

# HOUSE JOURNAL

SEVENTY-SIXTH LEGISLATURE, REGULAR SESSION

## PROCEEDINGS

EIGHTY THIRD DAY — TUESDAY, MAY 25, 1999

The house met at 1:45 p.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 462).

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; 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; Zbraneck.

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

### **LEAVES OF ABSENCE GRANTED**

On motion of Representative Y. Davis and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

### **RULES SUSPENDED**

Representative Y. Davis moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed without objection.

### **MOTION FOR ONE RECORD VOTE**

On motion of Representative Y. Davis and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading

and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR  
THIRD READING**

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

**SB 15**

**SB 16**

**SB 17**

**SB 56**

**SB 73**

**SB 133**

**SB 247**

**SB 313**

**SB 323**

**SB 332**

**SB 335**

**SB 420**

**SB 429**

**SB 436**

**SB 440**

**SB 526**

**SB 530**

**SB 539**

**SB 556**

**SB 579**

**SB 686**

**SB 753**

**SB 754**

**SB 804**

**SB 844**

**SB 868**

**SB 873**

**SB 896**

**SB 931**

**SB 939** (Heflin, Hupp, Shields, and Talton - no)

**SB 959**

**SB 967**

**SB 983**

**SB 993**

**SB 996**

**SB 997**

**SB 1031**

**SB 1034**

**SB 1070** (Heflin - no)

**SB 1131**

**SB 1133**

**SB 1157**

**SB 1176**

**SB 1184**

**SB 1195**

**SB 1215**

**SB 1294**

**SB 1301**

**SB 1304**

**SB 1323**

**SB 1447**

**SB 1451**

**SB 1486**

**SB 1563**

**SB 1579** (G. Lewis - no)

**SB 1588**

**SB 1610**

**SB 1613**

**SB 1628**

**SB 1641**

**SB 1657**

**SB 1676**

**SB 1742**

**SB 1780**

**SB 1853**

**SB 1870**

**SB 230**

**SB 1180**

**SB 1477**

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by (Record 463): 145 Yeas, 0 Nays, 2 Present, not voting (members registering votes and the results of the vote are shown following bill number).

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; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; 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.; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

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

**SB 77** (145-0-2)

**SB 81** (145-0-2)

**SB 100** (145-0-2)

**SB 210** (145-0-2)

**SB 261** (145-0-2)

**SB 321** (145-0-2)

**SB 339** (145-0-2)

**SB 340** (145-0-2)  
**SB 396** (145-0-2)  
**SB 435** (145-0-2)  
**SB 481** (145-0-2)  
**SB 524** (145-0-2)  
**SB 562** (145-0-2)  
**SB 578** (145-0-2)  
**SB 655** (145-0-2)  
**SB 658** (145-0-2)  
**SB 688** (145-0-2)  
**SB 709** (145-0-2)  
**SB 840** (145-0-2)  
**SB 848** (145-0-2)  
**SB 858** (145-0-2)  
**SB 901** (145-0-2)  
**SB 941** (145-0-2)  
**SB 947** (Heflin - no) (144-1-2)  
**SB 1092** (145-0-2)  
**SB 1099** (145-0-2)  
**SB 1261** (145-0-2)  
**SB 1297** (145-0-2)  
**SB 1363** (145-0-2)  
**SB 1434** (145-0-2)  
**SB 1443** (145-0-2)  
**SB 1472** (145-0-2)  
**SB 1520** (145-0-2)  
**SB 1576** (G. Lewis - no) (144-1-2)  
**SB 1586** (145-0-2)  
**SB 1589** (145-0-2)  
**SB 1656** (145-0-2)  
**SB 1730** (145-0-2)  
**SB 1747** (145-0-2)  
**SB 1784** (145-0-2)  
**SB 1789** (145-0-2)

**SB 1804** (145-0-2)

**SB 1807** (145-0-2)

**SB 1819** (145-0-2)

**SB 1822** (145-0-2)

**SB 1855** (145-0-2)

### 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).

### RULES SUSPENDED

On motion of Representative Gutierrez and by unanimous consent, the rules were suspended to allow the following bills to be added to tomorrow's Local, Consent, and Resolutions Calendar:

**SB 376, SB 611, SB 760, SB 874, SB 995, SB 1127, SB 1436, SB 1703, SB 1775, and SB 1824.**

### PROVIDING FOR A CONGRATULATORY AND MEMORIAL CALENDAR

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Friday, May 28.

The motion prevailed without objection.

(Speaker in the chair)

### HR 1173 - ADOPTED (by Nixon)

Representative Nixon moved to suspend all necessary rules to take up and consider at this time **HR 1173**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1173**, Congratulating Marjorie and Joseph Permetti on their 50th wedding anniversary.

**HR 1173** was adopted without objection.

### HR 999 - ADOPTED (by Nixon)

Representative Nixon moved to suspend all necessary rules to take up and consider at this time **HR 999**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 999**, Honoring William Clay Ellison for achieving the rank of Eagle Scout.

**HR 999** was adopted without objection.

**HR 1170 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1170**, suspending the limitations on the conferees for **HB 3697**.

**HR 1168 - ADOPTED**  
**(by Hochberg)**

The following privileged resolution was laid before the house:

**HR 1168**

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 **SJR 12**, proposing a constitutional amendment relating to the making of advances under and payment of a reverse mortgage, to consider and take action on the following matter:

House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add new text to Section 50(k)(7), Article XVI, Texas Constitution, as amended by Section 1 of the joint resolution, to read as follows:

provided, however, that this subdivision does not apply when a governmental agency or instrumentality takes an assignment of the loan in order to cure the default

Explanation: This change is necessary to allow a governmental agency or instrumentality to take assignment of a reverse mortgage loan to cure a default without forfeiting principal and interest of the loan.

**HR 1168** was adopted without objection.

**HR 1170 - ADOPTED**  
**(by Farabee)**

The following privileged resolution was laid before the house:

**HR 1170**

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 **HB 3697**, relating to the operation of the Texas Workers' Compensation Insurance Fund and the disposition of certain surpluses of that fund, to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new section in the bill, appropriately numbered, to amend Section 5(10), Article 21.28-C, Insurance Code, to read as follows:

SECTION \_\_\_\_\_. Section 5(10), Article 21.28-C, Insurance Code, is amended to read as follows:

(10) "Member insurer" means any insurer [person] who:

(A) writes any kind of insurance to which this Act applies under Section 3 of this Act, including the exchange of reciprocal or inter-insurance contracts; and

(B) is licensed to transact insurance in this state, including any stock, mutual, Lloyds insurer, reciprocal or inter-insurance exchange, or county mutual insurance company.

Explanation: This change is necessary to clarify membership in the Texas Property and Casualty Insurance Guaranty Association, which will now include the Texas Workers' Compensation Insurance Fund.

**HR 1170** was adopted without objection.

### **SB 525 - VOTE RECONSIDERED**

Representative Uher moved to reconsider the vote by which **SB 525** was passed.

The motion to reconsider prevailed.

### **SB 525 ON THIRD READING (Uher - House Sponsor)**

**SB 525**, A bill to be entitled An Act relating to compensation and benefits for members of the state military forces and their dependents.

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

Representative Uher offered the following amendment to **SB 525**:

Amend **SB 525** on third reading, in SECTION 1 of the bill, by striking Subsection (a), Section 431.006, Government Code (house committee report, page 1, lines 7-16), and substituting the following:

(a) A private employer may not terminate the employment of a permanent employee who is a member of the state military forces because the employee is ordered to authorized training or [active] duty by proper authority [~~during an emergency within the state~~]. The employee is entitled to return to the same employment held when ordered to training or [active] duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment. This subsection does not require a private employer to pay the regular wage of an employee during the period that the employee is absent from work to participate in authorized training or duty.

Amendment No. 1 was adopted without objection.

**SB 525**, as amended, was passed.

### **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. 31).



**MAJOR STATE CALENDAR  
SENATE BILLS  
THIRD READING**

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

**SB 705 ON THIRD READING  
(Swinford - House Sponsor)**

**SB 705**, A bill to be entitled An Act relating to providing aid, support, and assistance to agriculture; establishing the agricultural technology program.

**SB 705** was passed.

**SB 1287 ON THIRD READING  
(Oliveira, Carter, Bailey, Hill, Ehrhardt, et al. - House Sponsors)**

**SB 1287**, A bill to be entitled An Act relating to housing loans to low-income families.

**SB 1287** was passed.

**SB 382 ON THIRD READING  
(Smithee - House Sponsor)**

**SB 382**, A bill to be entitled An Act relating to the requirements for state agency orders adopting rules and substantial compliance with rulemaking requirements.

**SB 382** was passed.

**SB 560 ON THIRD READING  
(Van de Putte and Goodman - House Sponsors)**

**SB 560**, A bill to be entitled An Act relating to the regulation of telecommunications utilities by the Public Utility Commission of Texas and the provision of telecommunications services.

**Amendment No. 1**

Representative Counts offered the following amendment to **SB 560**:

Amend **SB 560** on third reading in Section 18 of the bill, in added Section 55.014(d), Utilities Code, by inserting the following immediately after "company:" at the end of the first sentence:

Only for purposes of this Subsection, "bona fide retail request" shall be determined by the following procedure. Commencing January 1, 2000, the company shall provide written notification of the potential availability of the services, during two consecutive months, to all of its subscribers in those exchanges in which the services are not then offered. During the month immediately following the notice period, the company shall provide ballots to all its subscribers in the qualifying exchanges. A bona fide retail request shall be deemed to have occurred if at least 9 percent of the subscribers in a qualifying exchange indicate on their return ballot that they would subscribe to the service, if offered. The commission and an affected company shall jointly determine the details of the balloting procedure. If a company becomes subject to this Subsection (d) after January 1, 2000, the commission shall then determine the balloting procedure in a rulemaking.

Amendment No. 1 was withdrawn.

(Goolsby in the chair)

(Speaker in the chair)

### **Amendment No. 2**

Representative Hodge offered the following amendment to **SB 560**:

Amend **SB 560** on third reading by adding the following appropriately numbered SECTIONS of the bill and renumbering subsequent sections appropriately:

SECTION \_\_\_\_\_. Section 56.072 (b), Utilities Code, is amended to read as follows:

(b) To be eligible for the tel-assistance service program, an applicant must:

(1) be a head of household and disabled, as determined by the department, or be 65 years of age or older; and

(2) have a household income at or below the poverty level, as determined by the United States Office of Management and Budget and reported annually in the Federal Register.

SECTION \_\_\_\_\_. Section 56.073 (a) Utilities Code, is amended to read as follows:

(a) Each three [~~six~~] months, the department shall provide to each local exchange company a list of all persons eligible for the tel-assistance service program that includes each person's:

- (1) name;
- (2) address; and
- (3) if applicable, telephone number.

Amendment No. 2 was adopted without objection.

### **Amendment No. 3**

Representative Puentes offered the following amendment to **SB 560**:

Amend **SB 560** (on 3rd reading) by adding a new appropriately numbered section to read as follows and renumbering subsequent sections appropriately:

SECTION \_\_\_\_\_. This Act takes effect September 1, 1999.

Amendment No. 3 was adopted without objection.

### **SB 560 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE GREENBERG: This bill had the potential to affect e-commerce and the use of the Internet and increasingly important data services. Was this taken into account during the development of this bill?

REPRESENTATIVE VAN DE PUTTE: Yes. We explicitly addressed these issues. Neither I, nor any other legislator, wanted to do anything that would harm e-commerce or the use of the Internet. You will notice, therefore, that the term "data services" is no longer in the bill. Home and business access by modems to the Internet will remain in the basic service category, where it will be closely monitored by the PUC.

Secondly, there was a concern that residential and business customers who use their respective flat rate local service lines for e-commerce, Internet

connection, and other data transmission and reception, might be forced to pay a measured rate or some other rate in addition to the flat rate for the line for those data services. We have been assured by the PUC that this cannot happen under this bill. Furthermore, we added language under Subchapter E, Section 58.151, Sub. (23), which states at the end that "nothing in this section shall preclude a customer from subscribing to a local flat rate residential or business line for a computer modem or a facsimile machine."

The intent of this language is to insure that regardless of changes to technology or the introduction of new services, residential and business customers will still be able to use their flat rate local service line just as they currently do, through modem or fax, to gain access to e-commerce and the Internet; all without being subject to any additional charges or to a measured service rate.

GREENBERG: If I understand you correctly, the intent is to maintain the status quo where residential and business customers can connect to the Internet or send a fax over the flat rate local service line without incurring any additional charges.

VAN DE PUTTE: Yes ma'am, that is the intent.

GREENBERG: Does this mean that an affected telephone company cannot introduce new services at different rates?

VAN DE PUTTE: Not at all. This bill will encourage innovation and we hope there will be many new choices for high-speed Internet service for Texans. The point here is that no residential or business customer using a flat rate local service line will be forced to buy a new service or pay a different or higher charge. If they are satisfied to connect over the flat rate local line, this option must remain available at the flat rate price.

GREENBERG: What if a telephone company tried to separate out data services from voice services on the flat rate local service line and tried to have subscribers to that line pay a measured fee for data services by calling the service by a new name or claiming it is a new service?

VAN DE PUTTE: Under this bill, that would not be allowed. In fact, any affected telephone company that tried to take away a customer's right to use the flat rate local line for e-commerce or the Internet or to fax, for instance, would be in violation of the Act and would, in fact, be potentially liable for administrative penalties assessed by the PUC.

GREENBURG: Thank you.

### **REMARKS ORDERED PRINTED**

Representative Greenberg moved to print remarks by Representative Van de Putte and Representative Greenberg.

The motion prevailed without objection.

### **SB 560 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE VAN DE PUTTE: An affiliate of Bell that is certificated to be a competitive provider of local exchange services may not provide flat-

rate business or residential services, direct inward dialing, tone dialing, or service connections in a manner that results in a customer-specific contract in an area where Bell is the incumbent local exchange company until Bell either loses a 40% market share of access lines, or a subset of those lines, in an exchange or September 1, 2005, whichever is earlier.

Also, an affiliate of Bell that is certificated to be a competitive provider of local exchange services must make available any discounts or other pricing flexibility offerings for flat-rate business or residential services, direct inward dialing, tone dialing, or service connections throughout an exchange until Bell either loses a 40% market share of access lines, or a subset of those lines, in an exchange or September 1, 2005, whichever is earlier.

Furthermore, an affiliate of Bell that is certificated to be a competitive provider of local exchange services may not sell to an unaffiliated person any product or service that the affiliate obtained from Bell at a lower price than the price that the affiliate paid Bell for the product or service.

This legislation prohibits a pricing flexibility offering from being preferential, prejudicial, discriminatory, or predatory. To that end, the legislation contains several provisions requiring Bell, GTE, and all other incumbent local exchange companies to price their pricing flexibility offerings and their new services at or above the long run incremental costs of the services. The PUC has authority under this legislation to hear any complaint from a customer, a competitor, the Office of Public Utility Counsel, or the PUC itself, that Bell GTE, or any other incumbent local exchange company has priced a service below the long run incremental cost of the service and to enforce its ruling with respect to whether the service is priced below cost.

### **REMARKS ORDERED PRINTED**

Representative Goodman moved to print remarks by Representative Van de Putte.

The motion prevailed without objection.

### **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).

### **SB 560 - (consideration continued)**

**SB 560**, as amended, was passed.

### **MAJOR STATE CALENDAR SENATE BILLS SECOND READING**

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

### **CSSB 5 ON SECOND READING (Oliveira, Greenberg, Cuellar, McClendon and McCall - House Sponsors)**

**CSSB 5**, A bill to be entitled An Act relating to the authorization of certain franchise tax incentives promoting economic development.

Representative Oliveira moved to postpone consideration of **CSSB 5** until 4 p.m. today.

The motion prevailed without objection.

**CSSB 1130 ON SECOND READING**  
**(Greenberg and Telford - House Sponsors)**

**CSSB 1130**, A bill to be entitled An Act relating to programs and systems administered by the Employees Retirement System of Texas.

**CSSB 1130 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE JUNELL: Ms. Greenberg, a part of the bill, and I'm trying and perhaps you can help me because you and I talked about this, we were going to get some legislative intent, maybe you can help me with the section.

REPRESENTATIVE GREENBERG: I believe the section that you are referring to, Chairman Junell, deals with the reserve on the self-funded, and as you are aware we have had a letter from the Legislative Council that this states, that this does not put any kind of fiscal note or liability for the state.

JUNELL: And I believe, that if you would look on page 27 of the bill, beginning on line 17, is that the portion, because I would like to refer to the exact portion of the bill if we could?

GREENBERG: What page?

JUNELL: It was on page 27, on line 17, subsection (e) before the first date.

GREENBERG: Yes, that's the section I was just referring to Chairman Junell.

JUNELL: Because I have not seen the letter yet.

GREENBERG: I have it up here, if you want we, can enter into record.

JUNELL: My question, Madam Chairman, is that this section provides an average 60 days during the period, to be a reserve, it is correct that this is not a mandate on the State of Texas to keep a 60 day funded reserve in the ERS insurance fund. Is that correct?

GREENBERG: It is correct that it does not create a liability on the state or a fiscal note or liability for the Appropriations Committee.

JUNELL: Or from the State Treasury, in other words, if that fund got 30 days there would be no time.

GREENBERG: If you could hold on one moment, I will find the letter we were referring to.

JUNELL: Ms. Greenberg, that's alright. But you do have a letter, and I ask that the letter be entered in the journal and that also on page 27, subsection (e) of the committee substitute that the 60 day average fund is not a requirement of the legislature to fund--that 60 days, it is just a goal. Is that correct?

GREENBERG: It is not a liability or a fiscal note or requirement of the legislature. We will enter the letter that speaks of this into the record.

**REMARKS ORDERED PRINTED**

Representative Junell moved to print remarks by Representative Greenberg and Representative Junell, as well as a letter Representative Greenberg read into the record.

The motion prevailed without objection.

**CSSB 1130 - STATEMENT OF LEGISLATIVE INTENT**

May 24, 1999

The Honorable Sherri Greenberg  
State Representative  
Room E1.506, State Capitol

Dear Ms. Greenberg:

You have asked the council staff for an opinion as to the legal effect of proposed Section 5 (e), Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as it appears in **CSSB 1130**.

That provision requires the Employees Retirement System of Texas to place in a contingency reserve fund for the state employees uniform group insurance program an amount estimated to be sufficient to pay expenses for the self-funded plans under the program for an average 60-day period during the biennium. The retirement system is instructed to request appropriations for any amounts needed to maintain the contingency reserve fund at this level.

The provision authorizes the use of appropriations to supplement other amounts available for the contingency reserve fund. It does not—nor can it legally—compel the legislature to make appropriations for this purpose. The retirement system can use other amounts available for the uniform group insurance program, including excess contributions and earnings of the fund, for this purpose and can reduce benefits or increase participant costs, including co-payments. The fiscal note to the bill states that the bill is anticipated to have no significant fiscal impact to the state.

Please let us know if we may provide additional information about this matter.

Sincerely,  
Craig Hudgins  
Legislative Council

CSSB 1130 was passed to third reading.

**CSSB 441 ON SECOND READING**

**(McCall, Goodman, Hartnett, Oliveira, and Cuellar - House Sponsors)**

**CSSB 441**, A bill to be entitled An Act relating to the application of the sales and use tax to certain services.

Representative Dutton raised a point of order against further consideration of **CSSB 441** under Rule 4, Section 40 of the House Rules on the grounds that the committee substitute is not germane to the original bill.

The point of order was withdrawn.

Representative McCall moved to postpone consideration of **CSSB 441** until 5 p.m. today.

The motion prevailed without objection.

### **POSTPONED BUSINESS**

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

#### **CSSB 5 ON SECOND READING**

**(Oliveira, Greenberg, Cuellar, McClendon, and McCall - House Sponsors)**

**CSSB 5**, A bill to be entitled An Act relating to the authorization of certain franchise tax incentives promoting economic development.

**CSSB 5** was read second time earlier today and was postponed until this time.

Representative Oliveira moved to postpone consideration of **CSSB 5** until 5 p.m. today.

The motion prevailed without objection.

### **MAJOR STATE CALENDAR**

**(consideration continued)**

#### **CSSB 1911 ON SECOND READING**

**(Walker and R. Lewis - House Sponsors)**

**CSSB 1911**, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of certain groundwater conservation districts.

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

Representative Walker offered the following amendment to **CSSB 1911**:

Amend **CSSB 1911** (House committee printing) as follows:

(1) In SECTION 1(a) of the bill, strike Subdivision (15) (page 1, line 24) and renumber Subdivisions (16) and (17) as Subdivisions (15) and (16) (page 2, lines 1 and 2).

(2) IN SECTION 2(a) of the bill, Subdivision (11) (page 3, line 20), after the semicolon insert "and".

(3) in SECTION 2(a) of the bill, strike Subdivision (12) (page 3, lines 21 through 23).

(4) In SECTION 2(a) of the bill, renumber Subdivision (13) (page 3, line 24) as Subsection (12).

Amendment No. 1 was adopted without objection.

#### **Amendment No. 2**

On behalf of Representative R. Lewis, Representative Shields offered the following amendment to **CSSB 1911**:

Amend **CSSB 1911** (House committee report) as follows:

(1) In SECTION 1(a) of the bill, Subdivision (15) (page 1, line 24), after the semicolon, add "and".

(2) In SECTION 1(a) of the bill, Subdivision (16) (page 2, line 1), strike "; and" and substitute a period.

(3) In SECTION 1(a) of the bill, strike Subdivision (17) (page 2, lines 2 and 3).

(4) In SECTION 2 of the bill, strike Subdivision (e) (page 6, line 20, through page 11, line 13).

Amendment No. 2 was adopted without objection.

### **Amendment No. 3**

Representative Hilderbran offered the following amendment to **CSSB 1911**:

Amend **CSSB 1911** as follows:

On page 1, line 8, and on page 2, line 12, strike "Bergesland" and replace with "Cow Creek".

Amendment No. 3 was adopted without objection.

### **Amendment No. 4**

Representative Hilderbran offered the following amendment to **CSSB 1911**:

Amend **CSSB 1911** as follows:

On page 1, lines 9 and 10, delete "(2) Blanco-Pedernales Groundwater Conservation District;" and renumber the remaining subsections accordingly.

On page 2, lines 15-17, delete Subsection (2) and renumber the remaining subsections accordingly.

Amendment No. 4 was adopted without objection.

### **Amendment No. 5**

Representative Morrison offered the following amendment to **CSSB 1911**:

Amend **CSSB 1911** (House committee report) as follows:

(1) In SECTION 1(a) of the bill, strike Subdivision (6) (page 1, line 14) and renumber Subdivisions (7) through (17) as Subdivisions (6) through (16).

(2) In SECTION 2(a) of the bill, strike Subdivision (5) (page 2, lines 24 through 26) and renumber Subdivisions (6) through (13) as Subdivisions (5) through (12).

Amendment No. 5 was adopted without objection.

**CSSB 1911**, as amended, was passed to third reading.

### **CSSB 955 ON SECOND READING (Greenberg - House Sponsor)**

**CSSB 955**, A bill to be entitled An Act relating to pre-reading instruction and the provision of scholarships, bonuses, wage supplementation, and student loan repayment assistance for certain professional child-care workers.

### **Amendment No. 1**

Representative Greenberg offered the following amendment to **CSSB 955**:

Amend **CSSB 955**, as follows:

(1) On page 3, line 25, strike SECTIONS 3 and 4.

Amendment No. 1 was adopted without objection.



**Amendment No. 2**

Representative Howard offered the following amendment to **CSSB 955**:

Amend **CSSB 955** beginning at page 1, line 19, strike Subsection (1) and substitute the following:

(1) professional staff development in pre-reading instruction including but not limited to:

- (a) phonemic awareness;
- (b) systematic, explicit phonics;
- (c) sound-symbol relationships;
- (d) decoding words;
- (e) word-attack skills;
- (f) spelling;
- (g) vocabulary development;
- (h) the diagnosis of reading deficiencies;
- (i) strategies for early intervention in reading deficiencies;
- (j) the scientific research on the manner in which children

learn to read;

- (k) the scientific research on the manner in which proficient

readers read;

- (l) the structure of the English language;

- (m) the relationships among reading, writing, and spelling;

and;

- (n) planning and delivering appropriate reading instruction

based on assessment and evaluation;

Amendment No. 2 was withdrawn.

**CSSB 955**, as amended, was passed to third reading.

**CSSB 731 ON SECOND READING**  
**(Goodman - House Sponsor)**

**CSSB 731**, A bill to be entitled An Act relating to structured settlements.

**CSSB 731** was passed to third reading.

**CSSB 669 ON SECOND READING**  
**(Dutton - House Sponsor)**

**CSSB 669**, A bill to be entitled An Act relating to certain contracting procedures for school districts and institutions of higher education.

**Amendment No. 1**

Representative Dutton offered the following amendment to **CSSB 669**:

Amend **CSSB 669**, in SECTION 1 of the bill, by striking amended Subsection (f), Section 44.031, Education Code (House Committee Report, page 2, lines 3 through 7), and substituting the following:

(f) This section does not apply to a contract [fees] received for professional services rendered, including services of an architect, attorney, or fiscal agent. A school district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the

manner provided by Section 2254.003, Government Code, in lieu of the methods provided by this section [~~architect's fees, attorney's fees, and fees for fiscal agents~~].

Amendment No. 1 was adopted without objection.

### **Amendment No. 2**

Representative Dutton offered the following amendment to **CSSB 669**:

Amend **CSSB 669** in SECTION 12 of the bill, in the second sentence of amended Section 51.779 (b), Education Code (House Committee Report, page 21, lines 4 and 5), by striking "and the relative weights, if known at the time of publication, given to the criteria".

Amendment No. 2 was adopted without objection.

**CSSB 669**, as amended, was passed to third reading.

### **SB 71 ON SECOND READING (Thompson - House Sponsor)**

**SB 71**, A bill to be entitled An Act relating to the creation of the Judicial Compensation Commission.

Representative Shields moved to table **SB 71**.

The motion to table was withdrawn.

**SB 71** was passed to third reading. (Berman recorded voting no)

### **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).

### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative Goodman requested permission for the Committee on Juvenile Justice and Family Issues to meet while the house is in session.

Permission to meet was granted without objection.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Juvenile Justice and Family Issues, 5:15 p.m. today, speakers committee room, for a formal meeting, to consider **SCR 79**.

### **SB 1731 ON SECOND READING (Hawley - House Sponsor)**

**SB 1731**, A bill to be entitled An Act relating to the period during which the School Land Board may reduce the royalty rate under certain oil and gas leases.

**SB 1731** was passed to third reading.

### **CSSB 1468 ON SECOND READING (Smithee - House Sponsor)**

**CSSB 1468**, A bill to be entitled An Act relating to the regulation of physician joint negotiation.

Representative Chisum raised a point of order against further consideration of **CSSB 1468** under Rule 4, Section 33(d) of the House Rules on the grounds that the fiscal note for the engrossed measure was requested but was not distributed to the members of the committee when the measure was first laid out in committee.

The speaker overruled the point of order, speaking as follows:

A review of the bill history and fiscal notes shows that **SB 1486** was amended by five senate floor amendments after the preparation of the fiscal note on the senate committee substitute. The bill was first laid out in a formal meeting of the house committee on May 6. The chair requested and received a fiscal note on the house committee substitute on May 7, and the same day requested a fiscal note on the senate engrossment, which is dated May 10.

A review of the fiscal notes shows that the senate floor amendments did not change the fiscal impact of the bill. Although the chair requested a fiscal note on the senate engrossment after the hearing, the fiscal notes themselves show that none was necessary. Although it can be argued that the chair's request is evidence that the chair determined the senate amendments had potential fiscal impact and that a fiscal note on the senate amendments was necessary, in fact the notes show the fiscal notes to be unnecessary. If the chair had not requested the note after the fact, the committee could not be found to have improperly considered the bill without a fiscal note.

To sustain the point of order would punish the chair for providing more information to the house than the rules required. The purpose of the rule being to provide necessary information, the chair finds that the purpose has been fulfilled and that the technical violation did not deceive or mislead the house.

Accordingly, the point of order is respectfully overruled in accordance with Rule 1, Section 9(c).

(Crownover in the chair)

Representative Wohlgemuth raised a point of order against further consideration of **CSSB 1468** under Rule 11, Section 3 of the House Rules on the grounds that the committee substitute changes the original purpose of the bill.

The point of order was withdrawn.

(Speaker in the chair)

(Wise in the chair)

Representative Wohlgemuth raised a point of order against further consideration of **CSSB 1468** under Rule 4, Section 34 (b) (5) of the House Rules on the grounds that the bill creates a state fee, but a tax equity note is not attached to the bill.

(Speaker in the chair)

The point of order was withdrawn.

Representative Wohlgemuth raised a point of order against further consideration of **CSSB 1468** under Rule 11, Section 3 of the House Rules and

Article III, Section 30 of the Texas Constitution, known as the "constitutional germaneness rule," on the grounds that the committee substitute changes the original purpose of the bill.

The speaker overruled the point of order, speaking as follows:

The cited sections of rules and the constitution provide that an amendment may not change the original purpose of the bill.

For that purpose of determining whether amendments in the second house change the purpose of the bill, precedent indicates the chair should consider the amendments against the engrossment from the first house (often known as the "engrossed bill rule"). In this case, a review of the bill file shows that the change in purpose—if it can properly be characterized as such—occurred in the senate between introduction and engrossment. The house committee substitute does not change the purpose evidenced by the senate engrossment.

Accordingly, the point of order is respectfully overruled.

### **Amendment No. 1**

Representative Smithee offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468** as follows:

(1) In SECTION 1 of the bill, in added Article 29.05, Insurance Code, after the period ending the heading of that article (page 5, line 20, house committee printing), insert "(a)".

(2) In SECTION 1 of the bill, in added Article 29.05, Insurance Code, (page 6, between lines 7 and 8, house committee printing), insert a new Subsection (b) to read as follows:

(b) Except for considerations of quality or cost, physicians may not negotiate:

(1) to eliminate or limit access to services provided by other health care providers;

(2) to eliminate or limit plan participation by other health care providers; or

(3) with the primary purpose of requiring or not requiring physician supervision of a provider who is acting within the scope of that provider's practice as determined by law.

Amendment No. 1 was adopted without objection.

### **Amendment No. 2**

Representative Janek offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468**, on page 9, line 27, by inserting the following after the period and before "The": The attorney general shall consider physician distribution by specialty and its effect on competition.

Amendment No. 2 was adopted without objection.

### **Amendment No. 3**

Representative Isett offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468** as follows:

On page 5, strike lines 3, 4, 5, 6, 8, 9, 14, 15, 16, 17, 18, and 19.

(Brimer in the chair)

Representative Eiland moved to table Amendment No. 3.

The motion to table prevailed.

#### **Amendment No. 4**

Representative Isett offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468** as follows:

Amend Art. 29.02 by adding a new definition (4) to read as follows:

"(4) "Physicians" means all individuals licensed by the Texas Board of Medical Examiners and all health care practitioners as defined in Sec. 1 (b) through (q) of Art. 21.52 of the Insurance Code as amended."

Representative G. Lewis moved to table Amendment No. 4.

The motion to table prevailed.

#### **Amendment No. 5**

Representative Wohlgeomuth offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468** as follows:

In Article 29.06, Insurance Code, as added by SECTION 1 of the bill, insert on page 6, line 16, a new Subsection (b) as follows and reorder subsequent Subsections:

(b) Competing physicians shall not meet and communicate regarding any matter which would exclude, limit, or otherwise restrict non-physician health care providers from participating in a health benefit plan.

Amendment No. 5 was withdrawn.

### **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. 4).

#### **CSSB 1468 - (consideration continued)**

#### **Amendment No. 6**

Representative G. Lewis offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468** in SECTION 1 of the bill, in added Article 29.10, Insurance Code, by striking the second sentence of that article (page 10, lines 18-23, house committee report printing), and substituting the following:

Physicians may not meet and communicate for the purpose of jointly negotiating a requirement that a physician or group of physicians, as a condition of the physicians' or group of physicians' participation in a health benefit plan, must participate in all the products within the same health benefit plan.

Amendment No. 6 was adopted without objection.

**Amendment No. 7**

Representative Isett offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.52Z to read as follows:

Art. 21.52Z. INTERIM STUDY ON PHYSICIAN JOINT NEGOTIATION

Sec. 1. INTERIM STUDY. (a) The department shall conduct a study as provided by this article to examine whether physician joint negotiation is needed to improve access to health care in this state.

(b) The commissioner shall ensure that the department, in conducting the interim study, provides an opportunity for representatives of the following groups, and the oversight bodies or commissions of those groups, to provide information and advice to the department regarding the issues to be examined:

(1) physician organizations;  
(2) insurers, health maintenance organizations, and other persons who offer health benefit plans;

(3) consumer groups; and  
(4) organizations of business entities.

(c) The interim study shall examine:

(1) whether there is an undesirable domination of the health care market in this state by health maintenance organizations;

(2) whether health maintenance organizations have a deleterious effect on the quality or quantity of the delivery of health care in this state;

(3) whether physicians are currently restrained from the ability to freely make professional decisions, in consultation with their affected patients, that are in the best interests of patient care;

(4) any other aspect of the issue of physician joint negotiation that the department determines is appropriate for inclusion in the study; and

(5) whether determinations made under Subdivisions (1)-(4) of this subsection merit legislative authorization of physician joint negotiations on issues regarding physician fees and other areas of dispute between physicians and persons who offer health benefit plans in this state.

Sec. 2. REPORT TO LEGISLATURE. The commissioner shall submit to the 77th Legislature a written report regarding the findings of the interim study, accompanied by any proposals for recommended legislation. The commissioner shall submit the report not later than February 1, 2001.

Sec. 3. EXPIRATION. This article expires March 1, 2001.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Eiland moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 464): 107 Yeas, 27 Nays, 4 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Berman; Bosse; Burnam; Capelo; Chavez; Christian; Clark; Coleman; Cook; Counts; Craddick; Cuellar; Culberson; Danburg; Davis, Y.; Denny; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Elkins; Ellis; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hilderbran; Hinojosa; Hochberg; Hodge; Hope; Hunter; Janek; Jones, J.; Junell; Keel; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Shields; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbraneck.

Nays — Allen; Averitt; Bonnen; Brown, B.; Brown, F.; Chisum; Crabb; Davis, J.; Delisi; Driver; Farabee; George; Hartnett; Heflin; Howard; Hupp; Isett; Jones, C.; Keffer; Merritt; Palmer; Pitts; Siebert; Staples; Talton; West; Wohlgemuth.

Present, not voting — Mr. Speaker; Brimer(C); Green; Williams.

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

Absent — Carter; Crownover; Edwards; Grusendorf; Hill; Homer; Moreno, P.; Oliveira; Seaman.

### STATEMENTS OF VOTE

I was shown voting present, not voting on Record No. 464. I intended to vote no.

Green

When Record No. 464 was taken, my vote failed to register. I would have voted yes.

Hill

### Amendment No. 8

Representative Edwards offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468**, SECTION 1, by amending Article 29.11, Insurance Code, on page 11, lines 1 through 3 to read as follows:

Art. 29.11. RULEMAKING AUTHORITY. The attorney general and the commissioner shall have the authority to promulgate rules necessary to implement the provisions of this chapter. The attorney general and the commissioner may by rule authorize podiatric physicians to participate in the joint negotiations permitted by this Act.

Amendment No. 8 was adopted without objection.

**Amendment No. 9**

Representative Heflin offered the following amendment to **CSSB 1468**:

Amend **CSSB 1468** in SECTION 1 by striking added Article 29.12, Insurance Code, (page 11, lines 4 through 6, house committee printing) and substituting the following:

Art. 29.12. CONSTRUCTION. This chapter may not be construed to authorize:

(1) collective negotiation of any term, condition, or contract that is required under:

(A) a health benefit plan quality of care standard or other standard maintained by a national certification or accreditation organization recognized by the commissioner; or

(B) a state or federal law, regulation, or rule;

(2) physicians to negotiate a term or condition of a contract that is a requirement of participation as a health benefit plan in a plan or program under partial or full federal jurisdiction, including:

(A) a medical program of the Indian Health Service;

(B) the Peace Corps Act (22 U.S.C. Sec. 2501 et seq.);

(C) Title XVIII, Social Security Act (42 U.S.C. Sec. 1395 et seq.);

(D) Title XIX, Social Security Act (42 U.S.C. Sec. 1396 et seq.);

(D) the Employees Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.);

(E) the Federal Employees Health Benefit Plan; or

(F) any other public health plan as defined by federal rule or regulation;

(3) authorize physicians to negotiate a term or condition of a contract that is a requirement of health benefit plan participation in a plan or program sponsored by an employer of this state, including the state or a political subdivision of the state; or

(4) authorize physicians to negotiate in any manner that may negatively affect the ability of a health benefit plan to adhere to plan access requirements imposed under any law, rule, regulation, or standard described by Subdivisions (1)-(3) of this article and in effect on August 31, 1999.

Representative Smithee moved to table Amendment No. 9.

A record vote was requested.

The motion to table prevailed by (Record 465): 110 Yeas, 27 Nays, 3 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Bonnen; Bosse; Burnam; Capelo; Carter; Chavez; Christian; Clark; Coleman; Cook; Counts; Craddick; Cuellar; Culberson; Davis, Y.; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Elkins; Ellis; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hilderbran; Hinojosa; Hochberg; Hodge; Homer; Hope; Hunter; Janek; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee;



Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Berman; Brown, B.; Brown, F.; Chisum; Crabb; Davis, J.; Driver; Farabee; George; Green; Hartnett; Heflin; Hill; Howard; Hupp; Isett; Jones, C.; Madden; Merritt; Palmer; Shields; Siebert; Talton; Wohlgenuth; Woolley.

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

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

Absent — Crownover; Danburg; Edwards; Moreno, P.; Oliveira; Pitts; Seaman.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 465. I intended to vote no.

Delisi

When Record No. 465 was taken, I was in the house but away from my desk. I would have voted no.

Pitts

#### LEAVE OF ABSENCE GRANTED

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

Crownover on motion of Denny.

#### CSSB 1468 - (consideration continued)

A record vote was requested.

**CSSB 1468**, as amended, was passed by (Record 466): 119 Yeas, 20 Nays, 4 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Berman; Bonnen; Bosse; Brown, F.; Burnam; Capelo; Carter; Chavez; Christian; Clark; Coleman; Cook; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, Y.; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hunter; Janek; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis, J.; Solis, J. F.;

Solomons; Staples; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Allen; Averitt; Brown, B.; Chisum; Davis, J.; Delisi; Driver; George; Green; Hardcastle; Heflin; Howard; Hupp; Isett; Jones, C.; Palmer; Siebert; Talton; West; Wohlgemuth.

Present, not voting — Mr. Speaker; Brimer(C); Madden; Williams.

Absent, Excused — Corte; Crownover; Hilbert; Jones, D.

Absent — Counts; Moreno, P.; Oliveira.

### STATEMENTS OF VOTE

When Record No. 466 was taken, I was temporarily out of the house chamber. I would have voted yes.

Oliveira

Please show Williams of Montgomery voting "present not voting" on **SB 1468**. I cannot vote on this issue due to a conflict of interest.

Williams

### POSTPONED BUSINESS

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

#### **CSSB 441 ON SECOND READING**

**(McCall, Goodman, Hartnett, Oliveira, and Cuellar - House Sponsors)**

**CSSB 441**, A bill to be entitled An Act relating to the application of the sales and use tax to certain services.

**CSSB 441** was read second time earlier today and was postponed until this time.

Representative McCall moved to postpone consideration of **CSSB 441** until 9 p.m. today.

The motion prevailed without objection.

#### **CSSB 5 ON SECOND READING**

**(Oliveira, Greenberg, Cuellar, McClendon, and McCall - House Sponsors)**

**CSSB 5**, A bill to be entitled An Act relating to the authorization of certain franchise tax incentives promoting economic development.

**CSSB 5** was read second time earlier today, postponed until 4 p.m., and was again postponed until this time.

Representative Oliveira moved to postpone consideration of **CSSB 5** until 9 p.m. today.

The motion prevailed without objection.

**CONSTITUTIONAL AMENDMENTS CALENDAR  
SENATE JOINT RESOLUTIONS  
SECOND READING**

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

**SJR 10 ON SECOND READING  
(Thompson - House Sponsor)**

**SJR 10**, A joint resolution proposing a constitutional amendment relating to the creation of a judicial compensation commission.

A record vote was requested.

**SJR 10** was passed to third reading by (Record 467): 82 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Averitt; Bailey; Bonnen; Bosse; Burnam; Capelo; Carter; Chavez; Coleman; Cook; Crabb; Cuellar; Danburg; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Gray; Greenberg; Gutierrez; Hartnett; Hawley; Hinojosa; Hochberg; Hodge; Hunter; Jones, J.; Junell; King, T.; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Reyna, A.; Ritter; Sadler; Salinas; Smithee; Solis, J.; Solis, J. F.; Thompson; Tillery; Turner, B.; Turner, S.; Uresti; Van de Putte; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Berman; Brown, B.; Brown, F.; Chisum; Christian; Clark; Counts; Craddick; Culberson; Delisi; Denny; Driver; Elkins; George; Green; Haggerty; Hamric; Hardcastle; Heflin; Hilderbran; Hill; Hope; Howard; Hupp; Isett; Janek; Jones, C.; Keel; Keffer; King, P.; Krusee; Kuempel; Madden; Marchant; Merritt; Morrison; Mowery; Nixon; Palmer; Pitts; Reyna, E.; Seaman; Shields; Siebert; Smith; Solomons; Staples; Swinford; Talton; Truitt; Uher; Walker; West; Williams; Wohlgemuth; Woolley.

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

Absent, Excused — Corte; Crownover; Hilbert; Jones, D.

Absent — Goolsby; Grusendorf; Homer; McCall; Telford.

**STATEMENTS OF VOTE**

When Record No. 467 was taken, I would have voted no.

Goolsby

When Record No. 467 was taken, I was temporarily out of the house chamber. I would have voted no.

Telford

**GENERAL STATE CALENDAR  
SENATE BILLS  
THIRD READING**

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

**SB 89 ON THIRD READING**  
**(Bosse, Hilbert, Crabb, and Krusee - House Sponsors)**

**SB 89**, A bill to be entitled An Act relating to municipal annexation; providing penalties.

**Amendment No. 1**

Representative Clark offered the following amendment to **SB 89**:

Amend **SB 89**, on third reading, in Section 43.052(h), Local Government Code, as amended by the 2nd reading amendments by Bosse and Hawley, by striking "the area is the subject of an industrial district contract under Section 42.004 or a strategic partnership agreement under Section 43.0751" and substituting the following:

"the area is or was the subject of:

(A) an industrial district contract under Section 42.004;

(B) a strategic partnership agreement under Section 43.0751;

or

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Madden offered the following amendment to **SB 89**:

Amend **SB 89** on 3rd reading by striking Sections 43.149(c) and (d), Local Government Code, as added by the Wilson amendment on 2nd reading and substituting the following:

(c) If the county clerk determines that a petition filed under Subsection (b) is valid or if the county clerk fails to make a determination within the period prescribed by Subsection (b), the county judge shall order the election to be held on the first uniform election date that occurs after the 45th day after:

(1) the earlier of the date:

(A) the county clerk determines the petition is valid; or

(B) the period for making a determination under Subsection

(b) expires; or

(2) the date the county obtains preclearance from the United States Department of Justice as provided by Subsection (d) if the county obtains preclearance after the date prescribed by Subdivision (1).

(d) Before holding an election under this section, the county must obtain from the United States Department of Justice in a timely manner preclearance under Section 5, Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), and its subsequent amendments, of any voting change resulting from the application of this section. Only a registered voter residing in the area may vote in the election. The municipality that annexed the area shall pay the cost of holding the election.

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

On behalf of Representative Dunnam, Representative Bosse offered the following amendment to **SB 89**:

(Speaker in the chair)

Amend **SB 89** on 3rd reading, in Section 43.056(b), Local Government Code, as amended by the Dunnam amendment on 2nd reading, by striking "in by means of a packing station" and substituting "by means of a package wastewater treatment plant".

Amendment No. 3 was adopted without objection.

**SB 89**, as amended, was passed.

**SB 1438 ON THIRD READING**  
**(Wilson - House Sponsor)**

**SB 1438**, A bill to be entitled An Act relating to a pilot project transferring certain professional and occupational licensing boards to self-directed semi-independent status; making an appropriation.

**Amendment No. 1**

Representative Wilson offered the following amendment to **SB 1438**:

Amend **SB 1438** on 3rd reading in SECTION 2, in Section 8(b), Article 8930, as amended on 2nd Reading, by striking September 1 and Substituting November 1.

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Pitts offered the following amendment to **SB 1438**:

Amend **SB 1438** (on 3rd reading) as follows:

(1) In SECTION 2 of the bill, on page 5, line 13, between the words "FUNDS." and "If" strike (a)".

(2) In SECTION 2 of the bill, page 5, strike lines 19-22.

(3) In SECTION 3 of the bill, page 8, strike lines 3-26.

(4) In SECTION 3 of the bill, page 9, strike lines 1-13.

(3) In SECTION 9 of the bill, page 11, strike lines 1-17.

(4) In SECTION 11 and 12 of the bill, page 12, strike lines 6-26 through page 13, lines 1-17.

(5) In SECTION 14 of the bill, page 13, strike line 26 though page 15, lines 1-9,

(6) in SECTION 16 OF THE BILL, page 15, strike lines 18-26 through page 16, lines 1-16.

(7) In SECTION 18 of the bill, page 17, strike lines 10 - 18.

Amendment No. 2 was adopted without objection.

**SB 1438**, as amended, was passed.

**SB 558 ON THIRD READING**  
**(Garcia - House Sponsor)**

**SB 558**, A bill to be entitled An Act relating to training requirements for certain child-care providers.

**SB 558** was passed.

**SB 103 ON THIRD READING**  
**(Grusendorf, et al. - House Sponsors)**

**SB 103**, A bill to be entitled An Act relating to state assessments of public school students.

**Amendment No. 1**

Representative S. Turner offered the following amendment to **SB 103**:

Amend **SB 103** (on 3rd reading), SECTION 4 by striking subsection (m) and substituting the following:

(m) No entity that holds a contract or subcontract for the statewide academic skills assessment instruments in this state shall, during the term of such contract, engage in written or publicly broadcast advertising of that contract in connection with promoting its textbooks.

Amendment No. 1 was adopted without objection.

**SB 103**, as amended, was passed.

**GENERAL STATE CALENDAR**  
**SENATE BILLS**  
**SECOND READING**

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

**CSSB 1268 ON SECOND READING**  
**(Carter - House Sponsor)**

**CSSB 1268**, A bill to be entitled An Act relating to notice and enforcement by municipalities of violations of certain health and safety statutes and ordinances.

Representative Chisum raised a point of order against further consideration of **CSSB 1268** under Rule 11, Section 2 of the House Rules on the grounds that the committee substitute is not germane to the engrossed bill.

The speaker sustained the point of order.

**CSSB 1268** was returned to the Committee on Calendars, pursuant to Rule 4, Section 41.

**CSSB 1441 ON SECOND READING**  
**(Naishtat - House Sponsor)**

**CSSB 1441**, A bill to be entitled An Act relating to expanding the specialized telecommunications devices assistance program and contracts for special features of the telecommunications relay access service.

**CSSB 1441** was passed to third reading.

**CSSB 1288 ON SECOND READING**  
**(Cuellar - House Sponsor)**

**CSSB 1288**, A bill to be entitled An Act relating to the establishment and operation of a campus extension of The University of Texas Health Science Center at San Antonio.

**Amendment No. 1**

Representative Cuellar offered the following amendment to **CSSB 1288**:

Amend **CSSB 1288** in SECTION 1 of the bill in added Section 74.702, Education Code, by inserting the following at the beginning of Subsection (d) (page 2, line 6, house committee printing): "The primary purpose of the campus extension is to support educational activities."

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Cuellar offered the following amendment to **CSSB 1288**:

Amend **CSSB 1288**, in SECTION 2(a) of the bill (Committee printing page 3, line 4), by striking "January 1, 2000" and by substituting "August 31, 2000"

Amendment No. 2 was adopted without objection.

**CSSB 1288**, as amended, was passed to third reading.

**SB 666 ON SECOND READING**  
**(G. Lewis and Naishtat - House Sponsors)**

**SB 666**, A bill to be entitled An Act relating to exemptions from work or employment activity participation requirements for certain Temporary Assistance for Needy Families (TANF) recipients.

**Amendment No. 1**

Representative G. Lewis offered the following amendment to **SB 666**:

Amend **SB 666** as follows:

(1) In SECTION 1 of the bill, in amended Section 31.012(c), Human Resources Code (house committee printing, page 1, lines 11, 16, and 20), strike "single".

(2) In SECTION 1 of the bill, in amended Section 31.012(c), Human Resources Code (house committee printing, page 1, line 23), between the period and "Notwithstanding", insert "In a two-parent family, only one parent may claim an exemption described by this section.".

Amendment No. 1 was withdrawn.

**Amendment No. 2 (Committee Amendment No. 1)**

Representative Naishtat offered the following committee amendment to **SB 666**:

Amend **SB 666** by striking SECTION 4 of the bill (Senate engrossment, page 2, line 26, through page 3, line 8) and substituting the following:

SECTION 4. Notwithstanding Section 31.012(c), Human Resources Code, as amended by this Act:

(1) a person receiving financial assistance under Chapter 31, Human Resources Code, on December 31, 1999, remains subject to the exemptions from participation in work or employment activity requirements under Section 31.012(c), Human Resources Code, as it existed immediately before the

effective date of this Act, until the person's first recertification date for the receipt of that assistance that occurs on or after January 1, 2000;

(2) a person receiving financial assistance under Chapter 31, Human Resources Code, on August 31, 2000, remains subject to the exemptions from participation in work or employment activity requirements under Section 31.012(c), Human Resources Code, as it exists on January 1, 2000, until the person's first recertification date for the receipt of that assistance that occurs on or after September 1, 2000; and

(3) a person receiving financial assistance under Chapter 31, Human Resources Code, on August 31, 2001, remains subject to the exemptions from participation in work or employment activity requirements under Section 31.012(c), Human Resources Code, as it exists on September 1, 2000, until the person's first recertification date for the receipt of that assistance that occurs on or after September 1, 2001.

Amendment No. 2 was adopted without objection.

**SB 666**, as amended, was passed to third reading.

**CSSB 766 ON SECOND READING**  
**(Allen - House Sponsor)**

**CSSB 766**, A bill to be entitled An Act relating to the issuance of certain permits for the emission of air contaminants.

(Gallego in the chair)

**Amendment No. 1**

On behalf of Representative McClendon, Representative Haggerty offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House Committee Report) as follows:

(1) Between Sections 4 and 5 of the bill (page 5, between lines 1 and 2) insert:

SECTION 5. (a) Section 382.0518(g), Health and Safety Code, is amended to read as follows:

(g) Subsections (a)-(d) do not apply to a person who has executed a contract or has begun construction for an addition, alteration, or modification to a new or an existing facility on or before August 30, 1971, and who has complied with the requirements of Section 382.060, as it existed on November 30, 1991. To qualify for any exemption under this subsection, a contract may not have a beginning construction date later than February 29, 1972. This subsection does not apply to a facility located less than two miles from the outer perimeter of a school, child day-care facility, hospital, or nursing home.

(b) This section takes effect September 1, 2001.

(2) Add a new section to the bill, numbered appropriately, to read:

SECTION \_\_\_\_\_. To the extent that Section 382.0518, Health and Safety Code, as amended by this Act, conflicts with another law enacted by the 76th Legislature specifically regarding permitting or emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.0518.

(3) Renumber the sections of the bill appropriately.



**CSSB 766 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HAGGERTY: In an effort to protect, improve, and conserve the environment of the border region, the governments of the United States and Mexico signed The La Paz Agreement for the protection and improvement of the environment in the border area. The La Paz Agreement provides a formal foundation for cooperative environmental efforts. The agreement defines the border region as the area lying 100 kilometers to the north and south of the U.S. and Mexico boundary.

The federal governments of the United States and Mexico signed Appendix One to Annex Five of the agreement in May 1996. The Act officially designated the Paso del Norte Air Shed as the contiguous air shed basin between El Paso, Texas, Sunland Park, New Mexico, and Ciudad Juarez, Chihuahua.

Currently, there are joint advisory committee members from both sides of the border representing governmental, non-governmental, private, and industrial interests in improving the air quality in the Ciudad Juarez, Chihuahua, El Paso, Texas, and Dona Anna County, New Mexico air basin (Paso del Norte Air Shed).

**REMARKS ORDERED PRINTED**

Representative Haggerty moved to print his remarks on **CSSB 766**.

The motion prevailed without objection.

Amendment No. 1 was withdrawn.

**Amendment No. 2**

Representative Puente offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House Committee Report) as follows:

(1) In Section 5 of the bill, strike added Subsection (b), Section 382.0519, Health and Safety Code (page 5, lines 10-16), and substitute:

(b) The commission shall grant within a reasonable time a permit under this section if, from the information available to the commission, including information presented at any public hearing or through written comment, the commission finds that:

(1) the facility will use an air pollution control method at least as beneficial as that described in Section 382.003(9)(E)(ii), considering the age and remaining useful life of the facility, except as provided by Subdivision (2); or

(2) the facility will use the best available control technology, considering the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility if the facility:

(A) emits more than 200 tons of air contaminants annually;

and

(B) is located in:

(i) Bosque, Coryell, El Paso, Hood, Parker, Somervell, or Wise County;

(ii) a county traversed by any part of Interstate Highway 35 north of the city of San Antonio;

(iii) a county traversed by any part of Interstate Highway 37 south of the city of San Antonio; or

(iv) a county located east of a county described by Subparagraph (ii) or (iii).

(2) Add a new section to the bill, appropriately numbered, to read:

SECTION \_\_\_\_\_. To the extent that Section 382.0519, Health and Safety Code, as added by this Act, conflicts with another law enacted by the 76th Legislature specifically regarding emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.0519.

(3) Renumber the Sections of the bill appropriately.

Amendment No. 2 was withdrawn.

### **Amendment No. 3**

Representative Puente offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House Committee Report) as follows:

(1) In Section 5 of the bill, strike added Subsection (b), Section 382.0519, Health and Safety Code (page 5, lines 10-16), and substitute:

(b) The commission shall grant within reasonable time a permit under this section if, from the information available to the commission, including information presented at any public hearing or through written comment, the commission finds that:

(1) the facility will use an air pollution control method at least as beneficial as that described in Section 382.003 (9) (E) (ii), considering the age and remaining useful life of the facility, except as provided by Subdivision (2); or

(2) the facility will use the best available control technology, considering the age and remaining useful life of the facility and the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility if the facility:

(A) emits more than 200 tons of air contaminants annually;

and

(B) is located in:

(i) Bosque, Coryell, El Paso, Hood, Parker, Somervell, or Wise County;

(ii) a county traversed by any part of Interstate Highway 35 north of the city of San Antonio;

(iii) a county traversed by any part of Interstate Highway 37 south of the city of San Antonio; or

(iv) a county located east of a county described by Subparagraph (ii) or (iii).

(2) Add a new section to the bill, appropriately numbered to read:

SECTION \_\_\_\_\_. To the extent that Section 382.0519, Health and Safety Code, as added by this Act, conflicts with another law enacted by the 76th Legislature specifically regarding emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.0519.

(3) Renumber the Sections of the bill appropriately.

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative McClendon offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House Committee Report) as follows:

(1) Between Sections 4 and 5 of the bill (page 5, between lines 1 and 2) insert:

SECTION 5. (a) Section 382.0518(g), Health and Safety Code, is amended to read as follows:

(g) Subsections (a)-(d) do not apply to a person who has executed a contract or has begun construction for an addition, alteration, or modification to a new or an existing facility on or before August 30, 1971, and who has complied with the requirements of Section 382.060, as it existed on November 30, 1991. To qualify for any exemption under this subsection, a contract may not have a beginning construction date later than February 29, 1972. This subsection does not apply to a facility located less than two miles from the outer perimeter of a school, child day-care facility, hospital, or nursing home.

(b) This section takes effect September 1, 2001.

(2) Add a new section to the bill, numbered appropriately, to read:

SECTION \_\_\_\_\_. To the extent that Section 382.0518, Health and Safety Code, as amended by this Act, conflicts with another law enacted by the 76th Legislature specifically regarding permitting or emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.0518.

(3) Renumber the sections of the bill appropriately.

Amendment No. 4 was adopted without objection.

**Amendment No. 5**

Representative Zbranek offered the following amendment to **SB 766**:

Amend **CSSB 766** (House Committee Report) as follows:

(1) Between Sections 8 and 9 of the bill (page 15, between lines 25 and 26) insert:

SECTION 9. (a) Section 382.0518(g), Health and Safety Code, is repealed.

(b) The owner or operator of a facility that was exempted from the permit requirements of Section 382.0518, Health and Safety Code, by Subsection (g) of that section immediately before September 1, 2001, may operate the facility on or after that date only if:

(1) the owner or operator of the facility has a permit application under that section filed before that date and pending before the Texas Natural Resource Conservation Commission; or

(2) the facility is authorized to operate under a standard permit or permit by rule.

(c) The owner or operator of a facility operating under a pending permit application as provided by Subsection (b) of this section shall discontinue all operations resulting in the emission of an air contaminant on the second anniversary of the date the Texas Natural Resource Conservation Commission determines that the application is administratively complete unless the

commission grants a permit before the date of the anniversary. If a court finds that more likely than not the Texas Natural Resource Conservation commission will fail to make the determination of whether to grant or deny a permit application described by Subsection (b) of this section before the date this subsection would require the owner or deny a permit application described by Subsection (b) of this subsection would require the owner or operator of a facility to discontinue operations and that the commission's failure is not a result of an act or omission of the owner or operator of the facility, the court may issue:

(1) an order of mandamus directing the commission to make the determination before that date; or

(2) an injunction to prevent the commission from enforcing the requirement that the owner or operator discontinue operations before the date the commission makes the determination.

(d) The Texas Natural Resource Conservation Commission shall enforce this section as if it were a provision of Chapter 382, Health and Safety Code.

(e) To the extent that this section conflicts with another law enacted by the 76th Legislature specifically regarding air contaminant emissions reductions or permitting requirements for electric generating facilities, the other law prevails over this section.

(f) This section takes effect September 1, 2001.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 5 was adopted without objection.

### **Amendment No. 6**

Representative Kuempel offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House Committee Printing) as follows:

(1) In the recitation to Section 5 of the bill (page 5, line 3), strike "382.0519" and substitute "382.05185, 382.0519,".

(2) In Section 5 of the bill, immediately following the recitation to that section (page 5, between lines 4 and 5), insert a new Section 382.05185, Health and Safety Code, to read:

Sec. 382.05185. PERMIT AMENDMENTS. (a) Before work is begun on the modification of a facility for which a permit has been issued under Section 382.0518 or on the construction of a facility at a site where a facility for which a permit has been issued under Section 382.0518 is located, the person planning the modification or construction must obtain from the commission:

(1) a permit;

(2) a permit amendment issued under this section; or

(3) an exemption adopted under Section 382.057.

(b) An applicant for a permit amendment under this section shall provide notice of the application under Section 382.056. This subsection does not apply to an application if the emissions at the site on which the facility is or is planned to be located will decrease and not change in character.

(c) Within a reasonable time after the commission receives an application for a permit amendment to authorize a modification of or the construction of a facility, the commission shall issue the permit amendment if, from the information available to the commission, the commission finds:

(1) each facility authorized to operate under the amended permit will use at least the best available control technology, considering the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility; and

(2) no indication that the emissions from the facility will contravene the intent of this chapter, including the protection of the public's health and physical property.

(d) In considering the permit amendment, the commission shall consider any adjudicated decision or compliance proceeding within the five years before the date on which the application was filed that addressed the applicant's past performance and compliance with the laws of the state, another state, or the United States governing air contaminants, or with the terms of any permit or order issued by the commission.

(3) Between Sections 8 and 9 of the bill (page 15, between lines 25 and 26), insert a new Section 9 to read as follows:

SECTION 1. Section 382.0518(h), Health and Safety Code, is repealed.

(4) Renumber the subsequent sections of the bill appropriately.

Amendment No. 6 was adopted without objection.

#### **Amendment No. 7**

Representative Maxey offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House committee report) as follows:

(1) In the recital to SECTION 5 of the bill (page 5, line 3), strike "382.0519" and substitute "382.05185, 382.0519,".

(2) In SECTION 5 of the bill, immediately following the recital (page 5, between lines 4 and 5), insert:

Sec. 382.05185. EMISSIONS REDUCTIONS FOR CERTAIN EXEMPT FACILITIES. (a) In this section, "electric generating facility" means a facility that generates electric energy for compensation and is owned or operated by a person in this state, including a municipal corporation, electric cooperative, or river authority.

(b) This section applies only to an electric generating facility existing on January 1, 1999, that is not subject to the requirement to obtain a permit under Section 382.0518(g).

(c) It is the intent of the legislature that, for the 12-month period beginning on May 1, 2003, and for each 12-month period after the end of that period, the total annual emissions of nitrogen oxides from facilities subject to this section may not exceed levels equal to 50 percent of the total emissions of that pollutant during 1997, as reported to the commission, and the total annual emissions of sulphur dioxides from coal-fired facilities subject to this section may not exceed levels equal to 75 percent of the total emissions of that pollutant during 1997, as reported to the commission. The limitations prescribed by this subsection may be met through an emissions allocation and allowance transfer system described by this section.

(d) A municipal corporation, electric cooperative, or river authority may exclude any electric generating facility of 25 megawatts or less from the requirements prescribed by this section. Not later than January 1, 2000, a

municipal corporation, electric cooperative, or river authority must inform the commission of its intent to exclude those facilities.

(e) The owner or operator of an electric generating facility shall apply to the commission for a permit for the emission of air contaminants on or before September 1, 2000. A permit issued by the commission under this section shall require the facility to achieve emissions reductions or trading emissions allowances as provided by this section. If the facility uses coal as a fuel, the permit must also be conditioned on the facility's emissions meeting opacity limitations provided by commission rules. Notwithstanding Section 382.0518(g), a facility that does not obtain a permit as required by this subsection may not operate after May 1, 2003, unless the commission finds good cause for an extension.

(f) The commission shall develop rules for the permitting of electric generating facilities. The rules adopted under this subsection shall provide, by region, for the allocation of emissions allowances of sulphur dioxides and nitrogen oxides among electric generating facilities and for facilities to trade emissions allowances for those contaminants.

(g) The commission by rule shall establish an East Texas Region, a West Texas Region, and an El Paso Region for allocation of air contaminants under the permitting program under Subsection (f). The East Texas Region must contain all counties traversed by or east of Interstate Highway 35 or Interstate Highway 37, including Bosque, Coryell, Hood, Parker, Somervell, and Wise counties. The West Texas Region includes all of the state not contained in the East Texas Region or the El Paso Region. The El Paso Region includes El Paso County.

(h) Not later than January 1, 2000, the commission shall allocate to each electric generating facility in each region a number of annual emissions allowances, with each allowance equal to one ton of sulphur dioxides or of nitrogen oxides emitted in a year, that permit emissions of the contaminants from the facility in that year. The commission must allocate to each facility a number of emissions allowances equal to an emissions rate measured in pounds per million British thermal units divided by 2,000 and multiplied by the facility's total heat input in terms of millions of British thermal units during 1997. For the East Texas Region, the emissions rate shall be 0.14 pounds per million British thermal units for nitrogen oxides and 1.38 pounds per million British thermal units for sulphur dioxides. For the West Texas and El Paso regions, the emissions rate shall be 0.195 pounds per million British thermal units for nitrogen oxides. Allowances for sulphur dioxides may only be allocated among coal-fired facilities.

(i) A person, municipal corporation, electric cooperative, or river authority that owns and operates an electric generating facility not covered by this section may elect to designate that facility to become subject to the requirements of this section and to receive emissions allowances for the purpose of complying with the emissions limitations prescribed by Subsection (c). The commission shall adopt rules governing this election that:

(1) require an owner or operator of an electric generation facility to designate to the commission in its permit application under Subsection (e) any facilities that will become subject to this section;

(2) require the commission, notwithstanding the allocation mechanism provided by Subsection (h), to allocate additional allowances to facilities governed by this subsection in an amount equal to each facility's actual emissions in tons in 1997;

(3) provide that any unit designated under this subsection may not transfer or bank allowances conserved as a result of reduced utilization or shutdown, except that the allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this subsection with thermal energy generated by any other unit; and

(4) provide that emissions reductions from electing facilities designated in this subsection may only be used to satisfy the emissions reductions for grand fathered facilities defined in Subsection (c) to the extent that reductions used to satisfy the limitations in Subsection (c) are beyond the requirements of any other state or federal standard, or both.

(j) The commission by rule shall permit a facility to trade emissions allocations with other electric generating facilities only in the same region.

(k) The commission by rule shall provide methods for the commission to determine whether a facility complies with the permit issued under this section. The rules must provide for:

(1) monitoring and reporting actual emissions of sulphur dioxides and nitrogen oxides from each facility;

(2) provisions for saving unused allowances for use in later years;  
and

(3) a system for tracking traded allowances.

(l) A facility may not trade an unused allowance for a contaminant for use as a credit for another contaminant.

(m) A person possessing market power may not withhold emissions allowances from the market in a manner that is unreasonably discriminatory or tends to unreasonably restrict, impair, or reduce the level of competition.

(n) The commission shall penalize a facility that emits an air contaminant that exceeds the facility's allowances for that contaminant by:

(1) enforcing an administrative penalty, in an amount determined by commission rules, for each ton of air contaminant emissions by which the facility exceeds its allocated emissions allowances; and

(2) reducing the facility's emissions allowances for the next year by an amount of emissions equal to the excessive emissions in the year the facility emitted the excessive air contaminants.

(o) The commission may penalize a facility that emits an air contaminant that exceeds the facility's allowances for that contaminant by:

(1) ordering the facility to cease operations; or

(2) taking other enforcement action provided by commission rules.

(p) The commission by rule shall provide for a facility in the El Paso Region to meet emissions allowances by using credits from emissions reductions achieved in Ciudad Juarez, United Mexican States.

(q) If the commission or the United States Environmental Protection Agency determines that reductions in nitrogen oxides emissions in the El

Paso Region otherwise required by this section would result in increased ambient ozone levels in El Paso County, facilities in the El Paso Region are exempt from the nitrogen oxides reduction requirements.

(r) An applicant for a permit under Subsection (e) shall publish notice of intent to obtain the permit in accordance with Section 382.056. The commission shall provide an opportunity for a public hearing and the submission of public comment and send notice of a decision on an application for a permit under Subsection (e) in the same manner as provided by Sections 382.0561 and 382.0562. The commission shall review and renew a permit issued under this section in accordance with Section 382.055.

(s) This section does not limit the authority of the commission to require additional reductions of nitrogen oxides, sulphur dioxides, or any other pollutant from generating facilities subject to this section.

(3) In SECTION 9 of the bill (page 15, line 27), between "Commission" and "shall" insert "and the Public Utility Commission of Texas".

(4) Add a new section to the bill, numbered appropriately, to read:

SECTION \_\_\_\_. Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.209 to read as follows:

Sec. 36.209. ELECTRIC GENERATING FACILITY COST RECOVERY FOR AIR CONTAMINANT EMISSIONS PERMIT OR EMISSIONS REDUCTION. (a) Subject to Subsection (b), if an electric utility makes a reasonable capital investment before May 1, 2003, to comply with Section 382.05185, Health and Safety Code, the commission, after an expedited review and approval based on the criteria under Subsection (b), shall authorize the use of an appropriate mechanism for full and concurrent recovery of the capital investment and a return on the investment at a rate of return that includes an equity return component that is equivalent to that of U.S. Treasury bonds of similar duration to the expected useful life of the investment.

(b) An investment described by Subsection (a) and a return on the investment is the amount eligible for full and concurrent recovery under that subsection only to the extent that:

(1) the cost is applied to offset or reduce the emission of air contaminants from an electric generating facility and:

(A) the offset or reduction is determined by the Texas Natural Resource Conservation Commission to be an essential component in achieving compliance with a national ambient air quality standard; or

(B) the offset or reduction is necessary for an unpermitted electric generating facility to obtain a permit under Section 382.05185, Health and Safety Code;

(2) the decision to retrofit a facility is determined to be the most cost-effective means of achieving the offset or reduction after consideration of alternative measures, including the retirement of the electric generating facility, taking into account the cost of replacement generating capacity and the net book value of the affected facility, including retirement costs and offsetting salvage value; and

(3) the amount and location of resulting emission reductions is consistent with the air quality goals and policies of the Texas Natural Resource Conservation Commission.



(5) Add a new section to the bill, numbered appropriately, to read:

SECTION . If S.B. No. 7 of the 76th Legislature, Regular Session, 1999, is enacted and becomes law, Sections 382.05185, Health and Safety Code, as added by this Act, and Section 36.209, Utilities Code, as added by this Act, do not take effect.

Amendment No. 7 was adopted without objection.

### **Amendment No. 8**

Representative Chisum offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House committee report) in Section 5 of the bill as follows:

(1) Strike added Section 382.05192, Health and Safety Code (page 6, line 25, through page 7, line 1), and substitute:

Sec. 382.05192. REVIEW AND RENEWAL OF VOLUNTARY EMISSION REDUCTIONS AND MULTIPLE PLANT PERMIT. Review and renewal of a permit issued under Section 382.0519 or 382.05194 shall be conducted in accordance with Section 382.055.

(2) In added Section 382.05195, Health and Safety Code, strike Subsections (e)-(g) (page 13, lines 16-24) and substitute:

(e) The commission by rule shall establish procedures for the amendment of a standard permit and for an application for, the issuance of, the renewal of, and the revocation of an authorization to use a standard permit.

(f) A facility authorized to emit air contaminants under a standard permit shall comply with an amendment to the standard permit beginning on the date the facility's authorization to use the standard permit is renewed or the date the commission otherwise provides. Before the date the facility is required to comply with the amendment, the standard permit, as it read before the amendment, applies to the facility.

(g) The adoption or amendment of a standard permit or the issuance, renewal, or revocation of an authorization to use a standard permit is not subject to Chapter 2001, Government Code.

(h) The commission may adopt rules as necessary to implement and administer this section.

(i) The commission may delegate to the executive director the authority to issue, amend, renew, or revoke an authorization to use a standard permit.

Amendment No. 8 was adopted without objection.

### **Amendment No. 9**

On behalf of Representative S. Turner, Representative Maxey offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House Committee Report) as follows:

(1) In Section 5 of the bill, in added Section 382.05193, Health and Safety Code:

(A) In the heading of that section (page 7, lines 2-3), strike "ENVIRONMENTAL MITIGATION" and substitute "EMISSIONS REDUCTION".

(B) Strike Subsection (b) of that section (page 7, lines 15-22) and substitute:

(b) The commission by rule shall establish a program to grant emissions reduction credits to a facility if the owner or operator conducts an emissions reduction project to offset the facility's excessive emissions. To be eligible for a credit to offset a facility's emissions, the emissions reduction project must reduce emissions in the airshed, as defined by commission rule, in which the facility is located.

(C) In Subsection (c) of that section (page 7, lines 23-24), strike "A project included in the emissions reduction projects category" and substitute "The commission by rule shall provide that an emissions reduction project".

(D) In Subsection (c) of that section (page 8, line 1), strike "The emissions reduction projects category" and substitute "Qualifying emissions reduction projects".

(E) Strike Subsection (d) of that section (page 8, line 20, through page 9, line 5).

(F) Redesignate:

(i) Subsection (e) of that section (page 9, line 6) as Subsection (d);

(ii) Subsection (f) of that section (page 9, line 11) as Subsection (e); and

(iii) Subsection (g) of that section (page 9, line 21) as Subsection (f).

(2) Add a new section to the bill, appropriately numbered, to read:

SECTION \_\_\_\_\_. To the extent that Section 382.05193, Health and Safety Code, as added by this Act, conflicts with another law enacted by the 76th Legislature specifically regarding emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.05193.

(3) Renumber the subsequent sections of the bill accordingly.

Amendment No. 9 was adopted without objection.

### **Amendment No. 10**

Representative Zbranek offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House committee report) in Section 5 of the bill by striking added Subsection (e), Section 382.0519, Health and Safety Code (page 5, lines 26 and 27, and page 6, lines 1-5) and by substituting:

(e) A permit issued under this section for a facility that annually emits more than 100,000 tons of air contaminants may defer the implementation of the requirement of reductions in the emissions of certain air contaminants only if the applicant will make substantial emissions reductions in other specific air contaminants. The commission shall base the deferral on a prioritization of air contaminants as necessary to meet local, regional, and statewide air quality needs. A deferral granted in a permit under this subsection continues to apply to the facility even if the facility's emissions fall below the threshold amount provided by this subsection.

Amendment No. 10 was adopted without objection.

### **Amendment No. 11**

Representative Chisum offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House committee report) as follows:

(1) In SECTION 5 of the bill, added Subdivision (1), Subsection (a), Section 382.05195, Health and Safety Code (page 12, line 10), strike "can be" and substitute "is".

(2) In SECTION 5 of the bill, added Subsection (a), Section 382.05196, Health and Safety Code (page 14, lines 3 and 4), strike "a major source under" and substitute "major under any applicable preconstruction permitting requirements of".

(3) In SECTION 6 of the bill, in the third sentence of amended Subsection (a), Section 382.057, Health and Safety Code (page 14, lines 24 and 25), between "under" and "the federal Clean Air Act", insert "any applicable preconstruction permitting requirements of".

Amendment No. 11 was adopted without objection.

### **Amendment No. 12**

Representative Maxey offered the following amendment to **CSSB 766**:

Amend **CSSB 766** (House Committee Report) as follows:

(1) Between Sections 8 and 9 of the bill (page 15, between lines 25 and 26) insert the following:

SECTION 9. (a) Section 382.0621(d), Health and Safety Code, is repealed.

(b) The Texas Natural Resource Conservation Commission shall deposit any increase in the amount of fees collected under Section 382.0621, Health and Safety Code, as amended by this section, that results from the repeal of Subsection (d) of that section into a special account in the general revenue fund. Interest earned on the account shall be credited to the account. The account is exempt from the application of Section 403.095, Government Code. Money in the account may be appropriated only to the Texas Natural Resource Conservation Commission for a use related to:

(1) the small business stationary source technical and environmental compliance assistance program established under Section 382.0365, Health and Safety Code; and

(2) any other clean air program funded by fees on emissions of air contaminants.

(c) To the extent that this section conflicts with another law enacted by the 76th Legislature specifically regarding emissions reduction requirements for electric generating facilities, the other law prevails over this section.

(2) Renumber the subsequent sections of the bill accordingly.

Amendment No. 12 was adopted without objection.

**CSSB 766**, as amended, was passed to third reading.

### **POSTPONED BUSINESS**

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

#### **CSSB 441 ON SECOND READING**

**(McCall, Goodman, Hartnett, Oliveira, and Cuellar - House Sponsors)**

**CSSB 441**, A bill to be entitled An Act relating to the application of the sales and use tax to certain services.

**CSSB 441** was read second time earlier today, postponed until 5 p.m., and was again postponed until this time.

Representative McCall moved to postpone consideration of **CSSB 441** until 10:15 p.m. today.

The motion prevailed without objection.

#### **CSSB 5 ON SECOND READING**

**(Oliveira, Greenberg, Cuellar, McClendon, and McCall - House Sponsors)**

**CSSB 5**, A bill to be entitled An Act relating to the authorization of certain franchise tax incentives promoting economic development.

**CSSB 5** was read second time earlier today, postponed until 4 p.m., postponed until 5 p.m., and was again postponed until this time.

Representative Oliveira moved to postpone consideration of **CSSB 5** until 10:15 p.m. today.

The motion prevailed without objection.

#### **GENERAL STATE CALENDAR (consideration continued)**

#### **SB 633 ON SECOND READING (Uresti - House Sponsor)**

**SB 633**, A bill to be entitled An Act relating to the application of a fire code and fire code inspections to certain buildings in unincorporated areas of a county.

#### **Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Walker, Representative Uresti offered the following committee amendment to **SB 633**:

Amend **SB 633** by adding a new SECTION 3 to the bill to read as follows (Engrossed printing, page 2, between lines 24 and 25) and by renumbering the existing SECTIONS 3 and 4 of the bill accordingly:

SECTION 3. The change in law made by this Act applies only to a building described by Section 235.002(a), Local Government Code, as amended by this Act, on which construction begins on or after the effective date of this Act. A building described by Section 235.002(a), Local Government Code, as amended by this Act, on which construction begins before the effective date of this Act is governed by the law in effect immediately before the effective date, and that law is continued in effect for that purpose.

Amendment No. 1 was adopted without objection.

#### **Amendment No. 2**

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

Amend the House Committee Printing of **SB 633** as follows:  
On page 2, strike lines 11-12 and substitute the following:

"(1) a multiunit complex as defined by Section 92.151(8), Texas Property Code; and".

Amendment No. 2 was adopted without objection.

A record vote was requested.

**SB 633**, as amended, failed to pass to third reading by (Record 468): 48 Yeas, 90 Nays, 3 Present, not voting.

Yeas — Alvarado; Bailey; Bosse; Burnam; Capelo; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Flores; Garcia; Giddings; Glaze; Green; Greenberg; Gutierrez; Hinojosa; Hochberg; Lewis, G.; Longoria; Luna; Maxey; McClendon; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Puente; Rangel; Reyna, A.; Solis, J.; Solis, J. F.; Tillery; Turner, S.; Uresti; Van de Putte; Wilson; Wise; Wolens; Yarbrough.

Nays — Alexander; Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Carter; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Cuellar; Culberston; Davis, J.; Delisi; Denny; Driver; Eiland; Elkins; Ellis; Farabee; George; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilderbran; Hill; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Morrison; Mowery; Najera; Nixon; Palmer; Pickett; Pitts; Ramsay; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Telford; Truitt; Turner, B.; Uher; Walker; West; Williams; Wohlgenuth; Woolley; Zbranek.

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

Absent, Excused — Corte; Crownover; Hilbert; Jones, D.

Absent — Danburg; Goodman; Hodge; Jones, J.; Thompson.

(Speaker in the chair)

**SB 528 ON SECOND READING**  
**(Giddings - House Sponsor)**

**SB 528**, A bill to be entitled An Act relating to the civil and criminal consequences of certain actions of a minor involving the acquisition, possession, or use of alcohol; providing penalties.

**Amendment No. 1**

Representative Alvarado offered the following amendment to **SB 528**:

Amend **SB 528** by adding an appropriately numbered SECTION to the bill to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 106, Alcoholic Beverage Code, is amended by adding Section 106.16 to read as follows:

Sec. 106.16. PRESENCE OF MINOR ON LICENSED PREMISES.  
(a) Except as provided by Subsection (b), a minor may not be on premises

covered by a permit or license issued under Chapter 25, 28, 29, 32, 69, or 70.

(b) Subsection (a) does not apply if:

(1) the minor at all times while on the premises is in the presence of the minor's parent, adult spouse, or legal guardian;

(2) the business operated on the premises derives:

(A) 65 percent or more of its gross revenues from the sale of food and other goods, not including alcoholic beverages; or

(B) 50 percent or more of its gross revenues from the sale of tickets to outdoor live performances;

(3) the minor's presence is in the course of employment permitted under this code; or

(4) the minor is attending an event on the premises of a fraternal organization or a veterans organization, as defined by Section 32.11, and that attendance is authorized by the minor's parent, adult spouse, or legal guardian.

### **Amendment No. 2**

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

Amend the Alvarado amendment to **SB 528** as follows:

(1) On page 1, line 16, of the amendment, adding Sec. 106.16 to the Alcoholic Beverage Code, insert the following in (b) (2) (A), between "goods" and the comma: "or services".

(2) On page 1, line 20, of the amendment, adding Sec. 106.16 to the Alcoholic Beverage Code, insert the following at the end (b) (2) (B):

(3) the premises is covered by a food and beverage certificate; or

(4) ~~(3)~~ the minor's presence is in the course of employment permitted under this code; or

(5) ~~(4)~~".

Amendment No. 2 was adopted without objection.

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

**SB 528**, as amended, was passed to third reading.

### **SB 623 ON SECOND READING**

**(Carter, Bailey, Burnam, Edwards, Ehrhardt, et al.- House Sponsors)**

**SB 623**, A bill to be entitled An Act relating to certain requirements applicable to the construction of affordable housing.

### **Amendment No. 1 (Committee Amendment No. 1)**

Representative Burnam offered the following committee amendment to **SB 623**:

Amend **SB 623** (senate engrossment) in SECTION 1 of the bill as follows:

(1) In proposed Section 2306.514(a)(1)(B), Government Code (page 1, line 16), strike "30" and substitute "34".

(2) In proposed Section 2306.514(a)(2)(A), Government Code (page 1, line 19), strike "a standard 30-inch" and substitute "at least a 32-inch".

**Amendment No. 2**

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

Amend Committee Amendment No. 1 to **SB 623** on page 1 by striking lines 4 and 5 and substituting the following:

(1) In proposed Section 2306.514 (a)(1) Government Code page 1, line 16) strike (B) in its entirety and substitute the following:

(B) has at least a standard 36 inch door.

Amend Committee Amendment NO. 1 page 1, line 7 by striking "a standard 30-inch" and substituting "at least a standard 32 inch door".

Amendment No. 2 was adopted without objection.

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

**Amendment No. 3**

Representative Clark offered the following amendment to **SB 623**:

Amend **SB 623**, House Committee Report page 1, line 8 by inserting "single family" following the word "construct".

On page 2, line 10 by inserting "single family" after the word "builds".

On page 2, line 16 by inserting "single family" after the word "to".

Amendment No. 3 was adopted without objection.

**SB 623**, as amended, was passed to third reading. (Heflin recorded voting no)

(Speaker in the chair)

**CSSB 403 ON SECOND READING**  
**(Hinojosa - House Sponsor)**

**CSSB 403**, A bill to be entitled An Act relating to the liability of a criminal defendant and the defendant's sureties on a personal bond or a bail bond.

**Amendment No. 1**

Representative Puentes offered the following amendment to **CSSB 403**:

Amend **CSSB 403** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill:

SECTION \_\_\_\_. Article 17.19(a), Code of Criminal Procedure, is amended to read as follows:

(a) Any surety, desiring to surrender this principal and after notifying the principal or the principal's attorney in a manner provided by Rule 21a, Texas Rules of Civil Procedure, of the surety's intention to surrender the principal, may file an affidavit of such intention before the court or magistrate before which the prosecution is pending. The affidavit must state [~~the~~]:

- (1) the court and cause number of the case;
- (2) the name of the defendant;
- (3) the offense with which the defendant is charged;
- (4) the date of the bond; [~~and~~]
- (5) the cause for the surrender; and
- (6) that notice of the surety's intention to surrender the principal has been given as required by this subsection.

Amendment No. 1 was adopted without objection.

**CSSB 403**, as amended, was passed to third reading.

**POSTPONED BUSINESS**

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

**CSSB 441 ON SECOND READING**

**(McCall, Goodman, Hartnett, Oliveira, and Cuellar - House Sponsors)**

**CSSB 441**, A bill to be entitled An Act relating to the application of the sales and use tax to certain services.

**CSSB 441** was read second time earlier today, postponed until 5 p.m., postponed until 9 p.m., and was again postponed until this time.

Representative McCall moved to postpone consideration of **CSSB 441** until 10:35 p.m. today.

The motion prevailed without objection.

**CSSB 5 ON SECOND READING**

**(Oliveira, Greenberg, Cuellar, McClendon, and McCall - House Sponsors)**

**CSSB 5**, A bill to be entitled An Act relating to the authorization of certain franchise tax incentives promoting economic development.

**CSSB 5** was read second time on earlier today, postponed until 4 p.m., postponed until 5 p.m., postponed until 9 p.m., and was again postponed until this time.

**Amendment No. 1**

Representatives Oliveira, Bailey, Tillery, and Dutton offered the following amendment to **CSSB 5**:

Amend **CSSB 5** (House Committee Report) as follows:

(1) In Section 171.721, Tax Code, as added by SECTION 2 of the bill, strike Subdivision (2) (page 5, line 22 through page 6, line 15) and substitute the following:

(2) "Strategic investment area" means a county within this state with above state average unemployment and below state average per capita income.

(2) In Section 171.723(a), Tax Code, as added by SECTION 2 of the bill (page 6, line 26), strike "five percent" and substitute "four percent".

(3) In Section 171.724(a), Tax Code, as added by SECTION 2 of the bill (page 8, lines 8 and 9), strike "exceed 50 percent" and substitute "exceed 25 percent".

(4) In Section 171.801, Tax Code, as added by SECTION 4 of the bill (page 18, lines 8-12, 13, and 25), strike existing Subdivision (2) and renumber existing Subdivisions (3) and (4) as Subdivisions (2) and (3), respectively.

(5) In Section 171.802(b), Tax Code, as added by SECTION 4 of the bill (page 19, lines 14-19), strike Subdivision (3) and substitute a new Subdivision (3) to read as follows:

(3) make a minimum \$500,000 qualified capital investment.



**Amendment No. 2**

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

Amend the Oliveira amendment to **CSSB 5** by striking Subdivision (2), Section 171.721, Tax Code, as amended by item (1) of the amendment (lines 5-7) and substituting a new Subdivision (2) to read as follows:

(2) "Strategic investment area" means:

(A) a county within this state with above state average unemployment and below state average per capita income; or

(B) an area that is a federally designated urban enterprise community or an urban enhanced enterprise community.

**Amendment No. 3**

Representative Merritt offered the following substitute amendment for Amendment No. 2:

Substitute the following for the Wolens amendment to the Oliveira Amendment to **CSSB 5**:

Amend the Oliveira amendment to **CSSB 5** by striking Subdivision (2), Section 171.721, Tax Code, as amended by item (1) of the amendment (lines 5-7) and substituting a new Subdivision (2) to read as follows:

(2) "Strategic investment area" means:

(A) a county within this state with above state average unemployment and below state average per capita income;

(B) an area that is a federally designated urban enterprise community or an urban enhanced enterprise community; or

(C) a municipality located wholly or partly in a county described by Paragraph (A).

Amendment No. 3 was withdrawn.

Representative S. Turner raised a point of order against further consideration of **CSSB 5** under Rule 8, Section 10(b) of the House Rules on the grounds that portions of the bill are limited to one or more political subdivisions by means of an artificial device in lieu of identifying the political subdivisions by name.

The speaker sustained the point of order, speaking as follows:

The bill provides a variety of franchise tax credits, including a credit for research and development activities. That credit is doubled for certain activities conducted in a "strategic investment area," which is defined by proposed Section 171.721(2), Tax Code. Section 171.721(D) includes as a strategic investment area a county that meets all of multiple criteria:

[1] is contiguous on at least three sides to a county with above state average unemployment and below state average per capita income, [2] has a population of less than 750 according to the most recent decennial census, [3] borders the Gulf of Mexico, and [4] has been designated as the site for a spaceport pursuant to the relevant provisions of the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

It is apparent from any reading of the multiple criteria that the classification scheme is designed to target without naming a single or small group of counties. The chair is advised that a single county meets all of the criteria. Rule 8, Section 10(b), permits classification criteria that bear a reasonable relationship to the purpose of the proposed legislation. To find this classification scheme reasonable, the chair would be required to find a distinction between the fact that the county borders another county on three sides—as opposed to merely one or two sides—and find that the distinction is reasonable in relation to qualifying as a strategic investment area.

The chair can find no reasonable basis for the classification criteria employed in this section of the bill. Accordingly, the point of order is well-taken and sustained.

### **CSSB 441 ON SECOND READING**

**(McCall, Goodman, Hartnett, Oliveira and Cuellar - House Sponsors)**

**CSSB 441**, A bill to be entitled An Act relating to the application of the sales and use tax to certain services.

**CSSB 441** was read second time earlier today, postponed until 5 p.m., postponed until 9 p.m., postponed until 10:15 p.m., and was again postponed until this time.

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

Representatives Dutton and McCall offered the following amendment to **CSSB 441**:

Amend **CSSB 441** as follows:

(1) In SECTION 1, in Section 151.00394(b), Tax Code, (page 1, line 23) strike "or 151.01011".

(2) In SECTION 2, strike Section 151.0101(a), Tax Code, (page 2, line 7 through page 3, line 9) and substitute a new Section 151.0101(a), Tax Code to read as follows: (a) "Taxable services" means:

- (1) amusement services;
- (2) cable television services;
- (3) personal services;
- (4) motor vehicle parking and storage services;

(5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A) aircraft;

(B) a ship, boat, or other vessel, other than:

(i) a taxable boat or motor as defined by Section 160.001;

(ii) a sports fishing boat; or

(iii) any other vessel used for pleasure;

(C) the repair, maintenance, and restoration of a motor vehicle; and

(D) the repair, maintenance, creation, and restoration of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;

(6) telecommunications services;

- (7) credit reporting services;
  - (8) debt collection services;
  - (9) insurance services;
  - (10) information services;
  - (11) real property services;
  - (12) data processing services;
  - (13) real property repair and remodeling;
  - (14) security services; ~~and~~
  - (15) telephone answering services; and
  - (16) Internet access service.
- (3) Strike SECTION 3 of the bill (page 3, lines 10-15).
- (4) Strike SECTION 5 of the bill (page 4, lines 5-12).
- (5) In SECTION 6, Section 151.325(b)(1), Tax Code, (page 4, line 23) strike "or 151.01011".

(6) Insert new SECTIONS 7, 8, 9, and 10 (page 5, between lines 2 and 3) to read as follows and renumber subsequent SECTIONS and references to SECTIONS appropriately:

SECTION 7. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.326 to read as follows:

Sec. 151.326. CLOTHING AND FOOTWEAR FOR LIMITED PERIOD. (a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

- (1) the sales price of the article is less than \$100; and
- (2) the sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at 12 midnight on the following Sunday.

(b) This section does not apply to:

(1) any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed;

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

(3) the rental of clothing or footwear.

(c) On or after January 1, 2000, the governing body of a local taxing authority may repeal the application of this exemption in the manner provided by Chapter 326.

SECTION 8. Section 151.3111(b), Tax Code, is amended to read as follows:

(b) Subsection (a) of this section does not apply to the performance of a service on:

(1) tangible personal property that would be exempted solely because of the exempt status of the seller of the property;

(2) tangible personal property that is exempted solely because of the application of Section 151.303, 151.304, or 151.306 of this code;

(3) motor vehicles, trailers, or semitrailers as defined, taxed, or exempted by Chapter 152 of this code;

- (4) a taxable boat or motor as defined by Section 160.001; [or]
- (5) machinery and equipment with a purchase price greater than \$50,000 used exclusively in a commercial timber operation as described by Section 151.3161(a); or
- (6) tangible personal property exempt under Section 151.326.

SECTION 9. Subtitle C, Title 3, Tax Code, is amended by adding Chapter 326 to read as follows:

CHAPTER 326. STATE SALES AND USE TAX EXEMPTIONS  
IN RELATION TO LOCAL SALES AND USE TAXES

Sec. 326.001. APPLICABILITY. This chapter applies to local sales and use taxes administered and computed under this subtitle and to which this subtitle applies, including a tax imposed under:

- (1) Chapter 285, 775, or 776, Health and Safety Code;
- (2) Chapter 326, 334, 363, 377, or 383, Local Government Code;
- (3) Chapter 451, 452, 453, or 457, Transportation Code; or
- (4) the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

Sec. 326.002. STATE EXEMPTIONS. Notwithstanding any other law, an exemption to the state sales and use tax provided by Chapter 151 does not apply to a local sales and use tax to which this chapter applies if:

- (1) the governing body of the local taxing authority repeals the exemption in the manner provided by Section 326.003; and
- (2) the exemption provided by Chapter 151 specifically provides that the governing body of the local taxing authority may repeal the exemption in the manner provided by this chapter.

Sec. 326.003. REPEAL BY LOCAL TAXING AUTHORITY. (a) The governing body of a taxing authority may by a majority vote adopt an appropriate order, including an ordinance, to repeal the application of an exemption described by Section 326.002.

(b) The governing body must hold a public hearing before taking a vote.

(c) A taxing authority that has repealed the application of an exemption under this section may in the same manner reinstate the exemption.

(d) A vote of the governing body of a taxing authority repealing the application or reinstating the exemption must be entered in the minutes for the meeting. The secretary of the taxing authority shall send to the comptroller by certified or registered mail a copy of the order adopted under this section.

Sec. 326.004. EFFECTIVE DATE. The repeal of the application of the exemption or a reinstated exemption under Section 326.003 takes effect within the taxing authority on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a copy of the order adopted under that section.

SECTION 10. (a) The comptroller may adopt emergency rules for the implementation of Sections 7, 8, and 9 of this Act.

(b) Sections 7, 8, and 9 of this Act take effect on the first day of the first calendar quarter beginning on or after the date that they may take effect under Section 39, Article III, Texas Constitution.

(7) In SECTION 7 of the bill, Strike Section 151.351, Tax Code (page 5, lines 5-20) and substitute a new Section 151.351, Tax Code, to read as follows:

Sec. 151.351. INFORMATION SERVICES AND DATA PROCESSING SERVICES. There are exempted from the taxes imposed by this chapter 20 percent of the value of information services and data processing services.

(8) Insert a new appropriately numbered SECTION to read as follows:

SECTION 11. Section 151.313(a), Tax Code, is amended to read as follows:

(a) The following items are exempted from the taxes imposed by this chapter:

(1) a drug or medicine, other than insulin, if prescribed or dispensed for a human or animal by a licensed practitioner of the healing arts;

(2) insulin;

(3) a drug or medicine, without regard to whether it is prescribed or dispensed by a licensed practitioner of the healing arts, that is labeled with a national drug code issued by the federal Food and Drug Administration;

(4) a hypodermic syringe or needle;

(5) [~~4~~] a brace; hearing aid or audio loop; orthopedic, dental, or prosthetic device; ileostomy, colostomy, or ileal bladder appliance; or supplies or replacement parts for the listed items;

(6) [~~5~~] a therapeutic appliance, device, and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts, when those items are purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed;

(7) [~~6~~] corrective lens and necessary and related supplies, if dispensed or prescribed by an ophthalmologist or optometrist;

(8) [~~7~~] specialized printing or signalling equipment used by the deaf for the purpose of enabling the deaf to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment;

(9) [~~8~~] a braille wristwatch, braille writer, braille paper and braille electronic equipment that connects to computer equipment, and the necessary adaptive devices and adaptive computer software;

(10) [~~9~~] each of the following items if purchased for use by the blind to enable them to function more independently: a slate and stylus, print enlarger, light probe, magnifier, white cane, talking clock, large print terminal, talking terminal, or harness for guide dog; ~~and~~

(11) [~~10~~] hospital beds; and

(12) blood glucose monitoring test strips.

Amendment No. 1 was adopted without objection.

## **Amendment No. 2**

Representative Haggerty offered the following amendment to **CSSB 441**:

Amend **CSSB 441** by adding the following appropriately numbered sections:

SECTION \_\_\_\_\_. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.327 to read as follows:

Sec. 151.327. BINGO EQUIPMENT. (a) Bingo equipment, devices, or supplies purchased by a fraternal, nonprofit, or veterans organization, religious society, or other authorized organization licensed to conduct a bingo game under Section 13, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), are exempted from the taxes imposed by this chapter.

(b) For the purposes of this section, "bingo equipment" "fraternal organization," "nonprofit organization," "veterans organization," "religious society," "authorized organization," "bingo," and "game" have the meaning assigned by Section 2, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes).

SECTION \_\_\_\_\_. The change in law made by Section 151.327, Tax Code applies only to a sale of bingo equipment, devices, or supplies that occurs on or after September 1, 2001. A sale of bingo equipment, devices, or supplies that occurred before September 1, 2001 is covered by the law in effect when the sale occurred, and that law is continued in effect for that purpose.

Amendment No. 2 was adopted without objection.

**CSSB 441**, as amended, was passed to third reading. (Hochberg recorded present, not voting)

#### REASON FOR VOTE

I voted present, not voting, because I am in the business of website creation, which receives a tax reduction under this bill.

Hochberg

#### GENERAL STATE CALENDAR (consideration continued)

#### SB 434 ON SECOND READING (Yarbrough - House Sponsor)

**SB 434**, A bill to be entitled An Act relating to the disclosure of certain information by a property owners' association.

#### Amendment No. 1

Representative Hamric offered the following amendment to **SB 434**:

Amend **SB 434** (House Committee Report) by adding the following:

(1) On page 2, line 10, add the word "business" between the words "10th" and "day".

Amendment No. 1 was withdrawn.

#### Amendment No. 2

Representative Hamric offered the following amendment to **SB 434**:

Amend **SB 434**, in SECTION 1 of the bill, by striking Section 207.002, Property Code (House committee report, page 2, lines 6-8), as added by the bill, and substitute a new Section 207.002 as follows:

Sec. 207.002. APPLICABILITY. (a) This chapter applies to a

subdivision with a property owners' association that is entitled to levy regular or special assessments.

(b) This chapter does not apply to a subdivision with a property owners' association that is managed by a non-compensated board that does not use a professional management company to supervise or conduct daily operations of the subdivision on a regular basis.

Amendment No. 2 was adopted without objection.

**SB 434**, as amended, was passed to third reading.

**SB 487 ON SECOND READING**  
**(R. Lewis - House Sponsor)**

**SB 487**, A bill to be entitled An Act relating to the timing of an application for a solid waste permit.

Representative R. Lewis moved to postpone consideration of **SB 487** until June 1.

The motion prevailed without objection.

**CSSB 50 ON SECOND READING**  
**(Naishtat, A. Reyna, and Dukes - House Sponsors)**

**CSSB 50**, A bill to be entitled An Act relating to the application for, issuance of, and contents of a protective order.

**CSSB 50** was passed to third reading.

**SB 1650 ON SECOND READING**  
**(Haggerty and Allen - House Sponsors)**

**SB 1650**, A bill to be entitled An Act relating to the public notice requirements applicable to persons who are subject to sex offender registration.

**Amendment No. 1**

Representative Haggerty offered the following amendment to **SB 1650**:

Amend **SB 1650**, in SECTION 4 of the bill, at the end of proposed Article 62.045 (a), Code of Criminal Procedure (House Committee Report, page 11, line 2), by adding "In providing written notice under this subsection, the department shall use employees of the department whose duties in providing the notice are in addition to the employee's regular duties."

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Haggerty offered the following amendment to **SB 1650**:

Amend **SB 1650** to strike SECTION 7 (House Committee Report, p. 13, line 4).

Amendment No. 2 was adopted without objection.

**Amendment No. 3**

Representative Haggerty offered the following amendment to **SB 1650**:

Amend **SB 1650** as follows:

(1) In SECTION 4 of the bill (Committee Printing page 11, line 25) add a new Subsection (e) to Art. 62.045 to read as follows:

(e) An owner of a single-family residential property or the owner's agent has no duty to make a disclosure to a prospective buyer or tenant about registrants under this chapter.

Amendment No. 3 was adopted without objection.

**SB 1650**, as amended, was passed to third reading.

**SB 1884 ON SECOND READING**  
(Smithee - House Sponsor)

**SB 1884**, A bill to be entitled An Act relating to independent review of certain health insurance claims.

**SB 1884** was passed to third reading.

**SB 1678 ON SECOND READING**  
(Naishtat - House Sponsor)

**SB 1678**, A bill to be entitled An Act relating to the regulation of social workers and social work associates; providing civil and administrative penalties.

**SB 1678** was passed to third reading.

**SB 496 ON SECOND READING**  
(Brimer - House Sponsor)

**SB 496**, A bill to be entitled An Act relating to increasing the maximum size of an urban homestead to 10 acres, prescribing permissible uses of rural and urban homesteads, and permitting an existing lien upon part of a homestead to extend to another part of the homestead.

**Amendment No. 1**

Representative Brimer offered the following amendment to **SB 496**:

Amend **SB 496** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill appropriately:

SECTION \_\_\_\_\_. Subchapter A, Chapter 41, Property Code, is amended by adding Section 41.008 to read as follows:

Sec. 41.008. CONFLICT WITH FEDERAL LAW. To the extent of any conflict between this subchapter and any federal law that imposes an upper limit on the amount, including the monetary amount or acreage amount, of homestead property a person may exempt from seizure, this subchapter prevails to the extent allowed under federal law.

Amendment No. 1 was adopted without objection.

**SB 496**, as amended, was passed to third reading.

**SB 1487 ON SECOND READING**  
(Alexander - House Sponsor)

**SB 1487**, A bill to be entitled An Act relating to the authority of the Texas Department of Transportation and the Texas Turnpike Authority division



of the Texas Department of Transportation to implement an automated enforcement system on toll roads; providing criminal penalties.

Representative Nixon raised a point of order against further consideration of **SB 1487** under Rule 8, Section 13(c) of the House Rules on the grounds that the time for consideration of senate bills and joint resolutions on second readings on the supplemental calendar has passed.

The speaker sustained the point of order.

The ruling precluded further consideration of the bill.

### **RECESS**

Representative Merritt moved that the house recess until 10 a.m. today.

The motion prevailed without objection.

The house accordingly, at 12:04 a.m., recessed until 10 a.m. today.

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### **ADDENDUM**

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#### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

#### **Senate List No. 31**

**SB 19, SB 60, SB 63, SB 131, SB 152, SB 171, SB 209, SB 215, SB 231, SB 258, SB 262, SB 296, SB 307, SB 310, SB 405, SB 430, SB 446, SB 450, SB 521, SB 551, SB 557, SB 567, SB 616, SB 641, SB 674, SB 707, SB 735, SB 785, SB 805, SB 853, SB 862, SB 872, SB 926, SB 934, SB 953, SB 965, SB 974, SB 1020, SB 1102, SB 1105, SB 1116, SB 1204, SB 1217, SB 1254, SB 1277, SB 1290, SB 1302, SB 1321, SB 1346, SB 1378, SB 1382, SB 1419, SB 1442, SB 1532, SB 1591, SB 1624, SB 1626, SB 1669, SB 1685, SCR 40, SCR 42**

#### **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

Tuesday, May 25, 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 217** Hochberg                      SPONSOR: Ellis, Rodney  
Relating to excused absences from public school attendance for the purpose of observing religious holy days.

**HB 954**                      Uher                                      SPONSOR: Armbrister  
Relating to the notice and public hearing requirements for a taxing unit to increase the unit's tax rate.

**HB 1398**                      Coleman                                  SPONSOR: Zaffirini  
Relating to indigent health care.  
(AMENDED)

**HB 1504**                      Goolsby                                  SPONSOR: Harris  
Relating to the establishment of a consortium of Alzheimer's disease centers.  
(COMMITTEE SUBSTITUTE)

**HB 2557**                      Glaze                                      SPONSOR: Ratliff  
Relating to the application of the open meetings law and the open records law to certain entities eligible to receive funds under the federal community services block grant program.

**HB 2992**                      Davis, John                              SPONSOR: Brown, J. E. "Buster"  
Relating to the creation of a business technology outreach program at the University of Houston.  
(AMENDED)

**HB 3120**                      Chisum                                      SPONSOR: Haywood  
Relating to the duties and salary of the county attorney of Carson County.  
(AMENDED)

**HB 3216**                      McCall                                      SPONSOR: Cain  
Relating to the standardization of credentialing of physicians.  
(COMMITTEE SUBSTITUTE/AMENDED)

**HCR 285**                      Eiland                                      SPONSOR: Jackson  
Honoring Betty Hardin on the occasion of her retirement.

**HCR 287**                      Sadler                                      SPONSOR: Brown, J. E. "Buster"  
Congratulating State Representative Kyle Janek and his wife, Shannon Janek, on the birth of their son, Ryan Edward Janek.

**HCR 296**                      Wolens                                      SPONSOR: Ellis, Rodney  
Instructing the enrolling clerk of the house to make technical corrections in H.B. 1777.

## THE SENATE HAS TAKEN THE FOLLOWING OTHER ACTION:

**SB 525**  
Pursuant to the provisions of Senate Concurrent Resolution No. 84, we are returning Senate Bill No. 525 to the House of Representatives for further consideration.

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 2**MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Tuesday, May 25, 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 571**            Hupp                    SPONSOR: Nelson  
Relating to information collected and used in connection with a driver's license or identification certificate; providing a penalty.  
(AMENDED)

**HB 707**            Tillery                    SPONSOR: Cain  
Relating to dismissal of an inspection certificate violation.

**HB 731**            Thompson                SPONSOR: Ellis, Rodney  
Relating to municipal courts of record.  
(AMENDED)

**HB 749**            Van de Putte            SPONSOR: Nelson  
Relating to the sale of certain items at a flea market; providing a penalty.  
(COMMITTEE SUBSTITUTE)

**HB 1161**          Junell                    SPONSOR: Ratliff  
Relating to the tobacco settlement permanent trust account.  
(COMMITTEE SUBSTITUTE/AMENDED)

**HB 1187**          Hilbert                   SPONSOR: Brown, J. E. "Buster"  
Relating to filing a petition that initiates a condemnation proceeding.

**HB 1223**          Seaman                   SPONSOR: Armbrister  
Relating to a historical artifacts program under the Texas Historical Commission.  
(AMENDED)

**HB 1916**          Oliveira                   SPONSOR: Lucio  
Relating to funding certain job training expenditures through taxes collected by certain industrial development corporations.

**HB 1939**          Grusendorf              SPONSOR: Harris  
Relating to requirements and procedures concerning driver's licenses or personal identification certificates for persons subject to sex offender registration.  
(AMENDED)

**HB 1997** Palmer SPONSOR: Madla  
Relating to installation, repair, or removal of certain vent hoods.  
(AMENDED)

**HB 2382** Coleman SPONSOR: Lindsay  
Relating to the evaluation and approval of continuing education for physical therapists.

**HB 3456** Hinojosa SPONSOR: Carona  
Relating to the power of a bondsman to execute bail bonds.

**HB 3544** Hodge SPONSOR: Cain  
Relating to student loan repayment assistance for certain dentists.  
(COMMITTEE SUBSTITUTE)

**HB 3554** Deshotel SPONSOR: Bernsen  
Relating to correcting the statutory description of the boundaries of the Port Arthur Navigation District.  
(AMENDED)

**HJR 4** Kuempel SPONSOR: Wentworth  
Proposing a constitutional amendment to authorize the exemption of property owned by institutions of public charity, as defined by general law, from ad valorem taxation.  
(AMENDED)

**SCR 86** Whitmire  
Honoring the life of Officer Troy Alan Blando.

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Tuesday, May 25, 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 143** Thompson SPONSOR: West, Royce  
Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.  
(COMMITTEE SUBSTITUTE/AMENDED)

- HB 618** Dukes SPONSOR: Bernsen  
Relating to parental notification of the employment of an inappropriately certified or uncertified teacher.  
(COMMITTEE SUBSTITUTE)
- HB 1100** Tillery SPONSOR: Carona  
Relating to contracts for enforcement of certain arrest warrants.
- HB 1248** Farrar SPONSOR: Lucio  
Relating to the regulation of the practice of architecture, landscape architecture, and interior design; providing administrative penalties.  
(AMENDED)
- HB 1324** Garcia SPONSOR: Carona  
Relating to termination of an employee who performs jury duty; providing a criminal penalty.  
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 1852** Thompson SPONSOR: Harris  
Relating to the administration of and other matters relating to decedents' estates.  
(AMENDED)
- HB 2022** Garcia SPONSOR: Lucio  
Relating to the appointment of a small business advocate to head the Office of Small Business Assistance.  
(AMENDED)
- HB 2735** Dukes SPONSOR: Barrientos  
Relating to the authority of the General Services Commission to grant certain interests in certain real property owned by the state.  
(AMENDED)
- HB 2825** Isett SPONSOR: Bernsen  
Relating to the definitions of various types of weapons for the purposes of criminal prosecutions and to a defense to prosecution for certain weapon offenses.  
(AMENDED)
- HB 2961** Jones, Delwin SPONSOR: Duncan  
Relating to the board of hospital managers of the Lubbock County Hospital District.
- HB 3033** Oliveira SPONSOR: Carona  
Relating to the ad valorem taxation of an inventory consisting of motor vehicles held for sale.
- HB 3173** Hartnett SPONSOR: Brown, J. E. "Buster"  
Relating to the duty of an officer to deposit certain money in the county treasury.  
(AMENDED)
- HB 3189** Driver SPONSOR: Jackson  
Relating to the sale, servicing, installation, or monitoring of fire alarms or fire detection devices.  
(AMENDED)

**HB 3521** Noriega SPONSOR: Whitmire  
Relating to motor vehicle title services; providing a criminal penalty.  
(AMENDED)

**HB 3543** Hodge SPONSOR: Cain  
Relating to competitive bidding by mass transit authorities.  
(COMMITTEE SUBSTITUTE)

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 4**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Tuesday, May 25, 1999 - 4

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 1851** Thompson SPONSOR: Harris  
Relating to guardianships and other related matters concerning incapacitated persons.  
(COMMITTEE SUBSTITUTE/AMENDED)

**HB 2031** Kuempel SPONSOR: Armbrister  
Relating to the process of notifying drivers of license suspension by mail.  
(AMENDED)

**HCR 298** Hochberg SPONSOR: Ellis, Rodney  
Instructing the enrolling clerk of the house to make technical corrections in H.B. No. 1491.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

**SB 23** (viva-voce vote)  
**SB 30** (22 Yeas, 8 Nays)  
**SB 76** (30 Yeas, 0 Nays)  
**SB 79** (30 Yeas, 0 Nays)  
**SB 99** (viva-voce vote)  
**SB 139** (viva-voce vote)  
**SB 199** (30 Yeas, 0 Nays)  
**SB 260** (30 Yeas, 0 Nays)  
**SB 315** (viva-voce vote)

<b>SB 322</b>	(viva-voce vote)
<b>SB 486</b>	(viva-voce vote)
<b>SB 529</b>	(viva-voce vote)
<b>SB 590</b>	(30 Yeas, 0 Nays)
<b>SB 613</b>	(viva-voce vote)
<b>SB 627</b>	(viva-voce vote)
<b>SB 640</b>	(30 Yeas, 0 Nays)
<b>SB 677</b>	(30 Yeas, 0 Nays)
<b>SB 682</b>	(viva-voce vote)
<b>SB 851</b>	(30 Yeas, 0 Nays)
<b>SB 1074</b>	(viva-voce vote)
<b>SB 1118</b>	(viva-voce vote)
<b>SB 1197</b>	(viva-voce vote)
<b>SB 1223</b>	(30 Yeas, 0 Nays)
<b>SB 1234</b>	(30 Yeas, 0 Nays)
<b>SB 1235</b>	(viva-voce vote)
<b>SB 1340</b>	(viva-voce vote)
<b>SB 1351</b>	(viva-voce vote)
<b>SB 1514</b>	(30 Yeas, 0 Nays)
<b>SB 1547</b>	(viva-voce vote)
<b>SB 1587</b>	(viva-voce vote)
<b>SB 1603</b>	(viva-voce vote)
<b>SB 1664</b>	(viva-voce vote)
<b>SB 1851</b>	(viva-voce vote)
<b>SB 1862</b>	(viva-voce vote)
<b>SB 1881</b>	(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 46**

Senate Conferees: Carona - Chair/Armbrister/Brown, J. E. "Buster"/Duncan/West, Royce

**SB 913**

Senate Conferees: Shapleigh - Chair/Lucio/Ratliff/Sibley/Zaffirini

**SB 1423**

Senate Conferees: West, Royce - Chair/Bernsen/Harris/Lindsay/Nelson

**SB 1525**

Senate Conferees: Madla - Chair/Duncan/Lindsay/Nelson/Nixon, Drew

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**HB 610**

Senate Conferees: Carona - Chair/Duncan/Fraser/Sibley/Whitmire

**HB 846**

Senate Conferees: Brown, J. E. "Buster" - Chair/Armbrister/Bivins/Lucio/Wentworth

**HB 1592**

Senate Conferees: Duncan - Chair/Armbrister/Haywood/Lucio/Ratliff

**HB 1620**

Senate Conferees: Fraser - Chair/Duncan/Ellis, Rodney/Lucio/Shapiro

**HB 1799**

Senate Conferees: Armbrister - Chair/Duncan/Jackson/Madla/Ratliff

**HB 1975**

Senate Conferees: Bivins - Chair/Armbrister/Brown, J. E. "Buster"/Duncan/Ratliff

**HB 2130**

Senate Conferees: Nixon, Drew - Chair/Ellis, Rodney/Harris/Sibley/West, Royce

**HB 2599**

Senate Conferees: Duncan - Chair/Armbrister/Brown, J. E. "Buster"/Haywood/Lucio

**HB 2684**

Senate Conferees: Gallegos - Chair/Lindsay/Madla/Nelson/Nixon, Drew

**HB 2960**

Senate Conferees: Armbrister - Chair/Bivins/Brown, J. E. "Buster"/Duncan/Lucio

**HB 3778**

Senate Conferees: Gallegos - Chair/Carona/Ogden/Wentworth/Whitmire

**HB 3799**

Senate Conferees: Gallegos - Chair/Ellis, Rodney/Jackson/Lindsay/Whitmire

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 167** (viva-voce vote)

Respectfully,

Betty King

Secretary of the Senate

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**May 24**

County Affairs - **SJR 4**

State Affairs - **SB 1280**



**ENROLLED**

May 24 - HB 82, HB 156, HB 820, HB 855, HB 937, HB 1016, HB 1018, HB 1151, HB 1194, HB 1346, HB 1418, HB 1428, HB 1475, HB 1521, HB 1628, HB 1652, HB 1678, HB 1687, HB 1810, HB 1869, HB 1952, HB 1987, HB 2070, HB 2105, HB 2165, HB 2187, HB 2255, HB 2609, HB 2653, HB 2877, HB 2909, HB 3081, HB 3130, HB 3467, HB 3504, HB 3515, HB 3623, HJR 74, HJR 95

**SENT TO THE GOVERNOR**

May 24 - HB 57, HB 79, HB 82, HB 110, HB 156, HB 302, HB 385, HB 480, HB 494, HB 633, HB 751, HB 792, HB 865, HB 897, HB 907, HB 908, HB 958, HB 1024, HB 1041, HB 1051, HB 1058, HB 1068, HB 1075, HB 1194, HB 1285, HB 1346, HB 1387, HB 1409, HB 1459, HB 1507, HB 1513, HB 1516, HB 1521, HB 1543, HB 1544, HB 1552, HB 1652, HB 1660, HB 1681, HB 1689, HB 1779, HB 1797, HB 1804, HB 1810, HB 1814, HB 1822, HB 1828, HB 1837, HB 1839, HB 1860, HB 1864, HB 1952, HB 2004, HB 2011, HB 2013, HB 2021, HB 2023, HB 2037, HB 2054, HB 2105, HB 2159, HB 2171, HB 2180, HB 2205, HB 2246, HB 2284, HB 2313, HB 2401, HB 2450, HB 2453, HB 2461, HB 2535, HB 2568, HB 2580, HB 2614, HB 2631, HB 2636, HB 2660, HB 2671, HB 2685, HB 2725, HB 2802, HB 2840, HB 2844, HB 2846, HB 2867, HB 2925, HB 2926, HB 2965, HB 2966, HB 3081, HB 3083, HB 3161, HB 3215, HB 3224, HB 3256, HB 3295, HB 3338, HB 3418, HB 3420, HB 3423, HB 3444, HB 3515, HB 3600, HB 3650, HB 3694, HB 3740, HB 3746, HB 3818, HCR 18, HCR 182, HCR 261, HCR 269, HCR 284

**SENT TO THE SECRETARY OF STATE**

May 24 - HJR 36, HJR 71, HJR 74, HJR 95

**SIGNED BY THE GOVERNOR**

May 24 - HB 525, HB 565, HB 592, HB 605, HB 670, HB 788, HB 822, HB 833, HB 854, HB 875, HB 924, HB 1074, HB 1110, HB 1121, HB 1173, HB 1355, HB 1400, HB 1437, HB 1514, HB 1539, HB 1749, HB 1982, HB 1985, HB 2122, HB 2181, HB 2332, HB 2398, HB 2465, HB 2932, HB 3008, HB 3157, HB 3271, HB 3319, HB 3591, HB 3790, HCR 21, HCR 23, HCR 31, HCR 51, HCR 179, HCR 208, HCR 255, HCR 262, HCR 263