, security agreement, or mortgage[~~, or pledged property~~] that:

(1) secured the loan; and

(2) does not secure another indebtedness of the borrower to the lender.

SECTION 2.19. Section 342.502, Finance Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) On a loan subject to Subchapter E or a secondary mortgage loan subject to Subchapter G a lender may assess and collect from the borrower:

- (1) an amount incurred by the lender for:
- (A) court costs;
 - (B) attorney's fees assessed by a court, in addition to those provided by Section 342.307;
 - (C) a fee authorized by law for filing, recording, or releasing in a public office a security for a loan;
 - (D) a reasonable amount spent for repossessing, storing, preparing for sale, or selling any security;
 - (E) a fee for recording a lien on or transferring a certificate of title to a motor vehicle offered as security for a loan made under this chapter; or
 - (F) a premium or an identifiable charge received in connection with the sale of insurance authorized under this chapter; and
- (2) an administrative fee, subject to Subsection (c), in an amount not to exceed:
- (A) \$25 for a loan of more than \$1,000; or
 - (B) \$10 for a loan of \$1,000 or less.

(d) On a loan subject to this chapter a lender may assess and collect a fee that does not exceed the amount prescribed by Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes), for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft offered in full or partial payment of a loan.

SECTION 2.20. Section 348.301, Finance Code, is amended to read as follows:

Sec. 348.301. AUTHORITY TO ACQUIRE. A person may acquire a retail installment contract or an outstanding balance under a contract from another person on the terms, including the price, to which they agree. Notwithstanding any other applicable law of this state, no person acquiring or assigning a retail installment contract, or any balance under a contract, has any duty to disclose to any other person the terms on which a contract or balance under a contract is acquired, including any discount or difference between the rates, charges or balance under the contract and the rates, charges or balance acquired.

ARTICLE 3. EFFECTIVE DATE; EMERGENCY

SECTION 3.01. (a) Except as provided by Subsections (b), (c) and (d), this Act takes effect September 1, 1999.

(b) Article 1 of this Act takes effect only if the Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions and corrections in enacted codes does not take effect.

(c) Article 2 of this Act takes effect only if the Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions and corrections in enacted codes takes effect.

(d) The changes made by Section 2.20 of this Act take effect immediately, and shall apply to any civil action pending on or after the date of enactment.

SECTION 3.02. 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 2224 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2224, A bill to be entitled An Act relating to requiring disclosure notices for the sale of real property governed by a property owners' association and requiring the filing of dedicatory instruments governing property owners' associations.

Representative Solomons 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 2224**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2224**: Solomons, chair, Brimer, Ritter, George, and Dukes.

**HB 2401 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2401, A bill to be entitled An Act relating to the establishment of voluntary workforce training programs for certain students.

On motion of Representative Keffer, the house concurred in the senate amendments to **HB 2401**.

Senate Amendment No. 1

Amend **HB 2401** as follows:

(1) In SECTION 2 of the bill, in added Section 61.851, Education Code, strike Subdivision (2) (senate committee report, page 3, lines 11-12) and renumber the subsequent subdivisions accordingly.

(2) In SECTION 2 of the bill, in added Section 61.851, Education Code, strike Subdivision (4) (senate committee report, page 3, lines 15-18) and substitute the following:

(3) "Tech-prep consortium" means a regional collaboration of school districts, institutions of higher education, businesses, labor organizations, and other participants to work together to effectively implement a regional tech-prep program.

(3) In SECTION 2 of the bill, in added Section 61.853, Education Code, strike Subsection (c) (senate committee report, page 3, lines 66-68) and substitute the following:

(c) According to the terms of a written agreement between a governing board and the fiscal agent, a consortium director shall be selected.

(4) In SECTION 2 of the bill, in added Section 61.853(d), Education Code (senate committee report, page 4, lines 5-6), strike "at the direction of the governing board and".

(5) In SECTION 2 of the bill, in added Section 61.855(a), Education Code (senate committee report, page 4, line 32), strike "Subsection (c)" and substitute "Subsection (d)".

(6) In SECTION 2 of the bill, in added Section 61.855(b)(1), Education Code (senate committee report, page 4, line 38), following "Affairs;" insert "and".

(7) In SECTION 2 of the bill, in added Section 61.855(b)(2)(A)(ii), Education Code (senate committee report, page 4, line 57), following "amendments;", insert "or".

(8) In SECTION 2 of the bill, in added Section 61.855(b)(2)(B)(ii), Education Code (senate committee report, page 4, line 65), strike "education; or" and substitute "education.".

(9) In SECTION 2 of the bill, in added Section 61.855(b), Education Code, strike Paragraph (C) and Subdivision (3) (senate committee report, page 4, lines 66-68) and substitute the following:

(c) In addition to entities described by Subsection (b), a tech-prep consortium may include:

(1) an institution of higher education that awards a baccalaureate degree; and

(2) employers or labor organizations.

(10) In SECTION 2 of the bill, in added Section 61.855(c), Education Code (senate committee report, page 4, line 69), strike "(c)" and substitute "(d)".

(11) In SECTION 2 of the bill, in added Section 61.855(d), Education Code (senate committee report, page 5, line 62), strike "(d)" and substitute "(e)".

(12) In SECTION 2 of the bill, in added Section 61.855(d), Education Code (senate committee report, page 5, line 64), strike "Subsection (c)" and substitute "Subsection (d)".

(13) In SECTION 2 of the bill, in added Section 61.855(e), Education Code (senate committee report, page 5, line 65), strike "(e)" and substitute "(f)".

HB 2631 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative S. Turner called up with senate amendments for consideration at this time,

HB 2631, A bill to be entitled An Act relating to a grant program for agricultural projects in certain public school districts.

On motion of Representative S. Turner, the house concurred in the senate amendments to **HB 2631** by (Record 416): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddock; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Chisum; Ehrhardt; Naishtat; Pickett; Tillery.

Senate Amendment No. 1

Amend **HB 2631**, by adding SECTION 3 to read as follows:

"SECTION 3. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriations is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

HB 2641 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2641, A bill to be entitled An Act relating to the continuation and functions of the Health and Human Services Commission.

Representative Gray 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 2641**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2641**: Gray, chair, Bosse, McCall, Wolens, and S. Turner

HB 2684 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2684, A bill to be entitled An Act relating to reinvestment zones and tax increment financing under the Tax Increment Financing Act, tax abatement agreements within those zones, and the administration of certain local government corporations.

Representative Coleman 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 2684**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2684**: Coleman, chair, Y. Davis, Hilbert, Bonnen, and T. King.

**HB 2821 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2821, A bill to be entitled An Act relating to property tax exemptions for charitable organizations.

Representative McCall 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 2821**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2821**: McCall, chair, Oliveira, Bonnen, Keffer, and Y. Davis.

**HB 2844 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2844, A bill to be entitled An Act relating to the purposes for which the municipal hotel occupancy tax may be used.

On motion of Representative Brimer, the house concurred in the senate amendments to **HB 2844**.

HB 2844 - STATEMENT OF LEGISLATIVE INTENT

HB 2844 is meant to clarify the uses of municipal hotel taxes for convention center facilities or convention center complexes. The first sentence of the bill changes the definition by requiring that the facilities listed be "primarily used to host conventions and meetings."

Brimer

Senate Amendment No. 1

Amend **HB 2844** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 351.001(2), Tax Code, is amended to read as follows:

(2) "Convention center facilities" or "convention center complex" means facilities that are primarily used to host conventions and meetings. The term means civic centers, civic center buildings, auditoriums, and exhibition halls[, and coliseums] that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality. In a municipality with a population of 1.5 million or more, "convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in part by the municipality, hotels owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by the [a] municipality [with a population of 1,500,000 or more], or a historic hotel owned by the [a] municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by the [a] municipality [with a population of 1,500,000 or more]. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities. The term also includes a hotel owned by or located on land that is owned by an eligible central municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality.

SECTION 2. Section 351.102, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) An eligible central municipality may pledge the revenue derived from the tax imposed under this chapter from a hotel project that is owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including shops and parking facilities. For bonds or other obligations issued under this subsection, an eligible central municipality may only pledge revenue or other assets of the hotel project benefiting from those bonds or other obligations.

SECTION 3. Section 2, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) An eligible central municipality, as defined by Section 351.001, Tax Code, may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain a hotel, and any facilities ancillary to the hotel, including shops and parking facilities, that are owned

by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality. An eligible central municipality may also issue bonds or incur other obligations to acquire, lease, construct, or equip a hotel and any facilities ancillary to the hotel, including shops and parking facilities, that are owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center owned by the municipality.

SECTION 4. (a) This Act takes effect September 1, 1999.

(b) This Act does not apply to the use of tax revenue pledged to secure bonds issued before the effective date of this Act. Tax revenue pledged to secure bonds issued before the effective date of this Act is governed by the law in effect on the date the bonds were issued, and that law is continued in effect for that purpose.

(c) This Act does not apply to the use of tax revenue pledged or dedicated before the effective date of this Act for the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities. Tax revenue pledged for these purposes before the effective date of this Act is governed by the law in effect on the date the revenue was pledged, and that law is continued in effect for that purpose.

(d) This Act does not apply to the use of tax revenue for a convention center complex that was under construction on the effective date of this Act, including the pledging of such revenue to secure bonds, additional bonds, and refunding bonds. Tax revenue used for a convention center complex that was under construction on the effective date of this Act is governed by the law in effect on April 1, 1999, and that law is continued in effect for that purpose.

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. 2

Amend Floor Amendment No. 1 to **HB 2844**, on page 4, line 7, by inserting "or minor league baseball stadium" between "convention center complex" and "that".

Senate Amendment No. 3

Amend Floor Amendment No. 1 to **HB 2844** (Senate Committee Printing) as follows:

On page 1, line 10-11 delete "[~~and coliseums~~]" and insert "and coliseums."

Senate Amendment No. 4

Amend Floor Amendment No. 1 to **HB 2844**, on page 4, line 10, by inserting "or minor league baseball stadium" between "convention center complex" and "that".

**HB 3021 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3021, A bill to be entitled An Act relating to a health maintenance organization's complaint and appeals procedures.

Representative Smithee 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 3021**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3021**: Smithee, chair, Naishtat, Olivo, G. Lewis, and Seaman.

**HB 3092 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3092, A bill to be entitled An Act relating to the powers and duties of the Motor Vehicle Board of the Texas Department of Transportation; imposing a penalty.

On motion of Representative Siebert, the house concurred in the senate amendments to **HB 3092** by (Record 417): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wise; Wohlgemuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Delisi; Wilson.

Senate Committee Substitute

CSHB 3092, A bill to be entitled An Act relating to the authority and duties of the Texas Motor Vehicle Board.

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

SECTION 1. Section 1.03, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.03. DEFINITIONS. In this Act:

(1) "Ambulance" means a vehicle used exclusively for providing emergency medical care to an injured or ill person or transporting an injured or ill person, if the vehicle provides:

(A) a driver's compartment;

(B) a compartment to accommodate an emergency medical care technician or paramedic and two injured or ill persons so positioned that one of the injured or ill persons can be given intensive life-support during transit;

(C) equipment and supplies for emergency care of an injured or ill person where the ill person is located or at the scene of an injury-producing incident as well as in transit;

(D) two-way radio communication capability; and

(E) equipment for light rescue or extrication procedures.

(2) "Board" means the Motor Vehicle Board of the Texas Department of Transportation.

(3) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale~~[-, for purposes other than resale,]~~ of a new motor vehicle, and who is not:

(A) a franchised dealer or bona fide employee of a franchised dealer when acting on behalf of a franchised dealer;

(B) a representative or bona fide employee of a representative when acting on behalf of a representative;

(C) a distributor or bona fide employee of a distributor when acting on behalf of a distributor; or

(D) at any point in the transaction the bona fide owner of the vehicle involved in the transaction.

(4) "Chassis manufacturer" means a person who manufactures and produces the frame upon which is mounted the body of a motor vehicle.

(5) "Conversion" means a motor vehicle, other than a motor home, ambulance, or fire-fighting vehicle, which has been substantially modified by a person other than the manufacturer or distributor of the chassis of the motor vehicle and which has not been the subject of a retail sale.

(6) "Converter" means a person who prior to the retail sale of a motor vehicle, assembles, installs, or affixes a body, cab, or special equipment to a chassis, or who substantially adds, subtracts from, or modifies a previously assembled or manufactured motor vehicle.

(7) "Dealer" means a person who holds a general distinguishing number issued by the Department pursuant to the terms of Chapter 503, Transportation Code.

(8) "Dealership" means the physical premises and business facilities on which a franchised dealer operates his business, including the sale and repair of motor vehicles. The term includes premises or facilities at which a person engages only in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise and a motor vehicle manufacturer's warranty.

(9) "Department" means the Texas Department of Transportation.

(10) "Director" means the director of the board.

(11) "Distributor" means any person who distributes and/or sells new motor vehicles to franchised dealers and who is not a manufacturer.

(12) "Executive Director" means the Executive Director of the Texas Department of Transportation.

(13) "Fire-fighting vehicle" means a motor vehicle which has as its sole purpose transporting fire fighters to the scene of a fire and providing equipment to fight the fire, if the vehicle is built on a truck chassis with a gross carrying capacity of at least 10,000 pounds, to which the following have been permanently affixed or mounted:

(A) a water tank with a minimum combined capacity of 500 gallons; and

(B) a centrifugal water pump with a minimum capacity of not less than 750 gallons per minute at 150 pounds per square inch net pump pressure.

(14) "Franchise" means one or more contracts between a franchised dealer as franchisee, and either a manufacturer or a distributor as franchisor under which (A) the franchisee is granted the right to sell and service new motor vehicles manufactured or distributed by the franchisor or only service motor vehicles pursuant to the terms of a franchise and a manufacturer's warranty; (B) the franchisee as an independent business is a component of franchisor's distribution system; (C) the franchisee is substantially associated with franchisor's trademark, trade name and commercial symbol; (D) the franchisee's business is substantially reliant on franchisor for a continued supply of motor vehicles, parts, and accessories for the conduct of its business; or (E) any right, duty, or obligation granted or imposed by this Act is affected. The term includes a written communication from a franchisor to a franchisee by which a duty is imposed on the franchisee.

(15) "Franchised dealer" means any person who holds a franchised motor vehicle dealer's general distinguishing number issued by the Department pursuant to the terms of Chapter 503, Transportation Code, and who is engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles pursuant to the terms of a franchise and a manufacturer's warranty at an established and permanent place of business pursuant to a franchise in effect with a manufacturer or distributor.

(16) "General distinguishing number" means a dealer license issued by the Department pursuant to the terms of Chapter 503, Transportation Code.

(17) "Lease" means a transfer of the right to possession and use of a motor vehicle for a term in excess of 180 days in return for consideration.

(18) "Lease facilitator" means a person, other than a franchised dealer or a bona fide employee of a dealer, or a vehicle lessor or a bona fide employee of a vehicle lessor, who:

(A) holds himself out to any person as a "motor vehicle leasing company" or "motor vehicle leasing agent" or uses a similar title, for the purpose of soliciting or procuring a person to enter into a contract or agreement to become the lessee of a vehicle that is not, and will not be, titled in the name of and registered to the lease facilitator; or

(B) otherwise solicits a person to enter into a contract or agreement to become a lessee of a vehicle that is not, and will not be, titled in the name of and registered to the lease facilitator, or who is otherwise engaged in the business of securing lessees or prospective lessees of motor vehicles that are not, and will not be, titled in the name of and registered to the facilitator.

(19) "Lessor" means a person who, pursuant to the terms of a lease, transfers to another person the right to possession and use of a motor vehicle titled in the name of the lessor [~~acquires title to a motor vehicle for the purpose of leasing the vehicle to another person~~].

(20) "Licensee" means a person who holds a license or general distinguishing number issued by the Board under the terms of this Act or Chapter 503, Transportation Code.

(21) "Manufacturer" means any person who manufactures or assembles new motor vehicles [~~either within or without this State~~].

(22) "Manufacturer's statement of origin" means a certificate on a form prescribed by the Department showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser.

(23) "Motor home" means a motor vehicle which is designed to provide temporary living quarters and which:

(A) is built onto as an integral part of, or is permanently attached to, a motor vehicle chassis; and

(B) contains at least four of the following independent life support systems if each is permanently installed and designed to be removed only for purposes of repair or replacement and meets the standards of the American National Standards Institute, Standards for Recreational Vehicles:

(i) a cooking facility with an on-board fuel source;

(ii) a gas or electric refrigerator;

(iii) a toilet with exterior evacuation;

(iv) a heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine;

(v) a potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection;

(vi) a 110-125 volt electric power supply.

(24) "Motor home manufacturer" means a person other than the manufacturer of the chassis of a motor vehicle who, prior to the retail sale of the motor vehicle, performs modifications on the chassis that result in the finished product being classified as a motor home.

(25) "Motor vehicle" means:

(A) every fully self-propelled vehicle which has as its primary purpose the transport of a person or persons, or property, on a public highway, and having two or more wheels;

(B) every two or more wheeled fully self-propelled, titled vehicle which has as its primary purpose the transport of a person or persons or property and is not manufactured for use on public streets, roads, or highways;

(C) an engine, transmission, or rear axle manufactured for installation in a vehicle having as its primary purpose the transport of a person or persons or property on a public highway and having a gross vehicle weight rating of more than 16,000 pounds, whether or not attached to a vehicle chassis; or

(D) a towable recreational vehicle.

(26) "New motor vehicle" means a motor vehicle which has not been the subject of a "retail sale" without regard to the mileage of the vehicle.

(27) "Nonfranchised dealer" means a person who holds an independent motor vehicle dealer's general distinguishing number or a wholesale motor vehicle dealer's general distinguishing number issued by the Department pursuant to the terms of Chapter 503, Transportation Code.

(28) "Party" means each person or agency named or admitted as a party and whose legal rights, duties, or privileges are to be determined by the board [~~Commission~~] after an opportunity for adjudicative hearing.

~~[(28) "Towable recreational vehicle" means a nonmotorized vehicle that is designed and originally manufactured for temporary human habitation as its primary purpose for recreational, camping, or seasonal use and:~~

~~(A) is titled and registered with the Texas Department of Transportation as a travel trailer through the county tax assessor-collector;~~

~~(B) is permanently built on a single chassis;~~

~~(C) contains one or more life support systems; and~~

~~(D) is designed to be towable by another motor vehicle.]~~

(29) "Person" means a natural person, partnership, corporation, association, trust, estate, or any other legal entity.

(30) "Relocation" means the transfer of an existing dealership operation to facilities at a different location, including a transfer which results in a consolidation or dualing of an existing dealer's operation.

(31) "Representative" means any person who is or acts as an agent, employee or representative of a manufacturer, distributor, or converter who performs any duties in this State relating to promoting the distribution and/or sale of new motor vehicles or contacts dealers in this State on behalf of a manufacturer, distributor, or converter.

(32) "Retail sale" means the sale of a motor vehicle except:

(A) a sale in which the purchaser acquires a vehicle for the purpose of resale; or

(B) a sale of a vehicle that is operated under and in accordance with Section 503.061, Transportation Code.

(33) "Rule" means a statement by the board [~~Commission~~] of general and future applicability that implements, interprets, or prescribes law or policy or describes the organization or procedural practice requirements of the board [~~Commission~~]. The term includes the amendment or repeal of a prior rule, but does not include statements concerning only the internal management of the board [~~Commission~~] which do not affect the rights of a person not connected with the board [~~Commission~~].

(34) "Towable recreational vehicle" means a nonmotorized vehicle originally designed and manufactured for the primary purpose of providing temporary human habitation in conjunction with recreational, camping, or seasonal use and:

(A) is titled and registered with the Texas Department of Transportation as a travel trailer through the county tax assessor-collector;

(B) is permanently built on a single chassis;

(C) contains one or more life support systems; and

(D) is designed to be towable by another motor vehicle.

(35)[~~(34)~~] "Transportation Commission" means the Texas Transportation Commission of the Texas Department of Transportation.

(36)[~~(35)~~] "Warranty work" means parts, labor, and any other expenses incurred by a franchised dealer in complying with the terms of a manufacturer's or distributor's warranty.

SECTION 2. Section 2.02, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended by repealing Subsection (b) and by renumbering Subsection (c) as Subsection (b).

SECTION 3. Section 2.02, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes) is amended by adding Subsection (c) to read as follows:

"(c) A person is eligible for appointment to the board as provided by Subsection (b)(1) of this section if the person is otherwise eligible as provided by this Act and is a natural person who is either himself or herself a dealer or is the bona fide owner of at least 20 percent of an entity that is a dealer. Notwithstanding the terms of this subsection, a person is not eligible to serve on the board as provided by Subsection (b)(1) of this section if the person's status as dealer is derived from a dealer or dealership in which a manufacturer or distributor owns an interest.

SECTION 4. Subsections (a), (b) and (c), Section 2.08, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The Governor shall designate one member of the board, other than a member appointed pursuant to the terms of Section 2.02(b) [~~2.02(c)~~] of this Act, as Chairman to serve in that capacity at the pleasure of the Governor.

The board shall hold a regular annual meeting in September of each year and elect a Vice-chairman to serve for the ensuing year. The board shall have regular meetings as the majority of the members may specify and special meetings at the request of the Chairman, any two members, or the Director. Reasonable notice of all meetings shall be given as board rules prescribe. A majority of the board constitutes a quorum to transact business, except that a member appointed under Section 2.02(b) [~~Section 2.02~~] of this Act is not counted in the calculation of a quorum for purposes of the determination of an issue with respect to which the member is prohibited from voting. The Chairman, or in his absence, the Vice-chairman, shall preside at all meetings of the board. In the absence of both the Chairman and the Vice-chairman, the members present shall select one of their number to serve as chairman for the meeting.

(b) The board [~~Commission~~] is subject to Chapters 551 and 2001, Government Code.

(c) The board [~~Commission~~] shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board [~~Commission~~] and to speak on any issue under the jurisdiction of the board [~~Commission~~].

SECTION 5. Section 2.08A(c), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(c) If the Director has knowledge that a potential ground for removal exists, the Director shall notify the Chairman of the board [~~Commission~~] of the ground. The Chairman shall then notify the Governor and the Attorney General that a potential ground for removal exists. If the potential ground for removal relates to the Chairman of the board [~~Commission~~], the [~~Executive~~] Director shall notify the Vice-chairman of the board [~~Commission~~], who shall notify the Governor and the Attorney General that a potential ground for removal exists.

SECTION 6. Section 2.09(a) and (e), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The [~~Executive Director shall appoint the~~] Director [~~who~~] is the board's chief executive and administrative officer. The Director, who shall be an attorney licensed to practice law in this state, is charged with administering, enforcing, and carrying out the provisions of this Act. The Director serves at the pleasure of the board [~~Executive Director~~].

(e) The Director shall appoint and employ such board staff as are necessary to carry out the duties and functions of the Director and the board under this Act. [~~The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the Executive director and staff of the board.~~]

SECTION 7. Section 2.13, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.13. INTRAAGENCY CAREER LADDER PROGRAM; ANNUAL PERFORMANCE EVALUATIONS; INFORMATION; EQUAL OPPORTUNITY

IMPLEMENTATION PLAN; PUBLIC INFORMATION. (a) The [Executive] Director or his designee shall develop an intraagency career ladder program that addresses opportunities for mobility and advancement of employees in the Commission. The program shall require intraagency postings of all positions concurrently with any public posting.

(b) The [Executive] Director or his designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for board [Commission] employees must be based on the system established under this subsection.

(c) The [Executive] Director or his designee shall prepare information describing the functions of the board [Commission] and describing the procedures by which complaints or protests are filed with and resolved by the board [Commission]. The board [Commission] shall make the information available to the general public and appropriate state agencies.

(d) The [Executive] Director or his designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with Chapter 21, Labor Code;

(2) a comprehensive analysis of the Commission work force that meets federal and state laws, rules, and regulations and instructions directly adopted under those laws, rules, or regulations;

(3) procedures by which a determination can be made of significant underuse in the Commission work force of all persons for whom federal or state laws, rules, and regulations and instructions directly adopted under those laws, rules, or regulations, encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

A policy statement prepared under this subsection must cover an annual period, be updated at least annually, be reviewed by the Texas Commission on Human Rights for compliance with Subdivision (1) of this subsection, and be filed with the Governor's office.

The Governor's office shall deliver a biennial report to the legislature based on the information received under this subsection. The report may be made separately or as a part of other biennial reports made to the legislature.

(e) The board [Commission] shall comply with Section 4(a)(2), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), by indexing and making available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the Commission in the discharge of its functions.

(f) The board [Commission] shall comply with Section 4(a)(3), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), by indexing and making available for public inspection all of the board's [Commission's] final orders, decisions, and opinions.

SECTION 8. Section 3.01A, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is repealed.

SECTION 9. Section 3.02, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.02. DUTIES. (a) The board [~~Commission~~] shall, in accordance with this Act, administer the provisions of this Act, establish the qualifications of licensees, ensure that the distribution, sale, and leasing of motor vehicles is conducted as provided herein and under the board's [~~Commission's~~] rules, provide for compliance with warranties, and otherwise prevent fraud, unfair practices, discriminations, impositions, and other abuses in connection with the distribution and sale of motor vehicles.

(b) The board [~~Commission~~] shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the Commission's programs.

SECTION 10. Section 3.08(g), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(g) In all contested cases the examiner shall serve on all parties a copy of the examiner's proposal for decision and recommended order containing findings of fact and conclusions of law. A party may file exceptions and replies to the board. In its review of the case, the board may consider only the materials timely submitted. The board may receive such oral argument from any party as the board may allow. The board shall take such further actions as are conducive to the issuance of a final order and shall thereafter issue a written final decision or order. [~~The board's written final decision or order shall be signed on behalf of the board by the Director~~]. A majority vote of a quorum of the board shall be required to adopt final decisions or orders of the board.

SECTION 11. Section 4.01B(a), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board [~~Commission~~] by rule may implement a system under which licenses expire on various dates during the year. The board may also issue a license for a term of less than one year for the purpose of coordinating the expiration dates of licenses in instances where a licensee must obtain more than one license to perform activities under this Act.

SECTION 12. Section 4.02, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.02. DEALER APPLICATION. (a) An application for a dealer license shall be on a form prescribed by the board which shall include the information required by Chapter 503, Transportation Code, and information on the applicant's financial resources, business integrity, business ability and experience, franchise agreement if applicable, physical facilities, vehicle inventory, and other factors the board considers necessary to determine an applicant's qualifications to adequately serve the [~~motoring~~] public.

(b) A dealer shall renew his license annually on an application

prescribed by the board [~~Commission~~]. If a material change occurs in the information included in a dealer's application for a license or renewal of a license, the dealer shall, within a reasonable time but not later than the next annual renewal, notify the board [~~Commission~~] of those changes. The board [~~Commission~~] shall prescribe a form for the disclosure of the changes and shall include in the renewal application a request for disclosure of material changes.

(c) [(1)] A franchised dealer may carry on the business of his dealership at more than one location; however, a separate location for the display and sale of new motor vehicles may not be established and maintained by a franchised dealer unless expressly authorized by the franchised dealer's franchise and license. An application for a franchised dealer's license or to amend a franchised dealer's license which proposes the establishment of a separate display and sales location is subject to all of the provisions of this Act. A separate license shall be required for each separate and distinct dealership as determined by the board [~~Commission~~].

(d) [(2)] Except as provided in this subsection [~~subdivision~~], no licensee may participate in a new motor vehicle show or exhibition unless the board [~~Commission~~] has first had written notice at least 30 days prior to the opening day of the show or exhibition and its written approval has been granted. A licensee may not sell or offer for sale a new motor vehicle at a show or exhibition; however, dealership personnel may be present to aid in the showing or exhibiting of new motor vehicles. This subsection [~~subdivision~~] does not prohibit the sale of a towable recreational vehicle, motor home, ambulance, or fire-fighting vehicle at a show or exhibition if the show or exhibition is approved by the board [~~Commission~~] and if the sale does not otherwise violate a provision of law. ~~If the board adopts; provided that, should the Commission adopt~~ a rule regulating off-site display or sale of towable recreational vehicles, the board [~~Commission~~] shall, ~~as part of that rule,~~ authorize the display and sale of towable recreational vehicles at a private event in a trade area [~~private events in trade areas (counties, cities, or towns) where~~] that would not otherwise qualify for the private event under the application of general participation requirements for organized dealer shows and exhibitions [~~would effectively preclude such an organized show or exhibition~~].

(e) [(3)] The board [~~Commission~~] shall, under its general rule-making authority granted in this Act, establish rules and guidelines for the implementation and enforcement of this section [~~subsection~~].

(f) [(4)] A dealer licensed hereunder shall promptly notify the board [~~Commission~~] of any proposed change in its ownership, location, franchise, or any other matters the board [~~Commission~~] may require by rule. Prior to a change in a dealer's location, a dealer shall obtain a new license for that location.

SECTION 13. Section 5.02(b), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) It is unlawful for any manufacturer, distributor, or representative to:

(1) Require or attempt to require any dealer to order, accept delivery of or pay anything of value, directly or indirectly, for any motor vehicle, appliance, part, accessory or any other commodity unless voluntarily ordered or contracted for by such dealer.

(2) Refuse or fail to deliver, in reasonable quantities and within a reasonable time, to a dealer having a franchise agreement for the retail sale of any motor vehicles sold or distributed by such manufacturer, distributor, or representative, any new motor vehicle or parts or accessories to new motor vehicles as are covered by such franchise if such vehicle, parts or accessories are publicly advertised as being available for delivery or are actually being delivered; provided, however, this provision is not violated if such failure is caused by acts of God, work stoppage or delays due to strikes or labor disputes, freight embargoes or other causes beyond the control of the manufacturer, distributor, or representative.

(3) Notwithstanding the terms of any franchise agreement:

(A) Terminate or refuse to continue any franchise with a dealer or directly or indirectly force or attempt to force a dealer to relocate or discontinue a line-make or parts or products related to that line-make unless all of the following conditions are met:

(i) the dealer and the board have received written notice by registered or certified mail from the manufacturer, distributor, or representative not less than 60 days before the effective date of termination or noncontinuance setting forth the specific grounds for termination or noncontinuance; and

(ii) the written notice contains on the first page thereof a conspicuous statement which reads as follows: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE TEXAS MOTOR VEHICLE BOARD IN AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE PROPOSED TERMINATION OR NONCONTINUANCE OF YOUR FRANCHISE UNDER THE TERMS OF THE TEXAS MOTOR VEHICLE COMMISSION CODE IF YOU OPPOSE THIS ACTION."; and

(iii) the manufacturer, distributor, or representative has received the informed, written consent of the affected dealer or the appropriate period for the affected dealer to protest the proposed franchise termination or noncontinuance has lapsed; or

(iv) if the affected dealer files a protest with the board within the greater of (1) 60 days after receiving its 60-day notice of proposed termination or noncontinuance or (2) the time specified in such notice, the board determines that the party seeking to terminate or not continue a dealer's franchise has established by a preponderance of the evidence, at a hearing called by the board, that there is good cause for the proposed termination or noncontinuance.

(v) Notwithstanding Subdivisions (3)(A)(i) and (3)(A)(iv) of this section, notice may be made not less than 15 days prior to the effective date of termination or noncontinuance if a licensed dealer fails to conduct its customary sales and service operations during its customary business hours for seven consecutive business days unless such

failure is caused by an act of God, work stoppage or delays due to strikes or labor disputes, an order of the board, or other causes beyond the control of the dealer.

(B) Whenever a dealer files a timely protest to a proposed franchise termination or noncontinuance, the board shall notify the party seeking to terminate or to not continue the protesting dealer's franchise that a timely protest has been filed, that a hearing is required in accordance with this Act, and that the party who gave the dealer notice of termination or noncontinuance of the franchise may not terminate or refuse to continue the franchise until the board issues its final decision or order.

(C) If a franchise is terminated or not continued, another franchise in the same line-make will be established within a reasonable time unless it is shown to the board by a preponderance of the evidence that the community or trade area cannot reasonably support such a dealership. If this showing is made, no dealer license shall be thereafter issued in the same area unless a change in circumstances is established.

(4) Notwithstanding the terms of any franchise agreement, modify or replace a franchise if the modification or replacement would adversely affect, to a substantial degree, the dealer's sales, investment, or obligations to provide service to the public, unless the manufacturer, distributor, or representative has first given the board and each affected dealer written notice by registered or certified mail of any such action 60 days in advance of the modification or replacement. The written notice shall contain on the first page thereof a conspicuous statement which reads as follows: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST WITH THE TEXAS MOTOR VEHICLE BOARD IN AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE PROPOSED MODIFICATION OR REPLACEMENT OF YOUR FRANCHISE UNDER THE TERMS OF THE TEXAS MOTOR VEHICLE COMMISSION CODE IF YOU OPPOSE THIS ACTION." Within the greater of (1) 60 days after receipt of such notice or (2) the time specified in such notice, a dealer may file a protest with the board and the modification or replacement shall not become effective unless and until the board determines that the party seeking to modify or replace a franchise has demonstrated by a preponderance of the evidence that there is good cause for the modification or replacement. The prior franchise shall continue in effect until the protest is resolved by the board.

(5) Notwithstanding the terms of any franchise agreement, in determining whether good cause has been established for modifying, replacing, terminating, or refusing to continue a franchise, or for forcing or attempting to force a dealer to relocate or discontinue a line-make or parts or products related to that line-make, the board shall consider all the existing circumstances including, without limitation by the enumeration herein, all the following:

(A) the dealer's sales in relation to the sales in the market;

(B) the dealer's investment and obligations;

(C) injury or benefit to the public [welfare];

(D) the adequacy of the dealer's service facilities,

equipment, parts, and personnel in relation to those of other dealers of new motor vehicles of the same line-make;

(E) whether warranties are being honored by the dealer;

(F) the parties' compliance with their franchise agreement except to the extent that the franchise agreement is in conflict with this Act; and

(G) the enforceability of the franchise agreement from a public policy standpoint, including, without limitation, issues of the reasonableness of the franchise agreement's terms, oppression, adhesion, and the relative bargaining power of the parties.

Good cause shall not be shown solely by the desire of a manufacturer, distributor, or representative for market penetration.

(6) Use any false, deceptive or misleading advertising.

(7) Notwithstanding the terms of any franchise agreement, prevent any dealer from reasonably changing the capital structure of his dealership or the means by or through which he finances the operation thereof, provided that the dealer meets reasonable capital requirements.

(8) Notwithstanding the terms of any franchise agreement, fail to give effect to or attempt to prevent any sale or transfer of a dealer, dealership or franchise or interest therein or management thereof except as provided by Section 5.01B.

(9) Notwithstanding the terms of any franchise agreement, require or attempt to require that a dealer assign to or act as an agent for any manufacturer, distributor or representative in the securing of promissory notes and security agreements given in connection with the sale or purchase of new motor vehicles or the securing of policies of insurance on or having to do with the operation of vehicles sold.

(10) Notwithstanding the terms of any franchise agreement, fail or refuse, after complaint and hearing, to perform the obligations placed on the manufacturer in connection with the delivery, preparation and warranty of a new motor vehicle as provided in the manufacturer's warranty, preparation, and delivery agreements on file with the board .

~~(11) Notwithstanding the terms of any franchise agreement[-; fail to compensate its dealers for the work and services they are required to perform in connection with the dealer's delivery and preparation obligations according to the agreements on file with the board which must be found by the board to be reasonable, or fail to adequately and fairly compensate its dealers for labor, parts and other expenses incurred by such dealer to perform under and comply with a manufacturer's or a distributor's warranty agreement, or require, as a prerequisite to the manufacturer's or distributor's payment of a claim for reimbursement as required by this section, that a dealer file with the manufacturer or distributor the actual time spent in the performance of labor unless actual time is the basis for reimbursement. In no event shall any manufacturer or distributor pay its dealers an amount of money for warranty work that is less than that charged by the dealer to the retail customers of the dealer for nonwarranty work of like kind. All claims made by dealers for compensation for delivery, preparation, and warranty work shall be paid~~

~~within 30 days after approval and shall be approved or disapproved within 30 days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective condition, or that the dealer failed to reasonably substantiate the claim in accordance with reasonable written requirements of the manufacturer or distributor, if the dealer has been notified of the requirements prior to the time the claim arose, and if the requirements were in effect at the time the claim arose. A manufacturer or distributor may not audit a claim after the expiration of two years following the submission of the claim unless the manufacturer or distributor has reasonable grounds to suspect that a claim was fraudulent. Notwithstanding the terms of a franchise agreement] or provision of law in conflict with this section, the dealer's delivery, preparation, and warranty obligations as filed with the board shall constitute the dealer's sole responsibility for product liability as between the dealer and manufacturer or distributor, and, except for a loss caused by the dealer's failure to adhere to these obligations, a loss caused by the dealer's negligence or intentional misconduct, or a loss caused by the dealer's modification of a product without manufacturer or distributor authorization, the manufacturer or distributor shall reimburse the dealer for all loss incurred by the dealer, including legal fees, court costs, and damages, as a result of the dealer having been named a party in a product liability action.~~

(12) Operate as a manufacturer, distributor, or representative without a currently valid license from the board or otherwise violate this Act or rules promulgated by the board hereunder.

(13) Notwithstanding the terms of any franchise agreement, to prevent or refuse to honor the succession to a dealership by any legal heir or devisee under the will of a dealer or under the laws of descent and distribution of this State unless it is shown to the board, after notice and hearing, that the result of such succession will be detrimental to the public interest and to the representation of the manufacturer or distributor; provided, however, nothing herein shall prevent a dealer, during his lifetime, from designating any person as his successor dealer, by written instrument filed with the manufacturer or distributor.

(14) Notwithstanding the terms of any franchise agreement, require that a dealer pay or assume, directly or indirectly, any part of any refund, rebate, discount, or other financial adjustment made by the manufacturer, distributor, or representative to, or in favor of, any customer of a dealer, unless voluntarily agreed to by such dealer.

(15) Notwithstanding the terms of any franchise agreement, deny or withhold approval of a written application to relocate a franchise unless (A) the applicant has received written notice of the denial or withholding of approval within 60 days after receipt of the application containing information reasonably necessary to enable the manufacturer or distributor to adequately evaluate the application, and if (B) the applicant files a protest with the board and the manufacturer or distributor establishes by a preponderance of the evidence at a hearing called by the board that the

grounds for the denial or withholding of approval of the relocation are reasonable.

(16) Notwithstanding the terms of any franchise agreement, fail to pay to a dealer or any lienholder in accordance with their respective interest after the termination of a franchise:

(A) the dealer cost of each new motor vehicle in the dealer's inventory with mileage of 6,000 miles or less, reduced by the net discount value of each, where "net discount value" is determined according to the following formula: net cost multiplied by total mileage divided by 100,000, and where "net cost" equals the dealer cost plus any charges by the manufacturer, distributor, or representative for distribution, delivery, and taxes, less all allowances paid to the dealer by the manufacturer, distributor, or representative for new, unsold, undamaged, and complete motor vehicles of current model year or one year prior model year in the dealer's inventory, except that if a vehicle cannot be reduced by the net discount value, the manufacturer or distributor shall pay the dealer the net cost of the vehicle;

(B) the dealer cost of each new, unused, undamaged, and unsold part or accessory if the part or accessory is in the current parts catalogue and is still in the original, resalable merchandising package and in unbroken lots, except that in the case of sheet metal, a comparable substitute for the original package may be used, and if the part or accessory was purchased by the dealer either directly from the manufacturer or distributor or from an outgoing authorized dealer as a part of the dealer's initial inventory;

(C) the fair market value of each undamaged sign owned by the dealer which bears a trademark or trade name used or claimed by the manufacturer, distributor, or representative if the sign was purchased from or purchased at the request of the manufacturer, distributor, or representative;

(D) the fair market value of all special tools, data processing equipment, and automotive service equipment owned by the dealer which were recommended in writing and designated as special tools and equipment and purchased from or purchased at the request of the manufacturer, distributor, or representative, if the tools and equipment are in usable and good condition except for reasonable wear and tear;

(E) the cost of transporting, handling, packing, storing, and loading of any property subject to repurchase under this section;

(F) except as provided by this subdivision, any sums due as provided by Paragraph (A) of this subdivision within 60 days after termination of a franchise and any sums due as provided by Paragraphs (B) through (E) of this subdivision within 90 days after termination of a franchise. As a condition of payment, the dealer is to comply with reasonable requirements with respect to the return of inventory as are set out in the terms of the franchise agreement. A manufacturer or distributor shall reimburse a dealer for the dealer's cost for storing any property covered by this subdivision beginning 90 days following termination. A manufacturer or distributor shall reimburse a dealer for the dealer's cost of storing any property covered by this subdivision before the expiration of 90 days from

the date of termination if the dealer notifies the manufacturer or distributor of the commencement of storage charges within that period. On receipt of notice of the commencement of storage charges, a manufacturer or distributor may immediately take possession of the property in question by repurchasing the property as provided by this subdivision. A manufacturer, distributor, or representative who fails to pay those sums within the prescribed time or at such time as the dealer and lienholder, if any, proffer good title prior to the prescribed time for payment, is liable to the dealer for:

- (i) the greatest of dealer cost, fair market value, or current price of the inventory;
- (ii) interest on the amount due calculated at the rate applicable to a judgment of a court; and
- (iii) reasonable attorney's fees and costs.

(17) Notwithstanding the terms of any franchise agreement, change its distributor, its method of distribution of its products in this state, or its business structure or ownership in a manner that results in the termination or noncontinuance of a franchise without good cause. The manufacturer, distributor, or representative shall issue the same notice to the dealer and to the board as is provided in Subdivisions (3)(A) and (B) of this section and said same procedures shall apply to the parties.

(18) Notwithstanding the terms of any franchise agreement, require a dealer to submit to arbitration on any issue unless the dealer and the manufacturer, distributor, or representative and their respective counsel agree to arbitrate after a controversy arises. The arbitrator shall apply the provisions of this Act in resolving the pertinent controversy. Either party may appeal to the board a decision of an arbitrator on the ground that the arbitrator failed to apply this Act.

(19) Notwithstanding the terms of any franchise agreement, require that a dealer join, contribute to, or affiliate with, directly or indirectly, any advertising association.

(20) Notwithstanding the terms of a franchise agreement:

(A) require adherence to unreasonable sales or service standards;

(B) directly or indirectly, discriminate against a dealer or otherwise treat dealers differently as a result of a formula or other calculation or process intended to gauge the performance of a dealership;

(C) unreasonably require that a dealer purchase special tools or equipment; or

(D) fail to compensate a dealer for all costs incurred by the dealer as required by the manufacturer in complying with the terms of a product recall by the manufacturer or distributor, including the costs, if any, incurred by the dealer in notifying vehicle owners of the existence of the recall.

(21) Discriminate unreasonably between or among franchisees in the sale of a motor vehicle owned by the manufacturer or distributor.

(22) Directly or indirectly, or through a subsidiary or agent, require, as a condition for obtaining financing for a motor vehicle, the

purchaser of a vehicle to purchase any product other than the motor vehicle from the manufacturer or distributor, or from an entity owned or controlled by the manufacturer or distributor.

(23) Directly or indirectly, or through a subsidiary or agent, require, as a condition of its or its subsidiary's agreement to provide financing for a motor vehicle, that any insurance policy or service contract purchased by the motor vehicle purchaser be purchased from a specific source.

(24) Compel a dealer through a financing subsidiary of the manufacturer or distributor to agree to unreasonable operating requirements or directly or indirectly to terminate a dealer through the actions of a financing subsidiary of the manufacturer or distributor. This subdivision does not limit the right of a financing entity to engage in business practices in accordance with the usage of trade in retail and wholesale motor vehicle financing.

(25) ~~Operate as a dealer except on a temporary basis and only if:~~

~~(A) the dealership was previously owned by a franchised dealer and is currently for sale at a reasonable price; or~~

~~(B) the manufacturer, distributor, or representative operates the dealership in a bona fide relationship with a franchised dealer who is required to make a significant investment in the dealership, subject to loss, and who reasonably expects to acquire full ownership of the dealership under reasonable terms and conditions.~~

(26) Notwithstanding the terms of a franchise agreement, deny or withhold approval of a dealer's application to add a line-make or parts or products related to that line-make unless, within 60 days of receipt of the dealer's written application to add the line-make, the manufacturer or distributor gives the dealer written notice of the denial or withholding of approval. After receipt of notice, the dealer may file a protest with the board. If the dealer files a protest as provided by this subdivision, the board may uphold the manufacturer's or distributor's decision to deny or withhold approval of the addition of the line-make only if the manufacturer or distributor proves by a preponderance of the evidence that the denial or withholding of approval was reasonable. In determining whether or not the manufacturer or distributor has met its burden to show that its denial or withholding of approval is reasonable, the board shall consider all existing circumstances, including, without limitation, the following:

(A) the dealer's sales in relation to the sales in the market;

(B) the dealer's investment and obligations;

(C) injury or benefit to the public ~~[welfare]~~;

(D) the adequacy of the dealer's sales and service facilities, equipment, parts, and personnel in relation to those of other dealers of new motor vehicles of the same line-make;

(E) whether warranties are being honored by the dealer agreement;

(F) the parties' compliance with their franchise agreement to the extent that the franchise agreement is not in conflict with this Act;

(G) the enforceability of the franchise agreement from a public policy standpoint, including without limitation, issues of the reasonableness of the franchise agreement's terms, oppression, adhesion, and the relative bargaining power of the parties;

(H) whether the dealer complies with reasonable capitalization requirements or will be able to comply with reasonable capitalization requirements within a reasonable time;

(I) the harm, if any, to the manufacturer if the denial or withholding of approval is not upheld; and

(J) the harm, if any, to the dealer if the denial or withholding of approval is upheld.

~~(26)~~~~(27)~~ Fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make, or require a dealer to pay any extra fee, purchase unreasonable advertising displays or other materials, or remodel, renovate, or recondition the dealer's existing facilities as a prerequisite to receiving a model or series of vehicles.

~~(27)~~~~(28)~~ Require a dealer to compensate the manufacturer or distributor for any court costs, attorney's fees, or other expenses incurred in an administrative or civil proceeding arising under this Act, except that this subdivision does not prohibit a manufacturer and dealer from entering into an agreement to share costs in a proceeding in which the dealer and manufacturer have the same or similar interests.

SECTION 14. The Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Sections 5.02A, 5.02B and 5.02C to read as follows:

Sec. 5.02A. WARRANTY REIMBURSEMENT. (a) A manufacturer or distributor shall file with the board a copy of the current requirements the manufacturer or distributor places on its dealers with respect to the dealer's:

(1) duties under the manufacturer or distributor's warranty; and

(2) vehicle delivery and preparation obligations.

(b) Warranty or delivery and preparation requirements placed on a dealer by a manufacturer are not enforceable unless they are reasonable and are disclosed and filed in compliance with Subsection (a).

(c) A manufacturer or distributor shall fairly and adequately compensate its dealers for warranty work.

(d) In no event may a manufacturer or distributor pay or reimburse a dealer an amount of money for warranty work that is less than that charged by the dealer to the dealer's retail customers for nonwarranty work of like kind. In computing the amount of money charged by the dealer to the dealer's retail customers for labor of like kind, the manufacturer or distributor shall use the greater of:

(1) the average labor rate charged by the dealer on 100 sequential nonwarranty repair orders, exclusive of routine maintenance, during the preceding 6 months; or

(2) the average labor rate charged by the dealer for nonwarranty repairs, exclusive of routine maintenance, for 90 consecutive days during the preceding 6 months.

(e) A dealer may request an adjustment in the dealer's warranty labor rate. A request under this subsection shall be by certified mail, return receipt requested. In a request for an adjustment of a warranty labor rate under this subsection, the requesting dealer shall set forth the requested rate and shall include information reasonably necessary to enable the manufacturer or distributor adequately to evaluate the request as provided by this section. A manufacturer or distributor shall, within 60 days after receipt of a request for a rate adjustment under this subsection, notify the requesting dealer, in writing, of the approval or disapproval of the request. If the manufacturer or distributor disapproves the request, the manufacturer or distributor shall set forth the reasons for the disapproval. If the manufacturer or distributor disapproves the request or fails to respond within the time provided by this subsection, the requesting dealer is entitled to file a protest.

(f) If a dealer files a protest under Subsection (e), the board may uphold the manufacturer's or distributor's decision only if the manufacturer or distributor proves by a preponderance of the evidence that the disapproval of the requestor failure to respond was reasonable. If the board finds that the disapproval of the request or failure to respond was unreasonable the board shall put the requested rate into effect as of the 60th day after the receipt of the request by the manufacturer or distributor.

(g) Except by agreement of the parties, a warranty labor rate established as provided by this section may be adjusted no more often than annually.

(h) A manufacturer or distributor shall pay a dealer's claim for reimbursement for warranty work or dealer preparation and delivery work within 30 days after approval of the claim. A claim not disapproved within 30 days after the manufacturer or distributor receives it is approved. If the claim is disapproved, the manufacturer or distributor shall provide the dealer written notice of the reasons for the disapproval.

(i) Except as provided by this section, a manufacturer or distributor may not charge a dealer back money paid to the dealer to satisfy a claim approved and paid as provided by this section. A manufacturer or distributor may charge back to a dealer money paid to the dealer to satisfy a claim approved and paid as provided by this section if the manufacturer or distributor can show that:

(1) the claim was false or fraudulent;

(2) repair work was not properly performed or was unnecessary to correct a defective condition; or

(3) the dealer who made the claim failed to provide substantiation of the claim in the manner provided by the manufacturer's or distributor's requirements if those requirements were on file with the board at the time the claim was filed and if those requirements are reasonable as provided by this section.

(j) A manufacturer or distributor may not:

(1) audit a claim filed under this section after the expiration of one year from the submission of the claim unless the manufacturer or distributor has reasonable grounds to suspect that a claim was fraudulent; or

(2) require, as a prerequisite to the payment of a claim for

reimbursement, that a dealer file a statement of actual time spent in performance of labor, unless actual time is the basis for reimbursement.

Section 5.02B. MANUFACTURER OR DISTRIBUTOR INCENTIVE PROGRAMS; PROCEDURES. (a) Except as provided by Subsection (b), after the first anniversary of the ending date of a manufacturer or distributor incentive program, a manufacturer or distributor may not:

(1) charge back to a dealer money paid by the manufacturer or distributor as a result of the incentive program;

(2) charge back to a dealer the cash value of a prize or other thing of value awarded to the dealer as a result of the incentive program; or

(3) audit the records of a dealer to determine compliance with the terms of the incentive program, unless the manufacturer or distributor has reasonable grounds to believe the dealer committed fraud with respect to the incentive program.

(b) Notwithstanding Subsection (a), a manufacturer or distributor may make charge-backs to a dealer if after audit the manufacturer or distributor has reasonable grounds to conclude that the dealer committed fraud with respect to the incentive program.

Section 5.02C. MANUFACTURER OR DISTRIBUTOR OWNERSHIP, OPERATION, OR CONTROL OF DEALERSHIP. (a) In this section the term "manufacturer" includes:

(1) a representative; or

(2) a person or entity who is affiliated with a manufacturer or representative, or, who, directly or indirectly through an intermediary, is controlled by, or is under common control with, the manufacturer.

(b) For purposes of Subsection (a)(3), a person or entity is controlled by a manufacturer if the manufacturer has the authority directly or indirectly, by law or by agreement of the parties, to direct or influence the management and policies of the person or entity.

(c) Except as provided by this section, a manufacturer or distributor may not directly or indirectly:

(1) own an interest in a dealer or dealership;

(2) operate or control a dealer or dealership; or

(3) act in the capacity of a dealer.

(d) A manufacturer or distributor may own an interest in a franchised dealer, or otherwise control a dealership, for a period not to exceed 12 months from the date the manufacturer or distributor acquires the dealership if:

(1) the person from whom the manufacturer or distributor acquired the dealership was a franchised dealer; and

(2) the dealership is for sale by the manufacturer or distributor at a reasonable price and on reasonable terms and conditions.

(e) For the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been under-represented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, but for no other purpose, a manufacturer or distributor may temporarily own an interest in a dealership if the manufacturer's or distributor's participation in the dealership is in a bona fide relationship with a franchised dealer who:

(1) has made a significant investment in the dealership, subject to loss;

(2) has an ownership interest in the dealership; and

(3) operates the dealership under a plan to acquire full ownership of the dealership within a reasonable time and under reasonable terms and conditions.

(f) On a showing by a manufacturer or distributor of good cause, the board may extend the time limit set forth in subsection (d)(1). An extension under this subsection may not exceed 12 months. An application for an extension after the first extension is granted is subject to protest by a dealer of the same line-make whose dealership is located in the same county as, or within 15 miles of the dealership owned or controlled by the manufacturer or distributor.

(g) Notwithstanding any other provision of this section, a person who, on June 7, 1995, held both a motor home dealer's license and a motor home manufacturer's license issued under this Act may:

(1) hold both a motor home dealer's license and a motor home manufacturer's license; and

(2) operate as both a manufacturer and dealer of motor homes but of no other type of vehicle.

SECTION 15. Section 6.07(a), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In addition to the other powers and duties provided for in this Act, the board [~~Commission~~] shall cause manufacturers, converters, and distributors to perform the obligations imposed by this section. In this section "owner" means a person who:

(1) purchased a vehicle at retail from a licensee and is entitled to enforce the terms of a manufacturer's warranty with respect to the vehicle;

(2) is a lessor or lessee, other than a sublessee, who purchased or leased the vehicle from a licensee; or

(3) is the transferee or assignee of any of the persons described in Subdivisions (1) or (2) of this subsection if the transferee or assignee is a Texas resident and is entitled to enforce the terms of a manufacturer's warranty. [For purposes of this section, the term "owner" means a retail purchaser, lessor, lessee other than a sublessee, or the person so designated on the certificate of title to a motor vehicle issued by the Texas Department of Transportation, or an equivalent document issued by the duly authorized agency of any other state, or any person to whom such motor vehicle is legally transferred during the duration of a manufacturer's or distributor's express warranty applicable to such motor vehicle, and any other person entitled by the terms of the manufacturer's, converter's, or distributor's express warranty to enforce the obligations thereof.]

SECTION 16. Section 7.01(f), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

(f) Appeal shall not affect the enforcement of a final board [~~Commission~~] order unless its enforcement is enjoined under Section 65.001

et seq., Civil Practice and Remedies Code, and under principles of primary jurisdiction. Notwithstanding the terms of this section, the board may, in the interest of justice, suspend the enforcement of its order pending final determination of an appeal of that order as provided by this section.

SECTION 17. Section 1A.01, Chapter 7, Acts of the 72nd Legislature, First Called Session, 1991 (Article 4413(36a), Vernon's Texas Civil Statutes), is amended by adding Subdivision (5) to read as follows:

(5) "Executive director" means the executive director of the Texas Department of Transportation.

SECTION 18. Section 1A.02, Chapter 7, Acts of the 72nd Legislature, First Called Session, 1991 (Article 4413(36a), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1A.02. (a) The Board shall:

(1) except as provided by Subsection (b) or (c), exercise the authority and perform the duties placed on the Board by this article or other provision of law independent of the Texas Transportation Commission and the executive director; and

(2) advise, by and through the director, the department on:

(A) ~~[matters arising under the body of law known as the Texas Motor Vehicle Commission code or its successor and other matters relating to the licensing and regulation of motor vehicle manufacturers, distributors, converters, and dealers;]~~

~~[(B) personnel needs of the Board and division;]~~

~~[(C) budgetary needs of the Board and division;]~~

~~[(D) equipment needs of the Board and division;]~~

~~[(E) data processing needs of the Board and division;]~~

~~[(F) the purchase or other acquisition of facilities and property for the Board and division.]~~

(b) Personnel of the division are personnel of the Texas Department of Transportation and are subject to the human resource rules and policies of the department and the Texas Transportation commission, except that, as applied to employees of the division, any and all powers granted to the executive director by those rules and policies shall reside with the director.

(c) The executive director shall, by and through the various offices of the department, provide equipment, facilities, property, and services necessary to carry out the division's purposes, powers, and duties. The executive director shall be responsible for allocating department resources as the executive director deems necessary and appropriate to meet the needs of both the division and the other offices of the department.

SECTION 19. EMERGENCY. 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.

Senate Amendment No. 1

CSHB 3092 is amended by deleting the figure "(3)" on Page 16, line 15, and by inserting in its place the figure "(2)".

**HB 3504 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative J. Solis called up with senate amendments for consideration at this time,

HB 3504, A bill to be entitled An Act relating to the long-range plan for the South Texas Hospital and the provision of tuberculosis and other health care services in the Lower Rio Grande Valley.

On motion of Representative J. Solis, the house concurred in the senate amendments to **HB 3504**.

Senate Committee Substitute

CSHB 3504, A bill to be entitled An Act relating to the long-range plan for the South Texas Hospital and the provision of tuberculosis and other health care services in the Lower Rio Grande Valley.

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

SECTION 1. CONSTRUCTION OF NEW PHYSICAL FACILITIES FOR OUTPATIENT HEALTH CARE SERVICES. (a) The Texas Department of Health shall contract for the construction of an initial, new physical facility for outpatient health care services out of funds appropriated to the department for that purpose.

(b) The initial physical facility constructed under Subsection (a) of this section must be:

(1) located at the site of the South Texas Hospital in Harlingen, Texas; or

(2) colocated with the initial site of the Regional Academic Health Center at a common site in Harlingen, Texas, and adjacent to the center.

(c) The contract under Subsection (a) of this section for the construction of the initial physical facility in Harlingen, Texas, must specify that the physical facility be designed and constructed to allow for the provision of all outpatient health care services, including outpatient tuberculosis services, provided at the South Texas Hospital on the effective date of this Act. The facility may be designed and constructed to allow for the provision of additional outpatient health care services.

(d) If the initial physical facility constructed under Subsection (a) of this section is colocated with the Regional Academic Health Center, the contract under this section must specify that, to the maximum extent possible, that facility and the Regional Academic Health Center must be designed and constructed together to realize potential savings in construction costs and long-term maintenance and operations costs by using common central utility plants, cafeterias, laundry facilities, maintenance facilities, and other support facilities. The board of regents of The University of Texas System shall cooperate with the Texas Department of Health to coordinate the structure and design of the physical facilities of the facility constructed under Subsection (a) of this section and the Regional Academic Health Center to achieve a maximally efficient use of resources.

(e) Out of funds available to the Texas Department of Health for that purpose, the department may contract for the construction of additional physical facilities for outpatient health care services, including outpatient

tuberculosis services. One facility may be located in McAllen, Texas, and another facility may be located in Brownsville, Texas.

SECTION 2. OUTPATIENT HEALTH CARE SERVICES. (a) On completion of the initial physical facility in Harlingen, Texas, required by Section 1 of this Act, the provision of all outpatient health care services, including outpatient tuberculosis services, provided by the South Texas Hospital on the effective date of this Act shall be transferred to that facility.

(b) The Texas Department of Health may contract with one or more public or private health care providers or entities for the management and operation of the physical facilities constructed under Section 1 of this Act and for the provision of outpatient health care services at those facilities.

SECTION 3. INPATIENT HEALTH CARE AND RELATED LABORATORY SERVICES. Out of funds appropriated to the Texas Department of Health to provide inpatient health care services, the department shall contract with one or more public or private health care providers or entities, including a political subdivision that is located in the Rio Grande Valley region and is responsible for providing health care services to its residents, for the provision of inpatient health care services, including inpatient tuberculosis services, and related laboratory services provided by the South Texas Hospital on the effective date of this Act.

SECTION 4. INTERIM RENOVATION OF PHYSICAL FACILITIES OF SOUTH TEXAS HOSPITAL. Out of funds appropriated to the department for the purpose of this section, the Texas Department of Health shall contract for minimally necessary structural and design renovations to the physical facilities of the South Texas Hospital required for compliance with Texas Accessibility Standards and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), as amended, and for the continued operation of the South Texas Hospital to provide outpatient health care services until construction of the initial physical facility required by Section 1 of this Act in Harlingen, Texas, for the provision of those services is completed.

SECTION 5. FUTURE OF SOUTH TEXAS HOSPITAL. The Texas Board of Health shall give the Texas Department of Mental Health and Mental Retardation the first option to lease the current physical facilities of the South Texas Hospital on completion of construction of the initial physical facility required by Section 1 of this Act for outpatient health care services in Harlingen, Texas, and after contracting providers or entities under Section 3 of this Act have begun providing inpatient health care and related laboratory services. If the Texas Department of Mental Health and Mental Retardation does not lease the facilities, the Texas Board of Health shall study and prepare leasing and other options for potential future uses of the facilities.

SECTION 6. CONTINUATION OF SUPPORT SERVICES. (a) If the initial physical facility constructed as required by Section 1 of this Act is colocated with the Regional Academic Health Center, the Texas Department of Health and the Texas Department of Mental Health and Mental Retardation shall enter into an interagency contract to provide for the continuation of support services for the facility operated by the Texas Department of Mental Health and Mental Retardation that is colocated with the South Texas Hospital.

(b) The contract may include a provision requiring the Texas Department of Health to continue providing employees for support facilities at the site.

SECTION 7. DISPLACED EMPLOYEES OF SOUTH TEXAS HOSPITAL.

(a) Out of available funds appropriated to the Texas Department of Health, the department shall reassign a member of the employee class of the department who is employed at the South Texas Hospital and whose position is displaced as a result of a contract entered into by the Texas Department of Health under this Act or the transfer of services from the South Texas Hospital to an open position within the department in reasonable proximity to the South Texas Hospital and for which the member is qualified. If reassignment of a member of the employee class to another position within the department is not possible, the department shall provide job placement assistance to the member.

(b) A contract awarded by the Texas Department of Health under this Act must include a provision that the contracting entity shall offer an employee of the South Texas Hospital whose position is displaced as a result of the contract a similar employment position with the contracting entity before offering the position to any other person if the contracting entity determines that the displaced employee is qualified for the position.

SECTION 8. TIME FRAME. Not later than September 1, 2000, the Texas Department of Health shall enter into the contracts required by this Act.

SECTION 9. AMENDMENTS. (a) Subchapter B, Chapter 814, Government Code, is amended by adding Section 814.1043 to read as follows:

Sec. 814.1043. TEMPORARY SERVICE RETIREMENT OPTION FOR MEMBERS EMPLOYED AT SOUTH TEXAS HOSPITAL. (a) This section applies only to members of the employee class who are employed by the Texas Department of Health at the South Texas Hospital on or after the effective date of this section and on or before September 1, 2000, and who separate from state service during that time.

(b) A member described by Subsection (a) is eligible to retire and receive a service retirement annuity if the member's age and service credit, each increased by three years, would meet age and service requirements for service retirement under Section 814.104(a) at the time the member separates from state service as described by Subsection (a). The annuity of a person who retires under this subsection is computed on the person's accrued service credit increased by three years.

(c) A member described by Subsection (a) becomes eligible to retire and receive a service retirement annuity on the date on which the member would have met the age and service requirements for service retirement under Section 814.104(a) had the member remained employed by the state if, on the date of separation from state service, the member's age and service credit, each increased by five years, would meet age and service requirements for service retirement under Section 814.104(a). The annuity of a person who retires under this subsection is computed on the person's accrued service credit.

(d) If a member described by Subsection (c) is reemployed by the state before retirement, the time between the member's separation from state service and reemployment may be used only to compute eligibility for service

retirement and may not be used to compute the amount of any service retirement annuity.

(e) A member who applies to retire under this section and the Texas Department of Health shall provide documentation required by the retirement system to establish eligibility to retire under this section.

(b) Section 13.003, Health and Safety Code, is amended to read as follows:

Sec. 13.003. SERVICES AT SOUTH TEXAS HOSPITAL. (a) The primary purpose of the South Texas Hospital is to provide inpatient and outpatient services, either directly or by contract with one or more public or private health care providers or entities, to the residents of the Lower Rio Grande Valley.

(b) The board may establish at the South Texas Hospital:

- (1) cancer screening;
- (2) diagnostic services;
- (3) educational services;
- (4) obstetrical services;
- (5) gynecological services; [~~and~~]
- (6) other inpatient health care services; and
- (7) outpatient health care services, including diagnostic, treatment, disease management, and supportive care services.

SECTION 10. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in H.B. No. 1 (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in H.B. No. 1, the General Appropriations Act, this Act has no effect.

SECTION 11. EMERGENCY. 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.

Senate Amendment No. 1

Amend **HB 3504**, adding an appropriately numbered SECTION to read as follows:

"SECTION __. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

HB 3650 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3650, A bill to be entitled An Act relating to reimbursement of expenses of jurors.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 3650**.

Senate Amendment No. 1

Amend **HB 3650** by striking all below the enacting clause and substitute the following:

SECTION 1. Section 61.001, Government Code, is amended to read as follows:

Sec. 61.001. REIMBURSEMENT OF EXPENSES OF JURORS. (a) Each grand juror or petit juror in a civil or criminal case in a district court, criminal district court, county court, county court at law, or justice court is entitled to receive as reimbursement for travel and other expenses an amount not less than \$6 nor more than \$50 for each day or fraction of each day served as a juror.

(b) Except as provided by Subsection (d), a [A] person who responds to the process of a court but is excused from petit jury service by the court for any cause after the person's [his] voir dire examination is entitled to receive as reimbursement for travel and other expenses an amount not less than \$6 nor more than \$50 for each day or fraction of each day in attendance in court in response to the process.

(c) The commissioners court of each county shall determine annually the daily reimbursement of expenses for jurors. Except as provided by Subsection (d), the [The] reimbursement must be within the minimum and maximum amounts prescribed by this section and paid out of the jury fund of the county. In a specific case, the presiding judge, with the agreement of the parties involved or their attorneys, may increase the daily reimbursement for jurors in that case to an amount not to exceed the maximum amount prescribed by this section. The difference between the usual daily reimbursement and the reimbursement for jurors in a specific case shall be paid, in equal amounts, by the parties involved in the case.

(d) The commissioners court of a county may reduce or eliminate the daily reimbursement prescribed by this section for persons who attend court for only one day or a fraction of one day. The funds retained by a county as a result of reducing or eliminating reimbursement as provided by this subsection may only be used to increase the daily reimbursement prescribed by this section for jurors and for persons who attend court for more than one day.

(e) A check drawn on the jury fund by the district clerk of the county may be transferred by endorsement and delivery and is receivable at par from the holder for all county taxes.

(f) [~~e~~] A reimbursement for expenses under this section is not a property right of a juror or prospective juror for purposes of Chapters 72 and 74, Property Code. If a check or other instrument representing a reimbursement under this section is not presented for payment or redeemed before the 90th day after it is issued:

(1) the instrument is considered forfeited and is void; and

(2) the money represented by the instrument may be placed in the county's jury fund, the county's general fund, or any other fund in which

county funds can be legally placed, at the discretion of the commissioners court.

SECTION 2. This Act takes effect September 1, 1999, and applies only to a person responding to a jury summons issued on or after that date.

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 3182 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3182, A bill to be entitled An Act relating to procedures applicable in a suit filed by a landlord to evict a tenant and recover unpaid rent.

Representative Grusendorf 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 3182**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3182**: Grusendorf, chair, Brimer, George, Ritter, and Woolley.

**HB 3778 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3778, A bill to be entitled An Act relating to coordination by the Department of Protective and Regulatory Services of investigation of reports of child abuse or neglect.

Representative Luna 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 3778**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3778**: Luna, chair, Gallego, McCall, Olivo, and Noriega.

**HJR 74 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HJR 74, A joint resolution proposing a constitutional amendment to provide a four-year term for the commissioner of health and human services and to provide that the term runs concurrently with the term of the governor.

On motion of Representative Gray, the house concurred in the senate amendments to **HJR 74** by (Record 418): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Cook; Counts; Craddick; Crownover; Cuellar; Culbertson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgenuth; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones, D.; Turner, B.; Wolens.

Absent — Coleman; Crabb; Gallego; Naishtat; Reyna, A.

Senate Amendment No. 1

Amend **HJR 74** by striking all below the resolving clause and substituting the following:

SECTION 1. Section 30, Article XVI, Texas Constitution, is amended by adding Subsection (e) to read as follows:

(e) If the legislature establishes an office, known as the office of the commissioner of health and human services or known by any other title, that is filled by appointment by the governor and that is the single governing office of the state agency responsible for coordinating the planning and delivery of health and human services by the state health and human services agencies, the person holding that office serves at the pleasure of the governor notwithstanding Subsection (a) of this section or any time limit prescribed by other law.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 76th Legislature, Regular Session, 1999, that provides that the commissioner of health and human services serves at the pleasure of the governor.

(b) The person who holds office as the commissioner of health and human services on the effective date of that constitutional amendment is subject to that amendment.

(c) This temporary provision expires February 1, 2001.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide that the commissioner of health and human services serves at the pleasure of the governor."

HR 1042 - ADOPTED
(by McCall)

The following privileged resolution was laid before the house:

HR 1042

BE IT RESOLVED by the House of Representatives of the State of Texas, 76th Legislature, Regular Session, 1999, 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 1207** to consider and take action on the following specific matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change the text of added Subsection (l), Section 3.05, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), to read as follows:

(l) Notwithstanding Subsection (k) of this section, an applicant is considered to have satisfied the requirements of this section if the applicant:

(1) passed all but one part of an examination approved by the board within three attempts and passed the remaining part of the examination within five attempts;

(2) is specialty board certified by a specialty board that:

(A) is a member of the American Board of Medical Specialties; or

(B) is approved by the American Osteopathic Association;

and

(3) completed in this state an additional two years of postgraduate medical training approved by the board.

Explanation: This change is necessary to revise the exceptions to the requirement for examination for licensure under the Medical Practice Act.

HR 1042 was adopted without objection.

HCR 292 - ADOPTED
(by Goodman)

Representative Goodman moved to suspend all necessary rules to take up and consider at this time **HCR 292**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 292

WHEREAS, **HB 2354** 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 76th Legislature, That the governor be hereby requested to return **HB 2354** to the house of representatives for further consideration; and, be it further

RESOLVED, That the action of the speaker of the house of representatives and the president of the senate in signing **HB 2354** be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

HCR 292 was adopted without objection.

HR 1043 - ADOPTED
(by Flores)

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 1043**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1043, Commending the Honorable Gumaro "Maro" Flores.

HR 1043 was adopted without objection.

RULES SUSPENDED

Representative Counts moved to suspend the 5-day posting rule to allow the Committee on Natural Resources to consider **SB 272** and **SB 657**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Transportation, on recess today, Desk 25, for a formal meeting.

County Affairs, on recess today, Desk 56, for a formal meeting, to consider **SJR 4**.

Urban Affairs, on recess today, Desk 46, for a formal meeting, to consider pending business.

Natural Resources, on recess today, Desk 9, for a formal meeting, to consider **SB 272** and **SB 657**.

Licensing and Administrative Procedures, on recess today, Desk 66, for a formal meeting.

Calendars, on recess today, speakers committee room, for a formal meeting, to consider the calendar.

Human Services, on recess today, Desk 63, for a formal meeting.

Civil Practices, on recess today, Desk 112, for a formal meeting.

RECESS

Representative Grusendorf moved that the house recess until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 7:30 p.m., recessed 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. 57

HB 362, HB 541, HB 690, HB 1147, HB 1196, HB 1244, HB 1297, HB 1341, HB 1359, HB 1368, HB 1380, HB 1411, HB 1479, HB 1492, HB 1572, HB 1700, HB 1895, HB 2104, HB 2301, HB 2304, HB 2338, HB 2353, HB 2406, HB 2512, HB 2542, HB 2768, HB 3330, HB 3460, HB 3462, HCR 220, HCR 225, HJR 44

House List No. 58

HB 134, HB 442, HB 625, HB 765, HB 811, HB 919, HB 923, HB 1535, HB 1661, HB 1662, HB 1663, HB 1826, HB 1840, HB 1912, HB 1980, HB 2136, HB 2140, HB 2170, HB 2196, HB 2359, HB 2509, HB 2752, HB 3042, HB 3138, HB 3263, HB 3635, HB 3815, HCR 19, HCR 134, HCR 244, HCR 282, HCR 283

Senate List No. 29

SB 107, SB 111, SB 149, SB 185, SB 187, SB 192, SB 201, SB 203, SB 205, SB 232, SB 306, SB 483, SB 583, SB 778, SB 1107, SB 1153, SB 1303, SCR 82, SJR 21

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Friday, May 21, 1999

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 580 Janek SPONSOR: Nelson
Relating to automated external defibrillator devices.
(AMENDED)

HB 1104 Dunnam SPONSOR: Cain
Relating to parental involvement programs in public schools.
(AMENDED)

HB 2947 Goodman SPONSOR: Harris
Relating to the disposition of children adjudicated as having engaged in delinquent conduct.
(AMENDED)

HCR 182 Van de Putte SPONSOR: Wentworth
In memory of Wilbur L. Matthews.

HCR 261 Junell SPONSOR: Duncan
Honoring Vollie Urbantke on the occasion of her 80th birthday.

HCR 269 Staples
Honoring the release of U.S. Army Specialist Steven M. Gonzales.

HCR 284 Dutton SPONSOR: Bivins
Declaring October 20, 1999, and October 18, 2000, as Legislators in Schools Day.

SCR 83 Haywood
Recognizing "Austin Highlights" as a commemorative painting of the 76th Legislature.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 60 (viva-voce vote)
SB 430 (viva-voce vote)
SB 674 (viva-voce vote)
SB 1105 (30 Yeas, 0 Nays)
SB 1624 (viva-voce vote)
SB 1626 (viva-voce vote)
SB 1685 (30 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 61
Senate Conferees: Madla - Chair/Carona/Moncrief/Nixon, Drew/Wentworth

SB 1230

Senate Conferees: Ellis, Rodney - Chair/Brown, J. E. "Buster"/Harris/Madla/Wentworth

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 21, 1999 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 245 Gallego SPONSOR: Ellis, Rodney
Relating to the procedures for determining whether a defendant sentenced to death is incompetent for purposes of execution.
(AMENDED)

HB 352 Denny
SPONSOR: Brown, J. E. "Buster"
Relating to the limit on fines collected by municipalities for traffic violations.
(AMENDED)

HB 714 Naishtat SPONSOR: Moncrief
Relating to the establishment of a newborn hearing screening, tracking, and intervention program.
(AMENDED)

HB 734 Goodman SPONSOR: Harris
Relating to the conversion of separate property to community property.
(AMENDED)

HB 804 Gallego SPONSOR: Wentworth
Relating to salaries and fees for services of certain prosecutors.
(AMENDED)

HB 926 Garcia SPONSOR: Zaffirini
Relating to the penalty for tampering with certain governmental records.
(AMENDED)

HB 1275 Luna, Vilma SPONSOR: Zaffirini
Relating to providing a parent with a copy of a special education student's education plan translated into the parent's native language.
(AMENDED)

HB 1507 Wolens SPONSOR: Duncan
Relating to the definition of the practice of law.

HB 1702 Delisi SPONSOR: West, Royce
Relating to loss of benefits by a retiree of the Teacher Retirement System of Texas who resumes teaching.
(AMENDED)

HB 1924 Averitt SPONSOR: Sibley
Relating to health insurance provided through the Texas Health Insurance Risk Pool.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 2023 Carter SPONSOR: Brown, J. E. "Buster"
Relating to the authority of the Commission on Law Enforcement Officer Standards and Education to employ and commission peace officers.

HB 2145 Allen SPONSOR: Whitmire
Relating to persons subject to sex offender registration requirements, to the supervised release of those persons, and to the consequences of engaging in certain conduct for which a person is subject to sex offender registration; providing penalties.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 3204 Danburg SPONSOR: Ellis, Rodney
Relating to the election of members of the board of trustees of certain independent school districts.
(AMENDED)

HB 3444 Lewis, Ron SPONSOR: Fraser
Relating to the deposit to the credit of the oil-field cleanup fund of certain fees and penalties collected by the Railroad Commission of Texas.

HB 3582 Keffer SPONSOR: Haywood
Relating to receivers, payors, and lessees under certain mineral leases.
(AMENDED)

HB 3809 Lewis, Ron SPONSOR: Bernsen
Relating to the release of extraterritorial jurisdiction of certain municipalities.
(AMENDED)

HJR 36 Goodman SPONSOR: Harris
Proposing a constitutional amendment permitting the conversion of separate property to community property.

SB 706 Ogden
Relating to providing disaster relief to agriculture; providing penalties.

Respectfully,

Betty King
Secretary of the Senate

Message No. 3**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Friday, May 21, 1999 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 400 Thompson SPONSOR: Ellis, Rodney
Relating to the creation and composition of certain district courts.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1171 Chisum SPONSOR: Brown, J. E. "Buster"
Relating to regulation of radioactive materials and other sources of radiation.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 2045 Brimer SPONSOR: Harris
Relating to financing capital improvements and facility expansions through the assessment of impact fees.
(AMENDED)

HB 2054 Solomons SPONSOR: Shapleigh
Relating to mechanic's, contractor's, and materialmen's liens.

HB 2611 Greenberg SPONSOR: Moncrief
Relating to electronic reporting of certain political contributions and political expenditures.
(AMENDED)

HB 3159 Oliveira SPONSOR: Armbrister
Relating to the application of the diesel fuel tax to diesel fuel used in certain passenger commercial motor vehicles.
(AMENDED)

**THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE
FOLLOWING MEASURES:**

SB 19 (viva-voce vote)
SB 262 (30 Yeas, 0 Nays)
SB 310 (viva-voce vote)
SB 557 (viva-voce vote)
SB 1102 (viva-voce vote)
SB 1669 (viva-voce vote)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 8

Senate Conferees: West, Royce - Chair/Brown, J. E. "Buster"/Duncan/Gallegos/Harris

SB 138

Senate Conferees: Sibley - Chair/Cain/Haywood/Ogden/Shapiro

SB 370

Senate Conferees: Brown, J. E. "Buster" - C/Armbrister/Barrientos/Fraser/Whitmire

SJR 12

Senate Conferees: Carona - Chair/Brown, J. E. "Buster"/Cain/Madla/Shapiro

Respectfully,

Betty King

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 20

Agriculture & Livestock - **SB 1901**

Criminal Jurisprudence - **SB 919**

Elections - **SB 1832**

Higher Education - **SB 1780, SB 1819**

Insurance - **SB 497, SB 1076**

Juvenile Justice & Family Issues - **SB 1816**

Natural Resources - **HR 942, SB 1890, SB 1911, SCR 68**

Pensions & Investments - **SB 256, SB 1834**

Public Education - **SB 4, SB 42, SB 476, SB 510, SB 669, SB 777, SB 824, SB 858, SB 868, SB 876, SB 1089, SB 1091, SB 1210, SB 1380, SB 1472, SB 1724, SB 1747, SB 1784**

State Affairs - **SB 560, SB 1291, SB 1563**

State, Federal & International Relations - **SB 313**

Transportation - **SB 1598, SB 1647, SB 1872**

Urban Affairs - **SB 553, SB 1539, SB 1783**

ENROLLED

May 20 - HB 145, HB 149, HB 541, HB 595, HB 690, HB 1147, HB 1196, HB 1237, HB 1244, HB 1297, HB 1359, HB 1368, HB 1380, HB 1411, HB 1572, HB 1700, HB 1895, HB 2104, HB 2301, HB 2304, HB 2338, HB 2353, HB 2406, HB 2512, HB 2542, HB 3330, HB 3460, HB 3462, HCR 203, HCR 209, HCR 210, HCR 211, HCR 212, HCR 213, HCR 214, HCR 215, HCR 216, HCR 217, HCR 218, HCR 219, HCR 220, HCR 221, HCR 222, HCR 223, HCR 224, HCR 225, HCR 226, HCR 227, HCR 228, HCR 274, HJR 16, HJR 44

SENT TO THE GOVERNOR

May 20 - HB 145, HB 149, HB 595, HB 1237, HB 1462, HB 2208, HB 2615, HB 2619, HCR 203, HCR 209, HCR 210, HCR 211, HCR 212, HCR 213, HCR 214, HCR 215, HCR 216, HCR 217, HCR 218, HCR 219, HCR 221, HCR 222, HCR 223, HCR 224, HCR 226, HCR 227, HCR 228, HCR 274, HCR 280

SENT TO THE SECRETARY OF STATE

May 20 - HJR 16